

PR Department of Labor Clarifies Rules on Salary, Leaves, and Pay During Lockdown

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PRACTICE AREAS

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As most workers in Puerto Rico's private sector are at home due to the government-mandated COVID-19 lockdown, the Secretary of the Puerto Rico Department of Labor and Human Resources ("PR DOL") issued Opinion No. 2020-02 to provide further guidance to employers during this pandemic state of emergency.

Following are the key takeaways from the Opinion:

- During the emergency and to the extent possible, the PR DOL encourages employers to voluntarily pay the full wages to all employees whether or not they are able to work and without charge to any leave.
- Employers may offer partial compensation, bonuses or other voluntary payments to assist all employees during the pandemic.
- Employers may pay non-exempt employees their accrued vacation leave, provided that the employee agrees
- Employers may allow their non-exempt employees to receive pay during this period by requesting other available leaves, such as accrued sick leave. The use of accrued sick leave may be voluntarily offered as the first option or once the accrued vacation leave is exhausted.
- Employers may allow employees who are under probationary period to make early use of their accrued vacation leave, which is otherwise not permissible under local law.
- Employers are reminded that exempt employees must receive their full salary for each week during which they perform any work.

The Opinion further states that employers can provide employees with salary advances, equipment and goods that are directly related to the emergency, such as respiratory equipment and materials to prevent the spread of the coronavirus. Employers, as an exception and subject to certain requirements, may periodically deduct or withhold amounts from a non-exempt employee's salary to cover the cost of the materials provided or the salary advances.

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Also, the Opinion outlines the benefits that will be afforded to employees by virtue of the Families First Coronavirus Act, which was signed into law by President Donald J. Trump. For a detailed discussion of the provisions of the aforementioned Act, please refer to our Labor and Employment Alert [here](#).

Lastly, as for employers whose operations may continue during the shutdown because they provide essential services, the Opinion reaffirms that they can enforce their attendance rules and policies. However, employers are advised to take into consideration the current emergency circumstances when implementing their policies and when evaluating employees' requests for leave or for changes in work hours, itineraries or place of work.

Moreover, the Opinion recommends that employers who continue to operate carefully assess requests from employees who wish to stay in quarantine and use available leaves, with or without pay. The Opinion reminds employers that employees may need a reasonable accommodation under the Americans with Disabilities Act during this time, particularly those employees who have a health condition that puts him/her at risk of complications related to COVID-19.

Overall, the Opinion urges employers to be sensible during the pandemic emergency and calls for employers to take the necessary health and safety measures to curb the spread of the virus, while also supporting their employees as much as possible.

If you have any questions regarding the Opinion or any employment-related questions, please contact any of the attorneys listed below. Please note that all our attorneys are working remotely and can be reached by email or by phone.

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