

## Re-Entry Simulation



SHRM Delaware State Council presents a simulation of the challenges faced by individuals transitioning from incarceration back to their communities.

Dozens of Delawareans complete their term of incarceration and reenter society every day but adjusting to life outside of a correctional institution can be very difficult. The reentry process requires an individual to follow very detailed, and often onerous, procedures which can overburden those trying to reestablish their lives.

While many of these procedures are well intentioned and have a purpose, we must recognize the challenges these individuals face on their road to a successful reintegration.

This interactive event is designed to place participants "in the shoes" of a recently incarcerated individual. The simulation exposes participants to the difficulties formerly incarcerated persons face upon reentering the community.

This simulation will afford participants an understanding of the challenges of reentry and identify ways we can collaborate to improve the likelihood of success for returning citizens.

<b>Presenters:</b>	Project New Start in partnership with the US Attorney's Office District of DE
<b>When:</b>	9/19/19 - 1:00 pm to 4:00 pm
<b>Where:</b>	Widener University Delaware Law School - The Barristers' Club
<b>Cost:</b>	\$40 - members of Delaware or DelMarVa SHRM and \$65 – non-members
<b>Register:</b>	<a href="https://delawareesc.shrm.org/events/20thru-project-new-">https://delawareesc.shrm.org/events/20thru-project-new-</a>

## New EEO Filing Requirements

Businesses with at least 100 employees and federal contractors with at least 50 employees and a contract with the federal government of \$50,000 or more must file Component 1 of the EEO-1 form. However, only employers with at least 100 employees, including federal contractors, must file Component 2.

Under Component 2, employers must report wage information from Box 1 of the W-2 forms and total hours worked for all employees, categorized by race, ethnicity and sex, within 12 proposed pay ranges.

The Equal Employment Opportunity Commission (EEOC) requires employers to report pay data, broken down by race, sex and ethnicity, from 2017 and 2018 payrolls. The pay data reports are due September 30, 2019.

The EEOC's website [now provides information employers may need for filing Component 2 data](#), such as a sample form, an instruction booklet and FAQs for covered employers. The agency confirmed that the Component 2 online filing system became available on July 15, and additional instructions will come soon. The agency also will send login information to covered employers through the U.S. Postal Service and by e-mail.

## Social Media

If an employee makes inappropriate comments about a supervisor or manager on a social media site, can you fire them? It depends, sometimes employees will be protected under federal labor laws that allow employees to collectively discuss either on line or in person the company's working conditions. When faced with this type of situation, contact legal counsel or an HR consultant to guide you through the decision-making process so that you do not find yourself in legal trouble.

## Red Cross First Aid App

The Red Cross First Aid app has many features that may help you, a family member, friend or colleague that may need medical assistance. Encourage your employees to download the free app. The app includes:

- Simple step-by-step instructions guide you through everyday first aid scenarios.

- Fully integrated with 9-1-1 so you can call EMS from the app at any time.
- Videos and animations make learning first aid fun and easy.
- Safety tips for everything, from severe winter weather to hurricanes, earthquakes and tornadoes help you prepare for emergencies.
- Preloaded content means you have instant access to all safety information at any time, even without reception or an Internet connection.
- Interactive quizzes allow you to earn badges that you can share with your friends and show off your lifesaving knowledge.

**To add the app to your phone:** Go to the app store on your mobile phone. On the bottom right corner tap the search button (magnifying glass icon). In the search box type: Red Cross First Aid and the app should appear with the picture below. Tap the Get button and the app should load on your phone.



## FMLA

The Family Medical Leave Act applies to private employers that have employed at least 50 employees during 20 or more calendar weeks during the current or preceding calendar year. The FMLA also applies to public agencies and to public and private elementary and secondary schools (with some special rules), regardless of the number of employees employed.

Private employers with fewer than 50 employees may be covered by a state family, medical or pregnancy leave law. **Supervisors and HR professionals may also be held individually liable under the FMLA.** Therefore, the reach of family and medical leave laws is quite broad. All employers should be aware of the federal and state laws that may pertain to them.

**Counting Employees** - Counting the number of employees to determine whether an employer is subject to the FMLA can be complex for those employers close to the 50-employee threshold. To determine the number of employees counted under the FMLA, any employee whose name appears on the employer's payroll each working day of the calendar week is counted, whether any compensation is received for the week. Thus, part-time employees, employees on disciplinary suspension and employees on leaves of absence (either paid or unpaid) are counted. Employees jointly employed by two employers are counted by both employers if they are on the payrolls of both employers each working day of the calendar week. Employees who work outside the

United States, employees who have been laid off and volunteers are not counted. Partners and shareholders, who are not employees as defined by Section 3(g) of the FLSA, are not counted, even if they appear on the employer's payroll.

Fortunately, we aren't faced with FMLA too often and it's easy to forget what we need to do. Hopefully the FMLA Checklist will assist you through the process.

### FMLA Checklist for Individual Leave Request

Employee name: \_\_\_\_\_

Date of leave request: \_\_\_\_\_

Dates of anticipated leave: \_\_\_\_\_

- Obtain FMLA forms from the U.S. Department of Labor or create similar internal forms.
- Determine whether an employee's request for leave is for one of the following FMLA-qualifying reasons:
  - The birth of a son or daughter and to care for the newborn child.
  - Placement with the employee of a son or daughter for adoption or foster care.
  - To care for the employee's spouse, son, daughter or parent with a serious health condition.
  - A serious health condition of the employee that makes the employee unable to perform the functions of his or her job.
  - A covered family member's active duty or call to active duty in the National Guard or Reserves in support of a contingency operation.
  - To care for an injured or ill covered service member.
- Within five days of learning of an employee's need for leave that may be FMLA-qualifying, provide the employee with the Notice of Eligibility and Rights & Responsibilities form (WH-381).
  - Date notice provided: \_\_\_\_\_
- Determine whether the employee is eligible for FMLA leave. An eligible employee is an employee of a covered employer who:
  - Has been employed by the employer for at least 12 months.
  - Has worked at least 1,250 hours (actual hours worked) during the 12-month period immediately preceding the start of the FMLA leave.
  - Is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.
- Determine whether the employee has used FMLA leave previously and calculate how much FMLA leave the employee has available. An eligible employee is entitled to take up to 12 weeks of FMLA leave during a

12-month period (26 weeks to care for an injured or ill covered service member). The employer’s FMLA policy should specifically state which one of the following methods it uses to calculate the 12-month period.

The options are:

- The calendar year.
- Any fixed 12-month period, such as a fiscal year or a year starting with the employee’s anniversary date.
- The 12-month period as measured forward from the date the employee’s FMLA leave first begins.
- A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

Has the employee used FMLA leave in the 12-month period as described in the employers FMLA policy? \_\_\_  
Yes \_\_\_ No

If yes, amount of leave remaining: \_\_\_\_\_  
Expected duration of leave: \_\_\_\_\_

Determine whether a medical certification is necessary and inform the employee if a medical certification is required. If no medical certification is required (e.g., the birth of a child), complete and provide to the employee the Designation Notice (WH-382) within five days of learning of the need for leave.

Date notice provided: \_\_\_\_\_

If required, provide the employee with the appropriate certification form (one of the following):

- Certification of Health Care Provider for Employee’s Serious Health Condition (DOL Form WH-380-E).
- Certification of Health Care Provider for Family Member’s Serious Health Condition (DOL Form WH-380-F).
- Certification of Qualifying Exigency for Military Family Leave (DOL Form WH-384).
- Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave (DOL Form WH-385).
- Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (DOL Form WH-385-V).

Provide the employee with at least 15 calendar days to return the certification form.

Date certification form due: \_\_\_\_\_

Date certification form returned: \_\_\_\_\_

Review the received certification form to ensure that it is complete and sufficient. If information is missing or needs clarification, return the form to the employee with details regarding the information that is needed from the

health care provider. Allow the employee at least seven days to return the revised certification form.

Describe any efforts to validate the medical certification:

\_\_\_\_\_

Within five business days after the employee submits a complete and sufficient certification form, provide the employee with the Designation Notice (WH-382).

Date notice provided: \_\_\_\_\_

### DURING LEAVE

Maintain the employee’s coverage under any group health plan at the same level and under the same conditions as would be maintained had the employee continued actively working, including employer contributions.

Collect premium payments for health insurance from the employee during periods of unpaid FMLA leave.

Review internal policies to determine how other benefits are impacted by an FMLA absence, such as paid-time-off accruals, life insurance, etc.

Ensure that the employee complies with any requirement for periodic updates to the employer during leave.

### RETURN TO WORK

Have the employee obtain a release to work from his or her health care provider, if required.

Reinstate the employee to the same or an equivalent position.

Arrange for the repayment of outstanding insurance premiums owed by the employee.

Maintain records of the employee’s FMLA leave for a minimum of three years, separate from the employee’s personnel file.

## Talent Acquisition Support

If your organization has job openings and needs assistance in filling those open positions, contact HR Strategies’ staff for support. We can focus on your recruiting needs so that you can focus on your business needs.

Contact HR Strategies staff at 302.376.8595 or [info@hrstrategies.org](mailto:info@hrstrategies.org) if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.