

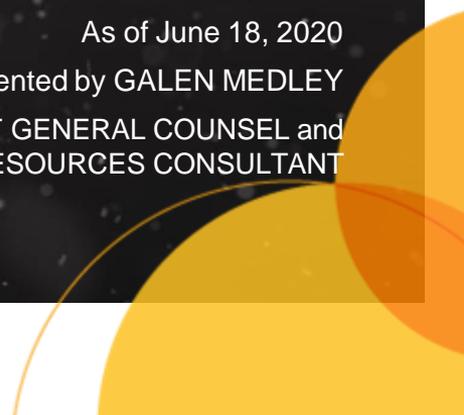
ROADMAP TO REOPENING COVID-19 PHASE 2 AND BEYOND

A Review of Frequently Asked Questions

As of June 18, 2020

Presented by GALEN MEDLEY

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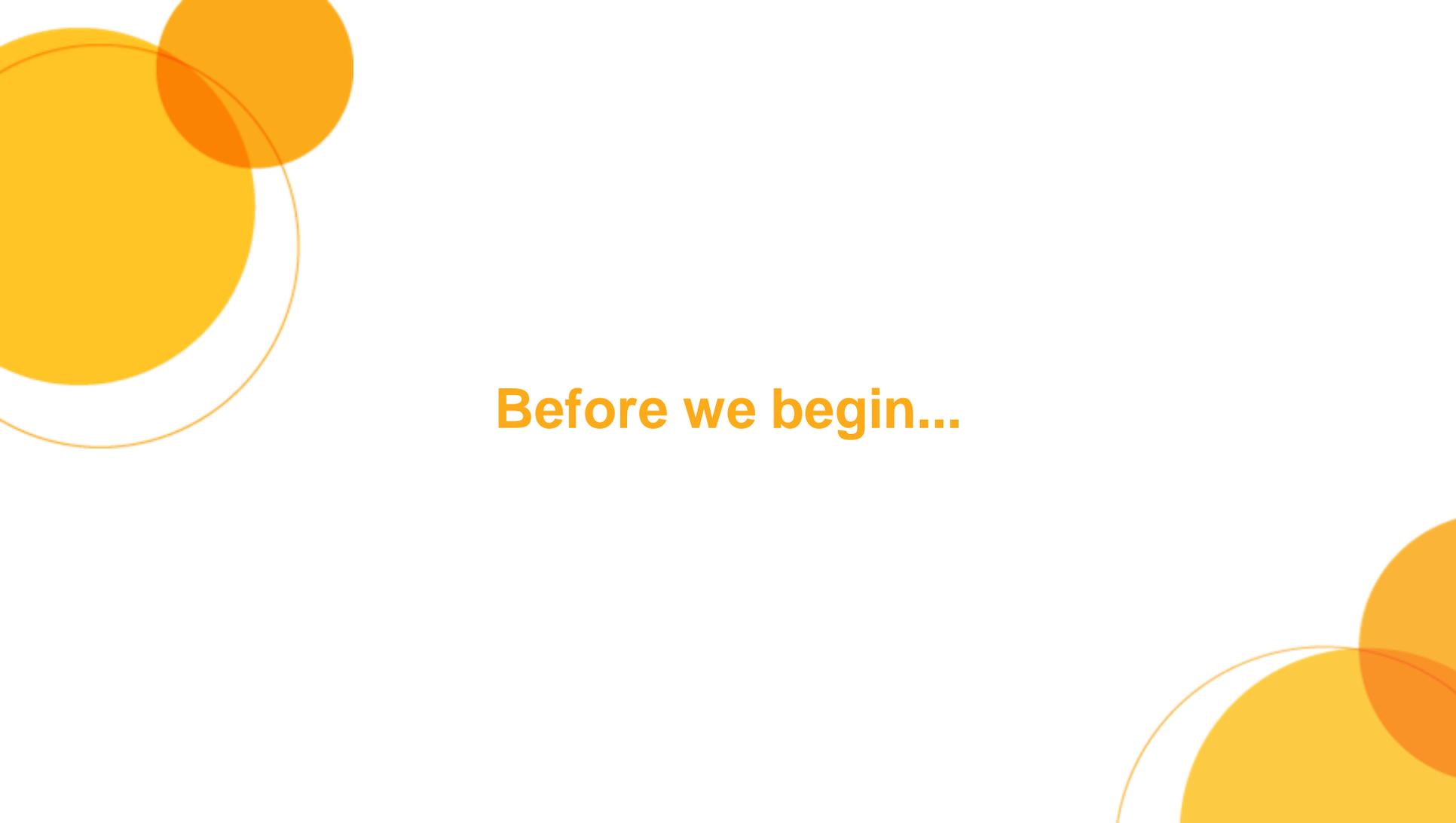


I love movies and comedy shows! I go to Greenwich Village NYC often to see up and coming comedians.

Military history buff.



Recently grew a corona beard.

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Before we begin...

THIS SEMINAR IS NOT LEGAL ADVICE

Although the seminar may contain discussions of legal rights and responsibilities, the seminar itself does not constitute legal advice. This seminar is intended as an informational guide only; therefore, no statement should be considered as legal advice and no action should be taken by your organization in reliance on any statements.

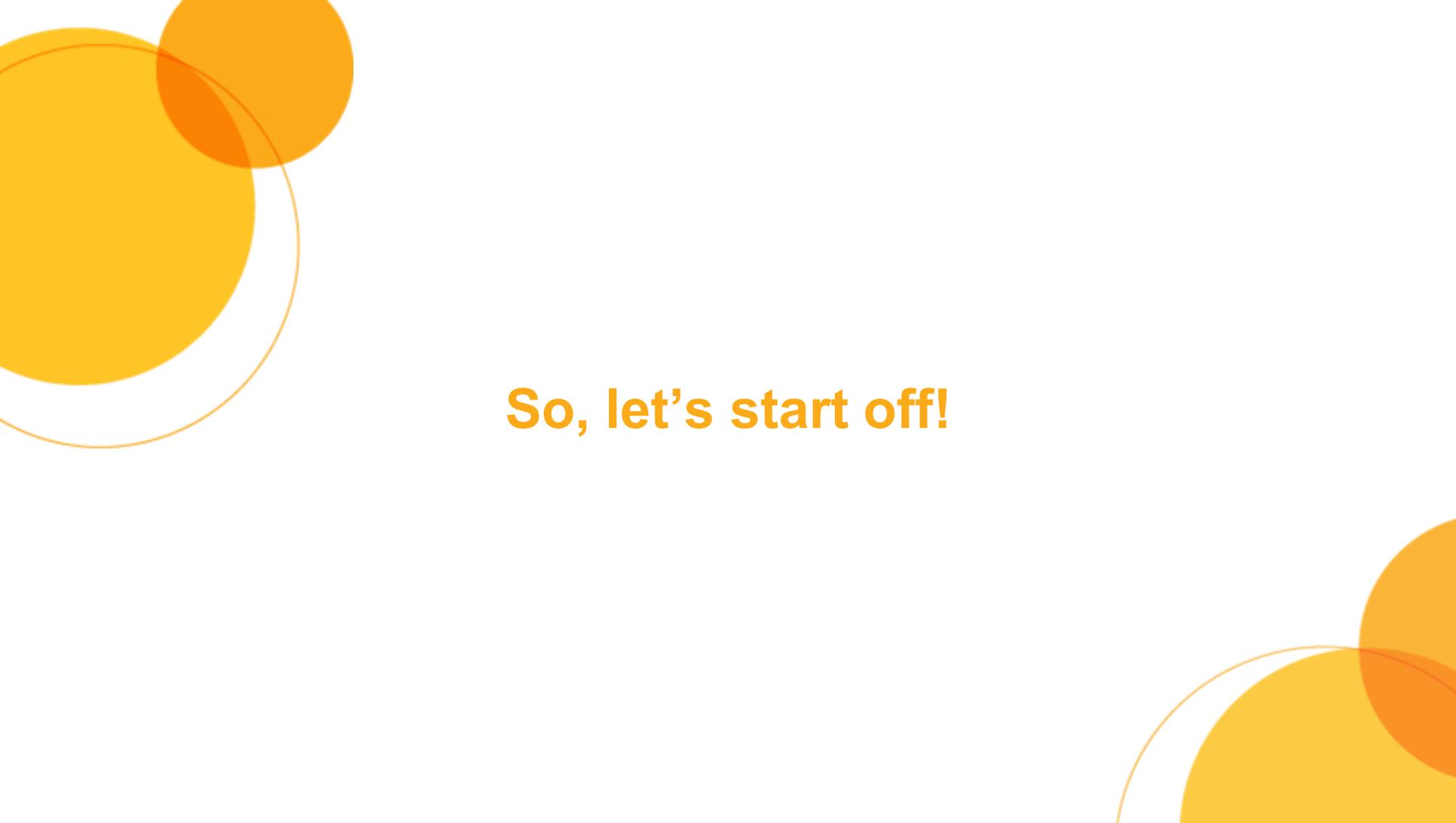
The COVID-19 situation is changing daily and this presentation is based on current recommendations.



AGENDA

Overview of current top of mind questions

- Workplace Environment
- Unemployment Insurance
- I-9 Documentation
- The Paycheck Protection Program (PPP)
- Employee Relations
- Families First Coronavirus Response Act (FFCRA)

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So, let's start off!

WORKPLACE ENVIRONMENTS

1. How should I prepare for employees coming back into the office to make a clean environment when the company opens its doors again?

- Visit the **COVID-19 Client Resources page** at www.engagepeo.com/covid-19-information-clients and access the **Roadmap to Reopening** Information page.
- Through the Information page, access the **Engage Roadmap to Reopening Decision Tree**.

WORKPLACE ENVIRONMENTS

Physical Space

- Check federal, state, and local mandates
- Structural modifications
- Signage and notices
- Cleaning/disinfecting protocols
- Personal Protective Equipment (PPE)
- Impose appropriate limits on size of in-person meetings and proximity of seating
- Consider closing or limiting access to common areas, break rooms, etc.
- Assess physical plant – HVAC, etc.

WORKPLACE ENVIRONMENTS

HR Practices

- Review COVID-19 symptom screening requirements (***See Engage templates in the Engage Forms Library***)
- Be mindful of wage/hour issues related to screening
- Update sick leave and other leave policies
- Develop protocol or policy for addressing employees with reported COVID-19 symptoms or diagnosis
- Impose appropriate limits on business travel
- Consider remote work
- Staggered scheduling
- Consider restrictions on off-duty activities where this is permitted
- Train employees on new policies, protocols, and rules
- Remind and encourage employees that they should not report to work when sick

WORKPLACE ENVIRONMENTS

Personal Protective Equipment (PPE)

2. The state is requiring employees to wear **Personal Protective Equipment (PPE)**. Am I required to provide PPE at no cost to employees?

- The answer is yes. Many state and local jurisdictions are mandating that employers provide PPE to employees at no cost.

WORKPLACE ENVIRONMENTS

Social Distancing

3. If I have work projects that require two or more employees to be in close physical contact to complete, how do you recommend I keep them **socially distant from each other**?

- Mandatory use of PPE to the employees at no cost to the employee.
- Reexamine the job process to see if parts can be done separately.
- If not, keep employees separate as much as possible.

WORKERS' COMPENSATION

4. If my employee tests positive for COVID-19, is it a compensable workers' compensation claim?

- Possibly. If an employee contracts COVID-19 in the workplace, it might be covered as a workers' compensation claim.

UNEMPLOYMENT INSURANCE

5. What should I do if an employee refuses to return to work due to the extra \$600 in unemployment benefits he or she is receiving from the federal government?

- The employee may be deemed as having **resigned** from their job due to **abandonment** of their position and all unemployment benefits may cease.
- **Documentation is key!** Use the templates in the Engage Forms Library to document your offer and their response (or voluntary resignation).

I-9 DOCUMENTATION

Expiration

6. What happens if an employee's work authorization expires while on temporary lay-off? Are there any exceptions/changes to recertification requirements due to COVID-19?

- The employee will have to provide a non-expired form of work authorization prior to starting work after the furlough.
 - List A – Identity and Work Authorization - No Extension
 - List B – Identity (e.g. Driver's License) - Temporary Extension
 - List C – Work Authorization (e.g. Social Security Card) - No Extension

I-9 DOCUMENTATION

Physical Verification

7. The “rules” say that we need to physically verify a new employee’s identity and citizenship documents within three days of their hire date. Is that correct?

- Yes, that is correct. USCIS has not extended the three-day requirement. However, DHS has given temporary guidance for remote or virtual inspection of the I-9 Documents.

PAYCHECK PROTECTION PROGRAM (PPP)

8. Is my employee eligible for unemployment if they refuse to return to work?
How will this affect my Paycheck Protection Program (PPP) loan?

- Employees who reject offers of re-employment **may forfeit eligibility** for continued unemployment compensation.
- **Documentation is key!** Send a copy of the employees' rejections to: **ui@engagepeo.com**.
- It should not affect the PPP loan if a borrower made a good faith, written offer of rehire, and the employee's rejection of that offer is **documented by the borrower**.

EMPLOYEE RELATIONS

Best Practices

9. What are the **best practices** for deciding which employees to return to work later than others in a staggered schedule, and can employers eliminate positions instead of returning particular workers?

- Employers can eliminate positions instead of returning workers as long as it is done for **non-discriminatory reasons**.
- Consult WARN counsel to ensure company complies with WARN notice requirements.
- See our **Decision Tree** in the Engage Forms Library.

EMPLOYEE RELATIONS

COVID-19 Complaints

10. Can employees make a complaint related to COVID-19 issues in the workplace?

- OSHA
- U.S. Dept. of Labor, Wage and Hour Division
- EEOC
- State and Local Agencies that enforce discrimination laws

Contact your Human Resources Consultant at Engage immediately in the event any agency reaches out to you.



EMPLOYEE RELATIONS

Changing Employee Classifications

11. Can employers bring back employees as independent contractors instead of W-2 employees to save money?

- It depends, but probably not. The 11 factors in three categories that the IRS looks at when determining if a worker is an independent contractor are:
 - Behavioral,
 - Financial, and
 - Type of Relationship



EMPLOYEE RELATIONS

Testing and Temperature Checks

12. Can an employer require temperature checks at work or require COVID-19 tests? What if an employee refuses to submit to a temperature check?

- Yes, employers can measure employees' body temperatures so long as the medical test of employees is "job related and consistent with business necessity."



EMPLOYEE RELATIONS

Returning to the Workplaces

13. What do I do when employees do not want to work at the worksite for fear of contracting COVID-19?

- Assure employees that **safety measures are in place** to ensure a safe office environment.
- **Job abandonment** and **voluntary resignation** if employees do not return and do not have an approved leave.
- ADA protections do not extend to household members.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

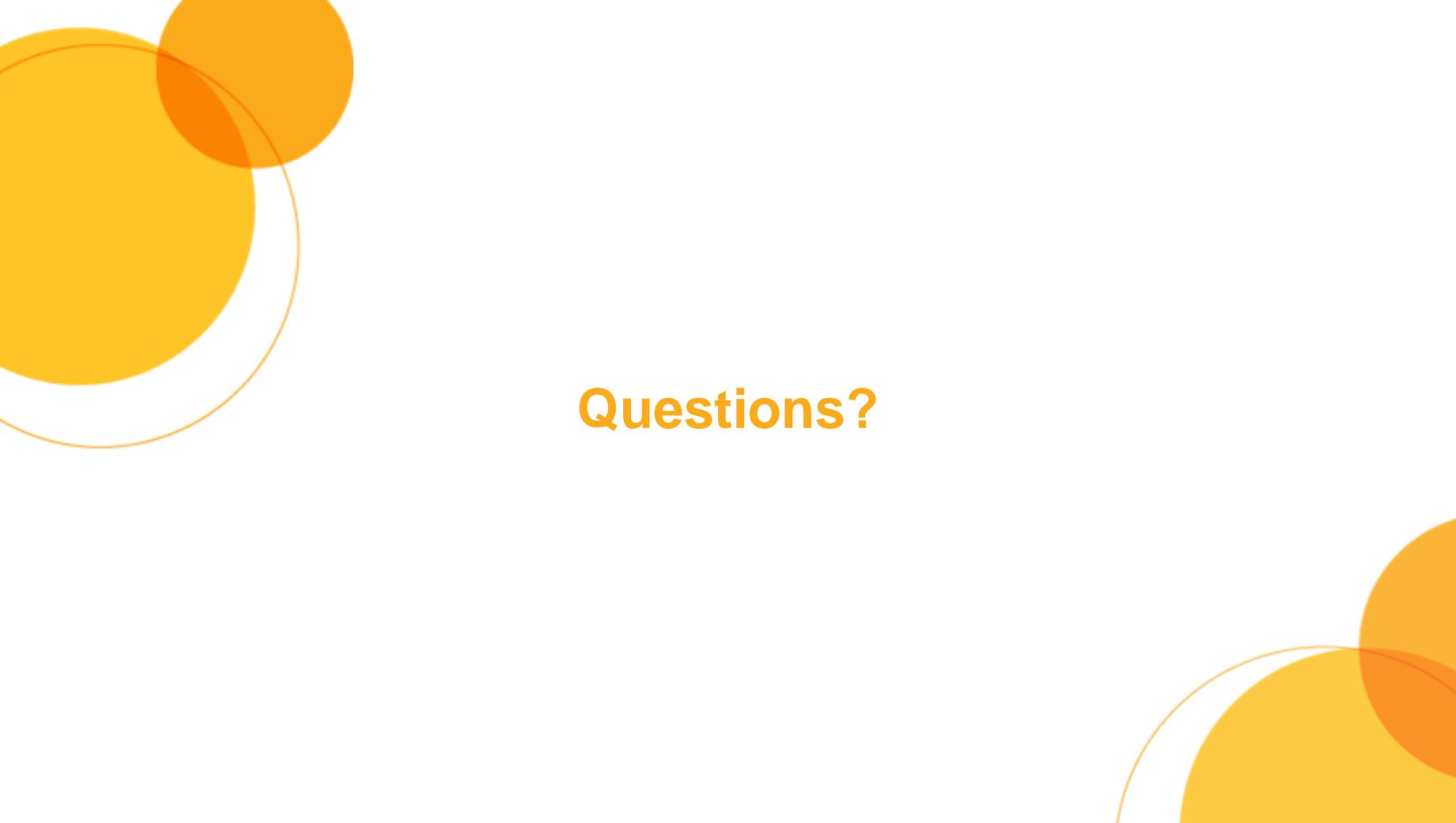
14. What is the state and local sick time interplay with Families First Coronavirus Response Act (FFCRA)?

- Families First Coronavirus Response Act (FFCRA) should be used first, then state or local mandated PTO time provided by the employer. Unless state law states otherwise.
- Emergency Family and Medical Leave Expansion Act (EFMLEA) can stop if qualifying reason goes away.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

15. Regarding the **Engage FFCRA Leave forms**: Should there be something on the forms that asks if this the first time an employee is completing the FFCRA leave, because if they have a second job they really should not be granted the FFCRA leave from both employers?

- No, if an employee is eligible for leave under the FFCRA for two separate jobs, they can apply for leave for each job respectively.

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Questions?



Thank you!

**VISIT OUR COVID-19
INFORMATION PAGE
FOR CLIENTS:**

www.engagepeo.com/covid-19-information-clients





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