



**Coffee Break Series**

# **ENFORCING PANDEMIC WORKPLACE POLICIES TO KEEP THE WORKPLACE SAFE**

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# TODAY'S SPEAKER



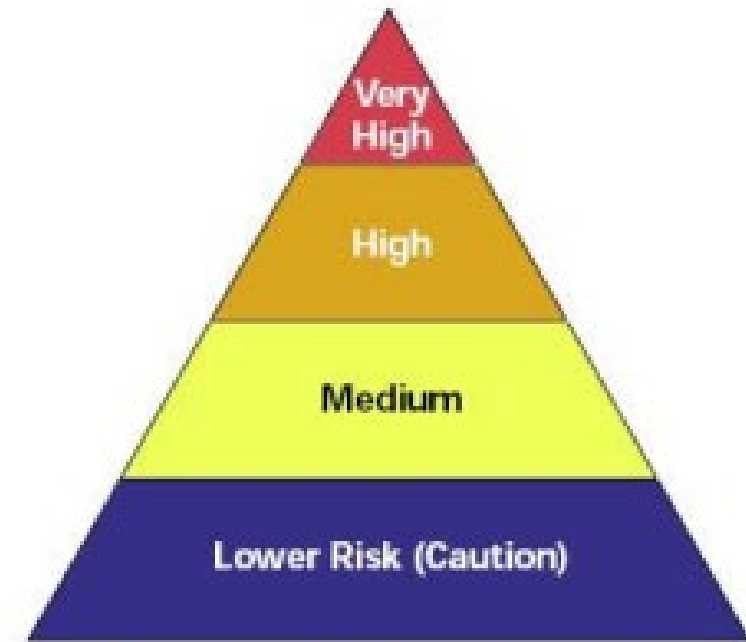
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# SAFETY & PREVENTION IS THE NEW WORKPLACE REALITY

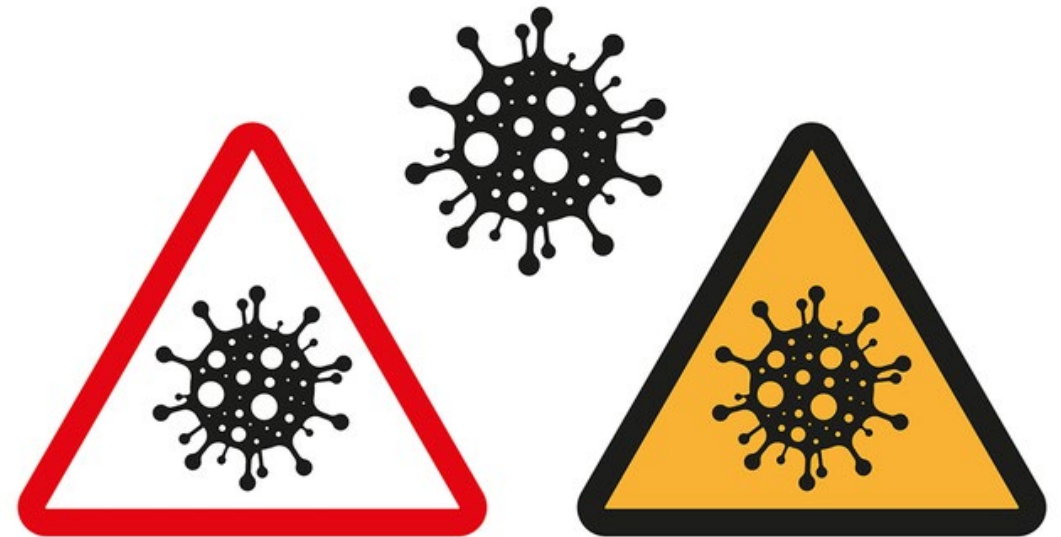
- COVID-19 community spread linked to workplace transmittals
- OSHA: Risk of transmission depends on the workplace/type of work
- OSHA recommends implementing engineering controls, administrative controls, safe work practices, and PPE



*The four exposure risk levels represent probable distribution of risk.*

# EMPLOYER OBLIGATIONS & POTENTIAL LIABILITIES

- OSHA’s “General Duty” clause
- Oregon OSHA:
  - Rulemaking forthcoming
  - Already investigating workplaces pursuant to executive orders
- Penalties & other consequences for noncompliance
- Workers’ compensation claims
- Tort claims?



# WHAT RULES SHOULD EMPLOYERS IMPLEMENT?

- Comply with Executive Orders and OHA sector-specific requirements
- In addition, adopt recommended safety policies from OHA, CDC and OSHA
- Policies: social distancing and physical spacing, hygiene, restrict shared space and equipment, remote work where feasible, employee certifications, quarantine, and face-coverings(!)



# BEST PRACTICES FOR ENFORCING THE RULES

1. Have a clear policy laying out expectations
2. Communicate the policy & recirculate as necessary
3. Update policy & expectations based on new guidance
4. Clearly state the consequences for non-compliance
5. Select & identify a point person for questions/concerns
6. If employees don't like the rules, educate them about necessity
7. Enforce equally & consistently – check for “comparators”
8. Document, document, document!

# POTENTIAL PITFALLS

- Face-coverings requirement
  - The Americans with Disabilities Act (ADA) and duty to provide reasonable accommodations
  - Title VII and claims that face coverings are against religious beliefs
- Whistleblower retaliation claims
- Discrimination claims due to unequal enforcement

