

Deceased Employees

This section addresses considerations and obligations for employers when an employee passes away.

Obtain a copy of the employee's death certificate to verify the employee's death. While requesting a death certificate from the employee's family or legal representative may be uncomfortable, this step is necessary to protect the employer against potential fraud.

Verify state law requirements regarding final pay, and issue any payment due. Depending on applicable state wage and hour laws, employers may be required to issue the employee's wages to the employee's legal representative or to his or her estate. Employers should treat any accrued but unused leave in accordance with applicable law or, if no such law exists, in accordance with company policy.

Maintain records for tax purposes. Employers must report accrued wages and other compensation paid after the date of the employee's death, in addition to wages that were available to the employee while he or she was alive. If the employer made the payment after the employee's death but in the same year the employee died, the employer must withhold Social Security and Medicare taxes on the payment. These taxes do not need to be withheld if the employer made the payment after the year of death. Generally, employers must also report payments to the employee's estate or beneficiary on Form 1099-MISC.

Contact all group benefit providers. Employers that sponsor group health plans or retirement plans may be subject to certain requirements under the [Employee Retirement Income Security Act](#) (ERISA), including with respect to continuation of health coverage (for example, to spouses and dependents) under the [Consolidated Omnibus Budget Reconciliation Act](#) (COBRA) and any state continuation of coverage laws ("mini-COBRA"). If the death resulted from a work-related injury, employers should contact their workers' compensation insurance providers.

Notify appropriate federal and state agencies. Employers may need to notify the [Occupational Safety & Health Administration](#) (OSHA) or applicable [state plan](#) if the death resulted from a work-related incident.

Contact the deceased employee's family. Employers should notify the employee's family of any benefits that are available, and of any personal belongings from the deceased employee that they may wish to retrieve.

Notify other employees about the death, and reorganize responsibilities. Employers should comply with any federal and state privacy laws addressing what information can be shared publicly when communicating the employee's death. The deceased employee's responsibilities can be given to other employees, or can be fulfilled by hiring a replacement.

Provide a private area where co-workers can mourn without public scrutiny. Initially, close friends and associates will feel shock and intense grief. To assist with recovery, affected employees should be given time to talk about the deceased person, sharing memories, and discussing the loss.

Consider holding a memorial service, especially if co-workers cannot attend the funeral. A memorial service can be very helpful and is often a turning point in restoring a work group to normal productivity.

If applicable, remind employees about the services of any Employee Assistance Program. Eligible employees may need to turn to the [Employee Assistance Program](#) for professional help in coping with the death.

Ensure the return of all company property. Employees sometimes keep company property, such as keys or laptops, at their residences.

Please Note: This list may be used for general reference only and is not all-inclusive. Employers are strongly advised to consult a knowledgeable employment law attorney to ensure full compliance with their specific legal

obligations under federal and state law arising from the death of an employee.