



ZGLAW

ZAMBRANO GRUBA CAGANDA & ADVINCULA

FREQUENTLY ASKED QUESTIONS

Allowed Flexible Work Arrangements During the Ongoing COVID-19 Outbreak

WPG

/ a regional law network

Q: Can employees be required to go on leave or to reduce their work hours or workdays?

A: Yes. Under Department of Labor and Employment (“DOLE”) Labor Advisory 09-2020, the employers may consider either of the following flexible work arrangements, among others, during the enhanced community quarantine period:

- (a) Reduce the workhours and/or workdays;
- (b) Rotate the employees or alternately provide work within the week; or
- (c) Require the employees to go on forced leave for several days or weeks utilizing their leave credits (if any).

The DOLE recognizes the desirability and practicality of flexible work arrangements after consultation with the employees, taking into account the adverse consequences of the situation on the financial viability of the company.

Since what the DOLE promulgated is an advisory, a company may adopt its own work scheme aside from what has been mentioned tailored to its need and bearing in mind the purpose of Advisory 09-2020, like adopting a broken time schedule where the work schedule is not continuous. Some companies have resorted to providing their employees with temporary places to sleepover and other provisions during the quarantine period while others have advanced the payment of their employees' 13th month pay wholly or partially as a means for their employees to tide over the financial challenges of the times.

Q: Can the company direct the employees to work from home?

A: Yes. The DOLE is urging businesses not to close shop. Instead of the outright termination of services of the employees or total closure of the establishments, the DOLE in its Labor Advisory No 11-2020 highly encourages employers to implement a “flexible work arrangement” which includes, but is not limited to: telecommuting, work from home, reduction of work hours or workdays, rotation of workers, and forced leaves in order to continue its business operation.

Q: Are there legal guidelines for the implementation of flexible work arrangements?

A: Yes. The DOLE in its Labor Advisory No 09-2020 provides that the employer implementing the flexible work arrangements must perform the following:

- (a) Notify the appropriate DOLE Regional Office or any of its Provincial/Field Offices of any of the above flexible work arrangements which shall be in the *Revised Establishment Report Form* (see Attachment A); and

(b) Disseminate a copy of Labor Advisory No 09-2020 (see Attachment B) to the employees considering that the posting of the same in the workplace may no longer be feasible.

Q: Our employees have been under quarantine in their homes already. But some of them have already exhausted their leaves. Does the company have to pay them their salaries?

A: No. If after the leave credits of the employees have all been used up, the “**no-work-no-pay**” principle shall apply. Individual workers who fall under the no-work-no-pay scheme may be eligible to a relief assistance under a package called CAMP or “COVID-19 Adjustment Measures Program” where the DOLE can grant a one-time relief assistance of up to PhP5,000.00, subject to certain conditions (*discussed further below.*)

The government appeals to the employers' sense of compassion to continue paying their employees so as to provide aid to them during this time of national emergency.

Q: Do the labor advisories on flexible work arrangements still apply after the enhanced community quarantine (ECQ)?

A: Yes, the labor advisories on flexible work arrangements still apply after the ECQ. Labor Advisory No. 11, in particular, makes reference to the ongoing Covid-19 pandemic and the earlier proclamations/directives of the President which declares that the Philippines is under a “state of public emergency” and a “state of calamity”. Considering that these declarations are still in force even after the ECQ and given that there is still an ongoing Covid-19 outbreak after the ECQ, the labor advisories on flexible work arrangements shall remain to be observed by the employers as a remedial measure.

Employers may contact the DOLE through the following:

- **DOLE 24/7 Hotline:** 1349
- **DOLE Website:** <http://www.dole.gov.ph>

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