



**Q: We're concerned about the impact of school, and some daycare closing will have on our workforce. One popular idea is setting up a makeshift area in a conference room for childcare. What potential liabilities should we consider before deciding to move forward?**

**A:** The rapid-fire responses to COVID-19, school closings included, are causing small businesses to think outside the box on several issues. Although, as the saying goes, desperate times call for desperate measures, businesses should step back and look at each issue from multiple perspectives.

Also, before I answer the childcare question, I want to point out that some employees may be responsible for adult family members who rely on day programs for care during the week. I'll address this later in my response.

Focusing on the question at hand, there are benefits, concerns, and even some potential liabilities related to providing some form of onsite childcare to employees. Some benefits include:

- Employees who are unable to work remotely, and have limited childcare options, can continue to work at least part of their work schedule.
- Employees may have greater piece of mind with their children nearby.
- With fewer employees out of work, there may be fewer negative impacts on company operations—at least in the short term.

If schools were closing for a couple of days, my concerns would be minimal. However, most indications point to schools remaining closed for anywhere from a few weeks to a few months.

With that in mind, the concerns and potential liabilities include the following:

- As a parent and grandparent, I understand the natural tendency of parents to look past the disruptions caused by their children. That's not a bad thing; it's just a fact. For example, you're at work, and a hysterical two-year-old wearing nothing from the waist down runs down the hall. A few seconds later, the child's father jogs past laughing and playfully calling out, "*I'm gonna get you!*" Very cute when it happens at home, but...
- Regardless of the type of business or industry, there may be potential insurance issues with having children on the property for even short periods.
- Another fact, accidents happen. There's a risk that one or more children may get injured, either on the property or by another child.
- Problems between children can lead to bigger issues between parents, especially parents already under the stresses of a pandemic virus, their children at work with them, and

countless other worries. I doubt it would be long before you'd hear, "WTF! I just found out your little monster bit my son!" "F&#K YOU! Don't you call my child a monster!"

- Anyone who has or had small children is aware of their well-earned reputation as human Petri dishes. Viruses and other illnesses are sure to be transmitted from child to child, children to adults, and coworker to coworker very quickly.
- Finally, depending on local and state laws, it may be illegal to run what is essentially an (unlicensed) onsite childcare center. That includes "staff" that is untrained and without the proper background checks, a facility that has not been checked by the health department, etc.

As I said at the beginning, parents of young children may not be alone in their struggles. Employees responsible for adult children and parents who are unable to care for themselves often rely on day programs during the week. These programs are also closing in response to the Coronavirus outbreak, leaving few options for participants or their primary caregivers.

In order to provide needed options to as many employees as possible, I suggest looking at several options, such as:

- Work out flexible schedules for employees facing dependent-care challenges.
- Offer condensed workweeks, i.e., four 10-hour days.
- Allow employees to work weekend hours, when another individual is available to provide care for dependents.
- Offer work from home arrangements – or a combination of working at the office and at home.

Also, consider allowing employees to use PTO, even permitting negative PTO balances, to help relieve the worries of lost income during an already incredibly stressful time.

Unfortunately, no single solution will work for everyone, and there are limits to what businesses can do for their employees. What's most important is to remain open to a variety of ideas, weigh the benefits and potential liabilities of each, and find solutions that make sense.