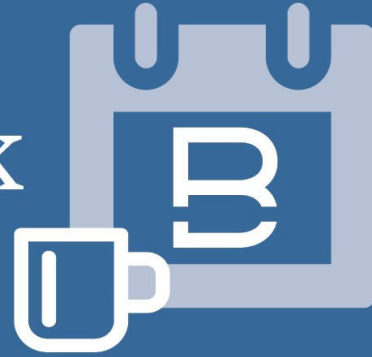


The Work Week

Bassford Remele Employment Practice Group



November 13, 2023

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Should Employers Address Mass Shooting Tragedies?

On October 25, 2023, a shooting rampage in Lewiston, Maine, left 18 dead and 13 more injured after a gunman opened fire on a bowling alley and restaurant. An intensive 48-hour search for the shooter shuttered schools and kept residents behind locked doors as police searched for the gunman, whose body was found Friday inside a recycling facility box trailer. The attack has been labeled the nation's deadliest mass shooting of 2023. The number of mass shootings has risen above 500 in this year alone, with workplace shootings becoming more common. It is an unfortunate reality that has led to business leaders feeling unsure of the best way to react and communicate when a mass shooting takes place.

When tragedy strikes, it is important for employers to acknowledge the fear, grief and stress that commonly arises in employees. Often times, the anguish that employees feel following a mass shooting can impact how they show up for work. An employer's response can help create a supportive space in which employees feel safe, understand workplace policies and have a sense of unity. Acknowledging gun violence can be a daunting task. Employers should be cautious in their communication, steering clear from making any political statements. However, acknowledging mass shootings can be an opportunity to provide employees with support while also reiterating the organization's relevant workplace policies. Given the growing epidemic of mass shootings, it is critical for employers to create a safe workplace and protect against liability while also complying with state and federal laws.

Leaders can reach employees across the organization through employee newsletters, town halls, staff meetings, and other discussion forums. Here are three things to keep in mind when addressing mass shootings.

Acknowledge the Employee Experience – Recognize that all individuals may have a different reaction to mass shootings. When violence is rooted in racism, homophobia, or other hateful discrimination, employers should acknowledge the fear experienced by employees who identify with the targeted groups. Organizations with employee resource groups can encourage those networks to hold a safe place for group conversation.

Encourage Employees to Use Available Resources – Empower employees to prioritize their physical and mental health by making them aware of time off policies and other benefits offered. For example, many employers have Employee Assistance Programs (EAP) designed to assist employees in getting help for their personal or family issues, including mental health, financial, or legal concerns.

Effective January 1, 2024, Minnesota’s Earned Sick and Safe Leave law (“ESSLL”) will require employers to provide eligible employees at least one hour of sick and safe time for every thirty hours worked with an annual maximum of forty-eight hours per year. Employers should remind employees of the ESSLL policy in which they can use sick and safe time for: (1) mental or physical health; (2) weather or other public emergency; and (3) safety. An employee may use the sick and safe time if the absence relates to themselves or if it relates to a family member.

Employers should also ensure that employees who were victims or who have family members who were injured in the attack may be eligible for up to 12 weeks of unpaid job protected FMLA leave. Providing care for a family member includes providing both physical and psychological care. If an employer has notice of the employee’s serious health condition or that of a family member, they should notify such employees of their right to take FMLA leave.

Remind Employees of Workplace Policies – There are no federal laws specifically addressing firearms in the workplace. However, under the federal Occupational Safety and Health Act (“OSHA”) employers are required to maintain workplaces free from recognized hazards that cause or are likely to cause death or serious physical harm. Although OSHA does not specifically contain rules on workplace violence, OSHA has cited employers under the General Duty clause for failing to prevent foreseeable workplace violence. To comply with OSHA, employers should adopt anti-violence policies which may include a ban on weapons.

At the state level, about half of the states have implemented firearm laws that restrict use within the workplace. Generally, these restrictions address (1) storage of firearms in vehicles on company property, (2) where on company property an employee may possess or carry a firearm, (3) restrictions on firearms in company vehicles, and/or (4) immunity from liability. In Minnesota, public and private employers may establish policies restricting the carrying or possession of a firearm by employees while acting in the course of employment. However, employers may not prohibit lawful carrying or possession of firearms in a parking facility or parking area.

In addition to creating a sense of unity, responding to mass shootings can be an opportunity for employers to create, adjust or remind employees of workplace policies. At Bassford Remele, we support clients in developing policies, handbooks, and procedures to ensure that they are compliant with state and federal laws. If you’re seeking guidance or have questions or concerns, the experienced attorneys in Bassford Remele’s Employment Law practice group are here to assist you.

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