



We Will Fly Again Part II

Legal Update by Jeff Ment





Vaccines and Testing

Untangling the Web of Regulations

Rules, Regulations, Responsibility: Who is in charge here???

- With all of the new rules and regulations it is difficult to nail down who is in charge. Let's review.

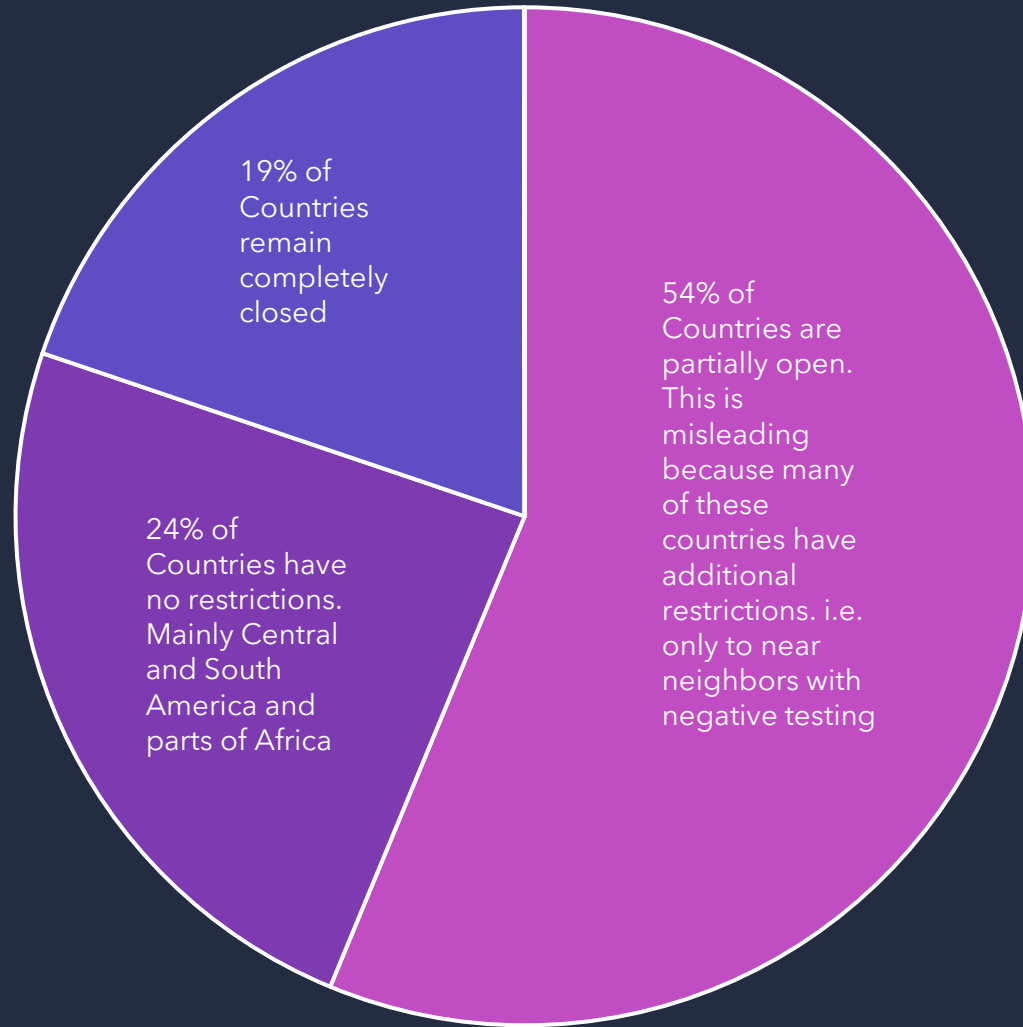


Covid Testing/Entry Restrictions: A very small sample.

- U.S. - Starting on January 26, 2021, the Centers for Disease Control (CDC) requires all passengers traveling to or connecting through the United States to present proof of a negative COVID-19 test taken within 3 days of your flight departure date.
- U.K.- On January 18, all travelers to England, Scotland, Wales or Northern Ireland, including UK nationals returning home, must have a medical certificate with a negative COVID-19 PCR, antigen or LAMP test result taken within 3 days prior to departure.
- Italy- Italy has restricted most foreign nationals into the country until at least March 5, with the exception of nationals and residents of the EU, the Schengen area, Andorra, Monaco, San Marino, Vatican City, travelers with a long-term residence permit or a long term "D" visa issued by Switzerland or an EEA Member State. Travelers must present a negative molecular or antigenic test result issued within 48 hours prior entering Italy and may be subject to self-isolation upon entry.
- Spain- has restricted most travelers arriving from outside the EU/Schengen, the UK, and countries with reciprocal agreements for accepting travelers. Travelers arriving from risk countries must present a medical certificate with a negative COVID-19 TMA, LAMP or PCR swab test result issued within 72 hours prior to arrival.
- Algeria- Has closed borders
- Australia- has restricted the entry of all foreign nationals except New Zealand nationals who reside in Australia, and nationals of other Oceania countries who are transiting through to their home countries. Travelers must present a medical certificate with a negative COVID-19 PCR test result issued within 72 hours prior to departure, complete the Australia Travel Declaration form, and could be subject to quarantine.
- Japan- Japan will allow foreign nationals moving to the country to study, work or to join their family. All arrivals must present a negative COVID-19 test result issued within 72 hours of their flight departure time if they have visited these countries.
- Ecuador- Travelers may enter Ecuador, but must have a negative RT-PCR test and may be subject to additional antigen testing and/or quarantine on arrival.
- Mexico- Mexico does not have any entry restrictions for air travel, but travelers arriving from countries affected by COVID-19 will be screened and quarantined if necessary.

<https://www.kayak.com/travel-restrictions>

World Covid Restrictions



■ Partially Open ■ No Restrictions ■ Closed ■ Reopening Soon

Vaccination: The Rollout

Move At A Glacial Pace!



Oh How It Thrills Me!

- In the United States 16 million doses have been administered. To put that in perspective that is LESS than 5% of the population.
- Each state has divided their populations into groups or phases or tiers, and each is working through them at its own pace.
- Most states' websites acknowledge the limited vaccine supply, and that many of the state hotlines are likely to be experiencing difficulties. So what stage are the states at?

- Alabama 65+ and **Education**
- Alaska HCW, LTC, First Responders
- Arizona Allocated at the Local Level
- Arkansas 70+ and **Education**
- California HCW, LTC, 65+, **Education**
- Colorado 65+ HCW, LTC, **Education**
- Connecticut HCW, LTC, First Responders
- Delaware HCW, LTC, **Education**, First Responders
- Florida 65+ HCW, Vulnerable Pop.
- Georgia HCW, First Responder, LTC, 65+
- Hawaii Essential Workers, 75+, **Education**
- Idaho HCW, LTC, **Education**, First Responders, 65+
- Illinois 65+, HCW, LTC, **Education**
- Indiana 65+, HCW, LTC, First Responder
- Iowa HCW, LTC, **Education**
- Kansas HCW, LTC, 65+, Critical Workers
- Kentucky LTC, 70+, **Education**, First Responder
- Louisiana 65+, HCW, First Responder,
- Maine HCW, LTC
- Maryland 65+ HCW, **Education**, First Responders
- Massachusetts LTC, First Responders
- Michigan HCW, LTC, 65+, **Education**
- Minnesota 65+, **Education**, HCW, LTC
- Mississippi 65+, LTC, HCW
- Missouri 65+ LTC, HCW
- Montana HCW, LTC, 70+
- Nebraska HCW, LTC
- Nevada HCW, LTC, First Responders, 70+
- New Hampshire HCW, LTC, 65+
- New Jersey HCW, LTC, 65+
- New Mexico HCW, LTC, First Responders, 75+
- New York HCW, LTC, 65+, First Responders, **Education**
- North Carolina HCW, LTC, 65+
- North Dakota HCW, LTC, First Responders, **Education**, 65+

- Ohio HCW, LTC, 65+
- Oklahoma HCW, LTC, First Responders, 65+
- Oregon HCW, LTC, **Education**
- Pennsylvania HCW, LTC, 65+
- Rhode Island HCW, First Responders, **Education**
- South Carolina HCW, LTC
- South Dakota HCW, LTC, First Responders, 75+
- Tennessee 75+
- Texas HCW, LTC, 65+
- Utah HCW, LTC, First Responders, 70+, **Education**
- Vermont HCW, LTC, 75+
- Virginia HCW, LTC, 65+

- Washington, D.C. HCW, 65+
- Washington HCW, First Responders, 65+
- West Virginia 65+, HCW, LTC, First Responder
- Wisconsin 65+, HCW, LTC, First Responder
- Wyoming HCW, LTC, 65+

<https://www.wsj.com/articles/how-to-get-a-covid-19-vaccine-a-state-by-state-guide-11611703769>

Get Your Vaccine News Here!

Children as young as first graders may be able to get the coronavirus vaccine by the time school starts in September, presuming trials are successful in those age groups, Dr.



Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases, said. "We're in the process of starting clinical trials in what we call age de-escalation, where you do a clinical trial with people 16 to 12, then 12 to 9, then 9 to 6," Fauci said.

When asked what was the youngest age group that might be authorized for the vaccine by September, he said, "I would think by the time we get to school opening, we likely will be able to get people who come into the first grade."

<https://www.propublica.org/article/fauci-vaccines-kids>

Vaccinations: Who Might Require Proof?

- Airlines- The logic is to reduce quarantines at destinations
 - Digital Health Care Pass- Will allow travelers to store test or vaccine info.
 - IATA- Travel Pass
 - JetBlue- CommonPass

COVID-19 vaccination may not be required to board domestic flights. This is yet to be determined.



Vaccinations: Who Might Require Proof?

- Countries- Probably- And they could all be different.
 - Australia- Plans to work with airlines. You will not be able to board a flight to Australia without proof of vaccine.
 - Israel- "Green Passport" will be provided to vaccinated citizens allowing them to avoid travel restrictions.

Dr. Fauci, "Anything is on the table. Anything is possible, of course."



Vaccinations: Who Might Require Proof?

Suppliers- Probably- And they will all be different.

Disney: A Study

- Masks required for everyone 2 and older- even for vaccinated
- Guest temperature check at entry
- Social Distancing

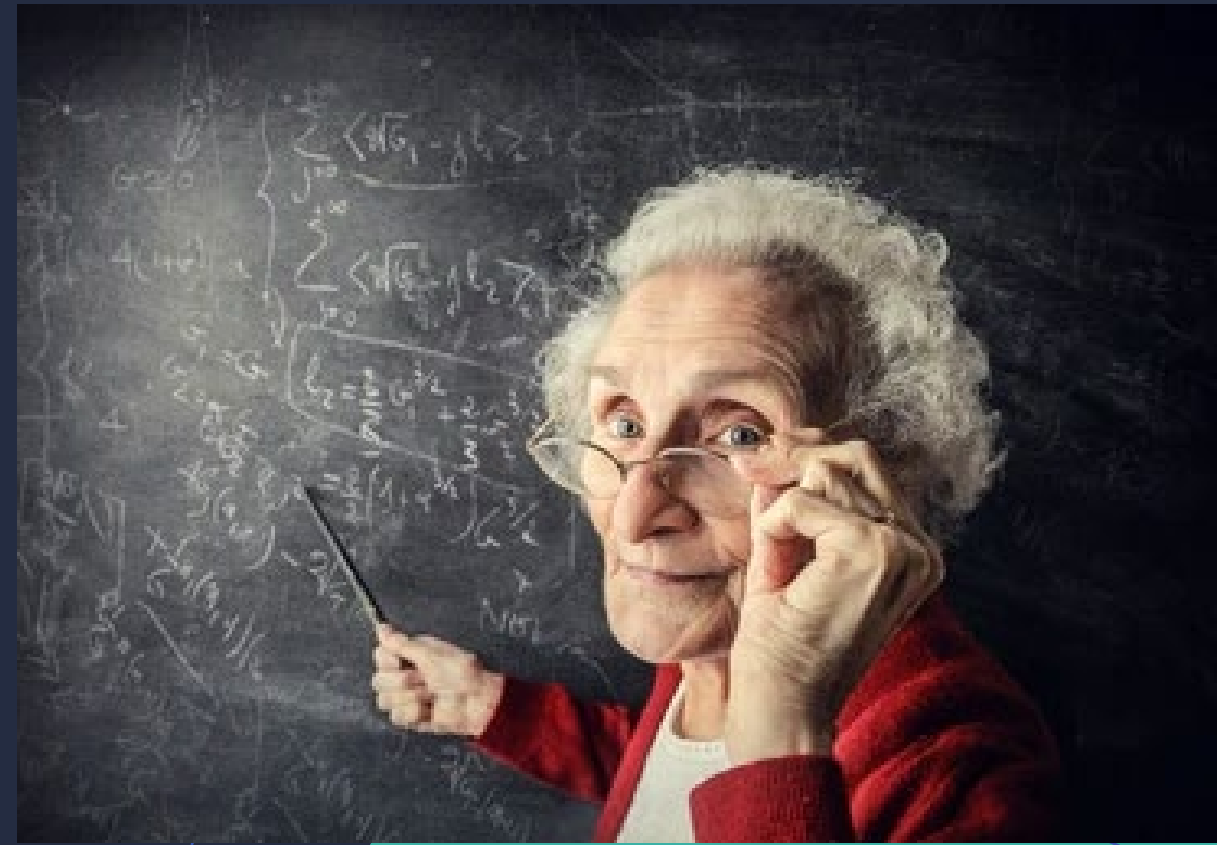
Vaccinations: Who Might Require Proof?

- Tour Operators: Yes. And before you ask, yes you can. We are already seeing some operators move on this:
 - SAGA
 - Zephyr

The Question is.....SHOULD YOU? And just as Important, what to do if a supplier, or carrier requires vaccination?

Vaccinations: Are You Considering Vaccination Requirement? Things to Consider.

- Who is Vaccinated?
 - ONLY 35% of states are currently providing vaccinations to Educators.
 - 56% of states have begun to provide vaccines for individuals age 65+
 - NO States are currently allowing healthy people under 65 to get the vaccine.
 - So if you are telling adult chaperones and teachers they need to be vaccinated you may run into some trouble.



Tour Operator: Best Practices

- Know the rules, regulations and requirements and SHARE them!
 - This includes destination rules, airline rules, and supplier rules
 - Travelers should be provided clear and specific instructions and should also be given clear responsibility to ACT. (We will discuss this a bit later)
- If a destination or supplier requires adults to be vaccinated you need to plan ahead to determine if the travel is even feasible.



Updating Behavior

Making Changes to Address Travelers Safety Concerns

Updating our Behavior!

Consumers Post Covid will have Expectations:

- People will want to travel and be with others. There is a psychological need for this. The difference will be expectations on the provider.
- Consumers - "When will it be safe to travel?" and what information will they rely upon?
- Sources for consumers: CDC, news media, **travel companies**

Updating our Behavior!

Consumers Post Covid will have Expectations:

- Providing and Promoting a Healthy, Sanitary Environment for travel:
 - Hand Sanitizer/ Masks Readily available.
 - Accommodations/Transport should promote sanitary practices.
 - Transport should allow for social distancing.
 - Provide low touch options for check ins/check outs (Promote the In-room Check-out).
 - Provide for smaller group sizes at lower traffic destinations.

Updating our Behavior!

Consumers Post Covid will have Expectations:

- No more Quad Occupancy- negotiate for a better rate on Double Occupancy
- If you have a performance scheduled you need to make sure that the venue is taking proper precautions. Find out their plan!

Tour Operators: Doing it Right

- Collette-
 - Offering domestic tours
 - Regular temperature checks
 - Stringent Sanitizing
 - Social distancing- INCLUDING THE BUS.
 - Mask wearing mandatory

Travelers were impressed. "Nobody complained about [the rules]."



Tour Operators: Doing it Right

- Classic Journeys
 - International Travel
 - Located Covid Testing Centers for guests for pre trip testing
 - Providing professional testing upon arrival at destinations

“It is incumbent on tour operators to help travelers remove hurdles. These restrictions are in place for a good reason, and we are here to help our clients make sense of it, to make their travel seamless and safe” - Edward Piegza- Founder of Classic Journeys

Tour Operators: Doing it Right

- G Adventures
 - Providing tests for entire group if one guests shows symptoms.
 - Escorted medical attention
 - Focus on outdoor venues



What about Liability?

What should you do about liability due to future guests diagnosed with Covid while on tour or at your accommodation?

- Duty to Warn:
 - All sellers of travel have a duty of care to protect their travelers from unreasonable risk of harm.
 - For a plaintiff to be successful in a lawsuit, it must be established that a duty of care was owed; the duty of care was breached; and the breach caused a loss of life or harm to the traveler's quality of life after the trip.
 - It is incumbent upon travel companies to assess risks associated with an activity, a destination, transportation, and lodging; and warn and protect their travelers from foreseeable risks.

Evolving Legal Issues

What we have learned from
Covid so far



This Year We Learned:

- To Be Transparent
- To Be Honest
- To Provide Good Customer Service

Let's take a look at what happened when things went wrong.

When in doubt,
tell the TRUTH.

Mark Twain

Student Music Tour Cancellations Ends in AG Orders to Pay Up

- TO booked European tour for music students nationwide. Total tour price was between \$6,000 to \$9,000.
- In Washington State, 235 students were booked on tours.
- Washington State is a Seller of Travel State:
 - Where a travel agency cancels a consumer's travel, Washington law allows the travel agency to recoup its losses by charging consumers cancellation penalties **if the company was appropriately transparent** with the consumer about the potential for those penalties. When the travel agency cancels, the law prohibits travel agencies from charging cancellation penalties greater than those the company incurs from its third-party vendors – such as airlines or hotels.

Student Music Tour Cancellations Ends in AG Orders to Pay Up

- The TO deceived customers by sending a letter stating they had paid more than \$1,900 per student that they could not recoup.
- The reality was that the TO had recuperated 60% of the total trip cost.
- The Washington AG received 23 complaints about the TO and launched the investigation. The AG found that the TO violated the SOT laws and ordered payment to all students totaling \$464,000.

Student Music Tour Cancellations Ends in AG Orders to Pay Up

- The same complaints reached the Minnesota AG who ordered refunds to 344 students totaling \$664,835. Additionally, the TO is required to communicate its cancellation and refund policies to future travelers.

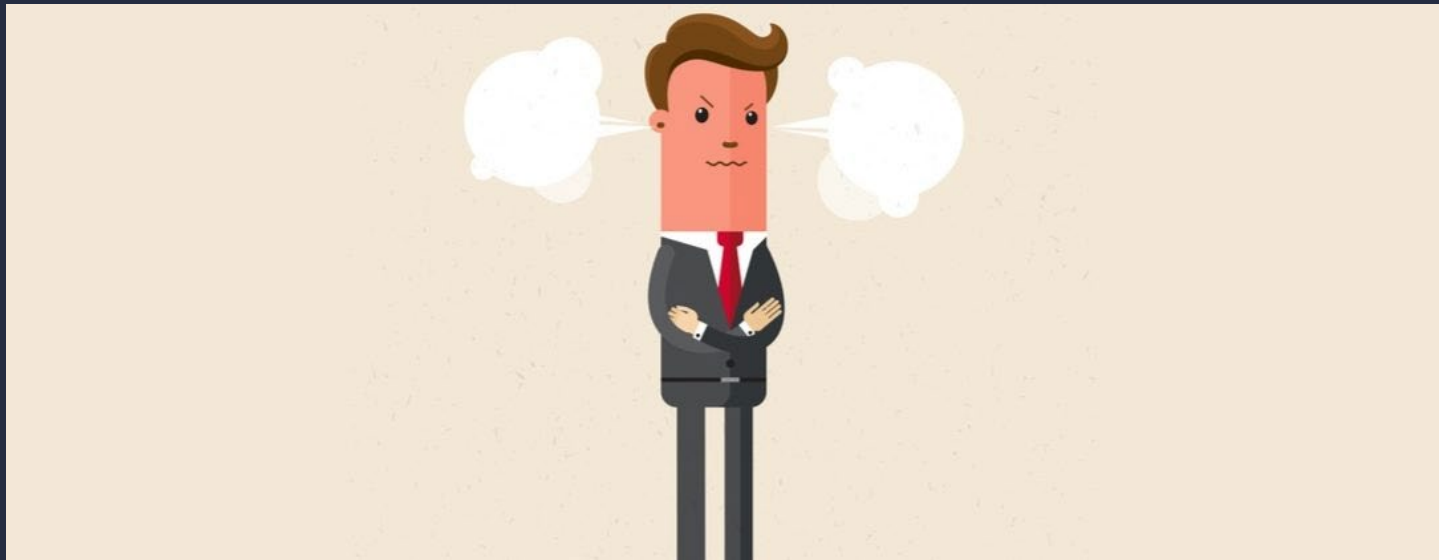
Student Music Tour Cancellations: PR Nightmare

- "I can't understand the punitive fees families are being charged through no fault of their own. ...Many families are struggling to pay bills and keep their jobs and should not be additionally burdened with over-reaching cancellation fees at this time."
- "This review is in response to the prior statement that TO is honest. No, actually it is not honest. If TO was honest, then TO would be showing all of the families who signed up under this snake oil deal the PROOF that it actually lost deposits."
- "I am investigating into a possible class action lawsuit against TO for their failure to fully refund consumers whose trips were cancelled due to the COVID-19 Pandemic."
- "I understand in these unprecedented times that it is best to cancel, however this company kept \$1900 of money and will not give any information about why they are keeping the funds. "

Example Two: TO provides NO refund.

The video in the next clip furthers the harm that occurs when we are not honest and transparent.

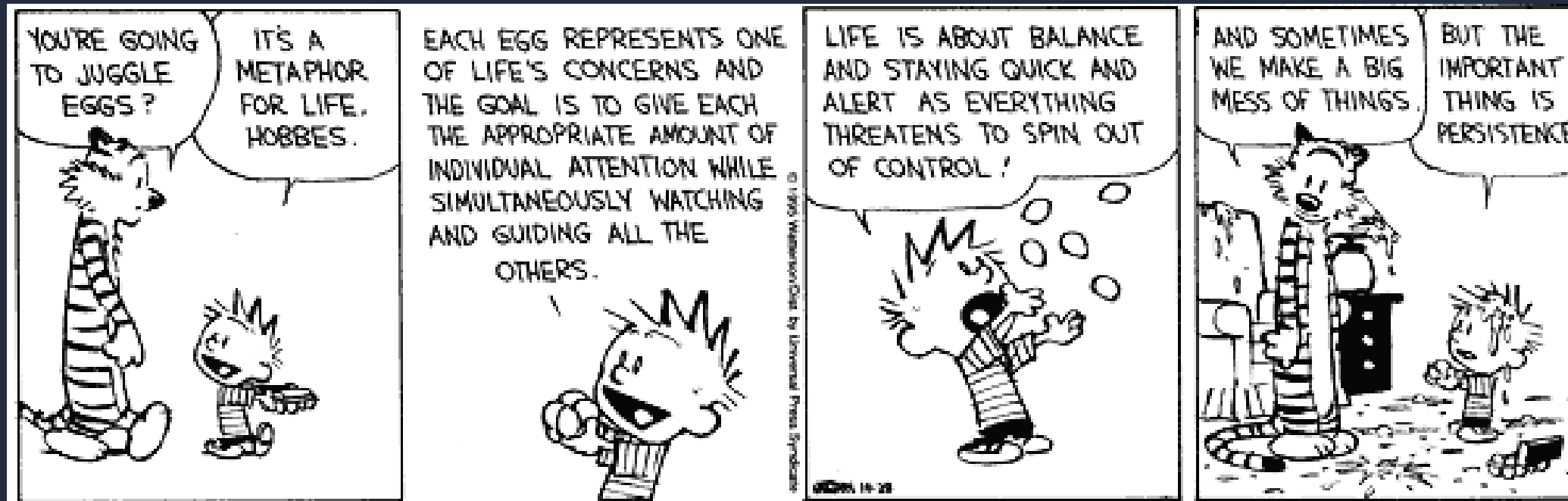
Parents will dig deeper and contact suppliers when we fail to provide answers.





**Springville High School
Band**

Risk Management



Risk Management Plan

- Update your Covid waiver
- Clear Cancellation Policy
- Learn what Travel Protection ultimately protects
- Develop a Plan for guests who become sick while traveling

Covid Waivers

- Make sure it is CONSPICUOUS
- Include NEW Client Responsibilities:
 - Some locations may require you to have a vaccination or proof of a negative test. You must be aware of restrictions and have all appropriate documentation for any stopover destinations. On return home, there may be additional requirements. You are responsible for understanding all of these requirements and must not rely on Tour Operator to provide information.

Destination Waiver

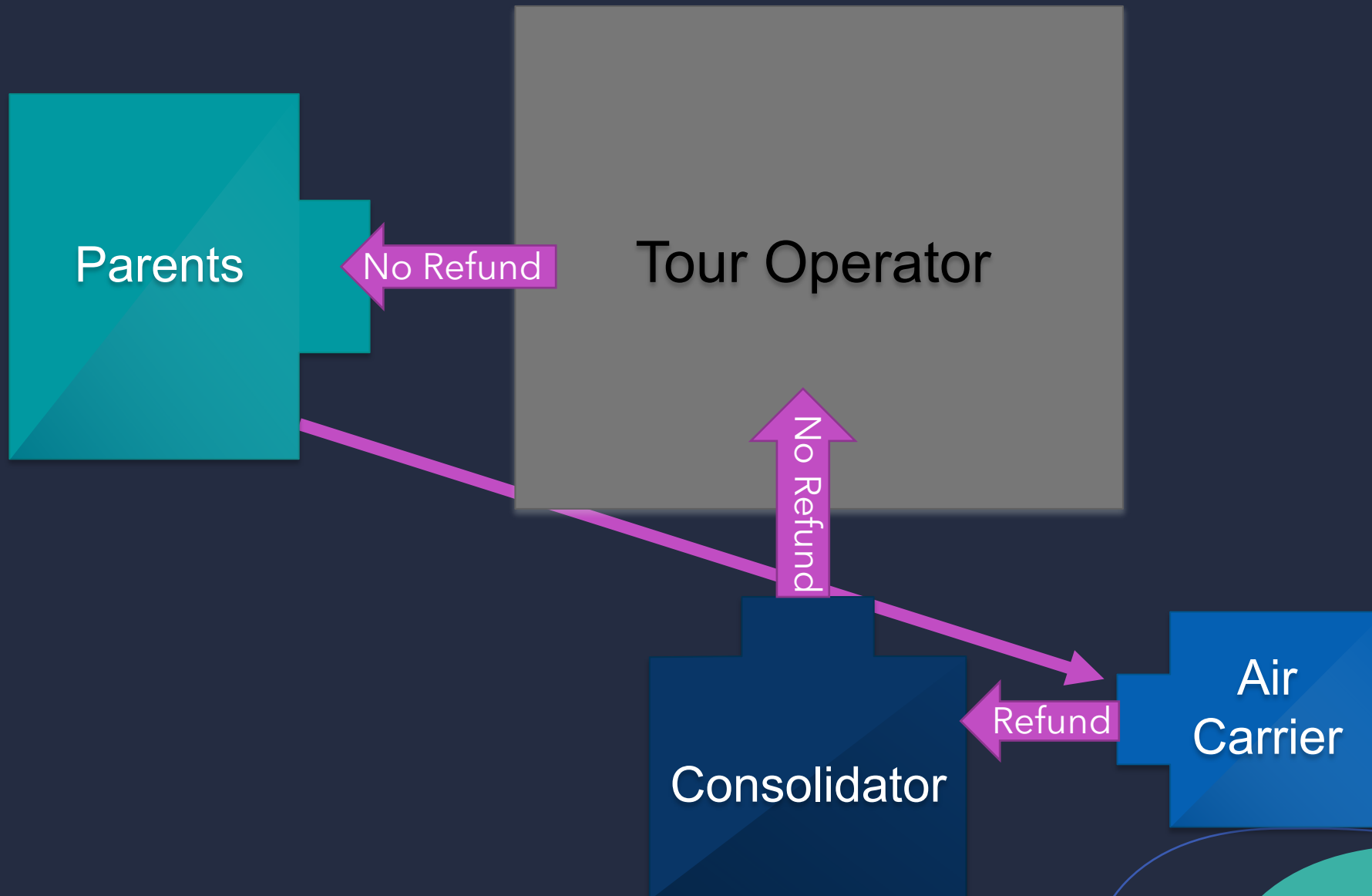
"In addition, you should consult with government websites to ensure that you are in compliance with all requirements for admittance into that country as well as understanding local laws that govern travel within a country, such as tracking. You are also responsible for obtaining any testing and providing any paperwork as required by governmental bodies due to COVID-19"

"By offering travel to any destination, we do not represent that travel in such destination is safe or without risk. Should you choose to travel to a country that has been issued a travel warning or advisory, including COVID warnings, we will not be liable for damages or losses that result from travel to such destinations."

Cancellation Policy

- Cancellation policies should be transparent
 - We can no longer afford to hide our obligations to third parties
 - Advise guests that they are subject to contracts we enter on their behalf with our suppliers
 - Be prepared to share the cancellation terms of suppliers

Supplier Flow: An Example in the Importance of Transparency




trip risk
safe life
cost accident
money covered
assurance
cover
health life cost
group
insurance family
security risk injury
medical
accident expenses children
safe assurance insurance protection family
care illness trip life
individual medical covered secure protection trip safe care money secure
sick injury individual medical covered secure protection trip safe care money secure
group cost health risk TRAVEL INSURANCE risk money care injury safe
children trip coverage vacation safe emergency airplane help accident tourism care trip
money expenses ill risk insurance cost travel doctor covered sick policy injury safe





Understanding Insurance

In preparing this section we spoke to our friends in the insurance industry. They offered some valuable insights into the changing landscape in the travel insurance arena. One very interesting point they made was that their goal is to “Help organizations manage travel risk.” Remember that your insurance company should be a partner and should offer honest advice.



Government Regulation and Group Policies

- Since COVID began, State insurance regulators have become more involved than ever in Travel Insurance.
- This limits the availability of the Group Travel Policy.
- Why? Because State Regulations are requiring that Insured's know what is being purchased. In order to do this each individual would have to be provided with a detailed breakdown and the ability to opt out.

CFAR and the COVID Coverage Myth

Insurer tells you that purchasing CFAR could cover cancellation due to COVID.

This is **GENERALLY** False: Most CFAR policies continue to have a pandemic exclusion and COVID is still considered a pandemic.

The Result: Angry Customers!



Quarantine Coverage: Does it Exist?

- Maybe....
 - If you are told there is Quarantine Coverage, GET IT IN WRITING
- The Problem:
 - The Traveler has Medical Evacuation coverage but once diagnosed the traveler cannot be evacuated until they test negative.
 - Medical Expenses will cover a hospitalized guest.
 - But if the guest is not hospitalized you must make sure there would be additional coverage for extended trip costs and OOP expenses.

What to do
When COVID
strikes.

A stack of several colorful sticky notes (pink, blue, purple) is shown against a dark blue background. The top-most sticky note is white and has the word "Quarantine" written on it in a black, cursive font. A horizontal line is drawn underneath the word.

Quarantine

Quarantine: Have a Plan!



- Communicate with parents immediately. (This means all parents)
 - This should be done in a calm manner, spelling out the facts and the measures being taken. DO NOT state you are at fault.
- Testing: You should have a plan to test all members of the group should one fall ill.
- You must communicate the issue with suppliers and follow any procedures the hotel may require.
- Arrange with hotels in advance how they handle COVID infections. Have a rate plan in place in case quarantine is necessary.
- Make sure parents are aware through a COVID waiver that all medical costs are their responsibility.
- If a student becomes ill do you have a chaperone that is vaccinated and can stay with them?
- Insurance coverage- Again ask the important questions and get it in writing.
- Keep a written record!



Live Venue Grant Program

Shuttered Venues

Live Venue Grant: How to Get One

Qualifying venues can get up to \$10 million in grant money through the program, an amount that completely eclipses the \$10,000 maximum available through EIDL grants. And unlike PPP, this isn't a loan that is forgivable under specific circumstances. It's a grant. In other words, "free money."

Live Venue Grant: How to Get One

The grants are broken down into two waves: an initial grant and a supplemental grant.

- The maximum amount of the initial grant is equal to 45% of the venue's 2019 gross revenue, capping out at \$10 million.
- A supplemental grant, equal to 50% of the amount received through the initial grant, will be available to some venues. Note that supplemental grants will not be available until all initial grants submitted within the first 60 days of the program are processed.

Live Venue Grant: Eligibility

You and your business must meet several sets of requirements to be eligible for the new grant program. Generally, this grant is available to live entertainment businesses that include:

- Live venue operators
- Live venue promoters
- Theatrical producers
- Live performing arts organization operators
- Museum operators
- Motion picture theater operators
- Talent representatives

Live Venue Grant: Eligibility

Basic business requirements

To qualify, eligible businesses must meet a set of historical and financial requirements:

- Establishment before February 29, 2020
- 25% drop in gross earned revenue over a quarter in 2020, compared to the same quarter in 2019
- At least 70% of revenue from sales-related live events – including merchandise, food and beverages
- Operates or intends to resume business as usual after restrictions are lifted
- Doesn't issue securities listed on national security exchange
- Didn't receive more than 10% of gross revenue from federal funding in 2019
- Wasn't awarded a Paycheck Protection Program (PPP) loan
- Doesn't make more than a trivial amount of income from sales or services that are excessively sexual

If your business was awarded disaster assistance through the Stafford Act, it doesn't count against your eligibility for this program. Eligible businesses or organizations owned by a state or a political subdivision of a state can only include the business or organization.

Live Venue Grant: Eligibility/ Size Requirement

While this grant program isn't as strict as the Paycheck Protection Program, your business must have no more than two of the following characteristics to qualify:

- Owns an eligible business in more than one country
- Owns an eligible business in more than 10 states
- Employed more than 500 employees as of February 29, 2020

Live Venue Grant: Eligibility/ Performance Space

Eligible performance spaces are limited to those that:

- Have a defined performance and audience space
- Use mixing equipment, a public address system and a light rig
- Sell paid tickets or cover charges to most events
- Pay artists fairly – not for tips – with the exception of fundraisers and charity events
- Any nonprofit venue events are produced and managed mainly by paid employees
- Market performances in print or through social media

Live Venue Grant: Eligibility/ Performance Space

The space must also have at least one person filling two or more specific roles, though they don't necessarily need to be paid employees:

- Sound engineer
- Bookkeeper
- Stage manager
- Security personnel
- Box office manager

If you're a promoter, you must work with a venue that meets these requirements. And if you're a talent representative, the artists you represent must perform in a venue that meets these criteria.

Live Venue Grant: Special Requirements for Museums

Museums must meet stated criteria to be eligible for the grant program:

- Primarily operates as a museum
- Registered as a nonprofit
- Indoor exhibits affected by restrictions on gatherings
- At least one space with fixed audience seating and regular programming

Live Venue Grant: How To Calculate the Grant

Grants are capped at \$10 million, and how much you can receive depends on your revenue and when your business opened.

- Business open before January 1, 2019: 45% of gross earned revenue in 2019
- Businesses open after January 1, 2019: Six times the average monthly gross revenue in 2019

Live Venue Grant: How To Use the Grant

You can use your grant for eligible expenses your business faced or is facing between March 1, 2020, and June 30, 2022:

- Payroll costs
- Rent
- Utilities
- Scheduled mortgage payments, not including prepayments
- Scheduled payments on debts taken out before February 15, 2020, not including prepayments
- Worker protection to meet COVID-19 safety guidelines
- Payments of up to \$100,000 to independent contractors
- Maintenance expenses
- Administrative costs, including fees and licensing expenses
- State and local taxes and fees
- Operating leases signed before February 15, 2020
- Insurance payments
- Advertising
- Production transportation
- Capital expenditures related to a live performance or exhibit

Live Venue Grant: Documentation Required

While you don't have to submit any documents after applying, there's a chance you could be audited to make sure your company or organization spent the awarded funds appropriately. Plan to keep employment records for four years after receiving the grant and all other records for three years.

SYTA STRATEGIC PARTNERS



Any Questions?
jment@mentlaw.com

