

COVID-19: Return-to-Work Checklist

Considerations and Emerging Best Practices

Preparing the Workplace for Return & General Health and Safety

Create a company taskforce—comprised of representatives from no less than senior management, legal, HR/people, facilities, payroll and IT departments—to oversee implementation and troubleshooting of the below. The taskforce must stay current on all federal, state and local guidance and directives regarding workplace safety (see “Resources and Guidance” section below), and implement measures applicable to your specific workplace.

Implement social distancing requirements (including as required by applicable federal, state and local orders) for the workplace and limit large gatherings such as “all hands” meetings, employee offsites and customer events.

Increase the janitorial budget (in coordination with janitorial terms in lease and discussion/negotiation with landlord) and source appropriate personal protective equipment to provide to employees per federal, state and local guidance (in most work environments, this will likely mean masks, at a minimum, and perhaps latex gloves for many months).

Educate employees and post notices regarding best practices for hygiene in the workplace. Provide employees with hand sanitizer and other disinfectant products at their workstations for individual use.

Conduct regular and thorough office cleanings, with a focus on high-touch surfaces and areas, such as breakrooms, time clocks, pantries, kitchens, coffee makers, water coolers, shared printers and copiers, conference rooms, lounge areas, elevators, gyms and restrooms.

Ensure hand sanitizers and disinfectant wipes are readily available and restocked regularly in all high-touch areas.

As needed, rearrange office space (e.g. eliminating, repurposing or restricting the use of employee lounges and conference rooms; and installing physical barriers between workstations) to ensure social distancing can be maintained.

Evaluate adjustments to in-office catering and meal service. Avoid communal food trays, salad bars and the like, and consider switching to individual sealed containers for each employee (or suspending company-sponsored catering and meals entirely). Establish a protocol for touchless food delivery.

For communal time clocks, consider moving toward an app-based system.

Ensure HVAC systems are functional and have been properly cleaned and serviced.

Establish a protocol for deliveries and office visitors that keeps them distanced from the employee population. Consider establishing a separate defined space for messengers, food delivery and other visitors.

Formulate a plan, and convey it to employees in advance, as to which employee populations will return and when. Provide employees with reasonable notice regarding their return-to-work date in order to allow them to prepare (one to two weeks' notice is recommended).

If possible, encourage employees to use stairs, rather than elevators, to promote social distancing. For elevator usage, consider only allowing no more than two people in the elevator at one time (otherwise adhere to building protocols regarding elevator capacity).

Employment Policies and Employee Leave

Establish open and transparent communication with employees around COVID-19 issues (e.g. employer efforts to maintain a safe workplace, employee rights under applicable sick and safety leave policies). Encourage employees to voice concerns and ask questions.

Train managers and supervisors before reentry to appropriately respond to and document employee complaints regarding health and safety. Ensure employees are not being retaliated against or treated unfairly for raising concerns and complaints.

Consider staggering employee shifts and allowing employees who utilize public transportation to commute and work during off peak times to minimize exposure. Advise employees with private offices to keep their doors closed.

Evaluate existing sick leave and family and medical leave policies for compliance with new legislation, including the Families First Coronavirus Response Act (FFCRA) (which will remain in effect until December 31, 2020), and any applicable state and local sick leave or family leave laws, and revise, or temporarily amend, such policies accordingly. Carefully and methodically track each employee's use of statutory and company-provided leave, including the duration and reasons for the leave.

Prepare to respond to and be understanding of each individual employee's needs. For example, employees who otherwise may be able to return to work may have children under the age of 18 whose schools remain closed, they may be caring for an ill family member or have other challenges that need to be addressed and/or accommodated. Encourage continued remote working in compliance with federal, state, and local guidelines, especially for at-risk populations.

Consider renewed or amended reasonable accommodations for employees with disabilities in light of COVID-19 challenges and issues, including for those employees who need to continue to telecommute.

Reevaluate office presence as an essential job function. Maintain flexibility in your approach for employees who may wish to continue to telecommute for a period of time.

Establish a clear (short and/or medium-term) policy regarding limits and restrictions on business travel. Encourage disclosure of personal travel destinations.

Prepare for an onslaught of vacation requests—prior to reentry, to avoid mass absenteeism, establish priority and an approval policy/process (including based on previously approved vacation requests that were canceled during a shelter-in-place order).

Review office lease agreements and company insurance policies for provisions that would allow the employer to seek reimbursement for expenses associated with office safety changes, especially regarding common areas shared by multiple tenants (e.g., installing automatic door openers, changes to the elevator system or common restrooms).

Employee Health and Testing

Establish a designated point person (or department) to whom employees should report all COVID-19 related issues. This should be a human resources professional, or someone in a similar role, who is trained to maintain employee confidentiality.

Employers may ask all employees who are physically entering the workplace: (i) if they have COVID-19 related symptoms and (ii) if they have been tested for COVID-19. For employees who are continuing to telecommute, employers may ask an employee such questions if the employer has a reasonable belief, based on objective evidence (e.g., if the person has a hacking cough), that the employee might have COVID-19.

Instruct employees to monitor themselves for COVID-19 symptoms (as updated by the Centers for Disease Control and Prevention), self-report symptoms and concerns, and to stay home when not feeling well.

Consider proactively inquiring whether employees are experiencing COVID-19 related symptoms through a questionnaire issued to all employees on a non-discriminatory basis. Ensure any information obtained from such a survey is kept confidential in compliance with federal and state privacy laws.



Design separate outreach and invite self-disclosure for at-risk populations (e.g., older employees and those with pre-existing medical conditions) to ensure appropriate accommodations are being made.



Consider conducting employee body temperature checks, which the U.S. Equal Employment Opportunity Commission has opined are permissible. If doing so:

- Obtain consent and be transparent with employees (communicate test being performed and consequence of certain results, provide privacy notice and set temperature threshold for consistency).
- Designate a testing site to preserve privacy and maintain distancing.
- Minimize invasiveness (e.g., through contactless thermometers).
- Limit recordkeeping to only suspected or confirmed cases; store records separately from personnel files and treat such records as confidential.



Consider requiring or administering a COVID-19 test prior to employees returning to work, which the EEOC has opined is permissible, and evaluate protocols around testing procedures and reliability. Continue to monitor federal, state and local government guidance on testing (including antibody testing), isolating and contact tracing measures. Implement employee contact tracing initiatives as these programs become more fully developed.

Response to Confirmed and/or Suspected COVID-19 Infection and Exposure



If an employee has a confirmed case of COVID-19 (or has been exposed to someone with a confirmed case), they should not return to the office until: (i) they have been cleared by a medical professional to do so or (ii) they have self-quarantined for a minimum of 14 days following confirmation of their diagnosis. An employer may request a medical note releasing the employee to return to work, but, given that healthcare providers are overwhelmed during the pandemic, this may not be practical.



For confirmed cases of COVID-19 (or exposure to a confirmed case of COVID-19), employers should:

- Interview the employee to identify other company personnel with whom the employee may have had contact.
- Notify company personnel who may have been exposed (without identifying the employee by name, gender or any other descriptor).
- Consider sending an email to the entire office site exposed stating that the company has a confirmed case of COVID-19 (again, the employer should not identify the employee by name, gender or any other descriptor).
- Consider notifying public health authorities about any confirmed employee cases of COVID-19, which is currently not required, but may be in the future.



If an employee is exhibiting flu-like or similar symptoms consistent with COVID-19, the company should send the employee home and direct them to self-quarantine for 14 days.

Resources and Guidance

- The Occupational Safety and Health Administration (OSHA): [Guidance on Preparing Workplaces for COVID-19](#)
 - Centers for Disease Control and Prevention (CDC): [Resources for Businesses and Employers](#)
 - U.S. Department of Labor: [COVID-19 and the American Workplace](#)
 - U.S. Equal Employment Opportunity Commission: [Coronavirus and COVID-19](#)
 - [White House Guidelines for Opening Up American Again](#)
 - [New York State Guidance](#)
 - [California State Guidance](#)
 - [Washington State Guidance](#)
 - [Fenwick's COVID-19 Resource Center](#)
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