

COVID-19: Return-to-Work Checklist

Considerations and Emerging Best Practices

Preparing the Workplace for Return & General Health and Safety

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

The taskforce should first conduct a thorough hazard assessment of the physical workplace, in accordance with federal Occupational Safety and Health Administration (OSHA) recommendations, to identify all potential COVID-19 hazards and formulate its plan accordingly.

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 (PPE) to provide to employees as mandated by federal, state and local guidance. In most jurisdictions—including New York, California and Washington—this will mean providing employees with acceptable face coverings at no cost to the employee (and having an adequate supply of coverings in case of replacement) and making latex gloves and other forms of PPE available. Encourage employees to wear face coverings in public settings outside of the office as required by federal, state and local guidance.

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 and document regular and thorough office cleanings, with a focus on high-touch surfaces and areas, such as break-rooms, 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.

Post social-distancing markers using tape or signs and 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 and other utility systems are functional, have been properly cleaned and serviced and are in line with industry standards for your specific workplace.

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

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.

Upon request, 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. Note that an employer may not exclude an employee from the workplace solely because the employee has a disability that the CDC has identified as placing that employee at a higher risk of severe illness in connection with COVID-19 (e.g., chronic lung disease, heart conditions and diabetes). Rather, an employer may do so if such disability poses a “direct threat” to the employee’s own health that cannot be eliminated or reduced by a reasonable accommodation (which is a high standard that would likely not be met in most cases). Employers should engage in the interactive process with any such employees and conduct an individualized assessment taking into consideration the nature of the employee’s work, and the risk of COVID-19 exposure in the workplace, to determine appropriate accommodations.

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 applicable insurance policies (i.e., workers’ compensation insurance, employers’ practices liability insurance (EPLI) and general liability insurance), and engage with your insurance broker regarding coverage for potential employee claims of COVID-19-related illness, bodily injury and/or wrongful death.

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 CDC) self-report symptoms and concerns, and to stay home when not feeling well. Employees who are not experiencing COVID-19 symptoms but who have a sick family member at home with COVID-19 should be instructed to self-report and follow CDC guidelines.

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 employees (e.g., those who have been identified by the CDC as being at higher risk for severe illness if they contract COVID-19, based on their age, underlying medical conditions or other factors) and provide appropriate accommodations as addressed above.



Conduct employee symptom screening and/or body temperature checks as mandated by federal, state and local orders; when 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 implement measures to protect the individual conducting the screening (i.e., social distancing protocols, partitions and PPE).
- Minimize invasiveness (e.g., through contactless thermometers).
- Limit recordkeeping to only suspected or confirmed cases and maintain a log of employees not permitted to enter the office based on the results of screenings/tests; store records separately from personnel files and treat such records as confidential.
- Establish a procedure to transport sick employees (or those who will not be permitted to enter the office based on the results of screenings/tests) home or to a healthcare provider.



Consider requiring or administering a test to determine whether employees have an active case of COVID-19 prior to their return to work, which the EEOC has opined is permissible, and evaluate protocols around testing procedures and reliability (note, however, that pursuant to EEOC guidance, requiring employees to submit to antibody testing before allowing them to return to work is expressly prohibited). Continue to monitor federal, state and local government guidance on 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:

- If it has been less than seven days since the employee has been in the office, close off any areas used for prolonged periods of time and, if possible, wait at least 24 hours before cleaning the impacted areas to reduce additional exposures.
 - 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).
 - Notify public health authorities about any confirmed employee cases of COVID-19 as required by federal, state and local guidance.
 - Continue to monitor federal, state and local government guidance on testing, isolating and contact tracing measures. Implement employee contact tracing initiatives as these programs become more fully developed.
 - Follow the most recent guidance issued by OSHA (as well as state and local occupational health and safety agencies) to evaluate whether the employee may have contracted COVID-19 in the workplace, and if so, comply with all applicable recordkeeping and other requirements.
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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): [COVID-19 Resource Page](#)
 - 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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