

Return to Work Protocol

What Employers Need to Know About Returning Their Employees to Work in the Wake of COVID-19



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Agenda

- Timing and Structure of Returning Employees
- Social Distancing
- Preparing the Workplace
 - Cleaning
 - Supplies, PPE
- Policies and Procedures
- Workplace Matters (e.g., job descriptions, visitors, hiring, employment contracts, training, evaluations, etc.)
- Legal Issues
- Other Considerations

Timing and Structure of Return to Work



Task force



Risk assessment



Workforce survey regarding ability to return to work (relevant individual worker information)

Timing and Structure of Return to Work



Timing of return

- Triggering events (i.e., applicable stay-at-home orders, etc.)
- Phased-in return
- Staggered shifts
- Alternate work days
- Continued telework/remote work (flexibility as needed if situations change)



Possible ADA accommodations

Social Distancing is KEY

- Physical changes to work areas
 - Minimum 6' between work stations
 - Dividers for production or other line work
 - Plexiglass or sneeze barriers between workers and public
 - Decrease unnecessary interactions
- Rules for common areas (break rooms, bathrooms, etc.)
 - Consider one person at a time in bathroom
 - Space tables in breakroom/limit people per table
 - Limit elevator capacity
 - Other rules to encourage and demonstrate distancing



Social Distancing is KEY

- Staggered work and break/meal period times
- Limit in-person group meetings and/or number of attendees
 - Continue to use conference calls and/or virtual meetings when possible
 - Limit conference room and other meeting space occupancy (remove seating)
- Use signage to clearly provide social distance rules and instructions
 - Throughout facility
 - Especially at "bottleneck" locations (i.e., timeclocks, entrances, elevators, etc.)
- Lead by example!

Enhance and Enable Social Distancing

1. Prepare the workplace

- Develop and implement enhanced cleaning measures
- Procure and prepare necessary supplies

2. Develop or revise policies and procedures

Enhanced Cleaning Procedures

- Consider professional assistance
 - Address all aspects of facility cleaning
 - Implement (visible) new and enhanced procedures
 - Require certification or acknowledgment from third parties that procedures and supplies meet CDC guidelines
- Implement procedures for disinfecting equipment, tools, etc.
- Keep accurate cleaning records (area, times, by whom, etc.)
 - Consider posting
- Encourage employees to regularly clean workspaces and equipment



Procure and Prepare Necessary Supplies

- **Hand sanitizer**

- As much as possible in as many different areas as possible
- Hand wipes or disposable hand towels

- **Cleaning supplies**

- New, visible cleaners and supplies
- Sanitizing wipes in common areas



- **Thermometers and/or other diagnostics as appropriate**

- Temperature checks
- COVID-19 testing

Procure and Prepare Necessary Supplies

- **Personal Protective Equipment (PPE)**

- Equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses
 - E.g., masks, respirators, gloves, and eye protection
 - Should be safely designed and constructed, fit comfortably and encourage worker use
 - Training:
 - When is it necessary?
 - What kind is necessary?
 - How to wear it properly?
 - Limitations of equipment
 - Proper care, maintenance, useful life, and disposal



- **Face coverings/masks or other protective measures**

- Not "PPE"

Other Considerations

- **OSHA also recommends engineering controls**
 - Installing high-efficiency air filters
 - Increasing ventilation rates
 - Installing physical barriers, e.g., clear plastic sneeze guards
 - Installing a drive-through window for customer needs
 - Specialized negative pressure ventilation in some settings, such as for aerosol generating procedures (e.g., airborne infection isolation rooms in health care settings and specialized autopsy suites in mortuary settings)

New or Updated Policies and Procedures

Example policies to consider or revise, where appropriate

- Health screening/temperature checks
 - May maintain temperature log
 - Self-certification of symptoms
- COVID-19 Illness Policy
 - Require reporting symptoms, exposure, diagnosis
 - Violation may result in discipline
- COVID-19 testing
 - Parameters, costs, other considerations

Confidentiality:

- Store separately from personnel file
- May store in existing medical files
- May disclose name to public health agency



New or Updated Policies and Procedures

Example policies to consider or revise, where appropriate

- Vacation, PTO and/or other leave
- Families First Coronavirus Response Act
 - EFMLEA, EPSLA
- Attendance
- Travel policy
 - Prohibit non-essential travel
 - Quarantine after travel



New or Updated Policies and Procedures

Example policies to consider or revise, where appropriate

- Telework
- Accommodations
 - Reasonable accommodations
 - High risk employees
 - Case-by-case determination
- Discrimination, harassment, and retaliation



New or Updated Policies and Procedures

- Develop procedures for returning employees to work who have been out with suspected or confirmed cases of COVID-19
 - Follow CDC guidance on when to end self-isolation
 - May require medical certification
 - Screening
 - Tests

New or Updated Policies and Procedures

- Develop procedures for employees who have a temperature or exhibit symptoms of COVID-19 at work/during screening:
 - Isolate and separate employee while in the workplace
 - Instruct employee to self-isolate at home
 - Create contact list and notify them of potential exposure
 - Instruct employee to follow CDC guidance on seeking medical attention/testing
 - Clean and disinfect the employee's workspace
 - Identify potential return date based on CDC guidance
- Employees who have been exposed to COVID-19
 - Instruct to Self-monitor for symptoms/temperature
 - Quarantine employee

Other Updates: Job Descriptions

Review job descriptions to ensure accuracy

Update job descriptions to include requirement that job must be performed in office, if applicable

Other updates?

Physical and Mental Health Considerations

- **Telehealth options**
 - Research and consider resources through group health insurer
 - Research and consider public health resources and options
- **Employee assistance**
 - Employee assistance programs
 - Public health resources and options
 - Other emotional assistance
- **Addiction assistance information**

BUSINESS AS ~~USUAL~~ UNUSUAL

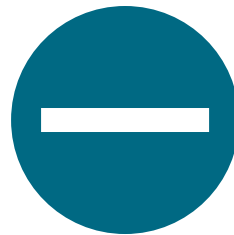
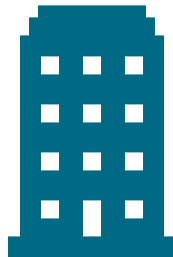
Third Party Vendors and Other Visitors

- **Strictly limit all outside visitors**
 - Public
 - Vendors
 - Consultants
 - Other third parties
- **Implement new or updated protocols for receiving/handling deliveries**
 - Keep delivery persons outside facility
 - Handle all deliveries with gloves
 - Use other appropriate PPE when handling deliveries
 - Disinfect packages where possible



Third Party Vendors and Other Visitors

- **Implement safeguards for required third party entry**
 - Temperature and/or other appropriate screening/testing
 - Require acknowledgments for symptoms, exposure, risks, etc.
 - Require masks



Employment Contracts and Offer Letters

- **Employment contracts**
 - Consider "force majeure" clause related to pandemic
 - Consider if other negotiations are necessary, e.g., start date, remote work, etc.
- **Job offers/hiring**
 - Same considerations
 - May screen applicants after conditional job offer
 - Must be consistent
 - May take temperature or delay start date if individual has COVID-19 or associated symptoms
 - May withdraw job offer if individual is needed immediately but is unable to start because of confirmed diagnosis of COVID-19 or symptoms

Employment Training

Training should include

- Using PPE
- Prohibiting employees from using other employees' computers, phones, etc.
- Not reporting to work when ill
- Social distancing
- Hygiene
- Notice of potential infection

Ensuring Post-COVID-19 OSHA Compliance

- Employers must assess occupational hazards to which workers may be exposed
- OSHA has divided job tasks into four risk exposure levels: very high, high, medium, and lower risk
- Follow OSHA guidance for each level
- Circumstances may require PPE
- Hazard assessment includes exposure response and prevention
- Maintain cleaning and disinfecting procedures
- Follow reporting requirements

Performance Reviews

- Honor past review schedule to extent feasible and depending on commitments for periodic reviews
- Consider performance reviews via:
 - Phone
 - Zoom
 - WebEx
 - Other mediums outside of traditional office setting



Potential Sources of Legal Liability

- Workers' compensation
- Employment discrimination (returning from furlough or implementing other restrictions or changes in employment terms)
- ADA refusal to accommodate and/or retaliation claims
- OSHA complaints
- Claims of violation of FFCRA
- Claims of violation of FMLA
- Claims of violation of wage and hour laws

Retail and Service Obligations



- Create distance between cash registers to encourage social distancing
- Place plexiglass between cashier and customers



- Discourage transactions that require use of pens
 - Single-use of inexpensive pens



- Implement sanitation procedures for device usage
 - Examples:
 - Wiping down touch pads following use
 - Use of disposable covers

Establishing a Communication Plan

Inform employees that the employer takes the safety and health of its employees seriously and is instituting measures to mitigate potential workplace exposure

- Notify employees of:
 - Expected return to work dates (and variations where appropriate)
 - Required pre-return certifications and surveys
 - Notable policy changes and new policies and procedures
 - Screening, social distancing, testing, PPE, and other requirements

Establishing a Communication Plan

Set a schedule for updates

Determine the medium for updates

Set clear reporting channels (for exposure, etc.)

Questions?



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