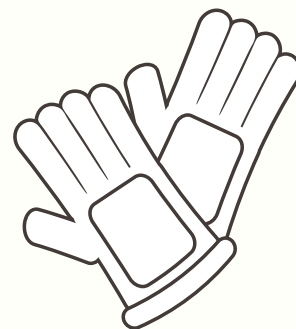
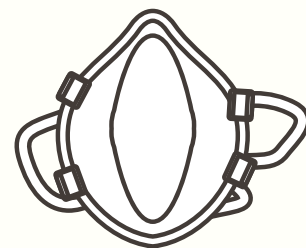




RETURN TO WORK: A GUIDE FOR EMPLOYERS



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RETURN TO WORK PLANS

The coronavirus pandemic has interrupted many businesses across the country. While it's unclear how long COVID-19 will continue to affect organizations, many employers are looking to the future of employees returning to work.

Echoing the sentiments of public health officials, a return to normalcy won't be like flipping a switch, but rather a gradual effort. In preparation for reopening your business and asking employees to come back to work, it's imperative that your company thoughtfully constructs a return to work plan for its employees to keep everyone healthy and safe following the COVID-19 pandemic.

Please note that this document should be used for informational purposes only and should not supersede applicable state or local guidance. Additionally, please review any workplace-specific considerations, which could be more involved depending on the industry you operate in, when drafting your return to work plan.



A return to work plan is typically created to help reintegrate workers who have been injured or have been on leave. The plan includes details on how the worker will gradually return to work and any job-related specifics. Its purpose is to formalize steps for a safe and quick return to work.

There are many benefits of return to work plans for both the employer and the employee. Employers can enjoy increased employee engagement, proactive cost containment, reduced turnover, increased communication and improved morale with an established return to work plan. And it's been proven that employees who go through return to work plans are able to get back to work quicker than those who don't, meaning that employers will see increased productivity following an employee's return to work.

Employees also benefit from return to work plans, as they feel supported by their employer, which increases their engagement and loyalty to the company. Going through a return to work plan also helps them get back to work faster and increases the likelihood that they feel secure and stable in their role.



The benefits of return to work plans are undeniable. While these plans are typically customized on an individual basis, you can use the basics of a return to work plan to build your company's approach to asking employees to return to work following the COVID-19 pandemic.

RETURN TO WORK PLANS

COVID-19 has caused many businesses to shut down or transition their employees to work from home, disrupting daily work life for many. As stay-at-home regulations are scaled back and all businesses are allowed to resume as normal, your employees will be asked to come back to work. While they may not be coming back from an injury or leave, you need to have a plan in place for all employees to safely and successfully return to work.



While you may need to tailor your organization's COVID-19 return to work plan to employees' specific needs (e.g., child care arrangements, caregiving responsibilities and health issues), having a generalized plan in place can help you safely reopen your business.

Your COVID-19 return to work plan should include the items discussed in the following pages of this guide, but it should be tailored to your business's unique needs and follow local and state regulations.

ANTICIPATED RETURN TO WORK DATE



With the uncertainty that COVID-19 has brought, it's important to give clear information and dates when employees are to return to work whenever possible. Be sure to be flexible with your dates, though, as local and state orders are frequently updated. The CDC released guidance that is helpful for businesses. Regularly check your state's website for more information about reopening procedures and timing.

DISINFECTING AND CLEANING MEASURES

Because COVID-19 can remain on surfaces long after they've been touched, it's important that your business frequently cleans and disinfects the facility. Some best practices include:

- Cleaning and disinfecting all frequently touched surfaces in the workplace, such as workstations, keyboards, telephones, handrails and doorknobs.
- Discouraging workers from using other employees' phones, desks, offices, or other tools and equipment, when possible. If necessary, clean and disinfect them before and after use.
- Providing disposable wipes so that commonly used surfaces can be wiped down by employees before each use.



PHYSICAL DISTANCING PROTOCOL



Physical distancing is the practice of deliberately increasing the physical space between people to avoid spreading illness. In terms of COVID-19, physical distancing best practices for businesses can include:

- Avoiding gatherings of 10 or more people
- Instructing workers to maintain at least 6 feet of distance from other people
- Hosting meetings virtually when possible
- Limiting the number of people on the job site to essential personnel only
- Discouraging people from shaking hands

EMPLOYEE SCREENING PROCEDURES

To keep employees safe, consider conducting screening procedures to identify potentially ill employees before they enter the office. The Equal Employment Opportunity Commission permits employers to measure employees' body temperatures before allowing them to enter the worksite. Any employee screening should be implemented on a nondiscriminatory basis, and all information gleaned should be treated as confidential medical information under the Americans with Disabilities Act—specifically, the identity of workers exhibiting a fever or other COVID-19 symptoms should only be shared with members of company management with a true need to know. Be sure to notify employees that you will be screening them to avoid any surprises.

Your return to work plan should include detailed safety training guidance to ensure that all employees understand how they can prevent the spread of COVID-19. Your plan should discuss the following safety training topics:

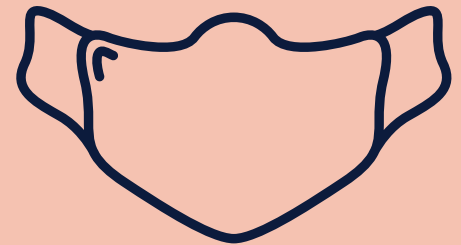
Respiratory etiquette and hand hygiene—

- Businesses should encourage good hygiene to prevent the spread of COVID-19. This can involve:
 - Providing tissues and no-touch waste receptacles
 - Providing soap and water in the workplace
 - Placing hand sanitizers in multiple locations to encourage hand hygiene
 - Reminding employees to not touch their eyes, nose or mouth



Personal protective equipment (PPE)—

- PPE is equipment worn by individuals to reduce exposure to a hazard, in this case, COVID-19. Businesses should focus on training workers on proper PPE best practices. Employees should understand how to properly put on, take off and care for PPE. Training material should be easy to understand and must be available in the appropriate language and literacy level for all workers.



Staying home when sick—

- Encourage employees to err on the side of caution if they're not feeling well and stay home when they're sick or are exhibiting common symptoms of COVID-19 (e.g., fever, cough or shortness of breath).



POLICY CONSIDERATIONS

You will need to implement measures to ensure the health and safety of your employees but may also need to change other policies and practices to accommodate the new normal. A thorough analysis of existing policies should be undertaken to include adjustments made for recent legislation. Some of the policies may include: Attendance, Vacation/PTO, Remote work, Work Hours, Flexible Hours, Timekeeping Procedures, Leave Policies, Travel Policies, etc.

PROCESS FOR INDIVIDUALIZED REQUESTS

Employees will be returning to work and facing different situations at home or with their health. Your return to work plan should include information about how employees can go about making individualized requests for changes to a return to work plan. Some may have underlying health conditions that put them at greater risk of severe illness with COVID-19, meaning they may not be able to fully return to work. Others may be facing unique child care arrangements due to schools and day cares being closed. Be flexible and compassionate in your response to individualized requests. Employers will need to have a legitimate, non-discriminatory reason for choosing which employees to rehire or return to work. These reasons could include factors such as seniority, operational needs or documented past performance issues. Employers should document their decision-making process now, before deciding who will be invited to return to work.



MENTAL HEALTH CONSIDERATIONS

The COVID-19 pandemic has increased stress levels of workers across the country. It's important that your return to work plan includes guidance for managing employee mental health concerns when employees return to work.

EMPLOYEES WITH ANXIETY TO RETURN



Generally, you are not required to allow employees to work from home. Even the DOL regulations to the FFCRA state that telework does not have to be provided unless an employer agrees to allow or permits it. If you otherwise have work for the employee to perform at the worksite, just being “scared” to come back to work would generally not be a qualifying reason under EPSL. However, if the employee is in a “vulnerable” category, they might be eligible for EPSL depending on the specifics of the situation and whether they have been advised by a health care provider or are subject to a specific quarantine or isolation order because of their vulnerability. In addition, anxiety or similar issues could raise potential Americans with Disabilities Act (ADA) issues and necessitate discussion of reasonable accommodation through the interactive process, including consideration of accommodations such as working from home (or additional leave time for an employee who may have already exhausted their EPSL).

EMPLOYEES WHO WANT TO STAY ON UNEMPLOYMENT

You may find that robust unemployment benefits for some workers create a disincentive for employees to return to work. Most states have waived the requirement that an employee who is on unemployment search for employment. Employers with essential business operations have also been faced with an increasing reluctance to work by employees who have concerns over the possibility of contracting the virus at work. Where an employer has available work for an employee, states may deny unemployment benefits if the employee refuses to work without good cause. The Department of Labor recently issued guidance related to the CARES Act unemployment provisions noting that “quitting work without good cause to obtain additional benefits may be considered fraud.” The guidance states that if an individual obtains benefits through fraudulent measures, the employee or individual will be: (1) ineligible to receive any future unemployment compensation benefit payments; (2) responsible to pay back the benefits obtained because of the fraud; and (3) subject to criminal sanction and prosecution. You should report any cases of suspected fraud to your state unemployment agency. All states maintain a fraud hotline that employers can call or other means of reporting including via online, email or mail. States typically have active fraud investigations units that will follow up on suspected cases of fraud.



Of course, there may be situations where an employee's decision not to return to work will be considered good cause. If an employee refuses to return to work due to child care or other COVID-19 related issues, for example, they may be eligible for benefits under the Pandemic Unemployment Assistance program offered through the Federal CARES Act. The Federal CARES Act expands eligibility to many who, in the past, have not qualified for unemployment benefits, including, but not limited, to those with primary care-giving responsibilities for children who are unable to attend school or child care due to COVID-19, those who have been diagnosed with COVID-19, those with a household member who has been diagnosed with COVID-19, and those providing care to a family or household member with COVID-19.

RETURN TO WORK CONSIDERATIONS

Returning to work after the COVID-19 pandemic is likely to bring challenges to your organization. Some of the most common challenges that you'll need to be prepared for include the following:

- Changing worker priorities
- Updating the office layout
- Adapting to changing rules and regulations
- Managing reputational effects

Remember, reopening your business after the COVID-19 pandemic isn't as simple as opening your doors. You'll need to carefully evaluate each step of your reopening and gradually ask employees to return to work.



Changing Worker Priorities

If your organization asked its employees to work from home during the COVID-19 pandemic, employees may want to still enjoy work from home arrangements even after the office is reopened. Your organization should be prepared for an increased demand in work from home requests, and you may need to expand your pre-COVID-19 policies to meet this demand. In addition, prospective employees may ask about this benefit when they're searching for a job within your company.

Updating the Office Layout

Due to physical distancing protocols, you may need to reconfigure your office’s layout. Per the guidelines, employee workstations should be 6 feet apart to help prevent the spread of COVID-19.



Adapting to Changing Rules and Regulations

Due to the nature of the COVID-19 pandemic, rules and regulations are constantly changing. You should be prepared to change your business practices to maintain critical operations. This could involve identifying alternative suppliers, prioritizing existing customers or suspending portions of your operations.



Managing Reputational Effects

Given the scope of the COVID-19 pandemic and how much is still currently unknown about the situation, people may have strong opinions about your decision to reopen your business. You’ll need to be prepared for the reputational effects of reopening your business. By taking the steps to keep your employees and customers safe and healthy, you can manage reputational effects of opening after the pandemic.

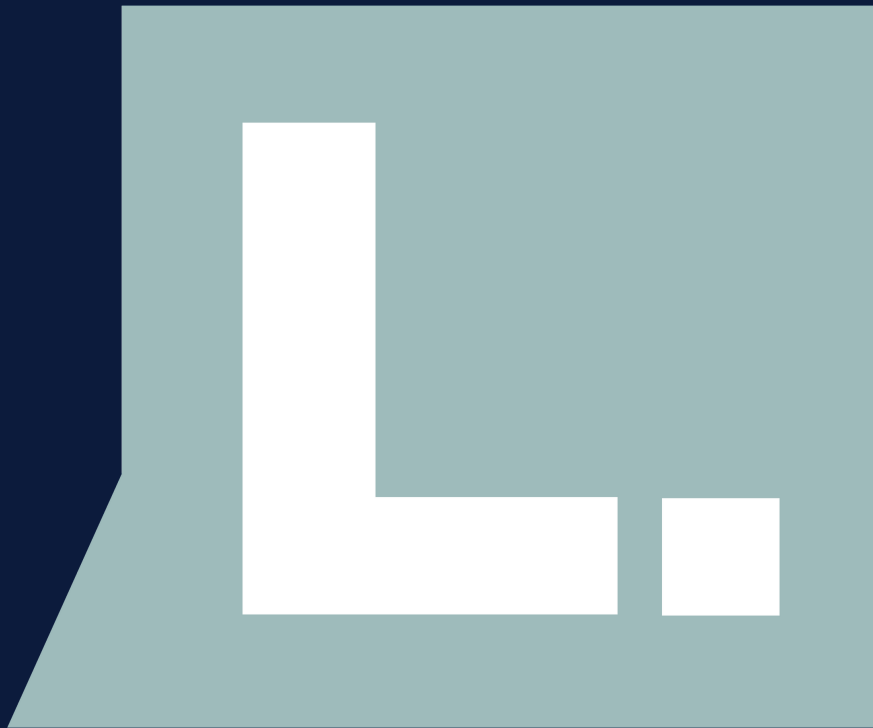


RESPONDING TO PROBABLE OR CONFIRMED CASES

Establish protocols to be immediately executed upon discovery that your business has been exposed.

- If an employer has confirmed an exposure or confirmed case of COVID-19, the infected employee should be sent home until released by their medical provider or local health provider. You should send home all employees who worked closely with that employee to ensure the infection does not spread.
- Before the infected employee departs, ask them to identify all individuals who worked in close proximity (within six feet) for a prolonged period of time (10 minutes or more to 30 minutes or more) with them during the 48-hour period before the onset of symptoms to ensure you have a full list of those who should be sent home.
- When sending the employees home, do not identify the infected employee by name or you could risk a violation of confidentiality laws. If you work in a shared office building or area, you should inform building management so they can take whatever precautions they deem necessary.
- The CDC provides that the employees who worked closely to the infected worker should be instructed to proceed based on the CDC Public Health Recommendations for Community-Related Exposure. This includes staying home until 14 days after last exposure, maintaining social distance, and self-monitoring for symptoms (i.e., fever, cough, or shortness of breath).





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State-Specific Resources

[Pennsylvania Phased Reopening Guide](#)

[New Jersey's Road Back](#)

[New York Forward](#)

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