

Returning to Work post COVID-19 Employer Checklist

Ensure you are implementing policies and guidelines to ensure you are meeting NYS requirements for reopening, this includes:

- Adjust workplace hours and shift design as necessary to reduce density in the workplace;
- Enact social distancing protocols;
- Restrict non-essential travel for employees;
- Require all employees and customers to wear masks if in frequent contact with others;
- Implement strict cleaning and sanitation standards;
- Enact a continuous health screening process for individuals to enter the workplace;
- Continue tracing, tracking and reporting of cases; and
- Develop liability processes.

A detailed checklist to review how to comply with each of items is listed below:

Posting and Policies

- Post the **Families First Coronavirus Response Act (FFCRA)** poster in a visible place. Where employees will be working from home, send by email or post to Company intranet or employee website. Poster can be found [here](#).
 - Know how FFCRA affects your previous policies and practices.
 - Paid leave policies adjusted to reflect regulatory requirements and actual business needs.
- **Review and revise hiring practices and policies.**
 - Have staffing needs changed?
 - Do you need to change benefits to become more competitive?
 - Use remote interviewing techniques as much as possible.
 - Update onboarding practices.
- **Review Flexible/Telework Policies**
 - It's important to be prepared to explain in advance which jobs will be permitted to continue to telework, which won't, and why. Document.
 - Some workers may opt not to come back. Because employers have permitted teleworking during the pandemic, many employees with children at home have not yet used the emergency family and medical leave provided by the Families First Coronavirus Response Act. Rather than returning to the workplace, they may now opt to take advantage of that.
 - Remember, it may be discriminatory if you chose not to recall this type of employee back.
 - Flexible scheduling options implemented allowing for compressed workweeks and flexible start and stop times.
- **Time-Off**
 - Request procedures to be clarified to indicate when time off can be required by the employer, should sick employees need to be sent home.
 - Consider implementing PTO/Vacation rollovers, grace periods, and revise guidelines for usage if vacation is forfeited if not used by end of year.
 - Consider implementing or revising bereavement leave policies.

- Information Technology policies revised to reflect remote work, hardware, software and support.
- Social Distancing and Face Coverings Policy
- Meal and rest break policies
 - Adjusted to stagger times and processes implemented to encourage social distancing.
- Travel policies updated to reflect essential or nonessential travel.
- Review and update workplace Harassment and inclusive workforce policies.
- Infectious Disease Control Policy
 - How best to ensure that employees stay home if they are feeling ill or if someone in their household is feeling ill
 - What to do if an employee exhibits symptom of COVID-19 in the workplace?
 - What to do if an employee tests positive for COVID-19?
 - What to do if an employee was exposed to someone who tests positive to COVID-19?
 - How and when an employee can return to work after testing positive for COVID-19?
 - Poster: Stop the Spread of Germs at Work.

Health and Safety

- Develop a Workplace Safety Plan, including considering:**
 - Implementing employee health screening procedures.
 - Developing an exposure-response plan that addresses:
 - Isolation, containment and contact tracking procedures.
 - Stay-at-home requirements.
 - Exposure communications to affected staff.
 - Review facility upgrades to handsfree technology.
 - Providing personal protective equipment (PPE) such as:
 - Masks, gloves, face shields, etc.
 - Personal hand sanitizer.
 - Detailing cleaning procedures and procuring ongoing supplies.
 - Remember those shared copy machines and printers.
 - Door knobs and railings, water fountains, etc.
 - Establishing physical distancing measures within the workplace:
 - Staggered shifts and lunch/rest breaks.
 - Minimize gatherings at coffee stations and breakrooms.
 - No shared food, potlucks, or community food for teams.
 - Rotating weeks in the office and working remotely.
 - Moving workstations to increase separation distance.
 - Implementing one-way traffic patterns throughout workplace.
 - Review considerations related to capacity in restrooms.
 - Minimize elevator capacity.
 - Restricting business travel:
 - Start with essential travel only and define what that is.

- Follow government guidance to ease restrictions over time.
- Defining customer and/or visitor contact protocols such as:
 - Directing customer traffic through workplace.
 - Limiting the number of customers in any area at one time.
 - No handshake greetings, remain 3-6 ft. apart.
 - Using video or telephone conferencing instead of in-person client meetings.
 - Providing contactless pickup and delivery of products.
 - Personal food delivery exchanges to remain outdoors.
- Understanding and complying with Occupational Safety and Health Administration (OSHA) record-keeping and reporting obligations:
 - Identify positions, if any, with the potential for occupational exposure to the coronavirus.
 - Review OSHA regulation 29 CFR § 1904 to determine work-relatedness of illnesses

Re-opening Business

- **Recall procedures**
 - Phasing-in employees returning to work:
 - Use seniority or other nondiscriminatory factors for selection. DOCUMENTATION.
 - Consider adopting a work share program or SUB plan if bringing employees back on a reduced schedule.
 - Determine schedule changes to provide the greatest protection to workers.
- **Creating a plan for employees in high-risk categories for infection to return to work:**
 - Consider allowing them to work from home or remain on leave until they feel comfortable to return.
 - Determine increased measures to protect them when working onsite, including isolated workstations, additional PPE as requested, fewer days in the office, etc.
- **Notifying the state unemployment agency of employees recalled to work. This is a state requirement and will help save on unemployment taxes for those who choose not to return to work.**
- **Determining how to handle employees who are unable or unwilling to return to work.**
 - Employees who are fearful of returning to work.
 - Employees who have family obligations that interfere with the ability to return to work.
 - Employees who remain under quarantine due to exposure to COVID-19.
- **Remote work**
 - Continuing to allow remote work where possible to keep employees safe.
 - Staggering weeks in office and at home among team members, or part-time remote work on alternate weekdays.
 - Responding to employee requests to continue to work from home, including long-term arrangements.
 - Updating technology to support virtual workers.
 - Consider the long-term cost savings or impact of offering permanent remote work.
- **New-hire paperwork.**
 - Determine employment application and benefits enrollment requirements for rehired workers.
 - Decide whether full or adjusted orientation procedures will be utilized.
 - Submit new-hire reports for new and rehired workers.

- Address I-9 issues
 - If completed remotely, complete in person upon return to the workplace.
 - Update any expired work authorization documents or make note of which need updating as soon as new documents are received by the employee.
 - Determine if you will have employees complete Section 3 of their original I-9 or complete a new I-9 form.
- **Developing a Safety Communication and Training Plan and protocol, including:**
 - **Return-to-Work Communication:** Employers should communicate with employees prior to their return to work, explaining the new measures and protocols that have been established to maintain a safe and healthy workplace.
 - **Workplace Signage:** Employers should also consider developing workplace signage and posters to remind employees of hand and respiratory hygiene, social distancing, and PPE requirements.
 - **Training:** Training, especially for supervisors and managers, will be critical to ensure compliance with and enforcement of Infectious Disease Control and Workplace Safety Plans. Training for supervisors should include information on new policies and procedures put in place, how they will be expected to monitor and report employee non-compliance with safety protocols and how to respond to suspected cases of COVID-19. As with employee training/instruction on new protocols, social distancing and documentation of the training will also be key considerations.
 - **Response to Positive COVID-19 Cases:** Employers would be wise to have communications ready to go regarding positive COVID-19 cases among the workforce in compliance with your Proactive Infection Plan.
 - **Contractors/Vendors/Visitors/Customers:** Appropriate communications should also be made to any contractors, vendors and on-site visitors regarding accessing the worksite and any changes in hours or availability.
 - **Periodic Review and Updates:** Appropriate communications should continue after the employees return as frequently as possible during the first few months to include any updates or changes in policies.
 - Reopening Documentation
- **Finally, document, document, document.** In these crazy times, it will be easy to forget everything that happened during the early days of reopening your business. It will be important to have documentation of:
 - (i) what steps you put in place to ensure employee safety
 - (ii) how that was communicated
 - (iii) whether, when and how those steps might have changed over time
 - (iv) what problems were encountered and how they were resolved
 - (v) other out-of-the ordinary issues that were encountered

Benefits Considerations

- **Group health insurance**
 - Eligibility—redetermine waiting-period issues due to leave or reinstatement; review any revised eligibility requirements during the layoff or furlough and determine if those changes will be revoked and when.
 - Ensure coverage changes, such as adding telehealth benefits, and services now not subject to deductibles have been incorporated into the plan.
 - If employee premiums were paid during leave, determine how or if the employer will recover those costs from employees.
 - Re-payment plan with the employee.
- **Flexible spending accounts**
 - Review Dependent Care Assistance Program election changes with employees to ensure their new or revised elections are correct.
 - Over-the-counter medical products are now allowed under flexible medical accounts on a permanent basis and should be included in plan documents and communications.
 - Address new flexible spending account elections and allowable changes with employees.
- **401(k) or other pension plans**
 - Review eligibility issues due to layoff or furlough.
 - Consider any break in service issues or counting years of service concerns.
 - Review any in-service loans employees may have or will want to take, including eligibility and pay back procedures.
- **Compensation**
 - Many employers may have made compensation changes during the crisis thus far, and others may need to make them in order to reopen. How the disruption has affected compensation policies going forward will also need reviewing and communicating to affected staff.
 - Things to address include:
 - How the employer will handle any missed annual pay increases and if those will be applied retroactively.
 - Will any pay cuts be made or revoked? Understand how to reduce salaries for exempt employees if necessary.
 - Determine if employee status changes—exempt to nonexempt or full- to part-time status—are needed to reopen or if those already made will continue.
 - How will bonuses be affected, including eligibility for or continuation of, etc.
 - Will hazard pay be offered or revoked?

Best Practices and items to consider:

- Be aware of any local public health or other orders related to COVID-19 that may affect your business.**
- Ensure your workplace cleaning company is up to date on current methods of safely removing COVID-19 hazards.**
- Communicate frequently and as transparently as possible with employees:**
 - Provide expected timelines for recalling/rehiring employees.
 - Providing returning employees with recall or offer letters.
- Train managers on dealing with employees that may face increased personal challenges during this time, such as bereavement and loss, childcare and school-cancellation challenges, financial stress, and other dependent care and support needs.**
- Offer flexibility wherever possible and adjust workloads to be reasonable.**
- Be prepared to quickly investigate and stop discriminatory speech or acts in the workplace.**
- Consider contracting with an employee assistance program (EAP) if you do not currently have one.**
- Designate a workplace coordinator who will be responsible for COVID-19 issues and their impact at the workplace.**
- Develop a plan to operate if absenteeism spikes or if another shelter-in-place or stay at home order occurs in the future:**
 - Implement a plan to continue essential business functions.
 - Implement flexible work schedules and leave policies.
 - Cross-train employees on performing essential business functions.
- Communicate your appreciation and welcome employees back to work.**
- WARN Notices for cases where layoffs will continue.**
- Unions**
 - Identifying the need to add a force majeure clause into a collective bargaining agreement to protect the employer from contractual obligations during an event that is beyond the employer's control.
 - Reviewing existing no-strike clauses to ensure continued work during future infectious disease outbreaks.
 - Determining obligations for hazard pay under Section 502 of the National Labor Relations Act (NLRA) during "abnormally dangerous conditions."