



Checklist for Resuming Workplace Operations During COVID-19

Rhonda K. Grubbs, Esquire
June 29, 2020

Reopening and safely reintegrating employees back into the workplace takes careful planning and dynamic readjustment to comply with evolving federal, state, and local orders and guidance. Additionally, COVID-19 has created new and ongoing challenges for businesses as they resume operations during a global pandemic.

This Checklist for Resuming Workplace Operations is intended to help you in planning and making decisions for resuming your business operations. There are several factors that merit attention as you work to strike a balance between employee health and safety and the ability to operate your business in an effective and efficient manner. Employees, especially those who have conditions or live with someone that makes them more susceptible to serious illness from COVID-19, may be fearful about returning to the workplace.

Adopting a written plan for reopening and remaining operational is essential.

- ✓ Documentation of legal compliance to minimize your legal risks and liability
- ✓ Encourages employees' confidence about returning and their ability to be productive at work
- ✓ Update as needed to comply with evolving guidance

Appoint a pandemic safety officer.

- ✓ Point person for questions
- ✓ Monitors how things are going

Your plan for resuming business should address the following issues:

- Leave policies that encourage sick employees to stay home
- Safety mitigation measures for employees returning to the workplace
- Employee screening
- Contact tracing and other issues in response to an employee's diagnosis with COVID-19
- What to do if an employee does not wish to return to work
- Establishing cleaning and disinfecting protocols
- Establishing physical distancing measures
- Employee personal protective equipment
- Balancing continued remote and in-person operations
- Recall and rehire issues

Providing a Safe Workplace - Safety Mitigation Measures

- Employee personal protective equipment
 - Provide masks for employees or permit them to bring homemade masks
 - Mandatory to wear masks or shields in the workplace
 - Require customers to wear masks or shields while on the premises
 - Permit employees to wear gloves

- Physical distancing procedures
 - Organize staggered start and end times
 - Establish restrictions on gathering in break rooms and other common areas
 - Conduct meetings virtually
 - Maintain six feet of distance
 - Discourage non-essential visitors
 - Continue telework where feasible
 - Conduct business by appointment only where feasible
 - Reduce occupancy
 - Install shields or other barriers in areas where appropriate
 - Remove furniture or reconfigure the workplace, especially in areas where people congregate

- Implementation of cleaning and disinfecting plans
 - Follow CDC guidance
 - Frequently clean and disinfect high touch areas
 - Ensure employees, vendors, and customers have access to soap and water, hand sanitizer, and disinfectant wipes
 - Schedule handwashing breaks for employees
 - May need to modify business hours to ensure thorough cleaning
 - Keep a log
 - Additional employee breaks to allow time for disinfecting items and surfaces and for additional handwashing

- Pre-work screenings
 - Encourage sick employees to stay home
 - Self-screening may be done at home or employer may conduct screening as employees arrive at the workplace
 - Measuring employees' temperatures should be done in a private and physically distanced manner
 - Determine which symptoms to include on symptom checklist
 - Determine what records to keep and how to maintain records
 - Non-exempt employees should be compensated for screening time and time waiting to be screened
 - Who will conduct the screenings?
 - Where will screenings be conducted?
 - Establish clear guidelines for when employees will be sent home
 - What about employees who refuse pre-work screenings?

- Establish and implement cleaning protocols when business has a confirmed or probable exposure to COVID-19
 - Secure and decontaminate affected areas
 - Close off areas visited by the person
 - Open outside doors and windows and use ventilation fans to circulate air in the area
 - Wait at least twenty-four hours or longer if possible before cleaning
 - Clean and disinfect shared areas used by the person (e.g., shared work areas and equipment, bathrooms)

- Employee concerns about returning to the workplace
 - Approach employee concerns about returning to the workplace as genuine
 - Is the employee eligible for paid leave under the Families First Coronavirus Response Act (FFCRA)?
 - Does the employee have a disability that must be reasonably accommodated under the Americans with Disabilities Act?
 - What about employees who do not wish to return to the workplace because they or a family member are high-risk?
 - What about employees who do not wish to return solely because of a generalized fear of COVID-19?
 - Is continued teleworking feasible?
 - What if an employee falsely claims they tested positive for COVID-19?

- Develop and implement new policies or review existing policies to comply with applicable laws
 - Employee leave, including FFCRA leave
 - Telecommuting
 - Visitors
 - Equal Opportunity Employment
 - Emergency Closing
 - Remote Work
 - Vacation/Paid Time Off
 - Travel
 - Information Technology and Usage
 - Timekeeping, including procedures for clocking in and out

- Cybersecurity Practices
 - Employees who continue to work remotely
 - Use cloud-based systems or VPN
 - Provide employer-owned and maintained equipment where feasible
 - Maintain encryption of data at rest and in motion
 - Ensure all data is backed up in a cloud-based offsite and co-located facility at least once per day

- Employees returning to work
 - Do not permit foreign data storage usage (i.e., non-employer USB drives, etc.) to transfer data to employer systems
 - Do not permit employee-owned email systems or other accounts to be used to transfer data
 - Review with employees how they used/maintained/stored employer data while working from home and address any issues

Please direct any inquiries to your Wisler Pearlstine attorney or a member of the Wisler Pearlstine **COVID-19 Response Team**:

Rhonda K. Grubbs
rgrubbs@wispearl.com

Christopher E. Ezold
cezold@wispearl.com

###

This is a rapidly evolving situation from both a legal and public health standpoint. Because guidance from Harrisburg changes frequently, you should always check to make sure you are aware of the most recent guidance. Wisler Pearlstine is committed to providing up to date, practical legal advice on how to manage the legal implications of the evolving landscape of the COVID-19 pandemic.

This article is intended to be used only for informational purposes. Neither this article, nor the contents of this article, are intended to be nor should be construed as legal advice.

Copyright 2020 Wisler Pearlstine, LLP. All rights reserved.