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# Reopening Business Checklist

## 1. Planning and Communication

### **Decide the right time to reopen**

- Monitor federal, state, and local closure orders, re-opening guidelines, industry practices, and geographic considerations ([federal guidance](#))
- assist employers in making decisions regarding reopening. More on that [here](#).
- If enrolled in the SBA Paycheck Protection Program, remember employers have until June 30, 2020 to restore full-time employment and salary levels for changes made between February 15 and April 16, 2020

### **Determine who should return to work first**

- Identify essential business functions and essential employees
- In determining essential employees, consider the nature of the job, the functions of the position and ability to return to work safely
- Consider profitability of certain position to manage cash flow in the near term
- Consider structuring a phased ramp-up to limit the spread of the coronavirus
- Determine minimum staff necessary to sustain operations in the event of increased absenteeism
- Evaluate whether seniority or recall rights are implicated, including furloughs
- Remind all decision-makers in these decisions of nondiscrimination policies

### **Prepare communication to employees regarding return to work**

- Establish a return to work timeline
- Establish a plan for employees maintain communication with management
- Identify and explain to employees steps taken to ensure safety
- Review any applicable collective bargaining obligations to make changes to the workplace upon re-opening



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## 2. Training/Preparing

- Train all employees on appropriate cleaning and disinfection, hand hygiene, and respiratory etiquette.
- Have employees wash or sanitize their hands upon entering the business.
- Have employees maintain at least 6 feet separation from other individuals. If such distancing is not feasible, other measures such as face covering, hand hygiene, cough etiquette, cleanliness, and sanitation should be rigorously practiced.
- Consider whether face masks, gloves, or other protective equipment are mandatory or optional
  - If mandatory* - company must provide or reimburse employees for masks, gloves, and other protective equipment
  - If optional* - determine whether employer will place any limitations or restrictions on employee created protective equipment or the type of masks, gloves, or protective equipment permitted
- Ensure protective equipment does not otherwise pose a safety concern
- Create a policy restricting non-essential employee travel
- Consider how essential travel is defined
- Consider mandatory notification of personal travel
- Implement additional documentation requirements for employee movement to make contact tracing more effective and accurate
- Assess changes to hiring and training processes required by social distancing obligations
- Train managers regarding “do’s” and “don’ts” of preemployment
- Train management team to ensure understanding of new leave options, eligibility and retaliation concerns
- Ensure management understands any negative comments about use of FFCRA leave may support claims of retaliation



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### 3. Workplace Safety

- Regularly and frequently clean and disinfect any regularly touched surfaces, such as doorknobs, tables, chairs, and restrooms.
- Disinfect any items that come into contact with customers.
- Make hand sanitizer, disinfecting wipes, soap and water, or similar disinfectant readily available to employees and customers.
- Place readily visible signage at the business to remind everyone of best hygiene practices.
- Screen employees before coming into the business. The [EEOC guidance](#) has determined that screening is an optional strategy that employers may use. The EEOC guidance also provided that:
  - An employer may take an applicant's temperature as part of a post-offer, pre-employment medical examination.
  - An employer may screen applicants for symptoms of COVID-19 after making a conditional job offer.
  - An employer may delay the start date of an applicant who has COVID-19 or symptoms associated with it.
  - An employer may withdraw a job offer when it needs the applicant to start immediately but the individual has COVID-19 or symptoms of it. Based on current CDC guidance, the individual cannot safely enter the workplace, and therefore the employer may withdraw the job offer, the EEOC explained.
- Other preventative measures would be:
  - Reliance on social distancing
  - Barrier/partitions
  - Personal Protective Equipment (PPE)
- Send home any employee who has any of the following new or worsening signs or symptoms of possible COVID-19:
  - Cough
  - Shortness of breath or difficulty breathing
  - Chills



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- Repeated shaking with chills
  - Muscle pain
  - Headache
  - Sore throat
  - Loss of taste or smell
  - Diarrhea
  - Feeling feverish or a measured temperature greater than or equal to 100.0 degrees Fahrenheit
  - Known close contact with a person who is lab confirmed to have COVID-19
- Do not allow employees with the new or worsening signs or symptoms listed above to return to work until:
- In the case of an employee who was diagnosed with COVID-19, the individual may return to work when all three of the following criteria are met: at least 3 days (72 hours) have passed *since recovery* (resolution of fever without the use of fever-reducing medications); and the individual has improvement in respiratory symptoms (e.g., cough, shortness of breath); and at least 7 days have passed *since symptoms first appeared*; or
  - In the case of an employee who has symptoms that could be COVID-19 and does not get evaluated by a medical professional or tested for COVID-19, the individual is assumed to have COVID-19, and the individual may not return to work until the individual has completed the same three-step criteria listed above; or
  - If the employee has symptoms that could be COVID-19 and wants to return to work before completing the above self-isolation period, the individual must obtain a medical professional's note clearing the individual for return based on an alternative diagnosis.
- Do not allow an employee with known close contact to a person who is lab-confirmed to have COVID-19 to return to work until the end of the 14 day self-quarantine period from the



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last date of exposure (with an exception granted for healthcare workers and critical infrastructure workers).

- Review applicable OSHA and CDC standards
- Monitor local and federal guidance for best practices and requirements for employers ([OSHA guidance](#), [CDC clean guidance](#))
- Take steps to make the workplace more safe; taking into consideration requirements such as staggered shifts, breaks, spacing between desks and community areas
- Limit in-person meetings in favor of virtual meetings where possible
- Minimize physical contact (i.e. handshakes, cough etiquette, etc.)
- Limit or close off gatherings in common areas (e.g. breakrooms or kitchens)
- Make efforts to increase air exchange in the building, if possible
- Promptly respond to any safety related concerns
- Consider temperature checks and COVID testing for employees and/or visitors
  - Results of temperature checks are a medical record and (if recorded) must be treated with appropriate confidentiality and recordkeeping
  - Consider whether screening time is compensable

#### **4. Leaves of Absence and Workplace Accommodations**

- Teleworking issues
- Consider whether remote work is a necessary reasonable accommodation under the ADA or if a special accommodation is necessary for members of a vulnerable population.
  - For example, is there anything unique or special about the employee's concern for returning to the workplace?
- Is the employee in a protected class or high-risk population because of age or underlying health condition?
- Is the employee caring for an individual in a high-risk population?
- Prepare a response to requests for continued remote work based upon the essential



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- functions of the job
- Protect data from cybersecurity breaches with a teleworking workforce
- Assess unused leave benefits available under the Families First Coronavirus Response Act (FFCRA)
- Consider eligibility for additional leave available, including leave under the FMLA
- Review applicable state or local paid sick leave laws and company vacation and sick leave policies
- Flexibility in leave policies
- Consider new COVID policies relaxing preexisting leave policies that are explicitly intended to be temporary in duration
- Openly communicate the company's policies and position on leaves of absence
- Create a clear process for requesting leave and identifying the amount of leave, if any, available

## 5. Employee Benefits and Compensation

- Review whether any changes need to be made to health and welfare plans
- Determine whether employees returning to work will need to re-enroll or update prior plan elections
- For cafeteria plans which may have offered individual spending accounts for a year, determine whether unused portions during an interim absence will be restored upon rehire
- Determine whether any probationary periods apply during which a rehired employee will not be covered (for instance, Union benefit programs)
- Evaluate whether returning employees owe any portion of health care premiums while furloughed
- Develop a reasonable plan for employee to pay back health care premiums, if necessary
- Consider state and local laws regarding wage deductions



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- Consider potential issues relating to retirement / pension plans
- Determine whether employees returning to work will need to re-enroll or update prior plan pre-tax deferral elections
- Review retirement plans and consider whether there has been a break in service and, if so, what the implications might be (vesting, for instance)
- Evaluate the potential need for plan amendments to modify conditions for annual benefit allocations (e.g. minimum hours requirements)
- Manage administration of plan loan program for returning workers (e.g. restart wage deductions for loan repayments)
- Review employee compensation and bonus programs
- Determine if any changes to compensation must be made, and review applicable laws relating to notice of wage changes
- Calculate the effect of closure on existing bonus or incentive plans

## 6. Employee Moral

- Communicate Regularly
- Communicate the steps the company is taking to ensure safety
- Remind employees of benefits offered
- Request feedback and internalize it. Consider anonymous surveys as a low cost and effective mechanism to gauge what is working.
- Address any health and safety concerns brought by employees promptly
- Aim to respond to specific employee concerns promptly
- Establish a communication channels for employees to address concerns
- Remind employees that discrimination and retaliation is strictly prohibited
- Review non-discrimination policies and recirculate, as needed
- Train managers on how to respond to offensive or discriminatory comments regarding the coronavirus and certain groups of individuals