

## COVID-19 Back-to-Work Checklist

Returning employees to the workplace during and after the COVID-19 pandemic won't be as simple as announcing a reopening or return-to-the-workplace date and carrying on business as usual. Not only will many workplaces be altered initially, some changes may be long term, even beyond the imagined "finish line" of a widely available vaccine or treatment.

The details of each employer's plan to return will look different, but there are 10 key issues most will need to understand and start preparing for now.

**1. Workplace safety.** Employers have to ensure their workplaces are as safe as they can be. Employees and customers alike may have fears of returning to business as usual; preparing for and communicating how safety is a top priority will allay fears and increase brand loyalty.

Safety measures might include:

- 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.
- Providing personal protective equipment (PPE) such as:
  - Masks, gloves, face shields, etc.
  - Personal hand sanitizer.
- Detailing cleaning procedures and procuring ongoing supplies.
- Establishing physical distancing measures within the workplace:
  - Staggered shifts and lunch/rest breaks.
  - Rotating weeks in the office and working remotely.
  - Moving workstations to increase separation distance.
  - Implementing one-way traffic patterns throughout workplace.
- 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.
- 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.

**2. Recall procedures.** Plan for how and when employees will return to work or to the worksite to create an organized and controlled approach. All employees returning on the same day at the same time could be overwhelming and possibly unsafe.

Things to consider include:

- Phasing-in employees returning to work:
  - Use seniority or other nondiscriminatory factors for selection.
  - 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.

**3. Employee benefits.** Whether employees remained on the employer's benefits plans or not, certain notices or actions may be required to stay compliant. Communicating these changes to employees should be done as soon as possible.

Review such issues as:

- 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.
- 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.
- Paid leave
  - Review required leave under the Families First Coronavirus Response Act (FFCRA), ensure employees understand the eligibility requirements and provide them with a policy. Create a way to track time used and collect supporting documentation for tax credit purposes.
  - Determine if there will be company PTO policy changes, including increasing or decreasing paid leave benefits, or additional restrictions in using paid leave.
  - Understand the coordination of leave benefits and communicate these to employees as needed.

**4. 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?
- It may be a good time to consider a pay equity audit as workers return, as pay may have been reduced or frozen and may have impacted women differently.

**5. Remote work.** Telecommuting may have proven to work well during the pandemic for some employers and employees. Using it not only as a short-term emergency tool to survive the next year but also as a permanent work/life balance and cost-saving measure should be considered.

Actions to consider include:

- 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.

**6. Communications.** Establishing a clear communication plan will allow employees and customers to understand how the organization plans to reopen or reestablish business processes.

Topics to cover may include:

- How staying home if sick and physical distancing policies are being used to protect workers and customers.
- Detail what training on new workplace safety and disinfection protocols have been implemented.
- Have exposure-response communications ready to go to any affected employees and customers.
- Have media communications ready to release on topics such as return-to-work timetables, safety protections in place, and how else the company is supporting workers and customers. Prepare to respond to the media for workplace exposures.

**7. New-hire paperwork.** Employees returning to work who remained on the payroll would generally not need to complete new paperwork. However, for those separated from employment, such as laid-off workers, it may be best to follow normal hiring procedures.

- 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.
- Notify state unemployment agencies of recalled workers, whether rehired or not.
- 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.

**8. Policy changes.** It is no longer business as usual, and employers will likely need to update or create policies to reflect the new normal. Some examples include:

- Paid-leave policies adjusted to reflect regulatory requirements and actual business needs.
- Attendance policies relaxed to encourage sick employees to stay home.
- Time-off request procedures clarified to indicate when time off can be required by the employer, should sick employees need to be sent home.
- Flexible scheduling options implemented allowing for compressed workweeks and flexible start and stop times.
- Meal and rest break policies adjusted to stagger times and processes implemented to encourage physical distancing.
- Travel policies updated to reflect essential versus nonessential travel and the impact of domestic or global travel restrictions.
- Telecommuting policies detailed to reflect the type of work that is able to be done remotely and the procedures for requesting telework.
- Information technology policies revised to reflect remote work hardware, software and support.

**9. Business continuity plans.** Employers will have learned valuable lessons regarding their business continuity plans, or lack thereof, during the past months. Now is the time to review and revise the plan to prepare for future emergencies.

- Implement a business continuity plan, including infectious disease control, if a plan did not exist prior to the COVID-19 crisis.
- Amend existing plans to include the latest emergency information, such as updates on epidemics and workplace considerations or changes in protocols for responding to global disasters.
- Update plan resources and contact information to ensure accuracy.
- Establish a pandemic task force to continuously monitor external and internal data and implement appropriate protocols. Recognize the possibility of additional closings during this current pandemic as COVID-19 infections may rise and fall again, triggering more stay-at-home orders and supply chain disruptions.
- Perform testing and exercises to practice the new or revised emergency plans to make sure employees know what to do and to find any missing parts that need to be addressed before another emergency situation occurs.

**10. Unions.** Employers with unionized workforces may have additional considerations, including:

- Determining obligations to bargain when implementing changes to mandatory bargaining subjects such as wages and benefits.
- 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."