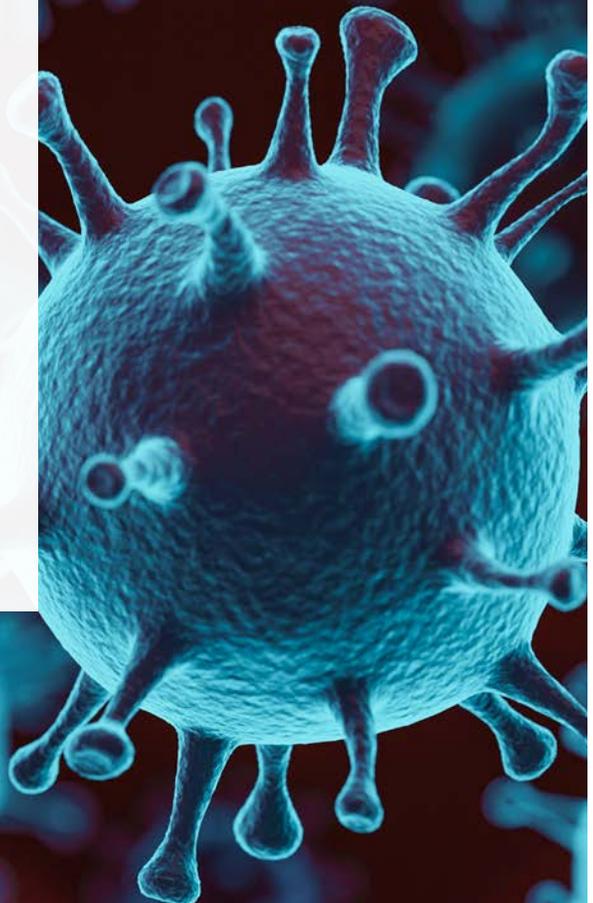




FOLEY & LARDNER LLP

Best Practices for COVID-19 Preparedness: Key Employment Law Issues for Starting Back Up or Continuing Operations



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Introduction

At this critical time, guidelines and best practices are constantly changing. While regulatory agencies have issued minimal protocols and guidance, imposing additional safety precautions based on those recommendations may help protect employers and employees alike. This Best Practices Guide is not meant to be an exhaustive analysis of the various local, state, and federal laws and ordinances, which are frequently changing in this fluid environment. Rather, this Guide should be used as a starting point for employers to create or update their policies and practices in conjunction with a thorough analysis of all applicable laws and ordinances.

This Guide covers the following four key topics to consider when opening back up or continuing operations:

- Understanding COVID-19
- Actions to create a safe workplace for employees, visitors, and third parties
- Understanding and complying with leave requirements
- Operating in the changing regulatory environment

Understanding COVID-19

Current Known Facts about COVID-19 According to the CDC

There is a lot of information being circulated about COVID-19. As of April 20, 2020, the CDC has highlighted the following key facts about this illness:

- Anyone can be infected; including persons who show no symptoms.
- Older adults and people with serious underlying medical conditions may be at higher risk for more serious complications from COVID-19.
- Common Symptoms include:
 - Fever
 - Cough
 - Shortness of breath
- Additional Symptoms reported:
 - Tiredness
 - Aches
 - Runny nose
 - Sore throat
 - Loss of sense of taste and smell
- Transmission:
 - Mostly transmitted by droplets in the air when an infected person coughs or sneezes.
 - Some transmission may be from the virus on surfaces.
 - Can be transferred when people touch contaminated surfaces and then touch their mouth, nose or eyes.
 - People are thought to be most contagious when they are symptomatic although people can transmit the virus even if they are not showing any symptoms.
- Fever:
 - The CDC has indicated that a body temperature of 100.4° Fahrenheit (38° Celsius) or higher constitutes a fever in someone suspected of having COVID-19.
 - Other state and local jurisdictions might define the term “fever” differently. For instance, in Massachusetts, a temperature of 100.0° Fahrenheit is considered a fever and possible symptom of COVID-19.
 - Body temperature is affected by a range of factors including:
 - Eating
 - Drinking
 - Exercising
 - Certain medications
 - Time of day (body temperature for most people peaks between 4 p.m. and 9 p.m.)

A modern office interior with large windows and plants. The scene is bright and airy, with a clean, minimalist aesthetic. The floor is made of light-colored tiles, and the walls are white. Large windows with dark frames let in natural light. Two wooden planters with green plants are placed near the windows. A glass door is visible on the left side of the image.

Actions to Create a Safe Workplace for Employees, Visitors, And Third Parties



Set up a Task Force

The Task Force, if one does not already exist, should consist of a small group of individuals within each company location, including representatives from all work shifts, who will help prepare a Preparedness and Response Plan and then assume specific roles to ensure the Plan is being properly executed. Examples of such roles include:

- **Team Lead:** Overall responsibility for ensuring Plan is being executed and followed by employees; Coordinate with other Team Leads of other offices.
 - The Team Lead, along with company executives, should determine the proper phase with which the company should reopen. (See below.)
- **Logistics Coordinator:** Oversee and direct employee and third-party arrivals/ departures and visitor sign-in; Identify specific social distancing options for company adoption.
- **Structural Inspector:** Update and maintain safety measures to the physical building including air-filter changes, separation of workspaces, installation of physical barriers, etc.
- **Disinfection and Materials Supervisor:** Monitors and periodically disinfects common areas requiring sanitation and disinfection; Ensure necessary supplies and materials are properly stocked and ordered.
- **Task Force Liaison:** Works with employees, management, and Task Force to solicit feedback and ensure compliance with the Plan.
- **Training Administrator:** Reviews updates to regulatory guidance and proposes corollary changes to the Plan.

Develop a Plan for Opening or Reopening

Create a Preparedness and Response Plan to help guide protective actions against COVID-19. The Plan should consider issues such as:

- When is it time to open back up?
 - The Federal Government proposes a three-phase approach to re-opening the country. Understand which “phase” your company falls under.
 - Consider whether you need to reopen and if you are ready to reopen.
- Where, how, and to what sources of COVID-19 might employees be exposed?
- Controls to address non-occupational risk factors at home and in the community.
- Contingency plans that consider:
 - Increased employee absence.
 - Need to downsize operations or transition to remote services.
 - Options for conducting essential operations with a reduced workforce.
 - Interrupted supply chains or delayed deliveries.

- Changes to the workplace that can be practically implemented including:
 - Install additional hand sanitizer dispensers.
 - More frequently clean often-touched surfaces and common areas.
 - Manage shift changes.
 - Stagger meal and rest breaks to thoroughly disinfect common areas.
 - Rearrange office space if possible to promote social distancing.
 - Place additional signage around building to remind employees of preventative measures.
 - Temporarily close facilities or areas with confirmed COVID-19 cases for deep cleaning and disinfection.
 - Limit participants at in-person meetings.
 - Practice proper social distancing.
 - Designate isolation area to separate employees suspected of having COVID-19.
 - Prevent employees from bypassing screening stations.
 - Limit shared supplies and tools to reduce potential exposure.
- Administrative Actions including:
 - Encouraging sick workers to stay at home.
 - Discontinue nonessential travel.
 - Require employees to report when they travel.
 - Employer temperature testing.
 - Provide training to employees on proper use of PPE.

Phased Opening

- Employers should consider re-opening in separate phases and gradually return to full operations in accordance with federal and local and state guidance.
- **Phase One:**
 - Continue encouraging telework.
 - Enforce strict social distancing guidelines or keep common areas that encourage congregation and interaction closed.
 - Minimize non-essential travel and follow CDC guidelines regarding isolation after travel.
 - Reduce or eliminate guest access to the facility.
 - For personnel who do report to work in the facility, enforce a closing time to allow for cleaning and disinfecting.
- **Phase Two:**
 - Non-essential travel can resume; All other precautions should remain the same.
 - Essential guest access can resume.
- **Phase Three:**
 - Employers can resume unrestricted staffing of worksites.

Sanitize and Disinfect

- According to the CDC, routine cleaning is critical for limiting the transmission of COVID-19. CDC guidelines provide that standard cleaning of common areas should include:
 - Dust and wet-mop or autoscrub concrete, tile, and wood floors.



- Vacuum entryways and high traffic carpeted areas.
- Remove trash.
- Clean restrooms.
- Wipe heat and air conditioner vents.
- Spot clean walls.
- Spot clean flooring.
- Dust horizontal surfaces and light fixtures.
- Clean spills.
- Cleaning high contact surfaces in common areas include:
 - Tools
 - Workstations and equipment
 - Screens, buttons, and doorknobs
 - Restrooms
 - Cafeterias
 - Lockers
 - Common surface areas
 - Computer screens and keyboards
 - Incoming supplies/products
- High Risk Locations include
 - First Aid Station / Health Office
 - Dining / Break Areas
 - Conference rooms / Reception spaces
- Frequency of cleaning and cleaning product use will differ based on area and place (ex. Workplace/desks, computers at least 3 times daily).
 - Prevent employees from entering/exiting during disinfecting.

Selecting and Using Cleaning Products

- The CDC breaks down cleaning product types as follows:
 - Cleaner: Removes germs, dirt, and impurities from surfaces or objects.
 - Sanitizer: Reduces germs on surfaces to levels considered safe for public health. Products must be registered with the EPA.
 - Disinfectant: Destroys almost all infectious germs when used as the label directs. Products must be registered with the EPA.
- Sanitizers and Disinfectants are regulated as pesticides by the EPA. Consider using disinfectants and sanitizers that contain ethanol, isopropanol (isopropyl alcohol), hydrogen peroxide, L-Lactic acid, or citric acid.
 - Reference the EPA's List N: [Disinfectants for Use against SARS-CoV-2](#).
- During use of chemicals, ventilate the space with outside air by opening doors and windows, or by bringing in outside air with your air handling system.
- Wear PPE, as needed.
- Refer to the product label of Safety Data Sheet for proper use and disposal of the product.
- Consider whether outsourcing to a contractor is appropriate, especially after employees have tested positive.





Guidance for Temperature Testing

Exceptional Times

- Ordinarily, the Americans with Disabilities Act considers the temperature screening of an employee to be a medical examination.
 - EEOC Guidance also states that employers can only take an employee's temperature if doing so is "job-related and consistent with business necessity"
- However, 'business necessities' change during a pandemic.
 - The Equal Employment Opportunity Commission – the agency tasked with enforcing the ADA – has stated that temperature checks during this time are valid and appropriate.
- If employers are testing the temperature of their employees, it is important they take steps to ensure that they are considering several different issues and complying with all applicable legal rules.

Who Should Take the Temperature?

Best Practice: For employers with a trained nurse or medical professional on-site, the trained personnel should be taking temperatures and/or training non-medical personnel to do so.

- In the event the nurse or medical professional is providing training to others, the training should be documented in writing.
- For employers that do not have a trained nurse or medical professional on-site, the employer should designate one or more management-level personnel to conduct the testing.
 - This individual should review the directions to use the thermometer or scanning equipment to ensure proper use.
 - That individual should also be trained to follow up in the event of an error or a result that is inconsistent with common sense (*i.e.*, a reading that is much too low or too high).
 - The training process should be documented.

Equipment for Taking Temperatures

Best Practice: The employer should use equipment that requires no direct contact between the temperature taker and the employees.

- Scanners that can measure temperature remotely are ideal.
- Forehead scanners also minimize the amount of contact.
- If you have issues obtaining these types of thermometers, oral or other types of thermometers are a reasonable substitute.
 - If using an oral thermometer forehead scanners, or other reasonable substitute, make sure to clean the thermometers thoroughly between each employee, so as to not spread infection.
 - Read and following the directions for cleaning that accompany the thermometer.
 - If no directions are available, rinse the tip of the thermometer in cold water, clean it with alcohol or alcohol swabs, and then rinse it again before next use.
- If you are using a temperature measurement that requires contact between the temperature taker and the employees, the taker should be equipped with adequate personal protective equipment to ensure safety for both parties.
 - The taker should be provided with gloves, goggles, face masks, and gowns.
 - If the taker is not using a “touchless” system, he or she should change gloves with each scan.

Maintaining Proper Social Distancing Guidance while Waiting for Temperature Tests

The temperature taker is not the only one for whom best practices should be considered with a temperature-taking process; employers should be cognizant of the various states’ and municipalities’ social distancing requirements for the employees awaiting to have their temperatures checked as well.

Best Practices:

- Consider whether additional shifts can be established to reduce the number of employees in the worksite at one time.
- Stagger shift start and end-times greater than normal when possible (while still ensuring safe operations), to eliminate employees from congregating during the shift change-over, and from over-crowding at entrances and exits.
- Create corridors (outside, but preferably covered) where employees can enter the facility through a temperature-checking line.
 - Have multiple such lines and entrances if possible to reduce crowding.
 - Consider placing markings (whether in tape or otherwise) on the ground in the corridor to demarcate six (6)-foot lengths to provide for greater social distancing by employees while in line.

Is the Time for Taking Temperatures Compensable?

- Whether employees must be compensated for time spent having their temperature taken (and waiting in line to do so) has not been decided and is likely to be a contested issue in the coming months.
- To the extent that any legal authority requires a temperature test before an employee is allowed to work, it is likely that time spent undertaking such a test will be compensable.
 - Even if such a test is not required, both good employee relations and state law requirements may counsel in favor of paying employees for this time.
- The FLSA generally prohibits pausing compensable time once an employee’s workday starts (aside from an unpaid lunch period).
 - If the employee’s compensable time begins with the temperature check (or waiting in line), all subsequent pre-shift activities will likely also be compensable, as well.

- Implementing the Best Practices outlined above regarding staggered shifts should also reduce the amount of time spent by employees passing through a temperature-checking process.

An Employee Has a Fever. What Do We Do?

- Discreetly notify the employee that he or she has a fever and do not allow him or her to enter the work environment.
- The employee should begin quarantine procedures and should not return to work for 14 days.
 - After 14 days, and only if the employee has been fever-free for three (3) days and is otherwise symptom-free as well, can the employee return to work.

Should I Keep a Record of the Temperature Checks?

- While employers are permitted to take temperatures during this pandemic, if employee temperatures are “recorded,” that information must be maintained confidentially under the ADA and only provided to those who should have knowledge of the information.
- Employers can also consider simply recording “no” (meaning the employee’s temperature is under

the appropriate threshold) or “yes” (meaning the employee has a fever) for each employee, instead of recording each individual employee’s specific temperature on any given workday.

- The information that is recorded should be treated as a confidential medical document and should not be placed in any employee’s personnel file.

Final Word of Caution

- Taking employee temperatures and screening employees for fevers is not a silver bullet against the spread of COVID-19.
- Current medical information suggests that individuals without any symptoms (*i.e.*, asymptomatic) may nevertheless be infected with COVID-19 and can still transmit the virus to others.
- Therefore, employers should also follow other practices for avoiding the spread of COVID-19, including: maintaining social distancing best practices, including promoting remote work as much as possible; frequent hand washing and disinfecting; and, frequent cleaning and disinfecting of common areas and touch-points throughout the workplace.



Social Distancing Measures

- Employers should require employees maintain a social distance of more than six feet when possible. In efforts to do so, employers should consider the following:
 - Reorganize and redesign office spaces to increase space between employees.
 - Use markings on the ground to clearly designate safe distances and desired positions of employees in various common areas.
 - Provide PPE when physical distance is not feasible.
 - Impose physical barriers (Plexiglas).
 - Require staggered reporting to each shift and for breaks.
 - Reduce staffing levels per shift.
 - Make training rooms or additional areas available for lunches and breaks so workers can keep safe distances.
 - Limit attendance of in-person meetings or consider pre-recorded or telephonic meetings.
 - If meetings are necessary, limit group size to less than 10.
 - Increase transportation options to reduce employees in buses and vans.
 - Post visible reminders around the workplace.
 - Increase ventilation, such as propping doors open when possible.

Personal Hygiene

- All employees should wash hands with soap and water for at least 20 seconds and this should be done:
 - Before eating or handling food.
 - After sneezing, coughing, or nose blowing.
 - After using the restroom.
 - After touching or cleaning possibly contaminated surfaces.
 - After using shared equipment.
- Use antibacterial gel with 60% alcohol if soap and water is unavailable.

- When sneezing or coughing:
 - Cover their mouths and noses with the inner angle of their arm or use a tissue.
 - Turn away from others if possible.
 - Dispose of soiled tissues immediately after use.
- Avoid touching their face.
- Drying hands with paper towels is preferred to air-blow dryers which can disperse any remaining viruses widely.
- Keep a distance of 6 feet from other people to avoid being sneezed, coughed, or breathed on by someone who is infectious.

Personal Protective Equipment

The key to proper selection and use of protective clothing is to understand the hazards and the risk of exposure. Some of the factors important to assessing the risk of exposure in health facilities include source, modes of transmission, pressures and types of contact, and duration and type of tasks to be performed by the user of the PPE. Various regulatory agencies have published guidance and answers on different types of PPE and their suggested uses, as discussed below. Employers should reference PPE-specific instructions before use.

General PPE Considerations

- All PPE must be:
 - Selected based upon the hazard to the worker.
 - Properly fitted and periodically refitted, as necessary.
 - Consistently and properly worn.
 - Regularly inspected, maintained, and replaced, as necessary.
 - Properly removed, cleaned, and stored or disposed of.
- PPE should not be a replacement to hand washing.
- Consider whether work clothing, including coveralls, boots, gloves, helmets, goggles, other personal protective equipment, etc. is being adequately cleaned and disinfected.

Selecting Appropriate PPE

- OSHA has generally classified the risk of exposure of different occupations into one of four categories, and the amount and type of suggested PPE, if any, depends on the risk of exposure to COVID-19:
 - Very High: Health care workers, morgue workers, etc.
 - Workers will likely need gloves, a gown, a face shield or goggles, and either a face mask or respirator.
 - High: Healthcare delivery and support staff, medical transport workers, etc.
 - Same PPE required as jobs with very high exposure risks.
 - Medium: Jobs requiring frequent and/or close contact with people who may be infected with COVID-19, including workers at schools, high-volume retail settings, etc.
 - Consider a combination of gloves, a gown, a face mask, face shield, or goggles.
 - Only in “rare” instances does OSHA recommend N-95 respirators for jobs within this category.
 - Low: Jobs that do not require contact with people known to be, or suspected of being affected with COVID-19.
 - Additional PPE is not required.

Types of PPE and Related Considerations:

- **Gowns**
 - These are likely unnecessary for employers to provide or employees to use unless working in a healthcare setting.
 - Consider the use of coveralls when appropriate.
 - Reusable gowns and lab coats should be cleaned in accordance with routine procedures.
 - Wash hands or use an alcohol-based hand sanitizer immediately after removing.
- **Respirators vs. Masks**
 - OSHA regulation [29 C.F.R. § 1910.134\(a\)\(2\)](#) states “[a] respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee” and that

“[t]he employer shall provide the respirators which are applicable and suitable for the purpose intended.”

- Respirators can be air purifying (using a filter to remove contaminants) or atmosphere-supplying (providing clean air from an uncontaminated source).
- N95s are the most common type of respirators.
 - Due to shortages, these should be reserved for workers with very high and high risks of exposure.
 - Surgical masks and N95 respirators are currently considered critical supplies that must be reserved for healthcare workers and other medical first responders.
- Most employers will not be required to provide N95 or similar respirators, unless particular employees fall within the higher exposure risk categories for COVID-19 hazards or unless the employees’ normal job duties require the use of respirators.
 - See guidance regarding face coverings / masks below.
- Where respirators are required, you should remember that OSHA [has relaxed its enforcement policies](#) related to annual fit testing for respirators under [29 C.F.R. § 1910.134\(f\)\(2\)](#), provided employers are acting in *good faith* to comply with the same.
 - OSHA still requires, among other things, all employees using N95 masks to be:
 - *Initially* fitted for the respirator; and,
 - Trained in the proper usage of the same (*e.g.*, perform a user seal check upon each donning).
 - OSHA also requires employers to explore and document their efforts to obtain additional N95s or appropriate, OSHA-accepted alternative PPE, where N95s cannot be obtained due to shortages.
 - Reassess administrative and engineering controls and work practices to decrease the need for hard-to-find respirators, such as:
 - Increasing the use of wet methods or exhaust systems;
 - Moving operations outdoors; and/or

- Temporarily suspending certain non-essential operations.
 - Consider alternative classes of respirators.
 - Alternatives should:
 - provide equal or greater protection compared to an N95; and,
 - be [NIOSH-approved](#).
 - The following types of respirators may be acceptable to OSHA: N99, N100, R95, R99, R100, P95, P99, and P100, or other non-disposable, elastomeric or powered, air-purifying respirators (PAPRs).
 - Employers should consult the manufacturer's specifications and instructions to make proper comparisons against N95s.
- When reopening your business, keep in mind that the [CDC recognizes](#) "the virus can spread between people interacting in close proximity—for example, speaking, coughing, or sneezing—even if those people are not exhibiting symptoms." Accordingly, the [CDC recommends wearing cloth face coverings](#) in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission, and in some localities (e.g., Dallas County), face coverings are even mandated.
 - Cloth facemasks are coverings fashioned from household items or made at home from common materials.
 - The CDC has provided instructions for individuals to make and use their own face coverings.
- Paper masks and surgical masks provide barrier protection against droplets, but do not filter small particles from the air and do not prevent leakage around the edge of the mask.
- Surgical masks, paper masks, and homemade masks are not respirators.
 - These may reduce transmission of COVID-19 but can also create a false sense of security.
 - Employees who display symptoms of COVID-19 should be given a surgical mask to wear until they leave the workplace.





- Proper Use
 - Secure ties or elastic band at middle of head and neck.
 - Fit flexible band to nose bridge.
 - Fit snug to face and below chin.
 - Wash hands or use an alcohol-based hand sanitizer immediately after removing

- **Goggles or Face Shields**

- Eye protection should be prioritized for select activities that increase the risk of splashes and sprays, or when there will be prolonged close contact with others.
- Personal eyeglasses are **not** considered adequate eye protection when additional eye protection is needed.
- If the item is reusable, make sure to properly disinfect after each use.
- Wash hands or use an alcohol-based hand sanitizer immediately after removing.

- **Gloves**

- When disposable gloves are used, workers should typically use a single pair of nitrile exam gloves.
- Change gloves if they become torn or visibly contaminated; or in between potential areas of contamination.
- When removing:
 - Peel off gloves touching only the inside of the gloves with your bare hands.
 - Properly discard gloves in a waste container.
- Wash hands or use an alcohol-based hand sanitizer immediately after removing.

Employee Self-Screening Assessment

- Before re-opening or continuing operations, inform all employees that if they can answer “yes” to any of the following questions, they should inform HR (or other designated personnel), self-quarantine for 14 days, and contact their healthcare provider.
 - Do you have any of the following common COVID-19 systems?
 - Temperature (according to CDC guidelines)
 - Frequent unexplained cough
 - Unexplained shortness of breath or difficulty breathing
 - Unexplained tiredness
 - Have you had physical exposure to a person suffering from Coronavirus symptoms or a person who has tested positive for the Coronavirus?
 - Have you recently traveled more than 50 miles of your place of residence or this facility?

Visitors, Contractors, and Vendors

- Create a policy for recording and screening non-employees on the property or worksite, which could require:
 - Visitors to complete a self-screening form that contains the following information:
 - Name and contact information, including company name (if appropriate)
 - Purpose of visit
 - “Do you have symptoms of COVID-19 including a fever (as defined by CDC guidelines), cough, shortness of breath, difficulty breathing, or unexplained tiredness?”

- “Have you or anyone in your household been diagnosed with COVID-19 in the last 14 days?”
 - “Have you traveled to an international location with a CDC Warning Level 2 or 3 Travel Advisory within the last 14 days?”
 - An affirmation that the answers to the required questions are correct.
 - If responses to the self-screening form are “yes,” the company should notify the visitor to leave the premises; disinfect the common surfaces; and notify appropriate individuals within the company.
- Employers should consider:
 - Limiting the number of people who can enter the facility at one time to abide by social-distancing requirements.
 - Telephonic or electronic meetings when possible.
 - Use designated meeting and work spaces that can be disinfected after each use.
 - Providing visitors with readily-available hand sanitizer, soap and water, or effective disinfectant.
 - Directing visitors to meeting and work locations using the most direct path.
 - Practice social distancing at all times.
 - Encourage visitors to take safety precautions, including frequent hand-washing.
 - Directing visitors to a single, monitored sign-in location.
 - Separate delivery areas from visitor sign-in areas.



Understanding and Complying with Telework Requests

Due to the pandemic, many employees have been afforded the opportunity to work from home where companies had previously taken the position that the job could not be performed remotely. In all scenarios, employers should clearly inform employees of expectations while working remotely.



As companies open back up, employees may request or expect to continue working remotely.

What obligations does an employer have to continue to allow remote work?

- If an employee asks to work remotely as an ADA accommodation unrelated to COVID-19, and claims that remote work is a proven reasonable accommodation because it was provided during the pandemic:
 - Determine if telework is an option if the individual can perform the essential functions of the job without an undue hardship to the business.
 - Engage in the Interactive Process with the employee.
 - Consider documenting certain roles in which telework was not effective during this period.
- If an employee asks to work remotely because the employee is scared to return to work for fear of exposure to COVID-19:
 - This may be a potential ADA accommodation issue.
 - Use an Interactive Process.
 - Discuss with employee workplace protocols (PPE, social distancing, staggered shifts, hand sanitizer) to put the employee's mind at ease.
 - Require medical certification.
 - However, be aware of overburdened medical staff, and consider teledoc note/certification.
 - Attempt to put timeframe limits on the accommodation.
- If an employee asks to work remotely due to child's daycare/school being closed indefinitely.
 - If applicable, offer employee paid leave under the FFCRA, which is in effect until December 21, 2020, unless extended, or similar state/local rule only if employee cannot work at all (as opposed to teleworking) and no one else in the household can care for the child.
- Assess whether the employee can continue to work at home and for how long.
- Consider options for alternative work schedule/stagger shifts with other family member work schedules.
- Permit employee to continue to work from home until school/daycare reopens.
- Inform employee that this is a temporary accommodation that will not be permitted indefinitely.
- Ensure consistency - have legitimate reason if granting to some/denying to others.
- If an employee simply prefers to work from home:
 - This is a matter of employer policy.
 - There is no legal obligation to permit remote work as long as decisions about permission for remote work are made based on legitimate, nondiscriminatory business reasons.
- If an employee asks to work remotely because the employee or a household member has tested positive:
 - If applicable, offer employee paid leave under the FFCRA or similar state/local rule only if employee cannot work at all (as opposed to teleworking).
 - Employee should not be permitted to return to work until symptom free and/or 14 days have passed.
 - Employers may also consider requiring negative test result before permitting employee to return.
 - If permitting employee to work from home, ensure that employee is told that remote work is temporary and when virus free/14 days expired, the expectation is return to work.



Operating in the Changing Regulatory Environment

In the rapidly changing COVID-19 environment, executive orders, ordinances, guidelines, and laws at all levels are being issued on a daily basis. In addition to using this Best Practices Guide as a starting point, you will need to understand and abide by the applicable federal, state, and local orders and guidance. [Foley's 50-State Tracker](#) is another resource to help direct you to the relevant information.

Other resources that may be helpful include the following:

<https://apps.npr.org/documents/document.html?id=6840714-Guidelines>

<https://www.cdc.gov/coronavirus/2019-ncov/about/share-facts-h.pdf>

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/eye-protection.html>

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-use-faq.html>

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-faq.html>

<https://www.cdc.gov/niosh/npptl/pdfs/PPE-Sequence-508.pdf>

https://www.cdc.gov/niosh/npptl/topics/respirators/disp_part_resource3healthcare.html

<https://www.cdc.gov/quarantine/air/reporting-deaths-illness/definitions-symptoms-reportable-illnesses.html>

http://www.dec.ny.gov/docs/materials_minerals_pdf/covid19.pdf

https://docs.google.com/document/d/1ecd_zglQIQut1pT7VxVboeMcTbs94fuNEB7wG81_nYE/edit

<http://www.industrialunion.org/covid-19-advice-for-workers-and-employers>

<https://losh.ucla.edu/resources-2/resources-protecting-workers-from-covid-19/#ppe>

<https://nationalcosh.org/coronavirus>

<https://www.osha.gov/Publications/OSHA3990.pdf>

<https://www.osha.gov/SLTC/covid-19/controlprevention.html>

<https://playbook.lear.com/Safe%20Work%20Playbook.pdf>



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