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OSHA Issues Guidance and FAQs for Reopening Businesses

Background

As non-essential businesses begin to reopen, many government agencies have issued guidance to help employers navigate the process. Accordingly, the Occupational Safety and Health Administration (OSHA) has issued both guidance and FAQs to help employers reopen safely and efficiently. Its guidance is intended to supplement the US Department of Labor's and US Department of Health and Human Service's previously developed [Guidance on Preparing Workplaces for COVID-19](#) and the White House's [Guidelines for Opening up America Again](#).

Summary

OSHA's *Guidance on Returning to Work*, issued on June 18, 2020, does not constitute a new law or regulation, but includes helpful recommendations and a description of existing safety and health standards for the workplace. These recommendations should only be considered in

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keeping with federal, state, and local requirements. See below for a summary of its contents:

The Phases of Reopening:

- **Phase 1:** Consider allowing telework when possible, limiting the number of people in the workplace, and establishing controls to allow for effective social distancing and sanitation measures. Consider offering accommodations for workers who are, or have family members who are, at increased risk from COVID-19. Limit non-essential business travel.
- **Phase 2:** Continue to make telework available, if possible. You may ease the limitations on the number of people in the office. Continue with social distancing and sanitation measures although you can moderate them. Continue to accommodate vulnerable employees. You can resume non-essential business travel.
- **Phase 3:** You may resume on-site work without restrictions but continue to use common-sense precautions.

All Reopening Plans Should Address:

- **Hazard Assessment:** Assess all job tasks and categories to determine which jobs involve occupational risks, including but not limited to direct interaction with coworkers or the public.
- **Hygiene:** Provide appropriate cleaning materials (soap, water, hand sanitizer, etc.) to employees and everyone else in the workplace. Identify high touch areas and surfaces for regular, enhanced cleaning and disinfection.
- **Social Distancing:** Limit business occupancy to a number of workers and customers who can safely social distance. Mark six-foot zones in high-traffic areas to encourage social distancing, and post signs as a reminder of social distancing practices.
- **Identification and Isolation of Sick Employees:** Have employees evaluate themselves for symptoms of COVID-19 before coming to work and encourage them to stay home if they are feeling unwell. Establish a protocol for managing employees who become ill at work, including an area where they can be isolated comfortably while waiting for transportation. Thoroughly clean the workspace of any employees who become ill at work and initiate contact tracing as needed.
- **Return to Work After Illness or Exposure:** Follow CDC guidance when it comes to requiring self-isolation or quarantine for infected or exposed employees. Request additional self-monitoring from these employees even after they are asymptomatic.
- **Controls:** Implement controls to help limit the risk of exposure or infection, such as physical barriers for workers, requiring face masks, providing appropriate personal protective equipment (PPE), closing breakrooms, staggering shifts, etc.
- **Workplace Flexibilities:** Evaluate your current policies and consider expanding the use of telework, access to paid sick leave, and other flexibilities to reduce the risk of exposure

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to COVID-19 in the workplace.

- **Training:** Provide comprehensive training to all employees about the risks of exposure to COVID-19 and how to protect themselves; the value of wearing face masks and any related company policies; and the proper use, cleaning, and storage of any PPE used in the workplace.
- **Anti-Retaliation:** Ensure that all employees and supervisors understand their right to a safe and healthful work environment and whom to contact with any questions or concerns. Clearly communicate that retaliation against employees who raise safety and health concerns is strictly prohibited.

Employer FAQs and Answer Summaries:

- **Can employers conduct work site COVID-19 testing?** Yes. You are permitted to conduct COVID-19 testing under OSHA if testing is conducted transparently and consistently. Just because an employee tests negative for COVID-19 does not necessarily mean they present no hazard in the workplace. Testing is not a substitute for taking other workplace precautions as described earlier.
- **Can employers conduct work site temperature checks or other health screening?** Yes. Temperature checks are permitted under OSHA if they are conducted transparently, consistently, and in keeping with all EEO and HIPAA regulations. It may be most beneficial to simply have employees self-screen at home and stay home if they have an elevated temperature. Note that temperature checks have limited utility when it comes to actually diagnosing COVID-19 in employees.
- **What OSHA requirements must an employer follow when conducting health screening, temperature checking, or COVID-19 testing?** Employers must be careful when it comes to retaining records based on temperature checks or other COVID-19 testing. These records may need to be retained for the duration of employment plus an additional 30 years. To avoid this, you do not necessarily need to record the temperature readings but instead could simply act on them in real time, meaning you take the temperature and determine if the employee can or cannot enter the workplace. Additionally, any staff recording temperatures must be properly trained and given appropriate PPE.
- **Is there guidance on how to address the various health screening and medical issues associated with COVID-19 to avoid violating other labor, disability, and employment laws?** Yes, the EEOC has established specific [guidance](#) on this.
- **When can employees who have had COVID-19, or illness consistent with COVID-19, return to work?** The CDC has established specific [guidance](#) on this for all employees not in a healthcare setting.
- **How do I know if employees need PPE?** Conduct a thorough [hazard assessment](#) to determine which employees, if any, require PPE to do their job safely. You may be able to reduce or eliminate the need for PPE by implementing appropriate controls, social



distancing, and sanitation measures. Please note that cloth face masks are not considered PPE since they are primarily for the safety of others, not of the employees wearing them. Keep in mind your state and local guidance as requirements for face coverings can vary depending on locality. You can read more about face coverings in our [e-Alert: Key Takeaways from OSHA's Guidance on Masks, Face Coverings, and Respirators](#).

- Find additional FAQs from OSHA on their dedicated [COVID-19 web page](#).

Employer Next Steps

- Employers should review OSHA's full [Guidance on Returning to Work](#) and additional [FAQs](#) as well as our summary below.
- Consider downloading our [Return-to-Work Toolkit](#) which includes model policies on face coverings.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your Return-to-Work policies, please [email us](#).

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