

# KEY CONSIDERATIONS IN DEVELOPING SAFE AND EFFECTIVE COVID-19 RETURN-TO-WORK POLICIES

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As states begin to relax stay-at-home orders and businesses reopen physical locations amid the ongoing COVID-19 pandemic, employers and their employees are beginning to think about how they can safely return to the office, or in many industries, return to work.

A safe and productive transition back to a place of business comes with significant challenges that vary from industry to industry, organization to organization and location to location. The considerations for a company in a large office building where workers have continued to work remotely throughout the pandemic will be different than a construction company where furloughed workers are returning to the jobsite for the first time in weeks or months. Organizations operating in multiple states will have to contend with different regulations and guidelines depending on their location.

In all of these situations, employee safety is the top priority for employers and the ultimate measure of a successful and productive return-to-work effort.

In reviewing best practices gleaned from essential businesses that have stayed open, recent government agency guidelines and traditionally effective HR policies and practices, there are several tactics and strategies employers can utilize.

## SOLUTIONS FOR SCREENING EMPLOYEES

With no COVID-19 vaccine and limited widespread testing capabilities, many of the social distancing and public health protocols will carry over into new workplace policies. Those protocols begin with screening employees for COVID-19 symptoms before they enter the workplace, which many states are recommending. This can be accomplished in a few different ways:

- **Employee self-reported screenings** – New apps and technology platforms allow employees to take their temperature and log other customizable medical details which can be verified and submitted to employers. Employees are then notified if they are cleared to work or can be referred to a medical provider depending on their symptoms.
- **On-site temperature screenings** – Medically trained individuals can take employee and visitor temperatures and record other medical information at the entrance to the building or site.
- **COVID-19 antibody testing** – More research and development is needed for this to be a viable option for employers, but antibody-based protocols could be created in the coming months.

Of these approaches, an employee self-reported screening system has clear benefits over on-site screenings and is a superior solution when it can be used.

It reduces the logistical and privacy considerations stemming from individuals traveling to the workplace and then waiting to be screened. However, many workplaces may still need some kind of on-site screening protocols for other visitors such as delivery people, maintenance crews, security workers and customers.

## LEGAL CONSIDERATIONS FOR EMPLOYEE SCREENINGS

The COVID-19 pandemic has created new questions around what medical information employers can request from workers. Fortunately, the Equal Employment Opportunity Commission has already shared clarifying policies.

During a pandemic, Americans with Disabilities Act (ADA)-covered employers may ask employees if they are experiencing symptoms of the pandemic virus.

For COVID-19, these include symptoms such as fever, chills, cough, shortness of breath or sore throat. Employers may measure employees' body temperature. Employers may also request "fit for duty" certifications from doctors for employees, though coordinating these appointments may be challenging given current healthcare industry realities. Employee medical records should be treated as part of the company's confidential medical files and retained per any applicable regulatory requirements.

Other legal considerations could arise as well. For example, if an employer's employees are represented by a union, the employer may have to engage in good faith bargaining with the bargaining representative prior to implementation, and therefore employers should consult with labor and employment counsel.

## CREATING A SAFE, SUSTAINABLE WORKPLACE

Once employees are cleared to re-enter the workplace, there are a number of considerations in structuring the workplace and day-to-day activities. This includes social-distancing protocols with adequate signage and suspending use of shared spaces such as conference rooms and break rooms.

Employers should provide hand sanitizer, tissues and no-touch trash containers, and employees should be required to wear masks while in open environments.



There are other aspects of a broader workplace policy to consider as well. Employers may have to create protocols for vendors, customers and other visitors. It's critical to consult with cleaning crews to ensure proper disinfecting and sanitation protocols are routinely being followed. For employers in a large building, coordination with the building's facility management team, other vendors and other tenants may be required around shared spaces such as the lobby and elevators. In other instances, new policies will have to be developed around work-related travel and how individuals returning from work trips should re-enter the workplace.

## LEVERAGING EXPERTISE TO MINIMIZE RISK

Creating and maintaining protocols that address all of these challenges is a significant undertaking. Establishing a task force dedicated to return-to-work issues is one best practice to ensure these issues receive the necessary attention. Key leaders from various parts of the organization can review plans and policies and ensure workers are safely getting back on the job. Ultimately, employers need to rely on common sense and prioritize communication with employees to ensure new protocols are understood and followed.

Employers should look to external resources as well. Many health plan administrators are allowing wellness credits – traditionally used for wellness and population health programs – to be applied to return-to-work solutions and ongoing social distancing protocols. Depending on the administrator, employers can use these funds for on-site support, and employees can use them to purchase thermometers, masks and other protective gear.

Insurance brokers can also play a critical role in guiding employers as they craft these policies amid shifting recommendations and evolving best practices.

The Conner Strong & Buckelew COVID-19 Resource Center has additional guidance, best practices and updates.

[Visit the Conner Strong & Buckelew COVID-19 Resource Center](#)

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