

Yes, We're Open: Important Considerations for Employers Preparing to Reopen in a Post-COVID-19 World

Working Together

04.30.2020

By Zachary Zeid



As the country moves towards reopening, many employers are concerned about the issues raised by returning employees to working on-site. Even before employees set foot on the premises, employers should begin communicating with them to explain what steps the organization is taking to maximize health and safety in the workplace.

Although most employers implemented COVID-19 related workplace policies early on, changes in guidance, new statutes, and newly recommended procedures may have rendered those policies obsolete. In order to ensure an efficient and safe reopening, employers should begin by reviewing existing policies and procedures to determine if updates are necessary. This may also present a good opportunity for employers to review and update employee handbooks or other policies and distribute them to returning employees.

There are a host of complicated rules and regulations and understanding the interactions between them can be challenging. If employers have not implemented policies addressing these issues, they should do so immediately. Having adequate policies and protocols in place is critical both to keeping employees safe in the workplace and to reducing employers' potential exposure to liability should employees contract COVID-19 after returning to work.

Examples of topics that should be addressed in a Return to Work policy include:

- Social distancing
- Various leaves of absence to which employees may be entitled
- Remote work
- PPE (masks, face coverings, etc.)
- Taking employee temperatures and other testing requirements

pullcom.com  @pullmancomley

BRIDGEPORT
203.330.2000

HARTFORD
860.424.4300

SPRINGFIELD
413.314.6160

WAKEFIELD
401-360-1533

WATERBURY
203.573.9700

WESTPORT
203.254.5000

WHITE PLAINS
914.705.5355

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- Cleaning and sanitizing procedures
- Reporting protocols for exposure to or diagnosis of COVID-19
- Quarantine/not reporting to work if feeling sick
- When to return to work after confirmed infection with COVID-19
- Contact tracing
- Travel
- Meetings (virtual resources, capacity limits on in-person interactions, etc.)
- Employee Benefits

Once comprehensive policies are in place, it is important to properly train employees, particularly managers and supervisors, about their roles and responsibilities under them. This is especially important for organizations that will be engaging in sensitive precautionary measures, such as taking employee temperatures or making inquiries of employees' interactions with others outside of work. Organizations should consider requiring employees to acknowledge receipt of these policies, much as they would with an employee handbook.

Management should be prepared to respond to employee concerns and have protocols in place in the event employees refuse to return to work. Many employers are facing this type of issue, either because employees fear exposure upon returning to work, or because they are receiving more money on unemployment than when they were working, as a result of the \$600/week Federal Pandemic Unemployment Compensation.

Reducing the spread of COVID-19 requires cooperation and teamwork in the workplace. Employers should be mindful of the complexities involved and consult counsel as issues arise to ensure full compliance with the confusing web of laws, regulations, and guidance. Failing to comply with these requirements, even accidentally, could result in significant liability for your organization.

Employers also need to be prepared to answer complex, fact-specific questions from employees about issues such as paid sick and family medical leave under the FFCRA, health insurance, and other employee benefits such as 401(k) plans. The lawyers at Pullman & Comley are dedicated to assisting employers in ensuring compliance with these and other COVID-19 related requirements, and we have policy templates and other useful resources available.

Please contact any of our Labor and Employment Law attorneys if you have any questions.

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