



## COVID-19 Guidance for Returning to Work

**Question:** Can you provide guidance and materials for returning to work checklists, policies and procedures? Some of the things we are heavily considering are temperature checks, how to handle employees in the office who show symptoms, etc.

**Answer:**

It is certainly advisable for the employer to update its workplace policies and procedures in the wake of the coronavirus pandemic, given the many changes to the workplace that it has brought. To be sure, we recommend implementing appropriate safety measures recommended by the CDC and OSHA relative to minimizing the risk of COVID-19 transmission in the workplace, and company policies should address these new obligations. As well and as discussed below, company policies should seek to address time off and other new and changed circumstances associated with recently-passed legislation and other nuances of the workplace. We have summarized a number of the issues employers should contemplate in preparing new policies in our resource regarding [COVID-19 Implications on Employment Policies](#) which we encourage you to review.

As far as workplace health and safety, the [CDC's reopening guidance for employers](#) is really one of the best places to start as businesses seek to reemerge and reopen following any COVID-19 related closures. Employers are encouraged to incorporate such guidance into their policies and practices. There is additional excellent guidance for employers at the following websites, which the employer can also seek to incorporate into its policies, practices and procedures:

- [General Business Frequently Asked Questions](#) which includes a number of common questions employers may have as they reopen their business.
- [Plan, Prepare and Respond to Coronavirus Disease](#)
- [COVID-19 Employer Information for Office Buildings](#)
- [OSHA Guidance on Preparing Workplaces for COVID-19](#)
- New [OSHA Poster](#) that all employers should ensure is hung in a conspicuous place)
- Employer policies should also be updated to include employee rights under the Families First Coronavirus Response Act (FFCRA), which provides paid time off benefits to employees who qualify for them. Guidance on the FFCRA, including a requisite poster to hang, can be found at [COVID-19 and the American Workplace](#)

As noted, employers may wish to revise their employee handbooks or other policy statements, or draft addenda, in view of these new requirements. And, employees can be asked to sign a statement to acknowledge the employer's new protocols and policies, as well as to acknowledge their receipt of, and agreement to comply with,

such new policies. Employees can and should further be required to acknowledge obligations as they may have individually to contribute to a healthy and safe workplace, and the consequences they can expect if they unreasonably fail to do so. That said, note that generally employees cannot waive their right to workers' compensation benefits should they sustain an occupational illness or injury in the course and scope of their employment, which – despite the employer's best efforts – can potentially include contracting coronavirus in the workplace. As such, "hold harmless" or similar language or agreements are largely unenforceable. While nothing prevents the employer from requiring employees to acknowledge and agree to contribute to a healthy and safe workplace (and in fact this is recommended), requiring that they sign a waiver of workers' compensation rights or similar statements as a condition of continued employment can expose the employer to potential liability for claims and is not recommended.

The employer may also wish to confer with its general liability and workers' compensation insurance carriers prior to any exposure or claim for specific guidance as to necessary and recommended safety requirements to minimize risk, as well as to confirm insurance coverage in the event of a claim against the employer in connection with workplace safety and the like. The employer can then seek to include such requirements in its new or revised policy statements. You can find additional COVID-19 related resources through your HELPLINE portal, which we also encourage you to take advantage of.

### **Other helpful resources:**

U.S. Chamber of Commerce, Implementing a National Return to Work Plan:

<https://www.uschamber.com/coronavirus/implementing-national-return-to-work-plan>