

*The information contained in the Employer Flexible Safe Work Guide represents current practices regarding the recommended safety operations, where and when permitted by law, during this time of the unprecedented COVID-19 pandemic. The details of each employer's plan to return will look different, but these are the key issues most will need to understand and start preparing for now. Employers should continue to monitor federal, state, and local closure orders and [re-opening guidelines](#).*

## 1. Workplace safety

Employers have to ensure their workplaces are as safe as they can be. Employees and customers alike may have fears of returning to business as usual; preparing for and communicating how safety is a top priority will allay fears and increase brand loyalty.

Safety measures might include:

- Implementing [Health Screening procedures](#).
  - Temperature checks
    - Decide if the checks need to be Mandatory. (Check industry/local guidance to determine if your company should be enforcing.) If yes, then consider creating a [questionnaire](#) for employees and visitors.
    - Consider OSHA's Worker Exposure Risk. Decide if you want an internal employee to handle or hire a Third-Party Scanner? Ensure adequate training is provided.
    - Determine compensability of Waiting Time for non-exempt employees while they wait to be checked.
    - Check state law requirements.
- [Prepare the Building](#) for the return of the workforce.
  - Fire alarms and fire extinguishers
  - Ensure HVAC Systems have been maintained
  - Clean and sanitize appliances in breakroom
  - Check bathrooms for maintenance
- Develop a Pandemic Response Team
  - Developing Safety Practices, Monitoring Social Distance, Monitoring Response to Protocols, etc. can be tasking for one person to handle. It is best to assign roles to a committee such as a Pandemic Response Team (PRT).
  - The PRT group should meet on a regular basis to keep tabs of the status of the company.
  - If you chose to take body temperatures, you should have the trained personnel sit on the committee so that high level updates are provided.
  - The committee should be responsible in keeping the lines of communication open with the organization providing frequent updates to the employees.

- Developing an exposure-response plan that addresses:
  - Isolation, containment and contact tracking procedures.
  - Stay-at-home requirements.
  - [Exposure communications](#) to affected staff.
- Providing personal protective equipment (PPE) such as:
  - Masks, gloves, face shields, etc.
  - Personal hand sanitizer.
    - Consider if PPE or face coverings are mandatory or optional based on Worker's [Exposure Risk](#).
    - Mandatory: If mandatory the company will provide or reimburse employees.
    - Optional: If optional, will the company provide or have employee [create](#) them?
    - An employer may require employees to wear personal protective equipment during a pandemic. However, be mindful of requests for accommodations under the ADA for alternative PPE requirements (e.g., non-latex gloves, or gowns designed for individuals who use wheelchairs), the employer should accommodate, absent undue hardship.
    - When possible, employers should allow employees to wear masks and should only deny mask use if there is a business necessity or safety reason to deny mask use.
    - Employers should have a policy regarding what masks are allowed or required, whether the employer will pay for the masks, and any other relevant information. OSHA has also stated that employers should "make a good-faith effort to provide and ensure workers use the most appropriate respiratory protection available for the hazards against which workers need to be protected.
- Detailing [cleaning procedures](#) and procuring ongoing supplies.
- Establishing [physical distancing measures](#) within the workplace:
  - Staggered shifts and lunch/rest breaks.
  - Rotating weeks in the office and working remotely.
  - Moving workstations to increase separation distance.
  - Implementing one-way traffic patterns throughout workplace.
  - Close communal meeting rooms.
  - Limit or close off common areas.
- Restricting business travel:
  - Start with essential travel only and define what that is.
  - Follow [government guidance](#) to ease restrictions over time.
- Defining customer and/or visitor contact protocols such as:
  - Directing customer traffic through workplace.
  - Limiting the number of customers in any area at one time.
  - **No handshake greetings**, remain 3–6 ft. apart.
  - Using video or telephone conferencing instead of in-person client meetings.
  - Providing contactless pickup and delivery of products.
- Understanding and complying with record-keeping and reporting obligations:
  - Identify if positive exposure is work-related. If so, report it to your workers compensation insurance carrier.
  - Identify positions, if any, with the potential for occupational exposure to the coronavirus.
  - Review Occupational Safety and Health Administration (OSHA) regulation 29 CFR § 1904 to determine work-relatedness of illnesses and reporting on OSHA log.

## 2. Recall procedures

Plan for how and when employees will [return to work](#) or to the worksite to create an organized and controlled approach. All employees returning on the same day at the same time could be overwhelming and possibly unsafe.

Things to consider include:

- Phasing-in employees returning to work:
  - Use nondiscriminatory factors for selection (seniority/essential workers/ability to telework/etc.).
  - Identify essential business functions & essential employees.
    - Nature and function of the job
    - Ability to return to work safely/ability to telework
  - Determine schedule changes to provide the greatest protection to workers.
- Document recall selection criteria in a written plan:
  - Decide how much advance notice is reasonable for recall.
  - Establish deadlines to return to work (grace period or automatic job abandonment).
- Creating a plan for employees in [high-risk categories](#) for infection to return to work:
  - Consider allowing them to work from home or remain on leave until they feel comfortable to return.
  - Determine increased measures to protect them when working onsite, including isolated workstations, additional PPE as requested, fewer days in the office, etc.
- Notifying the state unemployment agency of employees [recalled to work](#). This is a state requirement and will help save on unemployment taxes for those who choose not to return to work.
- Determining how to handle employees who are unable or unwilling to return to work.

- Employees who are fearful of returning to work.
- Employees who have family obligations that interfere with the ability to return to work.
- Employees who remain under quarantine due to exposure to COVID-19.

## 3. Employee benefits

Whether employees remained on the employer's benefits plans or not, certain notices or actions may be required to stay compliant. Communicating these changes to employees should be done as soon as possible.

Review such issues as:

- Group health insurance
  - Ensure coverage changes, such as adding telehealth benefits, and services now not subject to deductibles have been incorporated into the plan.
  - If employee premiums were paid during leave, determine how or if the employer will recover those costs from employees.
- Flexible spending accounts
  - Review Dependent Care Assistance Program election changes with employees to ensure their new or revised elections are correct.
  - Over-the-counter medical products are now allowed under flexible medical accounts on a permanent basis and should be included in plan documents and communications.
  - Address new flexible spending account elections and allowable changes with employees.
- 401(k) or other pension plans
  - Review eligibility issues due to layoff or furlough.
  - Consider any break in service issues or counting years of service concerns.
  - Review any in-service loans employees may have or will want to take, including eligibility and pay back procedures.

- Paid leave
  - Review required leave under the Families First Coronavirus Response Act (FFCRA), ensure employees understand the [eligibility requirements](#) and provide them with a [policy](#). Create a way to track time used and collect supporting documentation for tax credit purposes.
  - Determine if there will be company PTO policy changes, including increasing or decreasing paid leave benefits, or additional restrictions in using paid leave.
  - Understand the coordination of leave benefits and communicate these to employees as needed.
  - Remember if you can allow employees to telecommute it may reduce the number of leave requests.

## 4. Compensation

Many employers may have made compensation changes during the crisis thus far, and others may need to make them in order to reopen. How the disruption has affected compensation policies going forward will also need reviewing and communicating to affected staff.

Things to address include:

- How the employer will handle any missed annual pay increases and if those will be applied retroactively.
- Will any [pay cuts](#) be made or revoked? Understand how to [reduce salaries](#) for exempt employees if necessary.
- Determine if employee status changes — exempt to nonexempt or full- to part-time status — are needed to reopen or if those already made will continue.
- How will bonuses be affected, including eligibility for or continuation of, etc.
- Will hazard pay be offered or revoked?

- It may be a good time to consider a pay equity audit as workers return, as pay may have been reduced or frozen and may have a disparate impact on certain groups.
- It is best to document pay changes with anticipated start and finish timeframes, where possible. Especially when you provide temporary hazard pay.

## 5. Remote work

Telecommuting may have proven to work well during the pandemic for some employers and employees. Using it not only as a [short-term emergency](#) tool to survive the next year but also as a permanent work/life balance and cost-saving measure should be considered.

Actions to consider include:

- Continuing to allow remote work where possible to keep employees safe.
- Staggering weeks in office and at home among team members, or part-time remote work on alternate weekdays.
- Responding to employee requests to continue to work from home, including long-term arrangements.
- Updating technology to support virtual workers.
- Consider the long-term cost savings or impact of offering permanent remote work.
- Train teleworking employees on [Cybersecurity best practices](#).

## 6. Communications

Establishing a clear communication plan will allow employees and customers to understand how the organization plans to reopen or reestablish business processes.

Topics to cover may include:

- Staying home if feeling sick.

- Communicate what physical distancing policies are being used to protect workers and customers.
- Detail what training on new workplace safety and disinfection protocols have been implemented.
- Have exposure-response communications ready to go to any affected employees and customers.
- Have media communications ready to release on topics such as return-to-work timetables, safety protections in place, and how else the company is supporting workers and customers. Prepare to respond to the media for workplace exposures.
- Post the mandatory [notice of rights](#) in workplace if previously only distributed electronically.
- Post [additional signage](#) if you would like to help educate employees on other safety reminders.

## 7. New-hire paperwork

Employees returning to work who remained on the payroll would generally not need to complete new paperwork. However, for those separated from employment, such as laid-off workers, it may be best to follow normal hiring procedures.

- Determine employment application and benefits enrollment requirements for rehired workers.
- Decide whether full or adjusted orientation procedures will be utilized.
- Submit new-hire reports for new and rehired workers.
- Notify state unemployment agencies of recalled workers, whether rehired or not.
- Address I-9 issues
  - If [completed remotely](#), complete in person upon return to the workplace.
  - Update any expired work authorization documents or make note of which need updating as soon as new documents are received by the employee.

- Determine if you will have employees complete Section 3 of their original I-9 or complete a new I-9 form.

## 8. Policy changes

It is no longer business as usual, and employers will likely need to update or create policies to reflect the new normal. Some examples include:

- Paid-leave policies adjusted to reflect regulatory requirements and actual business needs.
- Attendance policies relaxed to encourage sick employees to stay home.
- Time-off request procedures clarified to indicate when time off can be required by the employer, should sick employees need to be sent home.
- Flexible scheduling options implemented allowing for compressed workweeks and [flexible start and stop times](#).
- Meal and rest break policies adjusted to stagger times and processes implemented to encourage physical distancing.
- Travel policies updated to reflect essential versus nonessential travel and the impact of domestic or global travel restrictions.
- Telecommuting policies detailed to reflect the type of work that is able to be done remotely and the procedures for requesting telework.
- Information technology policies revised to reflect remote work hardware, software and support.
- Develop written COVID-19 protocol:
  - Encourage employees not to come to work if they are sick.
  - Establish notification procedure for an employee who is sick/symptomatic.
  - Send employees home with COVID-19 related symptoms.
  - Require employees to report symptoms or travel history for themselves and anyone living with them.

## 9. Business continuity plans

Employers will have learned valuable lessons regarding their business continuity plans, or lack thereof, during the past months. Now is the time to review and revise the plan to prepare for future emergencies.

- Implement a business continuity plan, including [infectious disease control](#), if a plan did not exist prior to the COVID-19 crisis.
- Amend existing plans to include the latest emergency information, such as updates on epidemics and workplace considerations or changes in protocols for responding to global disasters.
- Update plan resources and contact information to ensure accuracy.
- Establish a pandemic task force to [continuously monitor external](#) and internal data and implement appropriate protocols. Recognize the possibility of [additional closings](#) during this current pandemic as COVID-19 infections may rise and fall again, triggering more stay-at-home orders and supply chain disruptions.
- Perform testing and exercises to practice the new or revised emergency plans to make sure employees know what to do and to find any missing parts that need to be addressed before another emergency situation occurs.

## 10. COVID-19 [incidents at work](#)

- Employees should be advised on how to report an illness to their supervisor/Human Resources departments confidentially, and in accordance with applicable laws.
- If an employee is confirmed to have COVID-19, the company will inform employees in the immediate work area. Unless required by the local health authority, the name of the infected employee should not be provided.
- Employee personal data and confidentiality must be protected.

## 11. Training

- Train managers to avoid potential discriminatory practices (hiring, medical inquiries, protocols, reasonable accommodation requests).
- Train management and HR team on FFCRA benefits and retaliation concerns as well as local paid sick leave laws.
- Train managers on protected concerted activity in the workplace.
- Train employees on COVID Safety practices.
- Train employees on PPE usage/disposal etc.

## 12. Employer Flexible

- Contact the Employee Care Department, 1.866.501.4942, should you have questions regarding rehiring employees, I-9 practices, or leave practices.
- Contact your assigned HR Consultant or [hrconsultants@employerflexible.com](mailto:hrconsultants@employerflexible.com), if you would like to discuss sensitive employee scenarios or if you need help building policies.
- Contact our Risk Department if you have safety related questions, 1.888.983.5881 or [Risk@Employerflexible.com](mailto:Risk@Employerflexible.com).
- Employer Flexible is here to help you along the way. Please do not hesitate to contact us during this transition.
- For additional resources please visit our [COVID-19 resource center](#).

*This guide is intended for informational purposes only and does not include state or local guidance related to COVID-19. In addition, it should not be used as legal or medical advice. Please consult a legal or medical professional for further advice.*