



RE-ENTRY TO WORK

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Introduction

We have all experienced many new firsts during the COVID-19 pandemic, but we are not done yet. As we look to states to reopen the economy and lift stay-at-home orders, nonessential businesses will resume operations and there is a lot for organizations to think about before opening their doors. Reopening your business is not as simple as unlocking the front door. You have to consider: workplace safety for employees and guests, how to maintain social distance and still provide a conducive business atmosphere, what the financial impact is to the business and how are you going to operate in the *new normal*.

This Re-entry To Work package is designed to help you think through the decisions you need to make, provide you resources based on state and federal best practices, guidelines, and safety protocols. We realize that every business is unique, but our hope is you will find these resources helpful!

As with any business decision you need to make, we highly encourage you seek legal guidance from your trusted legal advisors. We can provide you with multiple resources, but we are not attorneys and therefore ask that you protect yourselves by seeking proper legal guidance.

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When Do You Reopen?

Determining when the time is right for your business to open is a decision only you can make. However, please keep the following in mind:

- **State and local government guidance** – Review your locations rules, understand that even within the state your local ordinances may impact your business and there may be more restrictive measures in place.
- **Identify the risk** – just because mandates have been lifted does not mean the pandemic is over. The threat of COVID-19 is still very much present; therefore, you need to consider the risk of exposure between your employees, your guests, and visitors. We encourage you to conduct a risk assessment and seek guidance from the [Occupational Safety and Health Administration](#) (OSHA). Along with this, you should understand the direction of your state and local health departments, your industry associations, and the Centers for Disease Control and Prevention (CDC).

Risk Assessment:

Before you reopen your business, you should understand your risk. Each industry is different and may involve different levels of risk, typically a risk assessment will involve:

- **Identifying the hazards** – this will include thinking through the impact to your business if an infected person comes through the doors. Review your high traffic areas, walk through your office and see it through a different lens. Where do people congregate? What are the high touch areas (door knobs, key fobs, copy machines, etc...). What functions are your employees doing, where is the exposure to them based on your operations (internal/external)?
- **Identifying what positions may be high risk** – after you have identified your hazards you need to consider the positions of the staff, those who meet with customers, business partners, clients, or those employees who may be more at risk due to medical conditions.
- **Assessing the risks you have identified** – now that you see what your hazards are and who may be impacted by those hazards you need to think through the consequences. For each risk you have identified you need to determine:
 - How likely is an exposure to occur?
 - How likely is the risk?
 - What happens if the identified risk comes true?
 - Is there a legal, financial or compliance impact?

Understanding the assessment allows you to better put processes in place to control your risks and lessen your exposure. You may be able to identify preventative measures to reduce risks, or you may decide to eliminate a risk by taking something out of your environment (i.e, common coffee machine or ice maker). You will also want to consider how you monitor your risks once you are open again for business. How will you know if a preventative measure has been successful? How will you identify a new risk or know if what

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you have done is effective? Your risks, especially during a pandemic, are constantly evolving so you must evolve and monitor your risks closely.

Maintain a Safe Work Environment:

Now that you have completed your risk assessment, identified your gaps and put measures in place to reduce your risks, you need to ensure you have the proper controls in place to move forward. To protect your workforce and your clients you have many resources at your disposal, the CDC and OSHA along with state and local health departments have never been more relied on. Thankfully, they have provided many tools for all of us to use!

Based upon recommendations from the CDC and OSHA you may want to consider the following:

- Introduce alternative work schedules to lesson exposure to staff, and implement a new telework policy that supports what you've learned these past weeks as you've worked remotely to ensure a more robust policy is in place going forward. Eliminate use of common space like breakrooms and kitchens or institute a maximum number of people who can be in a common space at one time.
- How will you conduct staff meetings or team meetings? Do you have the space to practice social distancing and still meet face to face?
- Can you provide your staff with personal protective equipment (PPE)? Based upon your state or local ordinances you may be required to. You need to determine the financial impact and how accessible these items are to purchase. Some employees might not know how to use PPE, therefore you need to have training available to your staff.
- Maintaining a clean facility will be key to a successful reopen of your business. Daily cleaning aside, you will want to have extra hand sanitizer, Lysol wipes, and cleaning materials available for staff to wipe down their workspace or use when entering or leaving a meeting room. You may want to utilize a professional cleaning firm to do deep cleaning or decontamination more frequently. Another item to consider is your ventilation system. Do you need to change your filters or move to a more high-efficiency system? If you are serving the public like a bank or customer service desk should you install a sneeze guard or a physical barrier to help prevent germs from passing?
- Encourage staff to maintain social distance, this also includes vendors, clients, customers, or visitors. Maintain open dialogue, use signage, and continue to host meetings via technology and video conference when available.
- Have a plan in place for if an employee reports to work sick. How will you separate them from the rest of the staff in a respectful and private manner? Send the employee home and notify staff, and any potential guests, partners, and vendors they had contact with of the potential exposure.

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Screening Employees:

Many employers are considering screening employees in an effort to maintain a safe work environment. In doing so you should review your state and local guidelines in order to be in compliance. The CDC in conjunction with the [EEOC](#) have provided interim guidance regarding screening employees:

- Employers may ask employees if they are experiencing symptoms of the pandemic virus.
- Employers may screen employees and take their temperature, as this is a direct symptom of the COVID-19 virus.
- Employers may require an employee to stay home or go home if they are experiencing symptoms of COVID-19.
- Employers may require a doctors note to show fitness for duty. However, during this pandemic an employee may need to seek clearance from a local clinic to provide certification of return to work.
- An employer may administer a COVID-19 test before permitting employees into the workplace, however, this step should only be taken if this is job related and consistent with business necessity. Employers should seek additional guidance from the [Food and Drug Administration](#) on testing.

Any employee screening that is completed should be done in a confidential and private manner. Employees should be screened individually, in a private area, immediately inside the facility entrance or outside under a tent. All information collected during the screening should be maintained confidentially. Resources you may wish to consider to streamline and maintain HIPAA compliance are: <https://www.jotform.com/hipaa/> or <https://www.sparrow.org/Employerscreeningtoolkit>. *Please know these are merely resources for you to consider. Any cost or set-up needs are your responsibility.*

Recalling Employees:

Now that you have considered your actual workspace and all the potential risk, it's time to think about your employees. How will you bring them back? Did you lay off or furlough employees during this time? If so, then we need to discuss how to recall your employees. Things to consider include:

- **Phasing-in employees returning to work**
 - Identify essential positions that must return first, then identify the next group of positions to return. Use seniority or other nondiscriminatory factors for selection.
 - Consider adopting a [work share](#) program if bringing employees back on a reduced schedule
 - Determine schedule changes to provide the greatest protection to workers

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- Provide employees with a [letter](#) outlining their return to work
- **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.
- **Determining how to handle employees who are unable or unwilling to return to work**
 - Employees who are fearful of returning to work: [may have an ADA accommodation](#)
 - 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
 - Assess if an employee's situation is protected under [Americans with Disabilities Act](#) (ADA)
- **Evaluating policies that may have changed due to impact of COVID-19**
 - Update your telework policies, or if you did not have one prior [create one](#)
 - Update your leave of absence policy to account for extended illness due to a pandemic
 - Update safety policies
- **Changes to compensation:**
 - If you applied salary reductions for staff and are re-instating rate of pay, document change for employee, via employer portal and during a return to work letter
 - Due to business model changes you may need to consider employee classifications for exempt/non-exempt. Review [Fair Labor Standards Act Rules](#) (FLSA) to make best determination

Your Tilson HR Manager and client services team will be happy to assist you through these items and answer questions you may have as we know these decisions can be overwhelming.

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Employee Benefits:

Depending on the situation you may have benefit implications to your recalling of employees. To ensure your employees understand their benefits and that you stay in compliance we recommend the following items be reviewed and considered:

- **Group health insurance**
 - Eligibility—redetermine waiting-period issues due to leave or reinstatement
 - 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 appropriate forms to request leave
 - Determine if there will be company PTO policy changes, including increasing or decreasing paid leave benefits, or additional restrictions in using paid leave

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- Understand the coordination of leave benefits and communicate these to employees as needed

Communication Plan:

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

Topics to cover may include:

- How staying home if sick and 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.

Resources you may wish to consider utilizing are:

- [Return To Work Action Plan](#)
- [Return To Work Action Plan Discussion Guide](#)

Business Continuity:

We have all learned many valuable lessons during these weeks off, the greatest of these may have been the importance of having a business continuity plan. If you did not have a plan prior to the pandemic you now have a framework to create your plan. If you did have one, this is the time to evaluate what worked and what didn't. Revise and prepare your plan for the next emergency that may come your way.

- 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.

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- 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.

Additional Resources:

As you can tell there are many variables that need to be considered before your staff re-enters the workspace. As noted throughout, each business has different risks, different needs and different means. Therefore, we encourage you to explore your options, seek guidance from your state and local health departments, your financial advisor and of course your legal advisor. In addition, all resources mentioned in this document can be found on our [COVID-19 resource page](#). We are continually monitoring and updating resources as they become available.

Additional Resources, Posters and Tools:

- [Workplace Preparedness Checklist](#)
- [Return to Work Updating the Office](#)
- [Back On Track, State of Indiana Guidelines](#)
- [Stop the Spread of Germs Poster](#)
- [CDC Prevention Poster](#)
- [How to Remove Gloves Poster](#)
- [Return to work Letter](#)
- [Ogletree Deakins State Compliance](#)

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