About This Document

As reopening picks up a pace in more states, businesses must put in place a plan to prepare the workplace for safe return of employees and continuing operations amid COVID-19 uncertainties. To aid in due diligence of this important effort, this document is prepared to provide resource briefs on key considerations in devising a return-to-work plan for businesses. It is intended as a planning checklist, rather than an in-depth guide. Data are based on a review of literature published during the month of June 2020, including managerial journals, industry reports, and relevant web resources.

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Return-to-Work Planning Team

The first important decision companies have to make is whether to reopen. The Centers for Disease Controls and Prevention (CDC) recently released guidance to assist companies in making decisions regarding reopening during the COVID-19 pandemic. According to the CDC guidance, companies should consider three questions when deciding whether to reopen (Fisher Phillips 2020):

1. Is the company in a community no longer requiring significant mitigation?
2. Will reopening be in compliance with state and local orders?
3. Will the company be ready to protect employees at higher risk for severe illness?

Companies should only consider reopening if they can answer “yes” to all three questions (Fisher Phillips 2020). In such cases, a return-to-work planning team should be established, members of which should take the followings into considerations (Agility Recovery 2020; Seyfarth 2020):

- Consider HR, labor relations, IT, facilities, health and safety team, office managers, and senior management who can make company-wide policy decisions, as well as PR and communications.
- Consider employees who stood out during the shutdown whose leadership should be leveraged in the planning.
- Consider supply chain partners that should be included in a subset of the team.

Once the team is established, a range of key considerations must be taken into devising a return-to-work plan. It is important that the team keep the plan flexible such that it can be adapted to federal, state, and local guidelines as COVID-19 continues to evolve (Agility Recovery 2020; Seyfarth 2020).

Key Considerations in Devising A Return-to-Work Plan

Which Location to Re-open

It is recommended that the team consider creating a plan that takes different locations into account as local guidelines may differ (Agility Recovery 2020). Key considerations are (Seyfarth 2020):

- **Economic analysis.** Pre-crisis performance vs. re-opening projections, taking into account cost of lease termination should a given location no longer prove viable post-COVID.
- **Co-tenancy.** Consider whether COVID-19 closures have implicated one or more co-tenancy provisions in the company’s portfolio, and if so, whether the company has taken any necessary steps to claim the relief provided under the lease(s).
- **Landlord-tenant relationship.** Is this a multi-site landlord with cross-default considerations? Is this a location where the company did not pay (or short-paid) rent in prior months? If so, has a strategy been devised to restore that landlord relationship?
- **Repurposing opportunities.** Is this a site where it might make more sense to seek an alternative user or convert to a support use (e.g. ghost kitchen, buy online pick up in store (BOPIS), curbside delivery, or dark store)?
Occupancy mandates. Do state or local occupancy mandates (in addition to social distancing rules) make certain locations no longer economically viable? Can the company still operate within the space?

Which Employees to Return to Work and When

Selection criteria. Once decision to reopening has been made, companies should establish selection criteria and assess their workforce across different departments and locations against the criteria to determine which employees to prioritize returning. Each business will prioritize differently but it is likely that many will begin with employees critical to operations or essential business functions (Agility Recovery 2020; Seyfarth 2020). It is important to ensure that the selection criteria are based on legitimate, non-discriminatory business needs and that the criteria do not inadvertently have a disparate impact on certain populations of the company’s workforce (Seyfarth 2020). Alternatively, companies may consider starting with employees who volunteer to return to work. In this process, companies should ask employees if they are comfortable returning to work and use the data collected to group them into teams, groups, phases or locations (Agility Recovery 2020).

Phased approach. The consensus seems to be that phased reopening will occur in different phases in different localities. Phased reopening can be executed by staggering return to work dates, which would make it easier for employees and HR, as well as gives companies an opportunity to evaluate whether the plan is working. Varieties of staggered work schedules can be considered, ranging from bringing back groups of workers at a time (e.g. those who volunteer first), adding a new shift or staggering shift start times to reduce traffic during shift changes, to combining telework 3 or 4 days a week with onsite work 1 or 2 days per week (Agility Recovery 2020; Seyfarth 2020).

Updated Safety Protocols, Communication and Training, and Physical Spaces

Before bringing back the workforce, companies should make sure that they have in place updated safety protocols, as well as communication and training plan on any new policies or practices. The physical spaces where employees work upon their return must also be prepared to effectuate the new safety protocols.

Safe Workplace Protocols

In addition to physical workplace and safety supply preparation, safe workplace protocols in accordance with WHO/CDC/OSHA guidelines should be established to prevent potential infection, notably in the following areas (Agility Recovery 2020; Fisher Phillips 2020).

PPE uses and healthy hygiene practices. Consider encouraging use of face masks, coverings or gloves, especially in public settings where other social distancing measures are difficult to maintain. It is also important to remind employees that wearing masks or PPE does not replace or eliminate the need for distancing and healthy hygiene practices shown below (Agility Recovery 2020; Fisher Phillips 2020; Gambell et al. 2020; Seyfarth 2020).
Related considerations are as follows (Adecco Group 2020; Seyfarth 2020):

- Is PPE required and will the company provide it? If not, will the company reimburse employees to purchase and launder?
- Develop protocol around cleaning work stations, potentially having employees clean their own work stations daily before starting and after finishing work. Each employee could be issued with a personal “Clean Working Kit” which would include items such as alcogel, sanitary wipes and PPE disposal bags to help to ensure each employee has the tools they need to maintain good personal and work station hygiene.
- Consider temporarily removing shared items where possible (e.g. staplers, coffee mugs, etc.), otherwise develop a protocol for shared tools and other items (e.g. leave it for the other employee to pick up rather than handing it off in person, cleaning tools before and after each use, etc.).
- Consider temporarily switching to disposable items where possible (kitchenware, desk blotters, etc.).
- Consider temporarily closing cafeterias or, instead, providing or selling only prepackaged foods.

**Cleaning and disinfecting.** Leverage CDC recommendations to clean and disinfect facilities to reduce the potential for exposure after reopening. Considerations should include routine cleaning and disinfection procedures, as well as deep cleaning and disinfection after a potential or confirmed exposure. For outdoor areas, companies should maintain existing cleaning practices because viruses are killed more quickly by warmer temperatures and sunlight. For indoor areas, the CDC recommendations are as follows (Agility Recovery 2020; Fisher Phillips 2020; Seyfarth 2020):

- For indoor areas that have been unoccupied within the last seven days, follow normal, routine cleaning.
- For indoor areas that have been occupied within the last seven days, frequently touched surfaces (e.g. tables, doorknobs, lights, counter tops, handles, toilets) and objects made of *hard and non-porous materials* (glass, metal, or plastic) should be cleaned more frequently.
- Consider periodic deep cleaning of office, facility, plant, and/or other work locations by a professional cleaning service.
- Frequently touched surfaces and objects made of *soft and porous materials*, such as carpet, rugs, or material in seating areas, should be thoroughly cleaned or laundered. If possible, the CDC recommends considering removing soft and porous materials in high-traffic areas.
- Surfaces and objects that are not frequently touched should be cleaned on a routine basis.
- If cleaning requires using cleaners other than household cleaners with more frequency than an employee would use at home, companies must also ensure workers are trained on the hazards of
the cleaning chemicals used in the workplace and maintain a written program in accordance with OSHA’s Hazard Communication standard (29 CFR 1910.1200).

- **Social distancing at work**
  - **Time-based protocols.** Consider changing work schedules and/or shifts to limit the number of employees physically present in a specific office, facility, plant, or other work location at any one time. Consider staggering of meal periods and rest breaks to the extent consistent with applicable law, and consider permitting employees to eat their work stations. Be careful to consider whether state or local laws regarding duty-free meal or rest periods impact the company’s options regarding spaces used for meal or rest breaks (Adecco Group 2020; Seyfarth 2020).
  - **In-person meeting/gathering protocols.** To avoid large gatherings and maintain distance (at least 6 feet) between employees, customers and visitors, companies should have gathering alternatives (e.g. outdoor or open spaces) or policies in the workplace (e.g. limiting the number of people allowed in rooms at any given time or even disallowing them until further notice). Companies may encourage alternative options for virtual meetings in the meantime (Agility Recovery 2020; Gambell et al. 2020; Seyfarth 2020).

- **Business travel.** CDC recommends canceling non-essential travel, and encouraging alternative commuting and telework. Thus, companies should review their employee travel policies and monitor CDC’s travel recommendations to determine whether or not business travel is necessary. Companies may also consider halting or limiting business travel for the time being, explore business travel alternatives, and develop protocol for handling fear of travel (Agility Recovery 2020; Seyfarth 2020).

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**Communication, Education, and Training for Key Stakeholders**

- **Employees.** Return-to-work plan should establish clear and constant communications to employees about new processes and expectations for their return to work. Also plan on training employees and demonstrating the new safety measures in place to protect them from further spread of the virus. Once back to work, companies should ensure that timely updates are shared with employees on an ongoing basis regarding federal, state, and local guidelines as the pandemic evolves, staffing status, positive cases within the workplace, policy and protocol changes, and FAQs. The more employees understand what safety measures are being taken, and why, the more likely there is to be employee buy-in, and the less likely that employees may make complaints to the Occupational Safety and Health Administration (OSHA) or other third parties regarding perceived risk in the workplace. (Agility Recovery 2020; Fisher Phillips 2020).

- **Management and supervisors.** Clear communications to management and supervisors about new processes and expectations should also be planned for. Special attention should be given to preparing them on all new policies and protocols and how to respond to employees with questions or concerns. An emphasis on active listening, two-way communications, quickly identifying and resolving employee issues, and being proactive in checking in with employees are all good practices to ensure a positive employee relations environment (Fisher Phillips 2020).

- **Contractors, vendors, and on-site visitors.** Return-to-work plan should determine required precautions in physical interactions with contractors, vendors, and on-site visitors. Will you require a limited number of representatives from the vendor in your business at one time? Would they be...
required to wear PPE and get their temperature checked before entering your facility? Will they get their temperature checked once per day or every time they enter? Will you provide any exceptions to these rules if the disaster is out of control or requires quick containment? Additionally, who within your business will be enforcing these rules for vendors? (ServiceMaster DSI 2020). These requirements must accordingly be established with these parties beforehand to ensure that they understand and comply with the protocol (Fisher Phillips 2020). One of the best ways to do so is to draw up a contract stipulating COVID-19 precautions any contractors, vendors, and on-site visitors must take to retain the company’s business and follow agreed-upon protocols to keep the operation running safely (ServiceMaster DSI 2020).

**Physical Space Preparation**

Prior to reopening, workplace should be prepared according to CDC’s recommended safety actions. Companies should talk with landlords and building management to obtain early access to the facility to ready it for return-to-work (Agility Recovery 2020; Fisher Phillips 2020; Seyfarth 2020). Key considerations are as follows:

- **Facility enhancement**
  - Consider facility enhancements such as improving ventilation in the building, and installing highest efficiency rated filter recommended or allowed by manufacturer. Improving workplace ventilation and filtration could reduce the concentration of airborne viral or bacterial particles which may help to reduce the likelihood of worker infection (Adecco Group 2020; Agility Recovery 2020; Seyfarth 2020).
  - Consider equipping the facility with UV light lamps to sanitize work area and equipment, as well as robots and drones to increase cleaning frequency of aisles, rails, surfaces and facility interiors (Kennedy 2020).

- **Reconfigure physical space for social distancing and safety precaution**. Companies should consider, and adapting the physical workplace to permit social distancing to be implemented to the extent feasible. Particular attention to be given to shared office arrangements, open floor work sites, or close common areas where employees are likely to congregate and interact. Examples of physical space modifications in this respect include (Adecco Group 2020; Agility Recovery 2020; Fisher Phillips 2020; Gambell et al. 2020):
  - Increase physical space between employee worksites, between employees and customers (e.g. drive through, partitions), and between tables in break areas and lunchrooms so nobody sits directly beside or in front of the others (e.g. reduce seating, checker-board arrangement).
  - Use physical barriers (e.g. Plexiglas between cubicles or workstations, in lunchroom areas, etc.)?
  - Consider greater uses of motion-control or touchless doors and interfaces throughout the workspace to reduce the risk of workers contacting a contaminated surface, and cleaning requirements.
  - Install safety signage and visual cues such as markings or projections on the floors, walls and interfaces to indicate safe distances and provide reminders as to when employees should change PPE or wash their hands as they go through the working environment.
  - Consult with landlords about converting communal restrooms to single-seat bathrooms to avoid close contact between users.

- **Stock the workplace with safety supplies**. To help prevent spreading of the virus, stock extra cleaning and disinfecting supplies, including hand soap, disinfecting spray, hand sanitizer, etc.
Consider adding additional handwashing stations, and placing hand sanitizer stations in common areas throughout the workplace, as well as outside each restroom and each door that is commonly touched or used. In addition, consider providing or encouraging use of face masks, coverings or gloves, especially in public settings where other social distancing measures are difficult to maintain. In fact, many state and local orders specifically require that employers pay for face coverings that employees wear (Agility Recovery 2020; Fisher Phillips 2020).

**Ongoing Monitoring and Screening**

Companies are currently allowed to take employee temperatures as they physically enter the workplace. In addition, COVID-19 diagnostic tests may be administered to employees before permitting entrance. For health and safety reasons, companies are currently allowed to deny entry of individuals that have COVID-19 or are showing related symptoms (Agility Recovery 2020).

In this respect, a return-to-work plan may consider establishing routine, daily employee health monitoring and screening that could be conducted at home and at the workplace. Approaches typically include a varying combination of asking about symptoms, taking temperatures, and testing for COVID-19. Related questions to consider are (Agility Recovery 2020; Fisher Phillips 2020; Kennedy 2020; Seyfarth 2020):

- Are self-checks before entering the workplace sufficient (self-certifications, questionnaires)?
- Should daily temperature checks be required and how—using thermometers at home along with self-certification and/or using onsite thermal scanners?
- Should periodic (e.g. weekly, biweekly, monthly, etc.) employer-provided COVID-19 testing be implemented for all employees or certain employees in more high-risk positions (e.g. public facing positions, positions involving close contact with other employees or other third parties)? If so, should it be administered onsite or at home (using self-testing COVID-19 diagnostic test kits, also known as PCR tests)?

In making these decisions, companies should ensure that the processes are compliant with all applicable laws and are communicated to all employees, including their supervisors prior to implementation (Agility Recovery 2020; Fisher Phillips 2020; Seyfarth 2020). The followings are further considerations if companies decide to implement temperature taking and testing for COVID-19 at the workplace as part of a return-to-work plan.

- **Administer, training, social distancing, and PPE.** Consider who will administer temperature taking and testing at the entrance. For example, employees can be tested onsite with CVS medical staff under CVS Health’s workplace reopening product called Return Ready program. The program provides testing options depending on an employer’s physical worksite and risk of exposure, which include point-of-care diagnostic tests that give results within 15 minutes, or third-party lab tests that issue results in a few days. As in the case of inside the workplace, proper training, social distancing, and use of PPE are important to protect both the screening administrators and employees waiting in line to be screened (Fisher Phillips 2020; Pifer 2020; Seyfarth 2020).

- **Logistics.** For some production and logistics facilities, 50 or more employees may be screened prior to the beginning of each shift, which likely will cause delays and create disruption to normal operation activities. In this case, outdoor waiting areas (e.g. tents and other temporary structures) should be prepared for employees who must be in lengthy lines prior to entering the facility.
Employee privacy, especially where screening takes place and results are announced, should also be accounted for during this time (Fisher Phillips 2020).

- **Privacy: Medical information.** Consider where and how employee medical information (e.g. temperature screenings, reports of COVID-19 symptoms, diagnosis, and other confidential medical information) will be stored. Companies should consider the applicable data privacy statutes that may impose requirements for maintaining the security of this data. A number of states’ data breach notification statutes define protected personal information as including medical or health information, which could include temperature and/or testing results. Important areas to consider are (Agility Recovery 2020; Fisher Phillips 2020):
  - **Confidentiality.** If companies maintain temperature or testing information for employees, it is important to keep individual’s health information confidential. Care must be taken to strictly limit access to this information to limited employees who have a need to know the information for personnel management purposes.
  - **Data security.** Companies should also ensure that appropriate security measures are taken to avoid inadvertent or malicious access to the information by third parties or other employees.
  - **Record keeping.** To the extent testing results suggest or confirm a positive diagnosis for COVID-19 and lead to a decision to send an employee home, companies should maintain a record of the testing results and treat the record as an employment medical record. All other information should only be retained as long as necessary to manage risk during the COVID-19 crisis and should be permanently deleted once it is no longer needed.

- **Wage issues.** Issues of whether employees’ time waiting in line or being screened for a fever before their shift is compensable should also be considered. It is recommended that companies err on the side of paying employees throughout the screening process, for which a system to have employees “clock in” when they get in line for screening and to document their time should be implemented (Fisher Phillips 2020).

## Protocols for Employees Who Have Tested Positive, Demonstrated Symptoms, or Identified as Close Contacts

Protocols if an employee gets or suspected of getting COVID-19 should be established as part of a return-to-work plan. Based on CDC recommendations, if an employee is sick or suspected of being sick, the following actions should be taken (Agility Recovery 2020; ECDC 2020; Fisher Phillips 2020; Gambell et al. 2020; Seyfarth 2020):

- **Symptomatic employees**
  - Employees who have symptoms (see figure for symptoms according to CDC) when they arrive at work or become sick during the day should immediately be separated from other employees, customers, and visitors and sent home.

Image courtesy of CDC Guidance Documents (July 23, 2020)
Employees who develop symptoms outside of work should notify their supervisor and stay home.

- **Employees tested positive for COVID-19.** The following steps should be planned for.
  - **Isolation.** Employees should not return to work until they have met the criteria to discontinue home isolation and have consulted with a healthcare provider.
  - **Contact tracing.** Companies should ask the infected employees to identify “close contacts” defined as individuals who worked in close proximity (within six feet) for a prolonged period of time (the current CDC guidance states that “recommendations vary on the length of time of exposure, but 15 minutes of close exposure can be used as an operational definition”) with them during infectious periods. Infectious periods are 48 hours before symptom onset until the case was isolated for **symptomatic cases**, and 48 hours from before the test was taken for **asymptomatic cases**.
  - **Close contacts precaution.** Send home all employees identified as close contacts of the infected employee for 14 days after last exposure under CDC guidance to ensure the infection does not spread. While under self-quarantined, those employees should self-monitor for symptoms (check temperature twice a day, watch for fever, cough, or shortness of breath), and follow CDC guidance if symptoms develop.
  - **Clean and disinfect workplace.** In most cases, companies do not need to shut down the facility. However, following the CDC guidelines for cleaning and disinfecting the workplace, cleaning staff or a third-party sanitation contractor must close off, clean, and disinfect all areas used for prolonged periods of time by the sick person, focusing especially on frequently touched surfaces. Wait 24 hours before cleaning and disinfecting to minimize potential for other employees being exposed to respiratory droplets.
  - **Notify employees.** As recommended by the CDC, all employees who work in the location or area where the sick employee works should be notified of the situation. Failure to notify employees at the location of a confirmed case may be a violation of OSHA’s general duty clause, which requires all employers to provide employees with a safe work environment. When releasing notification, companies should do so without revealing any confidential medical information such as the name of the sick employee, unless the employee has signed an authorization to disclose his/her diagnosis. The notification should inform employees of the actions that companies have taken, including requiring employees who worked closely to the infected worker to go home, sanitizing and cleaning efforts, and reminders to seek medical attention if employees exhibit symptoms.
  - **OSHA recordkeeping.** OSHA recordkeeping requirements mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log. OSHA recently published revised guidance for enforcing its recordkeeping requirements for cases of COVID-19. OSHA is now taking the position that employers in all industries should determine whether employee COVID-19 illnesses are work-related and thus recordable. As a general rule, companies must record instances of workers contracting COVID-19 if the worker contracts the virus while on the job, whereas the illness is not recordable if worker was exposed to the virus while off the clock. Summarily, companies are responsible for recording cases of COVID-19 if: (1) The case is a confirmed case of COVID-19; (2) The case is work-related (as defined by 29 CFR § 1904.5); and (3) The case involves one or more of the general recording criteria as outlined by OSHA.
References


