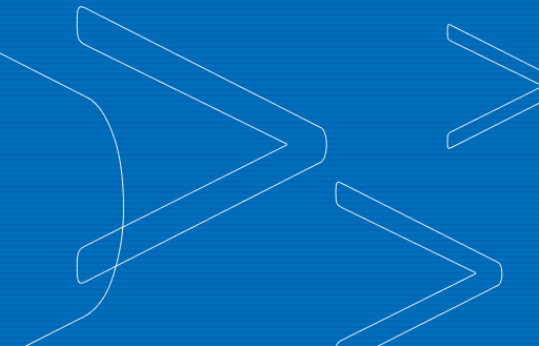


Returning to Work in COVID-19

Presented by;

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Are you Ready to Open your Business?

- Determine if your business is approved to re-open and if there are any restrictions
- Be careful about implementing company-wide policies right now; You may have employees in different jurisdictions, as well as employees with different situations
- Keep monitoring all information available as it changes daily

▶ Create a Comprehensive Plan

- Education of Managers and Employees
- Health and Safety
- Bringing Employees Back to Work
- Benefits
- Employment Policies
- Resources

Know the Employment Laws

- Occupational Safety and Health Administration
- Americans Disabilities Act
- Health Insurance Portability and Accountability Act
- Family Medical Leave Act
- National Labor Relations Board
- And others...

.... *And State and Local laws*

► Educate Managers

- Make sure managers know what can and cannot be asked regarding employee's health
- Remind them that guidelines outlined in their EEOC policy, Americans Disabilities Act (“ADA”), and other human resource policies still apply
- Good time to remind managers that all decisions should be made without thinking of protected classes; i.e. Age, pregnancy etc.
- Communicate often with managers and make sure they are kept up to date with any changes
- Keep your managers involved

▶ Educate Employees

- Ensure employees know new policies and procedures
- Keep employees updated on changes
- Send out constant reminders
- Make sure all employees receive training on new guidelines

▶ Preparing the Workplace

- Have detailed action and communication plans in place
- Review the Center for Disease Control and other Checklists for your industry
- Designate a contact team or person(s)
- Re-configure office space or workplace appropriately depending on business

“6-Foot Office Plan” – Cushman & Wakefield

Create a Safe Workplace

- Employees may need to complete a self certification form (keep confidential)
- Have someone responsible for cleaning areas after use (such as copiers, PIN pads, door handles, cash register, kitchen area)
- Social distancing
- Have hand sanitizer available and ensure common areas are sanitized
- Provide face masks and personal protective equipment
- Ensure air is filtered and fresh – no personal fans

Create a Safe Workplace

- Common Areas – have designated building entry points and exit points
- Break Rooms – stagger times for use to prevent congregating
- Company Cafeterias – keep them operating with added safety precautions
- Company Provided food – offer individually wrapped food items; no buffets, plates of cookies, etc.
- Shut down common areas, turn off water fountains, remove coffee/tea pots
- Have sanitizing products/Personal Protective Equipment at all “touch points”
- Restrict number of people in elevators

Work at Home Strategies

- Have flexible workplace policies
- Better to keep employees working at home, if possible
- Employees that are sick should stay home

Bringing Back Employees

- Stagger Hours
- Alternate days in office vs. days at home
- Transition in departments
- Communicate clearly to employees on new expectations and policies
 - Send out information beforehand
 - Create a video of changes to send to employees or customers
 - Utilize company internet or HRIS system to communicate guidelines and send reminders

Address Employee Concerns about returning to work

- Health and Safety Issues
 - Fear of returning to work
- Child Care and Elder Care Issues
 - Trouble finding providers
- Unemployment Pays More
 - Employer files a “Work Refusal” document with the Texas Workforce Commission

Address Employee Concerns about returning to work

- Discuss reasons employee may not want to return
- Works towards an agreeable solution by;
 - Continue working from home
 - Telling employees about workplace changes such as what PPE equipment is provided, focus on cleanliness, etc.
- If employee refuses to return, document how you have tried to accommodate and let employee know you are accepting their refusal to return as their resignation

Returning Furloughed Employees

- Follow a fair and objective process in bringing back employees
- Confirm a furloughed employee's return to work in writing
- State any changes to the employee's position or pay
- Review how employee's benefits will be affected

Items to Include in Furlough Recall Letter

- An Employment Offer - Employees should be given a choice whether to accept the offer to return or reject it and have their employment terminated.
- Return to Work Date – Include the exact date when an employee is expected to return to work.
- Terms of Employment – This letter will now supersede any previous terms of employment, so it is important to get all the important details right. For example...Position, Supervisor, Salary, Hours, Exempt/Non-Exempt status.
- What's Changed – And what Hasn't – Lay out whether any of the employee's terms of employment have changed. Even if there are only small changes, not disclosing them clearly will only lead to resentment.
- New Safety Procedures – The furlough is over but, the crisis isn't. Employees should still work from home if they can. It is the employer's responsibility to create a safe work environment and work to promote social distancing.
- Reassurance – Offer employees a chance to reach out privately with any questions or concerns. This is a time of high anxiety.

Recalling Laid Off Employees

- How are you deciding who gets recalled?
 - Seniority? Performance Productivity? Job Functions? Attendance/Disciplinary Records?
- Make sure you document the criteria for the recall
- Treat as a new hire – Offer letter, drug screen etc.
- Address I-9 issues
 - If employee is rehired within three years of the date that the Form I-9 was originally completed, complete Section 3 of their original I-9; more than three years from the date that the Form I-9 was originally completed, complete a new one
 - If I-9 is completed remotely, complete in-person upon return to workplace
 - Accept any expired documents until employee can get them updated
- Review guidelines in benefit documents

Employee Benefits

- Health Insurance
- 401(k)
- Other Benefits
- Leave Policies

Work with your attorney, broker, advisor or plan administrator

Health Insurance

- Section 125 Pre-Tax Plans
 - Allows employees to enroll in employer's healthcare plan if previously declined
 - Employees can switch between healthcare options—such as moving from a PPO to an HMO
 - Employees may revoke current healthcare election as long as they can prove they have or will have comprehensive coverage elsewhere
- Flexible Spending Accounts (“FSA”)
 - Employees may stop, increase or change their FSA elections for reasons outside of the approved Family Status Change reasons

The addition of the above changes are optional and may require plan updates

Health Insurance

- High Deductible Savings Plan
 - Allows for all medical care received and items purchases for treatment of COVID-19 testing to be paid at 100% before the deductible has been met
- COBRA Coverage
 - Extended deadlines

401(k) Plans

For a limited period of time

- May withdraw as much as \$100,000 from retirement accounts without paying an early withdrawal penalty
 - Will avoid taxes if paid back within 3 years
 - If not paid back, taxes can be paid over three years
- Increase in maximum loans amounts to \$100,000 from \$50,000
- Required Minimum Distributions may be avoided

Other benefits

- Make employees aware of financial planning resources within 401(k) plans, if available
- Employee Assistance Programs offer many resources including counseling, elder care, and financial planning resources

Leave Policies

Family First Coronavirus Relief Act (“FFCRA”)

- **Emergency Paid Sick Leave Act**
 - Employee is quarantined, has symptoms and seeking diagnosis, caring for someone quarantined or has symptoms or caring for a child due to child-care provider being closed
 - Up to 10 days of paid leave; amount of pay varies
- **Emergency Family Medical Leave Act**
 - Employees are unable to work (or telework) due to a need for leave to care for child under 18 years of age if the school or place of care has been closed, or the child-care provider of such son or daughter is unavailable, due to a public health emergency.
 - Up to 10 weeks of paid leave

▾ Policies to Update

- Make sure your leave policies are up to date and compliant
- Create a more flexible attendance policy; compressed work weeks staggered hours
- Work at Home and Telecommuting policies
- Time Off Procedures – Have the procedures changed?
- Meal and Rest Break policies – Amend to stagger times and processes to encourage physical distancing

▾ Policies to Update

- Establish process for anonymous reporting of unsafe practices
- Information Technology Policy – Revise to reflect remote work hardware, software and support
- Travel policies - Update to reflect essential vs. non-essential
 - Consider having employees that travel to continue to work remotely
- Have a Health and Safety policy related to COVID-19 changes
- Separation of employment policy, refusal to return from furlough or layoff after employer has tried to make reasonable accommodations will be considered a resignation of employment

Resources Available

- Center for Disease Control (CDC)
- Texas Health and Human Resources
- Department of Labor (DOL)
- Occupational Safety and Health Administration (OSHA)
- Equal Employment Opportunity Commission (EEOC)
- Substance Abuse and Mental Health Services Administration (SAMHSA)

Communication

- Listen to Employee's Concerns
- Work together for a solution
- Document Conversations
- Be Flexible
- Follow government guidelines such CDC, OSHA , State Guidelines

What works today may not work tomorrow



We are glad to be a resource for any of your questions. You may contact us at:

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