|  |  |
| --- | --- |
|  | **Return to Work Post-Coronavirus Checklist** |

**1. Planning and Communication**

* **Decide the right time to reopen**
* Monitor federal, state, and local closure orders, re-opening guidelines, industry practices, and geographic considerations (federal guidance)
* If enrolled in the SBA Paycheck Protection Program, remember employers have until June 30, 2020 to restore full-time employment and salary levels for changes made between February 15 and April 16, 2020
* **Determine who should return to work first**
* Identify essential business functions and essential employees
* In determining essential employees, consider the nature of the job, the functions of the position and ability to return to work safely
* Consider profitability of certain position to manage cash flow in the near term
* Consider structuring a phased ramp-up to limit the spread of the coronavirus
* Determine minimum staff necessary to sustain operations in the event of increased absenteeism
* Evaluate whether seniority or recall rights are implicated, including furloughs
* Remind all decision-makers in these decisions of nondiscrimination policies
* **Prepare communication to employees regarding return to work**
* Establish a return to work timeline
* Establish a plan for employees maintain communication with management
* Identify and explain to employees steps taken to ensure safety
* Review any applicable collective bargaining obligations to make changes to the workplace upon re-opening
* **Develop a written protocol for confirmed or suspected COVID cases**
* Protocol should include at minimum:
* Employees should not come into work if sick
* Identify necessary notification procedure if symptomatic
* Designate point(s) of contact for reporting and questions
* Communicate with employees impacted by potential exposure
* Identify remedial sanitization measures for impacted employee(s)
* Identify triggering events for quarantine procedure
* Establish the duration of quarantine and conditions for return
* Assess reporting obligations under OSHA and state workers’ comp. laws
* **Anticipate employee anxiety, rumors, misinformation, and plan accordingly**
* Leaders should be visible
* Communicate frequently with employees (low cost options may include anonymous surveys).
* Respond to questions with the information currently available, even if the answer is “we do not know right now” in order to dispel myths and rumors
* Remind employees of any existing Employee Assistance Programs
* Consider providing additional alternative resources (*e.g.* counseling, working parent discussion groups, etc.) to help employees manage stress and anxiety
* Prepare employer’s response for possibility workers may refuse to work, simultaneously call in sick, strike or walkouts.
* Train key management on protected concerted activity in a union and non-union setting

**2. Workplace Safety**

* **Review applicable OSHA and CDC standards**
* Monitor local and federal guidance for best practices and requirements for employers (OSHA guidance, CDC guidance)
* **Take steps to make the workplace more safe**
* To the extent possible, implement social distancing requirements, such as staggered shifts, breaks, spacing between desks and community areas
* Limit in-person meetings in favor of virtual meetings where possible
* Minimize physical contact (i.e. handshakes, cough etiquette, etc.)
* Limit or close off gatherings in common areas (*e.g.* breakrooms or kitchens)
* Intensify janitorial sanitation
* Make efforts to increase air exchange in the building, if possible
* Educate employees regarding best hygiene practices
* Promptly respond to any safety related concerns
* **Consider whether face masks, gloves, or other protective equipment are mandatory or optional**
* *If mandatory* - company must provide or reimburse employees for masks, gloves, and other protective equipment
* *If optional* - determine whether employer will place any limitations or restrictions on employee created protective equipment or the type of masks, gloves, or protective equipment permitted
* Ensure protective equipment does not otherwise pose a safety concern
* **Consider temperature checks and COVID testing for employees and/or visitors**
* Results of temperature checks are a medical record and (if recorded) must be treated with appropriate confidentiality and recordkeeping
* Consider whether screening time is compensable
* Assess the feasibility and advisability of conducting employer paid Covid-19 testing for employees

**For more information please contact:**

**Jennifer L. Myers, Esq.**

**(614) 737-2906**

**jennifer@poling-law.com**

* **Create a policy restricting non-essential employee travel**
* Minimize non-essential travel for work
* Consider how essential travel is defined
* Consider mandatory notification of personal travel
* Implement additional documentation requirements for employee movement to make contact tracing more effective and accurate
* **Assess changes to hiring and training processes required by**

**social distancing obligations**

* Train managers regarding “do’s” and “don’ts” of pre-

employment inquiries concerning medical conditions

**3. Leaves of Absence and Workplace Accommodations**

* **Teleworking issues**
* Consider whether remote work is a necessary reasonable accommodation under the ADA or if a special accommodation is necessary for members of a vulnerable population.
* For example, is there anything unique or special about

the employee’s concern for returning to the workplace?

* Is the employee in a protected class or high-risk population because of age or underlying health condition?
* Is the employee caring for an individual in a high-risk

population?

* Prepare a response to requests for continued remote work

based upon the essential functions of the job

* Protect data from cybersecurity breaches with a teleworking

workforce

* **Train management team to ensure understanding of new**

**leave options, eligibility and retaliation concerns**

* Assess unused leave benefits available under the Families

First Coronavirus Response Act (FFCRA)

* Consider eligibility for additional leave available, including

leave under the FMLA

* Review applicable state or local paid sick leave laws and

company vacation and sick leave policies

* Ensure management understands any negative comments

about use of FFCRA leave may support claims of retaliation

* **Flexibility in leave policies**
* Consider new COVID policies relaxing preexisting leave policies that are explicitly intended to be temporary in duration
* **Openly communicate the company’s policies and position on**

**leaves of absence**

* Create a clear process for requesting leave and identifying the

amount of leave, if any, available

**4. Employee Benefits and Compensation**

* **Review whether any changes need to be made to health and welfare plans**
* Determine whether employees returning to work will need to re-enroll or update prior plan elections
* For cafeteria plans which may have offered individual spending accounts for a year, determine whether unused portions during an interim absence will be restored upon rehire
* Determine whether any probationary periods apply during which a rehired employee will not be covered (for instance, Union benefit programs)
* **Evaluate whether returning employees owe any portion of**

**health care premiums while furloughed**

* Develop a reasonable plan for employee to pay back health

care premiums, if necessary

* Consider state and local laws regarding wage deductions
* **Consider potential issues relating to retirement / pension**

**plans**

* Determine whether employees returning to work will need to

re-enroll or update prior plan pre-tax deferral elections

* Review retirement plans and consider whether there has been a break in service and, if so, what the implications might be (vesting, for instance)
* Evaluate the potential need for plan amendments to modify conditions for annual benefit allocations (*e.g.* minimum hours requirements)
* Manage administration of plan loan program for returning

workers (*e.g.* restart wage deductions for loan repayments)

* **Review employee compensation and bonus programs**
* Determine if any changes to compensation must be made,

and review applicable laws relating to notice of wage changes

* Calculate the effect of closure on existing bonus or

incentive plans

**5. Employee Morale**

* **Communicate Regularly**
* Communicate the steps the company is taking to

ensure safety

* Remind employees of benefits offered
* Request feedback and internalize it. Consider anonymous surveys as a low cost and effective mechanism to gauge what is working.
* **Address any health and safety concerns brought by**

**employees promptly**

* Aim to respond to specific employee concerns promptly
* Establish a communication channels for employees to address concerns
* **Remind employees that discrimination and retaliation is**

**strictly prohibited**

* Review non-discrimination policies and recirculate, as needed
* Train managers on how to respond to offensive or discriminatory comments regarding the coronavirus and certain groups of individuals