

Pandemic Flu/Influenza/Coronavirus (COVID-19) Prevention and Response Checklist (Best Practices for Employers)

A Lexis Practice Advisor® Checklist by
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This checklist highlights key considerations for private employers to prepare for and respond to influenza (flu) and other potential pandemic outbreaks (including the coronavirus (COVID-19) pandemic). This is a non-jurisdictional checklist; it does not cover all potential federal, state, and local law distinctions.

The guidance below is appropriate for protecting a workplace at any time during a pandemic to the extent facilities are permitted to operate by authorities. This includes periods during a pandemic when some business may operate as essential, while others are closed. It also includes periods

when authorities relax stay-at-home orders and allow increased business operations.

When community transmission of a virus is still occurring during a pandemic, many worker roles will qualify as at least medium risk exposure since any direct contact with another person—whether a coworker, customer, vendor, or member of the public—could present an opportunity for exposure. As a result, workplaces reopening during the pandemic and during continued community transmission should continue to follow the appropriate protective measures addressed below.

For more guidance for preparing and responding to pandemic diseases, whether the coronavirus (COVID-19) or other widespread illnesses, see [Pandemic Flu/Influenza/Coronavirus \(COVID-19\): Key Employment Law Issues, Prevention, and Response](#). For guidance on emergency planning and business continuity plans (including such planning for COVID-19), see [Business Continuity and Emergency Planning](#). For an annotated business continuity plan, see [Business Continuity Plan](#).

For more guidance on a wide variety of COVID-19 legal issues, see [Coronavirus \(COVID-19\) Resource Kit](#). For tracking of key federal, state, and local Labor & Employment legal developments, see [Labor & Employment Key Legal Development Tracker](#).

Always Check CDC and OSHA Websites

The checklist is based heavily on the U.S. Centers for Disease Control and Prevention (CDC) and Occupational Safety and Health Administration (OSHA) guidance in response to the COVID-19 pandemic. Because that guidance has evolved

over time due to the dynamic situation, employers should consult those primary sources for additional background and to update information when developing plans in accordance with this checklist.

- **Key OSHA COVID-19 guidance.** Below see links to key OSHA COVID-19 guidance.
 - o [OSHA Guidance on Preparing Workplaces for an Influenza Pandemic](#)
 - o [OSHA COVID-19 Overview](#)
 - o [OSHA Guidance on Preparing Workplaces for COVID-19](#)
 - o [Prevent Worker Exposure to Coronavirus \(COVID-19\)](#)
 - o [Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#)
 - o [Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\), Occ. Safety & Health Admin. \(Apr. 10, 2020\)](#)
- **Relevant OSHA pandemic guidance.** Below see additional guidance from OSHA on flu pandemics, not limited to COVID-19. Also see the section below entitled “Assess the Workplace, Employee Exposures, and Applicable OSHA Guidelines/Standards.”
 - o [Guidance on Preparing Workplaces for an Influenza Pandemic](#)
 - o [Healthcare Workplaces Classified as Very High or High Exposure Risk for Pandemic Influenza: What to Do to Protect Workers](#)
 - o [OSHA Laws, Regulations, and Standards](#)
- **Key CDC COVID-19 guidance.** Below see links to key CDC COVID-19 guidance.
 - o [Coronavirus \(COVID-19\) \(CDC\)](#)
 - o [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)
- **Relevant CDC pandemic guidance.** Below see additional guidance from the CDC on flu pandemics, not limited to COVID-19.
 - o [Get Your Workplace Ready for Pandemic Flu](#)
 - o [Do Your Part to Slow the Spread of Flu](#)

Create a Pandemic Response Team

Employers should meet with the emergency operations coordinator or team to develop a team dedicated to

pandemics and a pandemic response plan. For information on pandemic response plans, see the section below entitled “Establish a Pandemic Plan (or Update an Existing One) and Adjust for Worker Absences.” If no emergency operations coordinator or team exists, designate one to coordinate a pandemic/flu response.

When developing a pandemic preparedness and response team, consider the following issues:

- **What are the pandemic response team’s main responsibilities?**
 - o Communicate essential pandemic information to employees both before and during a pandemic.
 - o Prepare a pandemic response plan.
 - o Coordinate an effective response when a pandemic emergency occurs.
 - See the sections below entitled “Educate Employees on Preventive Health Measures,” “Establish a Pandemic Plan (or Update an Existing One) and Adjust for Worker Absences,” and “How to Contain the Spread of Illness at Work Once Detected.”
- **Who should be on the pandemic task team?** The team should consist of employees from a wide variety of departments and areas of expertise, including:
 - o Emergency operations
 - o Management
 - o Building facilities
 - o IT
 - o HR
 - o Legal
- **Impact of a pandemic on the workplace.** Make sure to review all aspects of a pandemic’s impact on the workplace, including:
 - o Personnel
 - o Systems
 - o Services
 - o Facilities
 - o Customers and suppliers
 - o Other resources
- **Identify key relationships with key community players and collaborate and coordinate with the community.** Understand the pandemic response team’s role in the broader community response. Identify roles of, and build relationships with, key community partners and stakeholders including:

- o Local public health department
- o Local boards of education
- o Other local officials
- o Local first responders
- o Local hospital and medical providers
- o Local suppliers of critical supplies
- o Other community leaders

Educate Employees on Preventive Health Measures

Every employee has a role in staying healthy and protecting others. To this end, employers should take the following action regarding pandemic health issues for employees.

- Consult and implement current CDC guidelines for the pertinent illnesses and viruses.
- Encourage employees to take the following steps to help assure good health:
 - o Avoid shaking hands and follow social distancing.
 - o Wash hands often with soap and water for at least 20 seconds.
 - If no soap and water is immediately available, use hand sanitizer (at least 60% alcohol).
 - o Know the symptoms of the particular illness.
 - For instance, COVID-19 often presents with fever, cough, and/or shortness of breath.
 - o Get good rest, nutrition, and exercise to maintain healthy immune systems.
 - o Stay home when sick until meeting return-to-work criteria. See the section below entitled “Steps to Follow for Employees Returning to Work.”
 - o Report illness and exposures, and cooperate in investigating exposure history.
 - Make sure to establish and communicate protocols for reporting illness and exposure.
 - o Seek medical attention in case of severe symptoms.
 - For COVID-19, severe symptoms include trouble breathing, persistent chest pain or pressure, new confusion or inability to arouse, or bluish lips or face.
 - o When sick, wear a cloth covering when around other people or animals.
 - o Cover coughs and sneezes with a tissue and throw it away immediately.

- If you do not have a tissue, use your sleeve or elbow, not hands.
- o Wash or sanitize your hands after coughing or sneezing.
- o Clean high-touch surfaces (per CDC cleaning and personal protective equipment (PPE) precautions).
- o When sick, avoid sharing household items and disinfect them.
- o Practice social distancing (i.e., keep 6+ feet from others) if indicated by the CDC.
- o Refrain from touching the eyes, nose, or mouth; wash hands first.
- o Get vaccinated and/or tested, if possible.

See [Get Your Workplace Ready for Pandemic Flu, Do Your Part to Slow the Spread of Flu, Coronavirus \(COVID-19\) \(CDC\)](#), and [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#).

Consider Key Vaccination Issues

If there is a vaccine available for the pandemic illness at issue, consider the following vaccination issues.

- **Develop policies and documents related to vaccinations.** For an annotated vaccine declination document, see [Declination of Flu/Influenza Vaccination for Medical Contraindication](#). For an annotated flu policy with sections on vaccinations, see [Flu/Influenza Policy](#).
- **Encourage voluntary participation in flu vaccination clinics.** Take the following steps to encourage employees to get proper vaccinations:
 - o Provide vaccinations for free (or low cost).
 - o Provide vaccinations at the office or have employees receive vaccinations at a clinic in convenient location.
 - o Make it easy for employees to schedule their vaccinations.
 - o Communicate clearly about the availability of vaccinations.
- **Privacy issues.** Consider the following privacy issues related to vaccinations:
 - o Consider whether employees can decline to get vaccinations. See [Declination of Flu/Influenza Vaccination for Medical Contraindication](#).

- o Keep the names of employees who receive vaccinations private.
- o Ensure that clinics providing vaccinations to employees are keeping the employees' medical information and their names private.

Assess the Workplace, Employee Exposures, and Applicable OSHA Guidelines/Standards

Employers must follow OSHA standards applicable to each workplace/employee. During a pandemic, OSHA's existing rules—and any additional specific guidance—will most likely not be a perfect fit. Use judgment and care. For more on assessing exposures and preparing the workplace, see [OSHA Guidance on Preparing Workplaces for an Influenza Pandemic](#) and [OSHA Guidance on Preparing Workplaces for COVID-19](#).

Consider these OSHA guidelines and standards:

- **OSHA's General Duty Clause.** OSHA's catchall General Duty Clause requires a workplace “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” 29 U.S.C. § 654(a).
- **General OSHA industry standards often related to pandemics include:**
 - o Hazard communication for cleaning chemicals (29 C.F.R. §§ 1926.59 and 1910.1200)
 - o Blood-borne pathogens standard (does not strictly apply to COVID-19, but OSHA states it provides a helpful example framework) (29 C.F.R. § 1910.1030)
- **Additional standards in construction include:**
 - o Training impacted employees to avoid blood-borne hazards (29 C.F.R. § 1926.21(b))
 - o Identifying medical personnel available to advise/consult (29 C.F.R. § 1926.50(a))
 - o Ensuring trash containers have appropriate lids and collection (29 C.F.R. § 1926.25)
- **OSHA healthcare worker guidance.** For the healthcare industry, follow any special OSHA guidance for healthcare workers. See, e.g., [COVID-19 Control and Prevention – Healthcare section](#).
- **Recording and reporting requirements for employee illnesses.**

- o **Record and report.** Record/report illnesses for new cases that (1) lead to days away from work (or worse) and (2) are work-related (more likely than not caused by work exposure). Follow OSHA rules at 29 C.F.R. § 1904. For information on OSHA 300 logs and OSHA recordkeeping requirements, see [OSH Act Requirements, Inspections, Citations, and Defenses](#).

- o **Review special OSHA guidance for pandemics.** Follow any special OSHA guidance issued for particular pandemics. See the section entitled “Always Check CDC and OSHA Websites” above.

- o **COVID-19 guidance.** For COVID-19, employers in healthcare, emergency response, and corrections must make work-relatedness evaluations as usual. For other employers, in areas where community transmission is occurring, employee infections are only work-related and recordable if there is objective evidence, reasonably available to the employer, that a COVID-19 case may be work-related. See [Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\), Occ. Safety & Health Admin. \(Apr. 10, 2020\)](#).

- **Level of exposure/risk.** Employers should characterize each employee/role based on level of exposure/risk as follows:

- o **Very high.** An employee has direct exposure to known/suspected pandemic patients involving:

- Exposure to their bodily fluids and respiratory secretions

- Aerosol-generating procedures (healthcare) ([COVID-19 Control and Prevention – Healthcare section](#))

- Collecting/handling specimens (healthcare/lab workers) (Id.)

- o **High.** Employees, such as other healthcare staff, are exposed to such patients for:

- Patient transport in enclosed vehicles

- Autopsies

- o **Medium.** An employee has frequent and/or close contact with people who may be infected. In case of community transmission, this means direct/close contact with anyone.

- o **Low.** An employee has no contact with known/suspected cases and in times of community transmission, no close contact with other workers or the public.

See [Interim Enforcement Response Plan for Coronavirus Disease 2019 \(COVID-19\)](#).

For more guidance on key [OSH Act legal issues](#), see [OSH Act Requirements, Inspections, Citations, and Defenses](#). For OSH Act issues related to the coronavirus, see [COVID-19 and OSHA](#) and [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#).

Adopt Precautions and Preventive Measures for Each Role Based on Exposure

Based upon the level of exposure/risk of the employee, employers should consider the following precautions and measures. For more information, also see [OSHA Guidance on Preparing Workplaces for an Influenza Pandemic](#) and [OSHA Guidance on Preparing Workplaces for COVID-19](#).

- **Low exposure (implement these measures for all exposure levels).** For low exposure employees, employers should take the following measures:
 - Train employees on health measures for both work and home.
 - Post/distribute CDC / local health department educational materials.
 - Post hygiene reminders in bathrooms and high-traffic areas throughout.
 - For COVID-19, post OSHA coronavirus posters. See [Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus \(English Version\)](#) and [Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus \(Spanish Version\)](#).
 - Provide ample sanitation materials throughout workplace: soap/water, sanitizer, tissues, and trash cans.
 - Increase trash collection (following CDC guidelines).
 - Stockpile reasonable supplies and plan to resupply in the event of a pandemic.
 - Inform employees where supplies are located for hygiene.
 - Communicate physical/mental health resources to employees.
 - Encourage/establish medical screening/monitoring for symptoms.
- Post signs for employees and visitors regarding hazards/prevention.
- Communicate policies for office leave, pay, day care, and transportation.
- Communicate options for teleworking where appropriate. See [Telecommuting Employees: Best Practices Checklist](#).
- Limit and adjust travel (follow travel alerts, limit exposure to others, practice hygiene, self-monitor for symptoms, and seek medical care as needed). See [Coronavirus \(COVID-19\) Considerations for Traveling Employees](#).
- Monitor local/federal public health recommendations.
- Consider encouraging/requiring vaccination and providing vaccination clinics.
- **PPE standards.** Follow local/federal health recommendations, and consider allowing/providing/requiring face masks accordingly. See [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#).
- **Face mask guidance.** When employees wear face masks (not respirators) at work, consult governmental orders that may require masks in certain cases and/or require employers to provide masks. Communicate the benefits and limitations so employees understand what protections face masks offer and what protections they do not. See [Use of Cloth Face Coverings to Help Slow the Spread of COVID-19](#) and [Understanding the Difference](#). See also [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#). Key points to communicate for COVID-19 include:
 - Face masks or coverings (whether cloth or surgical masks) are relatively loose-fitting (compared with tight-fitting respirators).
 - A face mask primarily contains your coughs and sneezes and helps prevent you from infecting others and/or contaminating the surrounding area.
 - They can also help you avoid accidentally touching your mouth and nose.
 - In addition, face masks can also provide some barrier protection against splashes, sprays, and respiratory droplets reaching your nose and mouth. However, cloth face masks do not

- effectively filter small particles from the air and do not prevent leakage around the edge of the mask when the user inhales.
- Do not use a face covering if it will be hazardous. For example, do not place cloth face coverings on children under age 2, on anyone who has trouble breathing, or on anyone who is unconscious, incapacitated, or otherwise unable to remove the mask without assistance.
 - Unlike with respirators, cloth face masks do not require fit-testing or seal checks since they do not fit tightly.
 - Unless respirators are required for a particular workplace risk, CDC recommends that most people use cloth face masks to preserve the critical supply of respirators for health care workers.
 - NIOSH-certified N95 masks are different. They are respirators that can filter the air you breathe when worn properly, reducing your exposure to airborne particles, from small particle aerosols to large droplets. N95 respirators are tight-fitting respirators that filter out at least 95% of particles in the air.
 - Not everyone is able to wear a respirator due to medical conditions that may be made worse when breathing through a respirator.
 - Achieving an adequate seal to the face is essential with a respirator for it to be effective.
 - This [CDC infographic](#) provides a great illustration of the differences between face masks and respirators.
- o Many employers are providing information like this in writing and having employees sign a form to confirm receipt. This could help employees understand the information while also providing documentation of the employer’s health and safety training, communication, and efforts.
- **Medium exposure.** Employers should add the measures below for medium exposure employees in addition to the low exposure measures. Keep in mind, in areas of community transmission, these measures apply.
 - o Implement social distancing.
 - o Limit all workplace contact between people.
 - o Follow CDC and local guidance/orders.
 - o Promote telework and remote work. See [Telecommuting Employees: Best Practices Checklist](#).
 - o Increase spacing of workstations.
 - o Shift to off-site/delivery/drive-through/curbside services.
 - o Install sneeze guards and other physical barriers.
 - o Close or limit occupancy / increase spacing in break/lunch/meeting rooms.
 - o Reduce/stagger schedules to reduce number of simultaneous employees.
 - o Downsize/suspend operations as necessary.
 - o Adjust foot traffic to limit close contact (one-way hallways, barriers, etc.).
 - o Limit exposure to outside visitors (customers, vendors, contractors, etc.).
 - o Keep any necessary visitors separate from most workers.
 - o Postpone nonessential meetings (especially in person) and travel. See [Coronavirus \(COVID-19\) Considerations for Traveling Employees](#).
 - o Conduct meetings electronically, even within the workplace.
 - o Screen employees and visitors for symptoms upon entry.
 - o Check in with employees regarding self-monitoring.
 - o **PPE standards.** Follow guidance based on (1) particular tasks/exposures and (2) general CDC guidance for close contact between people.
 - For example, for COVID-19, CDC has recommended that all employees wear cloth masks when in close contact to reduce spread of germs. See [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#).
 - **Very high and high exposure.** Employers should add the measures below for very high and high exposure employees in addition to low and medium measures.
 - o Use isolation rooms for COVID-19 patient aerosol-generating procedures.
 - o Process their specimens only in Biosafety Level 2 or 3 lab facilities.
 - o Install physical barriers in reception and intake areas (sneeze guards).
 - o Increase housekeeping vigilance, cleaning, and waste disposal.
 - o Install appropriate engineering controls (ventilation systems, etc.).
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- o Monitor for, and post signs asking patients and family to immediately report, symptoms of respiratory illness on arrival at the facility and to use disposable tissues to cover the nose and mouth when coughing.
- o Follow all PPE, disinfection, and hygiene recommendations.
- o **PPE standards.**
 - National Institute of Occupational Safety and Health (NIOSH)-certified respirators that are N95 or greater.
 - Consider elastomeric or powered air-purifying respirators.
 - Update and follow your respiratory protection program including medical evaluation, fit-testing, and employee training for respirators.
 - Provide gloves made of latex, vinyl, nitrile, or other synthetic materials.
 - Provide isolation gowns if clothes may soil.
 - Provide eye and face protection if there may be possible sprays of infectious material.

How to Contain the Spread of Illness at Work Once Detected

If an employer detects illness in the workplace, implement the following measures:

- Designate space to isolate sick and exposed employees.
- Immediately send home or isolate employees upon symptoms/exposure.
- Deep clean (per CDC guidance) all areas visited by sick/exposed employees.
- Have sick and exposed employees self-isolate at home per CDC guidance.
- Promptly investigate cases.
 - o Trace areas the sick employee visited, and people exposed to direct contact (within six feet) with the sick employee for prior 48 hours or more.
- Notify those directly exposed of potential exposure while protecting privacy to isolate at home (per CDC), self-monitor, and report illness.
- Notify all employees at the facility of a confirmed (anonymous) case. Reassure about isolation of those exposed and cleaning. Remind all employees of health measures.

- If evidence suggests infection occurred at work, consult the latest OSHA guidelines on whether to record/report per OSHA rules. See [Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\), Occ. Safety & Health Admin. \(Apr. 10, 2020\)](#). For information on OSHA 300 logs and OSHA recordkeeping requirements, see [OSH Act Requirements, Inspections, Citations, and Defenses](#).
- **COVID-19 measures.** For COVID-19:
 - o Employers in healthcare, emergency response, and corrections must determine whether exposure more likely than not occurred at work. [Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\), Occ. Safety & Health Admin. \(Apr. 10, 2020\)](#).
 - o For other industries, where there is community transmission, only record/report if objective evidence, reasonably available to employer, indicates the case was more likely work-related. Id.

Establish a Pandemic Plan (or Update an Existing One) and Adjust for Worker Absences

An optimal response during crisis and pandemic conditions requires planning. The CDC recommends creating or updating an existing pandemic response plan.

Remember:

- **Be proactive.** Make these plans before a crisis arises. If not, make them as a first response step.
- **Develop a plan to implement the preventive measures as discussed below.**
- **Continue to develop and update the plan as conditions and needs evolve.**

The pandemic response plan should include the following measures:

- **Support employee absences.** Plan to support employee absences and to continue business operations.
- **Remember an employee's need to care for other family members.** Consider employees who care for others (i.e., children, disabled, or elderly family).
 - o **Note on workplace policies.** Employers should make sure their policies comply with applicable federal, state, and local laws—including temporary local and federal legislation/orders created in times of pandemic (e.g., the Families First Coronavirus

Response Act (FFCRA), which includes the Emergency Family and Medical Leave Expansion Act (also known as the EFMLEA) and the Emergency Paid Sick Leave Act (also known as the EPSLA)). See [Pandemic Flu/Influenza/Coronavirus \(COVID-19\): Key Employment Law Issues, Prevention, and Response – FFCRA: Detailed Analysis](#).

– For DOL guidance on COVID-19 and the expanded FMLA, see [DOL Guidance: Families First Coronavirus Response Act: Questions and Answers](#). See also [COVID-19 or Other Public Health Emergencies and the Family and Medical Leave Act Questions and Answers](#).

– For additional information on the FMLA, see [FMLA Leave: Guidance for Employers and Employees](#), the Family and Medical Leave practice note page, and the Family and Medical Leave forms page.

– For information on state family and medical leave laws, see the Family, Medical, Sick, Pregnancy, and Military Leave column of [Attendance, Leaves, and Disabilities State Practice Notes Chart](#).

- **Create flexible attendance and sick leave policies.**

Develop flexible attendance and sick leave policies and guidelines for a pandemic. Remove barriers to sick employees staying home.

- o For guidance on COVID-19 and emergency paid sick leave, see [Pandemic Flu/Influenza/Coronavirus \(COVID-19\): Key Employment Law Issues, Prevention, and Response – FFCRA: Detailed Analysis](#). Also see [DOL Guidance: Families First Coronavirus Response Act: Questions and Answers](#).

- o For more information on paid sick leave, see [Paid Sick Leave State and Local Law Survey \(Private Employers\)](#) and [Paid Sick Leave Policies Checklist \(Best Drafting Practices for Employers\)](#).

- o For more information on attendance policies, see [Attendance Policies: Drafting Tips](#) and [Attendance, Time-Off, and Leave of Absence Policies: Best Drafting and Administration Practices](#). For a sample annotated attendance policy, see [Attendance Policy](#). For state-specific policies regarding attendance, see [Attendance, Leaves, and Disabilities State Expert Forms Chart](#). For state-specific practice notes on attendance issues, see [Attendance, Leaves, and Disabilities State Practice Notes Chart](#).

- **Communicate how employees can access policies related to the pandemic.** Explain that employees can find policies posted on bulletin boards and/or on

the employer's intranet. Also tell employees which designated individuals will be able to provide relevant policies to them.

- **Advise employees on telecommuting issues.** Should employees need to work at home during a pandemic, instruct employees on the employer's telecommuting policy and make sure they have the proper technology to effectively work remotely. See [Telecommuting Employees: Best Practices Checklist](#).

- **Keep in mind school and other organization closures.** Consider employee limitations due to school and other organizational closures.

- **Consider childcare issues of employees.** Become familiar with the local education system pandemic plans; encourage employees to plan early for alternative childcare arrangements when possible.

- **Track flu-related absences.** Develop a method for monitoring and tracking flu-related absences.

- **Determine how absences will effect production.** Determine if/when absences may disrupt operations, and develop measures to compensate (i.e., reducing on-site operations/services, reconfiguring processes, shifting services/production to non-impacted locations, etc.).

- **Create a business contingency plan.** Develop contingency plans for transportation, facility access / minimum maintenance, security, supplies and deliveries, work-from-home support, and production changes. For a business continuity plan, see [Business Continuity Plan](#).

- **Recognize critical jobs and plan accordingly.** Identify critical job positions/functions. Plan alternative coverage. Cross-train staff.

Steps to Follow for Employees Returning to Work

Employers should take the following steps when employees can return to work during or after a pandemic, including the COVID-19 pandemic:

- **Review local and CDC guidance.** Follow local and CDC guidance regarding limitations and recommendations to reopen.

- **Make certain the employer's return-to-work plan is in place.** Ensure that the employer's plan and the appropriate preventive measures addressed above are in place, including engineering controls, social distancing, hygiene, schedule changes. Make sure these plans are appropriate depending on the level of exposure risk.

- o **Community transmission requires heightened protective measures.** Always remember that in times and places of community transmission, most employees may have at least medium exposure risk, requiring social distancing and similar measures.
 - **Keep employees up to date on work practices.** Communicate changes to work practices, assignments, schedules, and policies (including support for CDC-recommended practices like cloth masks). See [Employers Providing Face Masks Should Review Their Health and Safety Obligations](#).
 - **Maintain necessary disinfection and deep cleaning of workplace.** Conduct all necessary disinfection and deep cleaning of the workplace before reopening.
 - **Keep sick employees home.** Sick employees should not come to work.
 - **Monitor federal, state, and local guidance on permitted medical screening of employees.** Consult CDC and Equal Employment Opportunity Commission (EEOC) guidance for pandemic-specific information on permitted screening/testing/collection of medical information. See [Coronavirus and COVID-19 \(EEOC\)](#), [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#), and [Interim Guidance for Businesses and Employers \(CDC\)](#).
 - **Screening employees.** Screen returning employees with interviews/forms/testing for (1) prior exposure to the virus, including travel and known/suspected cases, and (2) previous/continuing symptoms. See [Coronavirus \(COVID-19\) Considerations for Traveling Employees](#).
 - **Testing employees.** If tests are reasonably available, conduct testing upon return to confirm that employees are already recovered from infection and/or not infected. Provide the same screening and testing to employees of the same job type to avoid discrimination claims.
 - **Keep medical documents private.** Maintain any medical documentation confidentially, separate from personnel files. See [Personnel File Maintenance Checklist](#) and [Confidential Medical Information in the Employee Leaves and Disability Context](#).
 - **For COVID-19, determine need for return-to-work notes.** The CDC and EEOC advise against requiring return-to-work notes from doctors to avoid unnecessary exposures to, or strains on, the healthcare system. See [Coronavirus and COVID-19 \(EEOC\)](#) and [Interim Guidance for Businesses and Employers \(CDC\)](#).
 - **For COVID-19, review return-to-work policies for infected employees.** Employers should advise sick employees that they should not leave home and return to work until:
 - o An untested employee has no fever for 72+ hours (without medicine), other symptoms improved (cough, etc.), and 7+ days since first had symptoms
 - o A tested employee has no fever (without medicine), other symptoms improved, and two tests 24 hours apart are both negativeSee [CDC: Return to Work for Healthcare Personnel with Confirmed or Suspected COVID-19](#). This CDC guidance specifically applies to healthcare personnel, but non-healthcare employers should also apply this standard to determine whether employees should return to work. See also [CDC: Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19](#).
 - **EEOC COVID-19 testing guidance.** On April 23, 2020, the EEOC stated that it will not deem testing employees for COVID-19 before they enter the workplace to be a violation of the Americans with Disabilities Act (ADA). See [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#) (Question A.6.).
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Avi Meyerstein focuses his practice on complex investigations, workplace safety and health matters, and litigation.

When a crisis or accident occurs, Avi and his team provide rapid-response crisis management. He brings years of experience managing complex investigations, interacting with government agencies, and preparing for potential litigation to address serious and fatal accidents and white-collar issues.

Avi also helps clients navigate all types of workplace safety and health issues. His proactive advice and training help companies comply and keep employees safe. When enforcement occurs, he represents clients during inspections, investigations, informal conferences, litigation, strategic settlements and rulemakings.

He has successfully defended and settled penalty cases involving hundreds of citations, helping clients present a vigorous defense while maintaining cooperative relationships with agencies. He has significant experience building coalitions and leading complex, multi-party meetings and negotiations.

Avi is based in Husch Blackwell's Washington, D.C. office and works across federal and state agencies, dealing with the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Chemical Safety and Hazard Investigation Board (CSB), U.S. Department of Labor (DOL), U.S. Department of Transportation (DOT), U.S. Coast Guard, Federal Railroad Administration (FRA), National Institute of Occupational Safety and Health (NIOSH), U.S. Department of State, U.S. Agency for International Development, the White House, National Security Council and U.S. Congress, among others.

Avi is the founder and board president of the Alliance for Middle East Peace (ALLMEP), a coalition of more than 100 nongovernmental organizations that builds cooperation and promotes nonviolence between Israelis and Palestinians.

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Stacey Bowman defends companies and healthcare facilities in litigation involving a wide variety of claims, including discrimination and related employment claims, claims of sham or unfair professional review actions, and restrictive covenant disputes. She has widespread experience in state and federal court, and administrative actions before state agencies.

A commercial litigator at her core, clients depend on Stacey to get them the information they need to make smart decisions. She considers all possible arguments, drilling into the details and calculating which approach will best serve her clients' business interests. Stacey, who is based in Husch Blackwell's Denver office, has achieved favorable results in state and federal courts, including summary dismissal of a "sham" peer review lawsuit under the immunity afforded by the federal Health Care Quality Improvement Act. She also defends corporations, officers and directors in complex commercial litigation in state and federal courts involving a wide variety of claims, including insurance coverage, product liability, labor and employment, and many other business torts.

Stacey, a self-professed language fanatic, is fluent in French, conversant in Spanish, and has lived all over the world. Each year, she makes significant contributions to the firm's pro bono efforts, representing victims of human trafficking as a part of Husch Blackwell's Human Trafficking Clinic, and undocumented immigrants such as unaccompanied minors and asylum seekers, to reach safety and attain documentation or other legal status.

Courtney Steelman, Associate, Husch Blackwell, LLP

Courtney focuses her practice on labor and employment law and business relations. She previously served as an Assistant Attorney General in the Litigation Section of the Missouri Attorney General's Office. While there, she participated in legal proceedings, handling cases from inception to trial, and constantly kept a line of communication open with clients. Courtney also has experience with higher education. Courtney earned her B.A. from Columbia College and her J.D. and LL.M. in Dispute Resolution from the University of Missouri School of Law.

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