



EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

This supporting documentation is a follow up to our webinar:

Beyond Lockdown – Employer Considerations for Returning to Work Amid COVID-19. This information is provided for general information purposes only and should not be considered legal or tax advice or legal or tax opinion on any specific facts or circumstances. Employers are urged to consult their legal counsel and tax advisor concerning any legal or tax questions that may arise. Please note that many of the links provided contain information that is being updated frequently.

QUESTION	RESPONSE
<i>If someone tests positive and you are asking who they came in contact with, what timeframe? How many days backward is considered necessary?</i>	The CDC recommends considering all those exposed 48 hours prior to the onset of symptoms by those whom tested positive. The CDC defines exposure as “close contact (<6 feet) for a prolonged period of time”. CDC Health Exposure Guidelines
<i>One of our employees has a relative they see every day who is being tested. Should we isolate our employee at home until the results are returned?</i>	Using the guidelines of proximity of < 6 feet “for a prolonged period of time”, the CDC would recommend self- isolation until the test results are returned or for to 14 days while monitoring symptoms closely. CDC Health Exposure Guidelines
<i>If I have required an employee to self-quarantine and he/she is seen out in public, can I take disciplinary action?</i>	We recommend contact a labor attorney for this specific question as we could not locate the answer on the OSHA and/or CDC websites.



EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

QUESTION	RESPONSE
<p><i>We are requiring masks as part of our uniform policy even though it is not required for us under. Can employees refuse under ADA?</i></p>	<p>Employees can ask for a reasonable accommodation. According to EEOC, an employer may require its employees to wear PPE, however, where an employee with a disability needs a reasonable accommodation, the employer should provide these, “absent undue hardship”.</p> <p>See FAQ # 12</p> <p>https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act</p>
<p><i>We have an employee traveling to another state. Can we require them to get testing upon returning home so they could return to work faster than the 14 day isolation period?</i></p>	<p>Yes, in some cases according to the National Law Review.</p> <p>https://www.natlawreview.com/article/faq-employee-travel-during-covid-19</p>
<p><i>What are best practices around travel and asking an employee to travel for their job?</i></p>	<p>The CDC current recommends the following best practices:</p> <p>Limit travel and advise employees if they must travel to take additional precautions and preparations:</p> <ul style="list-style-type: none"> • Minimize non-essential travel and consider resuming non-essential travel in accordance with state and local regulations and guidance. • Check the CDC’s Traveler’s Health Notices for the latest guidance and recommendations for each country where you will travel. Specific travel information for travelers going to and returning from countries with travel advisories, and information for aircrew, can be found on the CDC website. • Advise employees to check themselves for symptoms of COVID-19 before starting travel and to notify their supervisor and stay home if they are sick.



BKS
PARTNERS
INSIGHT BEYOND INSURANCE

EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

Are we to assume as non-essential businesses, we are not to officially open to full capacity until Phase 3? Or can we open using strict distancing and other preventative measures?

- Ensure employees who become sick while traveling or on temporary assignment understand that they should notify their supervisor and promptly call a healthcare provider for advice if needed.

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

Additional information regarding travel can be found from the National Law Review.

<https://www.natlawreview.com/article/faq-employee-travel-during-covid-19>

Phased re-opening of business is subject to state and local jurisdictions according to White House issued guidance, <https://www.whitehouse.gov/openingamerica/>.

Until Phase 3, all employers are encouraged to allow employees to telework in order to restrict on-site staffing levels to reduce the spread of the virus.

For example, in the state of Florida, Governor Ron DeSantis issued an Executive Order declaring Phase 1 reopening was to begin on May 18th. The Florida Chamber of Commerce also has helpful resources.

https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-123.pdf

<https://www.flchamber.com/phase1-florida-recovery/>



BKS
PARTNERS
INSIGHT BEYOND INSURANCE

EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

QUESTION	RESPONSE
<p><i>Do I need to provide masks to all employees?</i></p>	<p>No, unless PPEs were required prior to COVID. The CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain, especially in areas of significant community transmission. Cloth face coverings may prevent people who don't know they have the virus from transmitting it to others. These face coverings are not surgical masks or respirators and are not appropriate substitutes for them in workplaces where masks or respirators are recommended or required.</p> <p>Employees should continue to follow their routine policies and procedures for PPE (if any) that they would ordinarily use for their job tasks. When cleaning and disinfecting, employees should always wear gloves and gowns appropriate for the chemicals being used. Additional personal protective equipment (PPE) may be needed based on setting and product.</p> <p>CDC does not recommend the use of PPE in workplaces where it is not routinely recommended. Facilities can use the hierarchy of controls, such as administrative, and engineering controls – these strategies are even more effective at preventing exposures than wearing PPE.</p> <p>For more information, refer to FAQs: CDC General Business FAQs.</p>
<p><i>Any special guidance for schools regarding PPEs?</i></p>	<p>The CDC has a special resource center for schools related to COVID-19.</p> <p>They appear silent on the requirement, but state and local school districts are discussing the possibility. Private institutions may want to consider the same. Cloth masks are recommended by the CDC where social distancing cannot be ensured.</p> <p>CDC Schools FAQs</p>



BKS
PARTNERS
INSIGHT BEYOND INSURANCE

EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

QUESTION	RESPONSE
<i>Can we ask employees to certify that they will NOT enter the workplace if they have had any symptoms with the past 3 days?</i>	Yes.
<i>May we provide no-touch thermometers and ask employees to test themselves with it rather than having someone in HR or a manager test employees?</i>	Yes. In general, taking an employee's body temperature is considered a medical exam. However, the CDC acknowledges the need for safety and will allow temperature reading as a symptom identifier for COVID-19 although they want to remind employers that some people with COVID-19 do not have a fever. See EEOC FAQ A3. EEOC FAQs on COVID-19
<i>Can we require a doctor's note before an employee with COVID or an employee with COVID-like symptoms can return to the office?</i>	Yes, according to the EEOC but employers should be prepared to accept alternatives to a doctor's note. See EEOC FAQ A5. EEOC FAQs on COVID-19
<i>What are best practices for contact tracing and privacy concerns from employees?</i>	Many companies are selling/offering apps which help employers monitor proximity to other employees via their smart phones. However, the CDC recommends the following: In addition to cleaning and disinfecting, employers should determine which employees may have been exposed to the virus and need to take additional precautions as outlined in the CDC Health Exposure Guidelines , including asking affected employees who they have been "in close contact with (<6 feet) for a prolonged period of time" for the prior 14 days. Those identified employees should be told a co-worker who they may have had exposure to has tested positive for COVID-19. The employer should not disclose the name of the individual as required under ADA.



BKS
PARTNERS
INSIGHT BEYOND INSURANCE

EMPLOYER CONSIDERATIONS RETURNING TO WORK AMID COVID-19 FAQs

QUESTION	RESPONSE
<i>How should we treat employees who request to return to work before upper management's agreed re-opening?</i>	<p>Employers are encouraged to follow all CDC guidelines regarding re-opening, which in Phases 1 & 2 of the Whitehouse's Reopening Plans, teleworking, when possible is recommended.</p> <p>Consider surveying your employees to gauge the number who are anxious to return to work and consider inviting them back in the first wave if you can do so safely, within the social distancing and safety practices outlined by the CDC.</p>
<i>With the school year ending, what if the employee isn't able to get summer care because of closures.</i>	<p>The child's school closing for the summer would not qualify for extended FFCRA leave, however, if the child's planned summer care is closed due to COVID-19, the employee may be able to extend FMLA.</p> <p>See the DOL's FAQ # 93. DOL FAQs</p>
<i>What if an employee took PTO for 2 weeks and now wants to get his PTO back since they are now producing a physician's note. Can we do this after the fact?</i>	<p>The DOL does not consider self-quarantining outside of a medical practitioner's advice as grounds for qualification under the extended sick leave under FFCRA.</p> <p>See DOL FAQ # 62.</p> <p>DOLs FAQs on FFCRA</p>
<i>Can we retro actively charge PTO if we paid staff for 4 weeks prior to receiving PPP loan?</i>	<p>It does not appear that retroactive use of PTO is a covered payroll expense under the SBA's PPP Forgiveness as it was not incurred during the covered payroll period.</p> <p>SBA PPP Overview</p>
<i>In regards to PPP forgiveness - If a company hires an FTE during the 8 weeks, if they have to keep them on for any specific amount of time in order to avoid a negative impact to their forgiveness?</i>	<p>The SBA's PPP Forgiveness rules are complex. The forgiveness application asked for employment statistics 8 weeks after the loan is received.</p> <p>SBA's PPP Loan Forgiveness Application</p>