



Reopening the Workplace Checklist

Businesses in most states have been subject to executive orders to refrain from doing business in order to slow the spread of the novel coronavirus, the virus that causes COVID-19. As restrictions on businesses are lifted, companies need to be aware of governmental guidance and mandates, and consider how to keep their workplaces safe and avoid legal liability as they resume business activities.

Below is a checklist of issues for consideration by employers when reopening business. It does not anticipate every issue and does not address every unique situation that may arise. Please reach out to your Miller Canfield attorney for further guidance regarding your business needs.



How do applicable governmental directives and guidance affect reopening plans?

- What are the eligibility criteria for reopening?
- To what extent can the workplace be open?
- How many employees can return to the workplace?
- What protocols must be followed in the reopened workplace?



How do employers prepare the physical workplace prior to workplace reopening?

- What is the plan for pre-opening cleaning and disinfection of the workplace?
- How can the worksite be assessed and reconfigured to limit exposure risk and ensure compliance with social distancing protocols?
- What engineering controls need to be implemented to reduce exposure of airborne hazards, which may include installing high-efficiency air filters, increasing ventilation rates, installing physical barriers?
- Are there sufficient supplies of protective covering and cleaning supplies to protect workers from exposure, ensure compliance with hand washing and hygiene etiquette guidelines, and keep the workplace properly cleaned and disinfected?



What safety protocols should be put in place?

- To detect and screen for COVID-19 in the workplace?
- To maintain physical and social distancing?
- To ensure employee handwashing, hygiene routines, respiratory etiquette and protective behaviors?
- To eliminate unnecessary contact?
- To protect customer, client, and visitor safety?
- To encourage employees to report workplace safety concerns, as well as to effectively investigate such reports and protect employees who speak out against unsafe conditions from retaliation?
- To enhance practices of cleaning and disinfecting the workplace daily and to delineate what cleaning and disinfection procedures need to be taken there is a confirmed case of COVID-19 in the workplace?



What are the considerations regarding workforce demand?

- Will all employees or only a faction be called back to work?
- Will there be any permanent or long-term reduction?
- Will the employees return at reduced schedules and/or pay?
- How do change in compensations and/or duties affect an employee's exempt/non-exempt status?
- How do compensation changes (if any) affect employees' eligibility for employee benefits plan?



How should employers communicate its reopening plan to employees?

- What training and policies and procedures regarding screening, safety, benefits or workplace conduct, need to be implemented or modified?
- Is there a communication system in place to effectively explain and train returning employees and supervisors about safety protocols, new policies/procedures, as well as any changes in benefits, compensation and schedules?
- How can employers ensure that messages are delivered regularly, clearly, consistently, and in an accessible manner?
- How can employers make sure that supervisor and manager clearly inform employees of their expectations?



How can employers limit potential liability?

- From claims of discrimination?
- From claims of unsafe workplace?
- From claims for violation of statutory leave rights?
- From claims for violation of wage and hour laws?
- From union grievances?
- From workers' compensation claims?
- From tort claims brought by employees, such as wrongful termination in violation of public policy, or by customers, visitors, or clients, such as negligence?



What are the considerations for employers with unionized workforce?

- What, if any, do employers need to negotiate or discuss regarding reopening plans, implementation of new policies/procedures, or changes in workforce with the union?
- How do employers address employers striking or refusing to work?



How can employers address workplace atmosphere and morale?

- What should employers do when employees refuse to come to work?
- How can employers address employees' pay, leave, safety, health, and other concerns caused by COVID-19 pandemic that do not necessarily exist during other times?
- How can an employer curtail negativity, bias, and obstructive behaviors that reduce efficiency in the workplace?