COVINGTON

Return-to-Workplace Planning Template

February 3, 2022

Employment

Employers are facing unprecedented and continually shifting challenges in reopening their doors and returning employees to the workplace in the midst of the COVID-19 pandemic. This template is designed to assist employers with crafting and implementing return-to-workplace plans that respond to their organization's needs.

Employers should stay apprised of state and/or local orders governing the reopening of businesses. In addition, employers should consult agency guidance, including from the Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA), as well as updated guidance from the Equal Employment Opportunity Commission, U.S. Department of Labor, and state agency counterparts regarding workplace employment issues related to COVID-19.

Note: Governmental orders and agency guidance are changing rapidly. This template was last updated on February 3, 2022.

1 Establish a Return-to-Workplace Planning Committee

- ☐ Include representatives from management and from the legal, human resources, facilities, technology, and communications departments in the planning committee.
- ☐ Set a timetable for completing a return-to-workplace plan relative to a target date for reopening, taking into account the various legal, human resources, facilities, and technological needs of the business and its workforce.
  - ☐ Designate a point person to monitor updates in relevant guidance from local, state, and federal authorities regarding ability to reopen the workplace and recommended or required safety precautions for employers.

- ☐ Determine which personnel (such as management and human resources) should be trained on return-to-work protocols prior to reopening the workplace.
- ☐ Carefully document processes developed for shifting to remote work and returning to the workplace, in order to be prepared for further cycles of remote work in the event of future outbreaks.

2 Determine Timing and Procedures for Returning Employees

- [ ] Analyze the workforce and prioritize the order of return, considering which categories of employees are most essential for on-site operations and how many are needed in each category.
- [ ] Decide when and how to return employees to the workplace, considering a phased approach where some employees will be permitted to continue teleworking and/or employees will opt-in for initial return.
  - [ ] Consider conducting a pre-return survey of employees to determine their ability to return to the workplace and on what schedule, vis-a-vis health, child care, commuting, or other obstacles to returning.
  - [ ] Assess whether to restore employees to their prior duties, and whether to adjust the employment status of any individuals who were recently furloughed or laid off.

- [ ] Consider any needed cross-training of functions to account for smaller numbers of employees present at the worksite.
- [ ] Consider whether to require self-certifications or medical clearance for employees who have tested positive for COVID-19 before they may return to the workplace, paying close attention to CDC, state, and local return-to-work requirements and guidelines.
- [ ] Consider developing online training on any protective equipment and/or workplace safety protocols that will be required and mandating completion of training before return to the worksite is permitted.

3 Decide Whether to Implement a COVID-19 Vaccine Mandate

- [ ] In assessing whether to adopt a vaccine requirement (with or without a testing option), consider state or local vaccination requirements or restrictions, the risk of COVID-19 spread in the workplace and possible mitigation measures, employees' attitudes toward vaccination, and impact on employee morale and retention.
- [ ] If implementing a mandatory vaccine policy, determine which employees will be covered, the deadline for employees to be fully vaccinated, and whether employees must also receive recommended booster doses. Notify new hires and applicants of any vaccination requirements.
- [ ] Consider the requirements and procedures for paying any costs associated with vaccination or recovery from vaccination side effects, including time spent receiving the vaccine, pursuant to federal, state, and local wage and hour laws.
- [ ] Develop processes for collecting employee vaccination status, including to address what types of documentation will be accepted, how the documentation must be provided (e.g., uploaded through an app or HR database or presented to HR), how the information will be safeguarded, and whether and for how long documentation will be retained.
- [ ] Prepare to handle requests seeking an exemption from the policy for either medical or religious reasons, including by reviewing relevant guidance under the Americans with Disabilities Act and Title VII.

4 Devise Workplace Safety Protocols

- [ ] **Facilities:** Identify areas in the workplace for regular cleaning, and consider installing protective shields or other barriers, maintaining or improving HVAC systems, providing touchless hand sanitizers and wipes, and other measures to prepare the workplace for employees' return. Assess plan and contract for frequent daily cleanings, particularly in shared or high-traffic spaces.
- [ ] **Screening:** Evaluate potential screening measures for employees entering the workplace, and craft reasonable screening procedures such as questionnaires for employees to report symptoms of or exposure to COVID-19, daily temperature checks or thermal screening, or PCR or rapid COVID-19 testing.

  - [ ] Prepare employee notices of screening measures that will be implemented and any needed signage.
  - [ ] Be aware of privacy and regulatory requirements if testing will be implemented.
- [ ] **Social distancing:** Consider implementing social distancing measures tailored to the employer's facilities and specific workplace issues, paying close attention to compliance with measures recommended or required by applicable public health agencies or other governmental orders.
  - [ ] Examples of social distancing features may include restructuring open-floor layouts, situating desks and tables at least six feet apart, staggering or rotating employee shifts, limiting the number of employees permitted together at the worksite or in shared spaces (elevators, bathrooms, breakrooms, cafeterias, shipping and receiving areas), revising work processes to limit contact, and posting social distancing decals and signage throughout the workplace.
- [ ] **Personal protective equipment (PPE):** Prepare a hazard assessment in accordance with applicable OSHA requirements, determine what PPE must be provided to employees (if any), and develop a plan to implement all required training on the use and care of PPE.

- [ ] **Face covering policy:** Assess whether employees will be required to wear face coverings in the workplace and whether the employer will, or must, provide this equipment. Review any required training or distribution protocols.
- [ ] **Hygiene and sanitization:** Establish effective hygiene and infection control procedures consistent with OSHA and CDC recommendations, as well as the U.S. Environmental Protection Agency's guidance on use of disinfectants.
- [ ] **Guests/visitors:** Develop plans regarding guests and visitors in the workplace, including screening measures or vaccination requirements, number of guests permitted at any one time, possible waivers, and policies addressing prioritization of clients/customers/third parties for on-site meetings.

5 Review and Modify Existing Policies to Address COVID-19 Issues

- [ ] Designate point person(s) to track workplace exposures.
- [ ] Draft or update any existing policy requiring employee disclosure regarding symptoms of or diagnosis of COVID-19.
- [ ] Formulate procedures to identify and isolate or remove individuals who have symptoms of COVID-19.
- [ ] Draft template announcement that will be sent to others in the workplace who may have been exposed to COVID-19 (while taking steps to protect the identity of the infected individual).
- [ ] Consider methods for identifying close workplace contacts of those who disclose that they have tested positive for COVID-19.
- [ ] Create protocol for recording and reporting COVID-19 exposure incidents if required.

6 Review and Modify Existing Policies to Address COVID-19 Issues

- [ ] Consider revising policies addressing business travel, childcare, telework, workday start/end times, and other relevant policies in light of travel restrictions, school closures, and limited public transportation.
- [ ] Assess existing sick leave, medical leave, and PTO policies and adapt such policies to cover leaves of absence due to COVID-19 or future pandemics.
- [ ] Review workplace policies and procedures to address accommodations for employees with underlying health issues or other health-related concerns about exposure to COVID-19.
- [ ] Evaluate whether any other policies should be revised in light of logistical issues related to returning employees to the workplace, such as policies regarding return of company equipment, business expense reimbursement, and health and wellness.
- [ ] Clarify (if needed) anti-bias and anti-harassment policies to address potential misconduct or inequitable treatment of employees.

7 Create Communication Plan Concerning New Policies and Protocols

- [ ] Craft announcement explaining when employees should return to the workplace, whether the COVID-19 vaccine (including booster(s)) will be required and by when, measures that have been or will be taken to promote workplace safety, and identifying management contacts available to discuss any concerns related to the re-opening.
- [ ] Draft communication to employees describing revisions to workplace policies and procedures, including any required notices under state or local governmental orders.
- [ ] Consider communication informing employees of any return-to-work orientation or training programs that will be required before they can return.

If you have any questions concerning the material discussed in this alert, please contact the following members of our Employment practice:

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