

Sample Documentation

“X” = State/Department/Company

GUIDANCE REGARDING REOPENING “X” WORKPLACES

(As of June 5, 2020)

As states determine whether businesses may reopen, “X” will need to make decisions regarding the reopening of offices and the safety of employees. The “X” legal team has outlined items to consider when making the decision to reopen. These items include complying with the Centers for Disease Control (CDC), Occupational Safety and Health Administration (OSHA) standards and federal/state/local guidance.

All offices must comply with local and state orders. States are providing details not only about what businesses can open but what preventive measures must be taken.

If the state and/or locality advises non-essential businesses to “telecommute when possible”, then “X” should try to comply unless there are essential positions that need to be in the office.

Q: Is returning to the office voluntary or required?

A: It is recommended that if childcare facilities and schools are closed and/or mass transit is the primary means of employee transportation and there is no treatment /widespread testing available, then reporting to the office should remain voluntary.

A voluntary return would allow more flexibility for staff as they are dealing with childcare issues, caring for sick family members, self-isolating due to exposure, reliance on mass transit, management of social distancing, being in a high-risk group for contracting COVID-19 and assisting with the mental shift for individuals that it is safe to return. It is also recommended to return to the office in phases.

Q: Should masks/cloth face coverings be provided?

A: Review your local and state orders to identify requirements and recommendations. All offices must comply with local, state and/or federal orders regarding masks. If masks are required, then “X” must be able to supply masks to employees for daily use. Do not supply N-95 respirators which are critical supplies for healthcare workers.

The CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain. If masks are not required by the state, they should be supplied and required to use in work areas where social distancing is not possible. This may include when an employee is walking around the office or using the restrooms. You may allow employees to provide their own face masks as long as they meet CDC guidelines (covers nose and mouth, fits snugly against the side of the face, secures with ties or ear loops, includes multiple layers of fabric and allows for breathing without restriction). Education of the purpose and limitations of wearing a mask should be provided ([CDC Cloth Face coverings](#)).

Q: Should we conduct health screening of staff before entering the office?

A: First review your local and state orders to identify requirements and recommendations. All offices must comply with local, state and/or federal orders. Health screenings include employee self-assessments and employer assessments which may or may not include temperature checks. “X” recommends that all offices require employee self-assessments before coming to the workplace.

The EEOC has stated that during the pandemic, employers may ask about COVID-19 symptoms identified by the CDC and conduct applicable health screenings including taking temperatures. There are many issues that require planning before any employer-lead health assessment occurs.

1. Any data collected is a confidential medical record. It is best not to collect and retain results unless proof is needed to show compliance with a local/state order. If records must be stored, connect with HR about best practices. Consider how/where assessment will take place so other staff do not overhear or see results.

For temperature checks, the best option is to show the employee their result and not say it verbally and not record so long as proof of the assessment isn't needed.

2. Manufacturer instructions must be followed for temperature checks and all thermometers must be "no-touch" such as an infrared thermometer.
3. Participants in temperature checks (employee and the administer) must both be wearing masks. Administer should also wear gloves and a screen (plexiglass) or disposable gown is recommended to protect the administrator.
4. Temperatures should be taken at the start of the workday and, ideally, outside of the building.
5. The administer of temperatures should take their own temperature to ensure they are well before screening others.
6. Consider contracting with a temporary service to perform temperature screenings.
7. An employee who identifies a COVID-19 symptom, should be sent home and allowed to telework (if able). Contact HR for further guidance.

Q: How do we ensure social distancing at workstations?

A: Individual workstations/desks must be 6 feet apart or have a barrier that is taller than the employee when sitting. Workstations must also be 6 feet apart from aisle ways to protect employees from those moving about the office. Great care should be made to rearrange the office to provide additional separation to the extent possible. Tape may be used on the floor as a reminder to staff not to invade the personal space of another worker. Consider how many people should be occupying a space. Alternatives to rearranging the office is voluntary return, limiting number of staff in the office (essential/non-essential), staggering the days staff can work in the office.

Q: How do we ensure social distancing in shared spaces?

A: The best course of action is to close shared spaces that cannot be adjusted for social distancing. Require masks if shared spaces are open. This includes conference rooms, restrooms, break areas and other close gathering areas. Other ideas/recommendations include:

- **Meeting Rooms:** Continue video conferences in when in the office. Rearrange tables and chairs so that every chair is at least 6 feet apart and remove excess chairs. Remove shared items like pens, tablets of paper, etc. Display signs that indicate if the room is closed or the maximum occupancy (which may be one individual).
- **Elevators:** Consider limiting one traveler at a time or placing markers on the floor to keep people as distant as possible. Encourage use of stairs when possible. Encourage use of a pen/stylus to push buttons. Position hand sanitizer at each elevator.
- **Break Areas/Cafes:** Position all tables and chairs so that every chair is at least 6 feet apart and remove excess chairs. Post signs encouraging handwashing before and after food preparation. Encourage staff to eat at their desks or outdoors. Recommend staff bring food in personal lunch bags/coolers to keep at their desk and bring food that doesn't need heated. Consider installing touchless faucets where possible or placing paper towels by faucets.
- **Restrooms:** Place a trash can by exit so handles can be grabbed with paper towel and then disposed. Display a handwashing sign. If possible due to staff size, limit occupancy in restroom (i.e. one at a time). Provide toilet seat covers. Mark waiting areas by sinks that do not allow social distancing and/or close every other sink if too close.

Q: What other accommodations can we make to reduce the exposure risks to staff?

A: Suggestions include:

- Ask staff to clean equipment they are bringing back into the office from home
- Provide hand sanitizer to staff and place strategically around the office by high touch points. Touchless dispensers would be ideal if available.
- Provide sanitizing wipes for work surfaces available for all employees.
- Have a supply of gloves for anyone who will be doing cleaning and/or trash removal.
- Provide employee's tissues to cover their cough.
- Remove unnecessary doors, convert to swing doors or add kickplates to the bottom of the doors to open without hands.
- Make all trashcans touchless by removing lids that requiring touching to open.
- Create one-way walkways and/or staircases if not wide enough to allow cross traffic with social distancing.
- Encourage Going Green so staff are not using printers/copiers unless necessary. Position hand sanitizer by shared printers/copiers.

Q: What are the proper cleaning procedures?

A: Ensure that cleaning follows CDC guidelines available [here](#). Create and/or determine the cleaning/disinfecting schedule for the office. Ensure there is routine cleaning of high touch surfaces (doorknobs, bathrooms, elevator buttons, refrigerator handles, stair railings, copiers, coffee/water cooler handles, etc.) Document and communicate your cleaning plan to staff so they feel comfortable in the work environment. If janitorial services will not be cleaning individual desks/computers, provide staff cleaning materials and encourage daily wiping down of these surfaces.

Q: How do we handle staff who may be considered higher risk for severe illness (a.k.a. vulnerable individuals)?

A: The [CDC](#) defines individuals at higher risk of severe illness. This list includes individuals age 65 or older and people with underlying medical conditions like: chronic lung disease, moderate to severe asthma, serious heart conditions, the immunocompromised, severe obesity (BMI 40 or higher), diabetes, chronic kidney disease undergoing dialysis, and/or liver disease. Some states have also issued stay-at-home orders for vulnerable individuals. While we cannot require or encourage those at higher risk to stay at home, we should communicate to all staff to submit a request if they are in a high-risk category and are not comfortable returning to work or need other accommodation to feel comfortable at work.

Q: Are employees with childcare issues being allowed to work from home?

A: Until schools and childcare services are open, we recommend allowing parents to continue to work-from-home if they do not have another childcare option. This will be easily accommodated if return to the office is voluntary. Leaves are also available to staff who are unable to work due to school and place of care closures.

Q: How do we handle an employee who is unable or unwilling to return to the office?

A: The best recommendation currently is to ease back into working at the office by allowing this to be voluntary. This will provide the greatest flexibility to our staff until there is proper testing and/or treatment. This will provide employee's the ability to work from home for various reasons including childcare, caring for a vulnerable family member, staying home due being sick or with symptoms, and for their safety/peace of mind. A voluntary return to the office also protects employee's reason for staying home (i.e. a positive diagnosis of COVID-19). Also, suggest listening to employee's specific concerns, addressing them through communicating the procedures in place to keep them safe and how you are complying to local safety and health guidelines. The employee could have an idea to make the environment safe that hasn't been implemented yet too.

Q: What visitor management protocols should be put in place?

A: Decide what visitors are essential and which are not essential to limit exposure. Follow same procedures in shared spaces with visitors as employees by requiring face masks in shared spaces if applicable. Notify visitor of the requirement and/or have face masks available to provide if needed.

- **Interviews:** Continue to conduct most interviews remotely through video conferencing. Only conduct in-person interviews if your office is open and you intend the candidate to report to the office for work on their first day. We will not require in-person interviews if we are not requiring staff to work onsite. If your office is open and requires staff to report to the office, then only bring in final candidates (2-3) for in-person interviews and maintain social distancing at all times. No more than three people should be in a conference room at a time for interviews.
- **Deliveries:** Determine if deliveries can be made without entering the building. Designate a drop off location for deliveries and leave for 24 hours before distribution.

Q: Can I ask a new hire if they have COVID-19 symptoms or exposure?

A: Once a conditional job offer is made, we may ask specific questions about COVID-19 and screen job applicants for symptoms of COVID-19 as long as we are applying this procedure consistently with new hires. You may discuss postponing a start date or allowing telework on a temporary basis, but the job offer cannot be withdrawn. New hires must be provided the same option to work from home as other staff. Human Resources will confirm new hires are aware of the daily self-assessment so they can determine they are safe to report to an office.

Q: How do I inform other employees about a positive diagnosis for their protection?

A: A model notice has been created and available for distribution.

Q: What is our exposure for coronavirus-related claims and the potential for lawsuits if workers contract the virus?

A: By making our employee's safety our priority we reduce our exposure to workers compensation or litigation if an employee contracts the virus. If we are found negligent in protecting our employees, then there could be liability. This is why it is important to take great care to provide social distancing and accommodate employee's needs during this time. The state of California has determined that if an individual contract COVID-19 and they have been at a worksite, then workers compensation would apply. This could be a trend we will continue to monitor.