



THE **WAGNER**
L A W G R O U P

Return to Work: Creating a Viable Playbook

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Today's Agenda

- I. Planning
- II. Employees unable or unwilling to work
- III. Communicating with employees
- IV. When employees return to work
- V. Potential liability
- VI. Top ten list

I. Planning Overview

- Key considerations
- Building and facilities
- Transportation
- Planning the space
- How and when employees return
- Additional potential impact

Planning – key considerations

- Guidance from state and local authorities
- The nature of the industry
- Recent performance
- The ability to return safely
- Understanding and planning for risks

Planning - Building And Facilities

Check with building management to determine what protocols are being established. This may impact any return to work protocols.

- Has the space been deep cleaned?
- How will the building management change its cleaning practices on a go-forward basis to ensure that the workspace is clean and safe?
- Masks may be required in public places (e.g., elevators and lobbies)
- Space on elevators may be limited for social distancing. Employers may want to consider staggering work hours to avoid congestion.
- Any changes to ventilation system?

Transportation

- How are employees getting to work?
- Safety and perception of public transportation.
- Impact on commuting if employees drive.
- Staggering shifts.
- Free parking.
- Make sure this is done in a non-discriminatory manner.

Planning The Space

Review floor plans.

- Public spaces
- Hallways may need to become one way.
- Restrooms
- Employees should be seated at least six feet apart.
- For employees who do not sit in an office or a cubicle, tape off space around desks showing 6' zone.

Consider flexible work schedules (some employees continue to telecommute or alternating days).

How And When Employees Return

- A phased return to work.
- Identify employees needed for each wave.
- Review how well people are working remotely.
- Review who is essential.
- Consider whether there are pressing projects.
- If work hours modified, establish schedule.
- If transitioning, establish schedules.
- To the extent possible plan for the length of each wave.

Additional Potential Impact

- HR reviews schedules for business and discrimination purposes.
- Consider employees who do not want to return.
- Determine impact, if any, on benefits.
- Determine impact, if any, on leave policies.
- Draft/update telecommuting policy and employee handbook.
- Review/update employment agreements.

II. Employee Unable/Unwilling To Work

- Centralize the response.
- Find out the reason.
- Do federal, state, and local CV-19 laws apply?
- The interactive process.
- Can the employee work remotely?
- If yes, will this become precedence for other employees?
- Can you terminate the employee?
- Document.

III. Communicating With Employees

- Communication *prior* to return to work.
- Try to anticipate concerns and perception.
- Communication *after* return to work.
- Point of contact.
- Employee engagement and morale.
- Clarify expectations.

IV. When Employees Return To Work

- Define social distancing and health protocols.
- Decide whether to test employees.
- Easy access to hand sanitizer, wipes, and masks.
- Limit access to visitors and vendors.
- Bar access if a person is sick.
- Strong preference for remote meetings and strict rules for face-to-face meetings.
- Establish business travel rules, including potential quarantine if in a hot spot.

V. Potential Liability

- Policies in the employee manual are stale.
- Workers classification concerns.
- Harassment prevention and other training are stale.
- Risks stemming from poor communication.
- How to handle an employee who becomes sick.
- Risks if an employee infects an employee or third party.
- Privacy concerns.
- Insurance.

VI. Top Ten List

1. Don't open too quickly.
2. Let employees know what you are doing.
3. Follow CDC, federal, state, and local guidelines.
4. Anticipate employees' concerns.
5. Allow employees to telecommute whenever possible.

VI. Top Ten List Continued

6. Review your insurance policies.
7. Train on privacy (work, clients, management, and employees).
8. Keep in mind everything is etched in sand so be fluid and ready to adjust.
9. Employers are not excused from existing employment laws.
10. Set clear expectations.

Bonus Tip: Take the time to audit.

THANK YOU AND QUESTIONS

Thank you!

Please feel free to reach out to us at The Wagner Law Group with any questions.

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