

LEGAL LIABILITIES AND OBLIGATIONS

6 Questions to Ask Before Bringing Your Employees Back to the Office

Here are 6 questions that are on everyone's mind regarding bringing employees back to work safely. We have insights from an attorney and a workplace strategist that will help you plan your office re-entry.

QUESTION #1

What are the guidelines the city and state has regarding returning to work in offices?

LEGAL PERSPECTIVE

Executive Order 36 mandates the following requirements for Phase III for all businesses:

- Continue to evaluate which employees are able to work from home, and are encouraged to facilitate remote work from home when possible.
- Ensure that employees practice social distancing and wear face coverings when social distancing is not always possible.
- Ensure that all spaces where employees may gather, including locker rooms and lunchrooms, allow for social distancing.
- Ensure that all visitors to the workplace can practice social distancing; but if maintaining a six-foot social distance will not be possible at all times, encourage visitors to wear face coverings.
- Prominently post the guidance from the Illinois Department of Public Health and Office of the Illinois Attorney General regarding workplace safety during the COVID-19 emergency.

Executive Order 36 contains the following additional mandates:

Employers in office buildings must ensure all employees practice social distancing and must take appropriate additional public health precautions, in accordance with DCEO guidance, which may include:

- Provide face coverings to all employees who are not able to maintain a minimum six-foot social distance at all times.
- Consider implementing capacity limits where the physical space does not allow for social distancing.
- Allow telework where possible.
- Develop and prominently post plans and signage to ensure social distancing in shared spaces such as waiting rooms, service counters, and cafeterias.

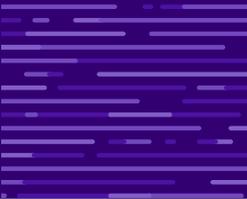
Key Areas from Department of Commerce and Economic Opportunity Guidelines

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TECHNOLOGY CONSIDERATIONS

- Building Example: 333 West Wacker Drive guidelines
- Chicago Chamber of Commerce- Reopening Chicagoland Guide
- CDC recommendations for Office
- Create No Touch Environment
- Reducing liability



QUESTION #2

What obligation does an employer have to keep its employees safe during the COVID-19 pandemic?

LEGAL PERSPECTIVE

- OSHA gives workers the right to safe and healthful working conditions.
- As part of OSHA, it is the duty of employers to provide workplaces that are free of known dangers that could harm their employees.
- OSHA has issued specific guidance for employers on COVID-19 and protecting employees in the workplace

TECHNOLOGY CONSIDERATIONS

- Understand the minimum from OSHA and CDC
- Employee Feedback via Surveys
- Execute a plan to perform above and beyond
- Safety first and foremost
- Investigate workplace utilization tech
- Need to have system to show employees you can react to an exposure

QUESTION #3

Should I have a written return to work plan for my business and employees?

LEGAL PERSPECTIVE

Key Considerations

- Incredible amount of ever-changing guidance (OSHA, State of Illinois, City of Chicago, ADA, DOL, CDC, WHO, etc.)
- OSHA Guidance includes developing an Infectious Disease Preparedness and Response Plan
- State of Illinois Guidance requires that all employees complete health and safety training related to COVID-19 when initially returning to work
- Need to inform employees of new requirements and expectations as well as create accountability for employees

TECHNOLOGY CONSIDERATIONS

- Online document for all employees to view
- Change Communication- How will the plan work?
- Reinforce the plan through technology
- Consistent feedback with Wellness Surveys
- Maps of office areas
- Check In Questionnaire

QUESTION #4

An employee that has been coming to the office has tested for COVID-19. What steps should an employer take?

LEGAL PERSPECTIVE

- Talk to employee and to the extent possible perform contact tracing with the office.
- Inform employees of their possible exposure, subject to all confidentiality requirements.
- Implement a plan for those employees with potential exposure in accordance with applicable guidance.
- Implement closure or cleaning protocols in accordance with CDC and local guidance.
- Evaluate whether the positive case must be reported to OSHA.

TECHNOLOGY CONSIDERATIONS

- Track and verify
- Review badge systems
- Check in and check out methods
- People counters
- Booking systems



QUESTION #5

What steps should an employer take if an employee comes to work with symptoms or receives a positive test while at the office?

LEGAL PERSPECTIVE

Employees should be screened upon arrival for symptoms. Any symptomatic employees should be immediately isolated and sent home.

If the employee is at work, immediately isolate them in accordance with OSHA guidance:

- Move potentially infectious people to a location away from workers, customers, and other visitors.
- Although most worksites do not have specific isolation rooms, designated areas with closable doors may serve as isolation rooms until potentially sick people can be removed from the worksite.
- Provide the employee with a face covering.
- Have the employee leave work on a confidential basis.

TECHNOLOGY CONSIDERATIONS

- Review guidelines of plan
- Notify HR
- Leverage booking and badge systems to trace where employee was in the office
- Track what meetings they attended and who they sat by
- Track when they entered the office and left the office
- Offer guidance on employees that may have come in contact with this individual
- Put in measures to clean areas individual went

QUESTION #6

Are employers required to make reasonable accommodations for an employee who does not return to work due to fear of contracting COVID-19 if the employee is in a higher risk category?

LEGAL PERSPECTIVE

- Very important to review these issues carefully as the ADA is implicated.
- Generally speaking, fear of contracting COVID-19 is not a “disability” for ADA purposes.
- However, its possible that the employee may have pre-existing conditions that may rise to the level of a disability under current conditions for which a reasonable accommodation will need to be made.
- Be cautious in any policy that targets a specific group of workers (such as policies based on age or sex).

TECHNOLOGY CONSIDERATIONS

- Documented Work from Home plan
- Standardized Collaboration Tools
- Review in home network and systems
- Provide coverage of costs
- Ensure they can 100% do their job remote
- Support and make them part of the team

Please Contact Us With Your Questions About Office Re-entry

As employees continue to transition back to the workplace, business owners and executives need to know what their legal liabilities are, and what solutions exist to help keep their employees healthy.

We'll be happy to work with you to look at possible solutions to ensure you have the knowledge you need to cover the bases you need for a workplace that protects your workers.

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