

RETURNING TO WORK

YOUR GUIDE TO SAFELY OPENING FOR BUSINESS AMID COVID-19

The information provided in this book was created based on the most current information from the Department of Labor, OSHA, The Centers for Disease Control, the World Health Organization, and State and Federal Guidance as of May 1, 2020. The information provided in this book is intended to serve as general information that may be helpful for member businesses in considering how to reopen safely in the midst of the COVID-19 pandemic. As this is an everchanging situation, it is always best to look for the most up-to-date information before acting. Before taking any action on any of the information presented in this book, we strongly recommend that you consult a lawyer or other licensed business or medical professional in order to consider any risks, including legal, medical, or commercial risks, that reopening may present to your business. This document is not a substitute for personalized legal, business or financial advice, and is not meant as such. This book is presented by ALT HR Partners, in collaboration with the Greensboro Chamber of Commerce. This book does not provide legal advice and neither ALT HR Partners nor the Greensboro Chamber of Commerce are law firms. For additional information, please visit, ALTHRPartners.com and greensboro.org.

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KEEPING EMPLOYEES SAFE

NEW OSHA REGULATIONS

In the past, OSHA was typically associated with high risk industries like manufacturing, construction, and warehouses. Today, in a COVID-19 world, OSHA rules and regulations are an important consideration for ALL industries.



ACTION ITEM: Download the OSHA checklist for your industry: www.osha.gov/SLTC/covid-19

OSHA, as well as other agencies, have provided general guidance for keeping all employees safe, regardless of your industry.

It all starts with staying home if you are sick or if you have been exposed to someone who is ill. Ensure that all employees:

- STAY HOME if they have a fever, and remain home until they are fever free for at least 48 hours.
- SELF ISOLATE AT HOME for a period of 14 days if a person they live with, or are in close contact with, has a confirmed case of COVID-19.

Businesses have an obligation to ensure that their workforce is safe. One way to do that is working with your employees to ensure they are healthy. In a non-COVID world we would never dream of taking an employee's temperature or asking invasive health questions. However, today multiple agencies are encouraging this to help stop the spread of the disease. What can you do?

- You may ask a series of questions about your employee's health as it DIRECTLY relates to COVID-19 (have you had a fever, have you had a cough, have you been in contact with someone who has).
- You may take your employees' temperature before they enter the facility or ask them to take their own temperature (with a safe disinfected device).
- You may ask them to stay home if they are exhibiting signs of COVID-19 or have been in contact with someone who has.

OSHA is also recommending a series of actions you can take, and ask your employees to take, to help stop the spread of COVID-19.

Clean your hands often.

- Encourage employees to wash their hands. Post signs around the office and at each sink.
- Provide hand sanitizing stations throughout the workplace for when hand washing is not an option.
- Remind employees not to touch their face with unclean hands.

Cover your mouth and nose with a tissue when you cough or sneeze or use the inside of your elbow.

- Provide tissues throughout the office.
- Remember this is also allergy season. One sneeze or cough does not necessarily mean the person should be placed in isolation. (You may need to ask employees to refrain from making assumptions based on outward "symptoms").

Clean AND disinfect frequently touched surfaces before and during each shift.

- Provide plenty of disinfecting wipes in multiple locations around the office.
- Ask the cleaning crew (if you have one) to provide extra cleaning during this time.
- Now would be a great time to bring back the chore wheel!
- Ask everyone to do their part and disinfect frequently touched surfaces. This can include tables, doorknobs, light switches, counter-tops, handles, desks, phones, keyboards, toilets, faucets, and sinks.

Decrease the number of people in the workspace.

- Use split shifts to decrease the number of people in the office. You may want to try working in staggered schedules or continue to allow people to work from home.
- Close common areas, like the break room or conference rooms.
- Ask people to use shared items quickly (like coffee makers and refrigerators) and then disinfect them after each use.

Discontinue high risk activities.

- Avoid non-essential business travel.
- Avoid large meetings.
- Avoid handshakes. Ask your employees what type of alternative they would like (fist-bumps, thumbs ups, waves, etc.).
- Put the office potlucks and bagel breakfasts on hold. Sharing food should be avoided. If you wish to provide a treat for your employees, ensure it's something that comes individually wrapped.





Occupational Risk Pyramid for COVID-19



"The Occupational Risk Pyramid shows the four exposure risk levels in the shape of a pyramid to represent probable distribution of risk. Most American workers will likely fall in the lower exposure risk (caution) or medium exposure risk levels." Very High risk jobs include people who are providing direct care to patients, High risk jobs include people who are in constant contact with the public. Medium or low risk jobs may include office workers. Based on where you stand in the Pyramid, OSHA has different PPE (Personal Protective Equipment) guidelines for employees.

Provide appropriate PPE to your employees based on the Occupational Risk Pyramid. PPE can include: face masks, gloves, goggles, gowns, respirators, and more.



ACTION ITEM: Become familiar with OSHA form 300 and 301: www.osha.gov/recordkeeping/RKforms.html

Employers must report to OSHA any confirmed COVID-19 illness diagnoses that are both work-related and involve OSHA general recording criteria. An injury or illness ordinarily involves OSHA general recording criteria if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness, or if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional.

OSHA clarified that it understands you may not know HOW the person contracted the illness (especially if you are not directly providing patient care), but that you must use reasonable judgement. Meaning, if multiple people in the office have COVID-19, it was probably transferred between coworkers. What does this mean for you?

- If you have an employee who has tested positive for COVID-19, you MAY want to complete form 301.
- If you have two employees who test positive, you absolutely want to complete form 301.
- If you are in a high risk to exposure industry and an employee tests positive, you absolutely want to complete form 301.
- If you have an employee that tested positive, and infection may have been work related and is ultimately hospitalized, you will need to IMMEDIATELY report the illness online.



TIME AWAY FROM WORK

NEW EXTENDED LEAVE LAWS

As we reopen our businesses, we may encounter employees who are unable to come back to work either due to their own health condition or the conditions of close family members.



ACTION ITEM: Post the FFCRA poster in your workplace. Page 9 of this pamphlet.

In March 2020, the government passed the Families First Coronavirus Response Act (FFCRA). This act included two important leave laws that impact **EVERY employer with FEWER THAN 500 employees**. In addition to providing time away from work for employees, each leave also provides mandatory sick pay. *The following leave laws currently extend through December 31, 2020.*

Emergency FMLA

Qualifications:

- Employees must have been on payroll for at least 30 days.

Why an employee may use this leave:

- This allows for up to 12 weeks off of work if an employee is unable to work or telework and needs to care for a minor child due to the child's school or daycare closing due to COVID-19.

What this leave provides:

- Employees' jobs are protected for the duration of the 12 week leave. Just as with standard FMLA, the employer is expected to return the employee back to the exact same position they had when they left.

Pay while on leave:

- The first 10 days can be unpaid (or employees can use PTO, sick, vacation, etc.).
- The remaining 10 weeks will be paid by the company at 2/3 the employee's regular salary up to \$200 per day.

Emergency Paid Sick Leave Act (EPSLA)

Qualifications:

- Employees immediately qualify.

Why an employee may use this leave:

This leave allows up to 10 days away from work for an employee who is unable to work for one of the following reasons:

- They are subject to a state, federal, or local quarantine or isolation order.
- They have been advised by their healthcare provider to self quarantine.
- They are experiencing symptoms of COVID-19 and need to seek medical care.
- They are caring for an individual who is subject to or advised to self-isolate or quarantine.
- They are caring for a child whose school or place of care is closed due to COVID-19.
- They are experiencing a substantially similar condition specified by Secretary of Health and Human Services.

What this leave provides:

- Employees' jobs are protected for the duration of the leave.

Pay while on leave:

REASON	RATE	MAXIMUM
Employee is subject to a federal, state, or local quarantine or isolation order	Regular pay	\$511/day with an aggregate max of \$5,110
Employee has been advised by a health provider to self-quarantine	Regular pay	\$511/day with an aggregate max of \$5,110
Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis	Regular pay	\$511/day with an aggregate max of \$5,110
Employee is caring for an individual who is under quarantine, isolation or self-quarantine as described in 1 and 2 above	2/3 of regular pay	\$200/day with an aggregate max of \$2,000
Employee is caring for a child whose school or daycare has closed (or regular paid childcare provider is unavailable)	2/3 of regular pay	\$200/day with an aggregate max of \$2,000
Employee is experiencing a substantially similar condition specified by Secretary of Health and Human Services	2/3 of regular pay	\$200/day with an aggregate max of \$2,000





There are VERY LIMITED opportunities to claim exemptions to providing or paying these leaves.

The exemption process was explained by the Department of Labor at the end of April. This process has changed multiple times since the passing of the FFCRA in March. Currently, this is a self-documenting procedure.

No employer will be exempt from all aspects of the leaves.

An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business.

You must prove that your business would be in jeopardy due to one of the following reasons:

- Funding the leave would exceed available revenue.
- The absence of the employee would entail a substantial risk to the financial health or operational capacity of the business.
- There are not sufficient workers to perform the necessary work provided by the employee seeking the leave.



USE CAUTION AND PRACTICE GRACE AND EMPATHY:



Before making decisions about employees, take a step back and look at the big picture. If you have employees who don't want to come to work out of fear, it can be a tricky situation. There could be ADA issues, OSHA issues, and leave issues. This is an area where the laws are still being written.



EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at $\frac{2}{3}$ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
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▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



CHECKLIST FOR SAFELY RETURNING TO WORK

- Ensure you are following all State and local orders. They may change rapidly.
- Determine how and when you will resume business.
- Post required Federal FFCRA Posters.
- Post safety posters throughout your workplace.
- Secure PPE for your employees.
- Secure disinfecting supplies for your workspace.
- Update your leave policies.
- Update your telework policy.
- Update your pandemic response plan and policy.
- Communicate your expectations to your staff.