



## Return to Business Informed Decisions and Protective Measures

Given the unprecedented and overwhelming nature of the COVID-19 crisis, it is more important than ever to pause and thoughtfully consider the impacts and consequences of the decisions business leaders need to make when bringing their employees back to work.

Good intentions can still lead to decisions you will regret, as well as lawsuits claiming negligence, discrimination, retaliation, wrongful termination, wage and hour violations, and more. Follow the guidelines below to ease the burden of protecting your employees and your organization while achieving a smooth and successful transition back to business.

### **General Best Practices:**

- Create a cross functional return to work team to achieve diversity of thought and perspective in all key areas
- Document your decisions and any justification supporting them
- Strictly follow all regulatory guidance (orders from the Governor's office, State Health Dept, CDC)
  - CDC: [cdc.gov/coronavirus/2019-nCoV/index.html](https://www.cdc.gov/coronavirus/2019-nCoV/index.html)
  - OHIO Guidance: [coronavirus.ohio.gov/static/responsible/Manufacturing-Distribution-Construction.pdf](https://coronavirus.ohio.gov/static/responsible/Manufacturing-Distribution-Construction.pdf)
- Strictly follow OSHA COVID-19 guidance: [osha.gov/Publications/OSHA3990.pdf](https://www.osha.gov/Publications/OSHA3990.pdf)

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### 1. Who, When and How to bring your employees back to work

- If you cannot follow the guidelines, then consider waiting to bring people back until you can
- Evaluate criteria used to select employees to return to work for discrimination/bias issues and document objective justifications for those decisions
- Consider surveying employees to gain a true understanding of their questions, fears, concerns and ideas
- Consider asking employees if they wish to return, rather than selecting employees
- Allow employees to work from home who can do so or request to do so
- Evaluate accommodations for high-risk employees who request them
- Do not ask too detailed questions around individual health concerns
- If you provide a written policy to employees, you **MUST** keep it updated
- Consider financial impact to employees already on unemployment if recalled to work under conditions where they cannot return
- Train all supervisors on sensitivity / communications for various scenarios to address appropriately. Know when to refer to Human Resources
- Be as flexible as possible. It will protect you



#### Toolkit Suggestions

Refer to the Oswald Return to Business resource page to access these tools.

- ✓ **Employee on site tracker**
- ✓ **Sample employee communication**
- ✓ **Sample employee survey questions**
- ✓ **Refer to the insurance company complimentary loss prevention services (where applicable)**

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### 2. How to best protect your employees when they return

- Prepare work site to allow for social distancing based on knowledge of employees returning to work.
- Provide PPE for all employees (face coverings, sanitizer, etc.)
- Temperature checks
  - Establish an isolated check in spot to create privacy
  - Provide required PPE for temperature checkers
  - Provide training to handle scenarios where temperature check results require the employee to be sent home (manage privacy concerns).
- Arrange for cleaning of public areas, restroom, cafes, etc. multiple times per day
- Establish OSHA driven Safety protocol discipline and CONSISTENCY across departments and locations
- Provide guidance for future remote working arrangements (Ergonomic protocols, appropriate use of company equipment, etc.)
- Consider offering an independent hotline for employee safety and ethics questions or concerns

### 3. Consider typical protection acts through a COVID-19 lens

- Review Americans with Disabilities Act (ADA) requirements for reasonable accommodations requests
- Consider EEOC requirements when hiring/recalling workers
- Evaluate whether Federal and State WARN Act notices are required if unable to recall entire workforce
- Department of Labor reminders
  - What scenarios qualify for paid leave?
  - Proper tracking of nonexempt hours



#### Toolkit Suggestions

Refer to the Oswald Return to Business resource page to access these tools.

- ✓ COVID-19 OSHA Guidance
- ✓ COVID-19 Facility Audit
- ✓ COVID-19 facility signs
- ✓ General Workplace Evaluation
- ✓ COVID-19 Job Hazard Analysis
- ✓ Workplace Specific Evaluation and controls
- ✓ Business & Long term Planning Considerations
- ✓ Hotline example: <https://www.redflagreporting.com/>