

CDC Issues New Return-To-Work Guidance For Offices

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The Centers for Disease Control and Prevention (CDC) has [issued new guidance](#) for employers who operate in office buildings. The CDC's guidance provides recommendations on how to prevent the spread of COVID-19 within office buildings and how to return employees safely to work while community spread of COVID-19 is ongoing. While the CDC guidance is non-binding, the re-opening requirements issued by state and local governments often are legally binding, so employers should pay close attention to the specific requirements in their areas. Massachusetts' reopening guidance is available [here](#). Key elements of the CDC's guidance include:

Creating a Plan. Before employers recall employees back to work – in office buildings or elsewhere – the CDC recommends that they first develop a workplace health and safety plan that includes specific measures designed to address the specific risks within the employer's workplace.

Ensuring the Building is Safe for Occupation. Because office buildings are not designed to remain empty for months at a time, the CDC recommends that employers work with building owners and management as applicable to address possible risks associated with long absences from the workplace before employees return to work. These risks include mold growth, rodent infestations, *Legionella* (the cause of Legionnaire's disease, another respiratory disease that is approximately ten times as lethal as COVID-19) and other microbial threats. Employers (and their building management) likewise are advised to make sure that all building systems, especially plumbing and HVAC systems, are fully functioning and up to date on any maintenance.

Improving Ventilation and Air Quality. In addition to ensuring that HVAC systems are up-to-date and functioning properly, the CDC recommends that employers take steps to improve air flow throughout the office. These steps include modifications that allow buildings to take in more outside air, either by increasing the percentage of outside air that the HVAC system takes in, by opening doors and windows, or both, depending on the circumstances. They also include increasing total airflow to all occupied spaces, using and maintaining fans where appropriate, and disabling any demand-control ventilation (DCV) controls (which automatically reduce air output based on factors such as temperature or occupancy). The CDC also recommends that employers consider structuring their workplace relative to the positioning of air supply and exhaust diffusers and/or dampers so that employees work in the areas where there is more "clean," new air coming directly from the air supply, as well as using portable high-efficiency particulate air (HEPA) fan/filtration systems and/or ultraviolet germicidal irradiation (UVGI) to enhance air cleaning and deactivate the virus in common areas.

Identifying and Addressing Areas where Social Distancing is Not Possible. Most workplaces have areas where employees congregate or come in close contact with one another. The CDC recommends that employer modify these areas so that employees can stay socially distant (at least 6 feet apart) as much as possible, including marking hallways and passageways as one-way with signs or other visual cues, having chairs in communal areas removed or taped over so that available seats are all at least six feet apart, mandating that employees take breaks on a rotating schedule to limit the amount of people in the break room at one time, installing transparent plexi-glass or other barriers to allow for safer interactions, and making "high-touch" items such as trash receptacles, coffee machines, or communal snacks should be made touchless, such as with single-serve coffees and/or snacks or step-on or open-top trash bins.

Promoting Social Distancing and Hygiene Practices. According to the CDC, individual behaviors, such as hand-washing, social distancing, and mask-wearing, can often do the most to prevent the spread of COVID-19. As such, the CDC recommends that employers promote these practices by training their employees and posting signs and reminders, making hand washing stations available, and providing hand sanitizer and cleaning supplies for employees to use in their workspaces. Employers also are advised to remind employees to remain at least six feet apart wherever possible, and to ban or discourage interactions such as hugging, handshakes, and fist bumps.

Creating New Working Schedules. Reduced occupancy means reduced risk. Accordingly, the CDC recommends that employers reduce the occupancy of their building (or of elevators or other highly-trafficked areas) by staggering working hours so that employees arrive, depart, and work at different hours throughout the day and by encouraging employees to telecommute.

Requiring Masks. The CDC generally recommends that employees working in office buildings wear cloth masks to protect their coworkers and others they might encounter. (Unfortunately, the guidance is not clear whether these masks should be worn at all times or only where maintaining social distance is not feasible.) Cloth masks, of course, are not “personal protective equipment” (PPE) and do not provide the same level of air filtration as, say, an N95 mask, but they can help contain the employee’s own respiratory droplets and so protect those around them. However, masks should not be worn or required where doing so creates a health issue for the employee, if the employee cannot remove and don the mask on their own, or if the employee cannot tolerate wearing the mask for similar reasons.

Testing and Monitoring. Employers may choose to take employees’ temperature when they arrive on-site. Of course, a temperature is not the only indicator of COVID-19 infection, so this method will not prevent the spread entirely. If employers choose to examine employees on arrival to work, the CDC recommends that they ensure to take necessary precautions to protect employees’ health and privacy by taking steps such as setting up barriers, maintaining at least six feet of distance between employees awaiting examination, and using a clean pair of gloves and thermometer cover for each examination.

Accommodating High-Risk Individuals. COVID-19 disproportionately affects certain groups, particularly people over age 65 and people suffering from certain health conditions such as chronic lung disease, diabetes, hypertension, heart disease, and others. The CDC recommends that employers encourage employees within these categories to self-identify. (Otherwise, if employers make inquiries or assumptions about employees’ age or health status, or if employers assume those employees want certain protections, the employers risk running afoul of anti-discrimination law.) When employees have self-identified as higher-risk, the CDC recommends that employers work with them to provide any additional and appropriate protections, including allowing them to continue to work from home for a longer period of time than lower-risk employees. However, employers should be cautious not to force a solution on an employee who is willing to accept the risk of working in the same way as lower-risk employees.

Addressing the Spread When it Happens. Despite all of these measures, it is almost inevitable that someone in the workforce will contract COVID-19. The CDC recommends that employers require employees who are showing COVID-19 symptoms to stay home from work. If an employee develops symptoms during the workday, they should be immediately isolated from other employees and sent home as soon as possible. Any area where the employee was isolated or where they spent considerable time should be cleaned and disinfected. Employees who have been sent home or who have stayed home should not return to work until they have met the criteria to discontinue home isolation and/or have been approved to return to work by a healthcare provider. (Of course, healthcare providers may be difficult to reach, and so employers are asked to be flexible about requiring doctor’s notes for returns to work.)

Making an office safe for a return to work is a highly individualized process. Each workplace is different and has different needs, so the solutions and responses will also vary. This new guidance from the CDC will provide additional clarity for employers on where to start. While not legally binding, employers should review and consider the CDC’s recommendations, in addition to any applicable state and local return-to-work orders or advisories, to ensure they are meeting their obligation to provide employees with a healthy and safe workplace.

Foley Hoag has formed a firm-wide, multi-disciplinary [task force](#) dedicated to client matters related to the novel coronavirus (COVID-19). For more guidance on your COVID-19 issues, visit our [Resource Portal](#) or contact your Foley Hoag attorney.

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