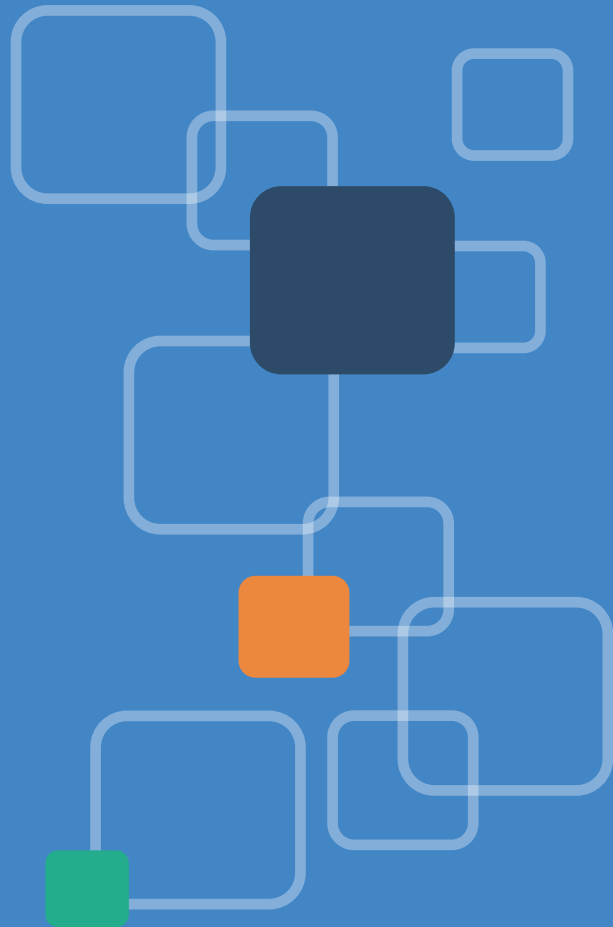


What employers need to know about returning to work



Our presenters

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Agenda

- ✓ Checking employee's health
 - ✓ Return to work checklist
 - ✓ Communicating worksite expectations
 - ✓ Furlough vs. layoff
 - ✓ Managing unemployment during COVID-19
-

What questions can you ask employees about their health?

You can ask:

- ✓ About an employee's general well being
- ✓ If an employee who looks tired or ill is feeling okay
- ✓ If an employee can perform job functions
- ✓ About non-disability related impairments or the name of an emergency contact



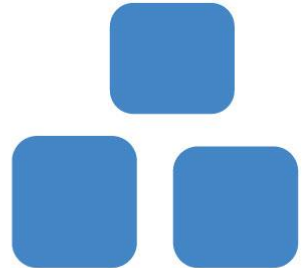


Can an employer ask employees to disclose whether they have any underlying health conditions?

- Generally, no. Asking an employee about underlying health conditions may require them to disclose the existence of a disability that would violate the ADA.
- You also shouldn't ask if an employee is pregnant or taking any medication.

Can you check an employee's health during the COVID-19 crisis?

- Yes, the EEOC has confirmed that, employers are allowed to take employees' temperatures as they come into work, even though that counts as a medical exam under the ADA.
- Companies are also permitted to ask employees who are physically entering the workplace if they have symptoms of, a diagnosis of, or if they have been tested for COVID-19.





Can you require a doctor's note if an employee is returning from an absence related to COVID-19?

The EEOC has stated that an employer may require an employee who was out sick as a result of COVID-19 to provide a doctor's note that certifies they are able to safely return to work.

Can you require an employee with a sick family member to stay at home?

Under the ADA, if the employer believes that the employee will pose a direct threat to the workplace either because of, exposure to, or a diagnosis of COVID-19 — employers can ask them to stay at home.



Checklist Return to Work



New Policies

Develop new policies for social distancing as necessary, and decide who will return to work and how



Post Notice

Post the FFCRA poster in a visible place. For employees who will continue working from home, send it by email or add it to your company intranet or employee portal



Document

Make any necessary updates to the employee handbook regarding leave, working from home, hiring practices, travel, or benefits offerings



Health and Safety on the Job

Provide hand sanitizer, cleaning supplies, and face masks or face coverings (where appropriate or necessary) and no-touch disposal receptacles



Sick Employees Stay Home

Ensure that all employees who are currently ill stay home, and be proactive about sending employees who appear to be sick home



Stay Prepared

Develop a plan to operate if absenteeism spikes or if another shelter-in-place or stay at home order occurs in the future

Communicating worksite expectations

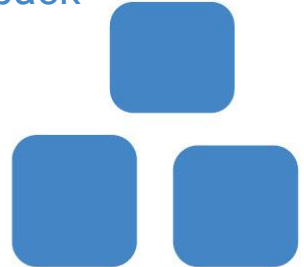
What to explain to employees before returning to work:

- ✓ The schedule for returning to work - who will return and when
- ✓ If they need to wear a face mask
- ✓ If there will be hand sanitizer provided
- ✓ If work hours have changed
- ✓ If you will be taking temperatures



When reopening after business closure due to COVID-19, can you bring some employees back, but not others?

- Yes, if you are recalling some positions, but not others, document the business reasons why only those positions were recalled.
- If you are recalling some employees in a certain position, but not everyone in that position, you should document the objective and job-related criteria you used to decide which employees to bring back



Furlough vs. Layoff

What's the difference?

Furloughs

A furlough is when employees are put on temporary leave for a specified period of time and are often unpaid. Workers still have their jobs and are expected to return when conditions improve.

While they are not paid, furloughed workers often have access to company-sponsored benefits.

Under the new CARES Act, any employee impacted by the COVID-19 outbreak may be eligible for unemployment benefits.

Layoffs

A layoff is when workers are terminated from a company for reasons other than poor job performance. Workers no longer have any legal relationship with the employer and are technically unemployed.

Employees that are laid off are eligible for both unemployment benefits and for health insurance under COBRA (or the Affordable Care Act).



When bringing workers back to work, do you need to complete new hire reporting and paperwork?

- Generally, no. If you have an employee who was not separated from payroll, documenting the temporary layoff or furlough dates for the personnel file is sufficient
- But, any significant changes, like a new job title or pay rate, should be documented

Are you required to give employees the option to telework?

- No. However, working remotely could be considered a reasonable accommodation for an employee under the ADA, so there are exceptions.
- Studies have shown there will be at least an 18% increase in the number of employees that will be working remotely after the pandemic is over.



COVID-19 and unemployment

Will your unemployment rates increase if your employees are filing for unemployment?

In general, the more employees use unemployment benefits, the higher the employer's rate will be.

However, several states have suspended rules that would require an employer's account to be charged if employees are filing unemployment claims for certain reasons related to COVID-19. In such cases, an employer's unemployment insurance rate wouldn't increase.

Check your [state unemployment agency](#) for details.

Can an employee refuse to return to work and still collect unemployment?

In most cases, no, but ultimately it will be up to the state to decide on a case-by-case basis.

Find our latest resources and guidance at:
onpay.com/covid-19



Helping Small Businesses Run