

OSHA Provides Updated Guidance on Workplace Safety as Employees Return to Work



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Many businesses are anxious to resume operations after closing or scaling back because of COVID-19. However, trends in North Carolina COVID-19 diagnoses and hospitalizations show that the pandemic is still very much an issue. The question becomes: what is the best way to balance these competing concerns?

The Occupational Safety and Health Administration recently issued an updated [Guidance on Returning to Work](#) to assist employers and workers during the COVID-19 pandemic. The guidance is a supplement to OSHA's prior "Guidance on Preparing Workplaces for COVID-19" and the White House's "Guidelines for Opening Up America Again." It also contains a "Frequently Asked Questions" section that references guidance from the CDC and the EEOC on COVID-19 safety precautions.

In general, OSHA contemplates businesses taking a three-phased approach to relaxing restrictions imposed to slow the spread of COVID-19. These phases would align with, or be guided by, applicable state and local restrictions including stay-at-home or shelter-in-place orders. In identifying the appropriate phase of operations, businesses should monitor local health department communications to understand how the community or communities in which they operate are progressing through the COVID-19 pandemic.

Phase 1: Businesses in Phase 1 should consider making telework available, or extending the availability of telework, to the extent possible. Employers should also minimize the number of people in the workplace to facilitate strict social distancing practices. To the extent feasible, employers should provide accommodations for workers who are at higher

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risk for severe illness from COVID-19. Employers should also consider providing special accommodations to employees with household members who are at a higher risk for severe illness.

Phase 2: Businesses in Phase 2 should continue to make telework available where possible. Employers may begin to permit more employees in the workplace and allow non-essential business travel. Employers in Phase 2 should continue accommodating vulnerable employees as in Phase 1.

Phase 3: Businesses in Phase 3 may return to regular (unrestricted) on-site staffing.

In each of these phases, employers should develop and implement policies and procedures for preventing, monitoring for, and responding to the appearance or resurgence of COVID-19 in the workplace or in the community. These policies and procedures may include, for example: basic hygiene policies relating to hand washing and cleaning and disinfection; social distancing; ways to identify and isolate sick employees; and workplace controls. Employers should also consider providing workplace training appropriate to the applicable phase. Such training could include both an orientation on the company's safety policies and ensuring that employees and supervisors understand employees' rights under the law and employer policies.

OSHA guidance like this provides helpful suggestions for employers to keep their employees and customers safe. In planning for and implementing return-to-work, employers should also be mindful of the fact that they may have legal obligations to their employees from other sources, including federal and state laws. Businesses should consult with legal counsel to ensure they understand the full scope of their obligations.