



Health and Safety: Bringing People Back to Work During the Pandemic

Presented by
Kara Govro, JD, SPHR

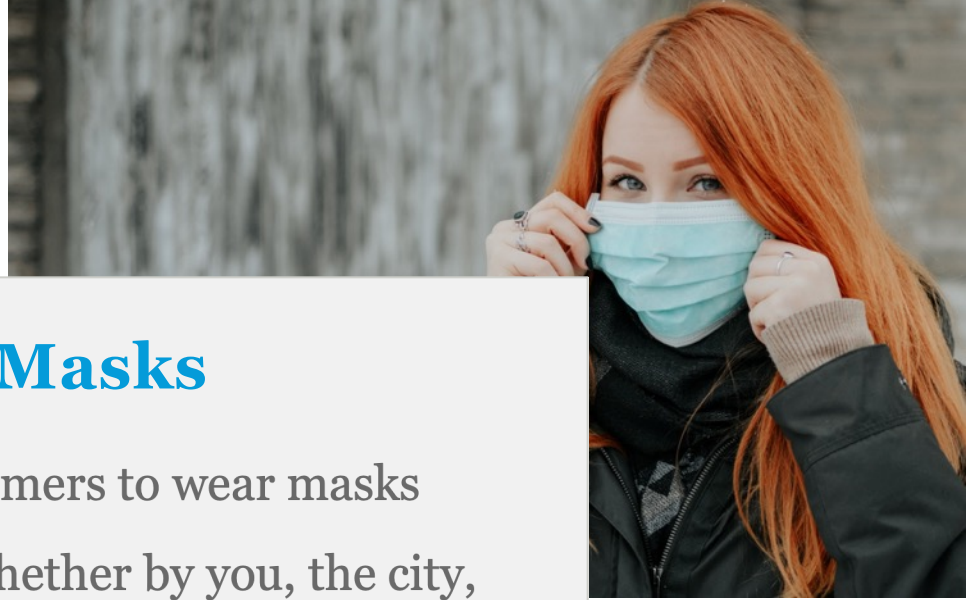
Webinar 101

- You will get a copy of the slides and a recorded version of the webinar within about 24 hours
- We would love to hear from you in the polls

Agenda

- Making the Workplace Safe
- Managing Individual Health
- Dealing with a Diagnosis
- Sick Leave Policies and EPSL

Making the Workplace Safe



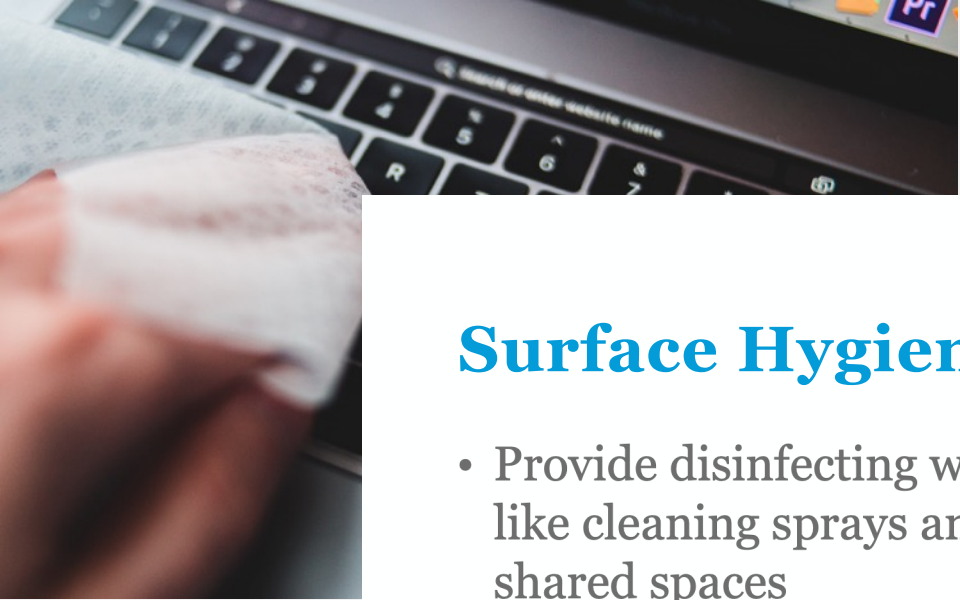
Personal Hygiene – Masks

- Require employees and customers to wear masks
- If required for employees—whether by you, the city, the county, or the state—you should attempt to provide them
- Make a written policy and enforce it
- If necessary or helpful, pick a scapegoat (the owner, the county, the CEO, the CDC, etc.)

Personal Hygiene – Hands

- Have employees wash their hands as soon as they come in the door
- Schedule regular, staggered handwashing throughout the day (A-F on the hour, G-L at 15 after, etc.)
- Provide hand sanitizer if frequent handwashing is impractical or impossible
- Provide hand sanitizer anywhere someone can't avoid a touchpad





Surface Hygiene – Cleaning

- Provide disinfecting wipes and make cleaning products like cleaning sprays and paper towels readily available in shared spaces
- Assign scheduled cleaning of frequently touched surfaces to specific employees
- See EPA's list of products that kill SARS-CoV-2 (COVID list N)
- Mark high-touch surfaces to bring attention to them



Surface Hygiene – Reducing Touch Points

- Doorstops for rooms that don't need the door closed
- Motion-activated, button, or foot-pull door openers
- Motion-activated garbage cans
- Motion-activated water faucets and soap dispensers
- Motion-activated water fountains/bottle filling stations
- Use of key fobs instead of pin pads

Modifications for Spaces Open to the Public

- Stagger customer flow
- Mark the floor with directional arrows and put someone in charge of explaining them
- Remove furniture to reduce capacity and create distance and/or install blockades
- Set up touchless pay systems and help customers figure out how to use them
- Provide hand sanitizer at the door



Modifications for Office Spaces

- Increase ventilation with outside air and look into system upgrades like HEPA filters and UV lights. If airflow can be manipulated, have it move from clean to less clean areas.
- Change seating arrangements – send people to empty desks and conference rooms, break rooms, unused offices, lobbies, courtyards, etc.
- If you can't spread people out well enough, install barriers such as plexiglass, plywood, or cardboard in open workspaces

Modifications for Office Spaces

- Allow people to work from home, whether part time or full time
- Stagger shifts if there is production work that allows for it
- If you don't have set schedules but want to reduce how many people are in the office, assign hours (don't assume that just expanding office hours will do the trick)

Modifications for Meetings

Preferably, figure out how to have meetings online.

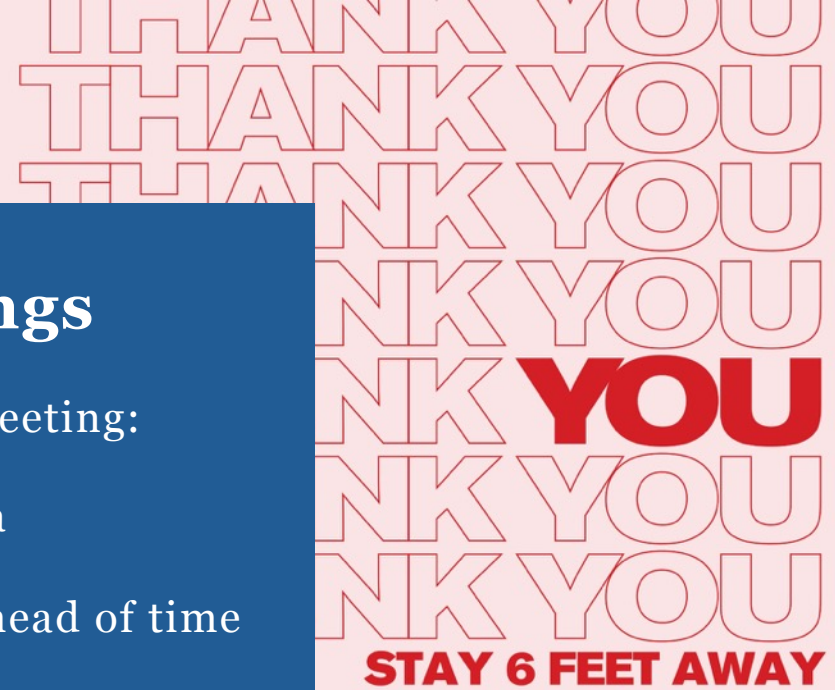
- Cisco Webex
- ezTalks
- Google Meet
- GoToMeeting
- Jitsi Meet
- Skype Meet Now
- Starleaf
- Zoom



Modifications for Meetings

If you simply ***must*** have an in-person meeting:

- Hold it in a large, well-ventilated area
- Set up chairs at least six feet apart, ahead of time
- Ensure that there are obvious, wide pathways so people don't have to dance to get in and out
- Record or simulcast the meeting so those who cannot attend in person still get the benefits (avoid adverse action under the ADA)



Managing Individual Health

Have Employees Self-Assess Before Coming In

- Are they experiencing any symptoms of COVID-19?
Current short list: cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, loss of taste or smell. *Feel free to keep people home for other symptoms as well.*
- Do they have a fever, either perceived or measured, over 100.4 degrees?





Temperature Taking

- Wait at least 30 minutes after eating, drinking, or exercising
- Wait at least 4 hours after fever reducers like Tylenol, Ibuprofen, or Aspirin
- If 100.4+ degrees, the employee should stay home



If You Take Temperatures

- Ensure the person doing the temperature checking has sufficient PPE
- Follow any guidelines provided by the health department or state
- Keep it confidential



If You Ask About Symptoms

- Keep it specific to COVID-19
- Keep it confidential

Dealing with Anxious Employees

- Talk up what you're doing to keep the workplace safe
- Ensure them that you will continue to adapt and are open to suggestions
- Allow them to wear extra PPE or take extra precautions
- Provide them with links to the latest guidance so they can follow along for themselves
- Remind them that if they don't have special circumstances, fear is not a sufficient reason to turn down work

Provide Reasonable Accommodations

The ADA requires reasonable accommodation for employees with disabilities and state law may as well. Hot take: you should also accommodate those with high risk family.

Consider the following, which are probably reasonable if possible:

- Recalling an employee last
- Providing unpaid leave
- Allowing them to work from home
- Allowing or providing additional PPE
- Providing additional hygiene and cleaning breaks

POLL

**How confident are you that you'll be able to
meet workplace health and safety
expectations through COVID-19?**

POLL

**To what degree is HR responsible for
workplace health and safety practices
at your organization?**



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Dealing With a COVID-19 Diagnosis



What if an Employee is Diagnosed?

Other employees should be notified of potential exposure in the workplace—if there was any—but should not be told who is sick. (Yes, this will feel kind of weird and probably freak some employees out since they can't gauge their own risk.)

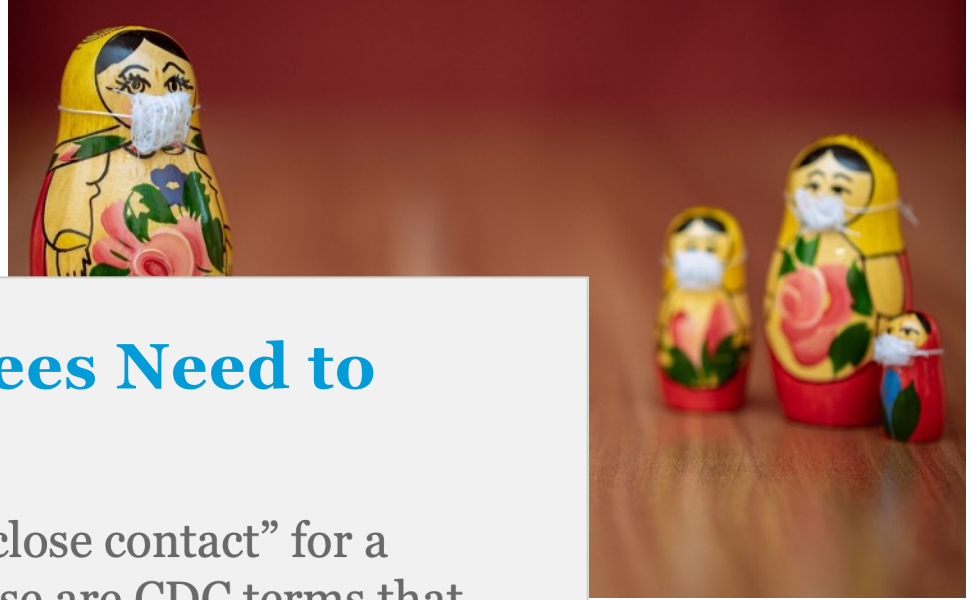
Then follow CDC or local health department guidance with respect to cleaning and quarantining.

When Can They Return?

Sick employees should talk to their healthcare provider to determine when to return. Generally, an employee will be okay to return when:

- At least 72 hours have passed *since recovery*, defined as resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms **and**,
- At least 10 days (current guidance) have passed *since symptoms first appeared*





Do Exposed Employees Need to Quarantine?

Probably not, unless there was “close contact” for a “prolonged period of time.” (These are CDC terms that are not well-defined, but 15 minutes without social distancing or masks probably counts.)

Standing together on a factory line with no masks?
Probably a good idea to quarantine.

Sitting in the next large cubicle over and asymptomatic?
Probably not necessary.

Do We Need to Disinfect or Close the Worksite?

You don't necessarily need to close after a person with confirmed or suspected COVID-19 has been there, but the areas used or visited by the ill person should be closed for 24 hours or as long as possible and steps should be undertaken to clean and disinfect those areas.

CDC Guidance for Disinfecting Areas Used by an Employee Diagnosed with COVID-19

- Close off areas used by the person who is sick.
- Open outside doors and windows to increase air circulation in the area.
- Wait 24 hours before you clean or disinfect. If 24 hours is not feasible, wait as long as possible.
- Clean and disinfect all areas and items used by the person who is sick.
- If you need to vacuum, see additional CDC guidance.
- Once area has been appropriately disinfected, it can be opened for use.
- Workers without close contact with the person who is sick can return to work immediately after disinfection.
- If more than 7 days since the person who is sick visited or used the facility, additional cleaning and disinfection is not necessary.

Sick Leave Policies

Make your sick leave
policy as standard and
well-enforced as your
attendance policy



Change Your Attitude Toward Absence

- Train managers and make them responsible for sick employees
- If you have attendance incentives for individuals *or* teams, suspend them
- Make your call-out policies reasonable so employees don't show up sick just to avoid violating them



Consult State and Local Law

- If you're in a state or city with paid sick leave or family medical leave, there's a good chance those have been expanded to cover COVID-19 (if they didn't already)
- State and local leaves provide job protection and have anti-retaliation provisions, so that must not factor into future decision-making, such as whom to lay off
- These leaves will generally be in addition to what is provided by Emergency Paid Sick Leave (EPSL) under the Families First Coronavirus Response Act (FFCRA)

EPSL Under the FFCRA: National Sick Leave

- Applies to all private employers with fewer than 500 employees and many public employers, regardless of size
- No exception for small employers
- Available to all employees, no matter how long they have been employed
- Employers can take the cost of providing leave right off the top of their payroll tax bill
- EPSL must be offered in addition to any other PTO or sick leave offered. Employees cannot be required to use other benefits first and employers cannot reduce other benefits in response to the Act

EPSL Under the FFCRA: Uses

EPSL can be used when an employee is *unable to work or telework* (and the employer has work for them currently) due to the following reasons:

1. Employee is subject to a federal, state, or local quarantine or isolation order
2. Employee has been advised by health care provider to self-quarantine
3. To seek medical diagnosis for symptoms of COVID-19
4. To care for an individual who qualifies under #1 or #2
5. To care for child if school or place of care is closed

EPSL Under the FFCRA: Duration and Pay

- Full time employees (40+ hours per week) get 80 hours
- Part time employees (less than 40 hours per week) get the number of hours worked on average over a 2-week period
- When caring for themselves, employees will receive 100% of their regular pay, *up to* \$511 per day and \$5,110 total. (Uses 1-3)
- When caring for others, employees will receive 2/3 of their regular pay, *up to* \$200 per day and \$2,000 total. (Uses 4-5)
- Leave can be taken more than once, but can't exceed 80 hours

EPSL Under the FFCRA: Documentation

- The employee's name;
- The date or dates for which leave is requested;
- A statement of the reason the employee is requesting leave; and
- A statement that the employee is *unable to work, including by means of telework*, for such reason.

For a quarantine order or advice, employees should include the name of the governmental entity or health care professional advising self-quarantine, and, if caring for someone else, that person's name and relation to the employee.



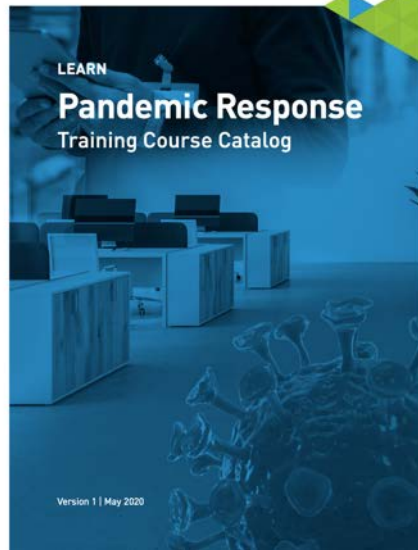
You Can Do More

Have a policy that allows time off for any illness. Limiting the spread of all viruses, and allowing sick people to recover (e.g., hack it out) at home will reduce risk and make people feel safer.

Pandemic Response Training Course Catalog



Think HR
with Mammoth



Version 1 | May 2020

The Pandemic Response Training Course Catalog includes nine courses designed

uncertainty and crisis can set you, on up for success.

Managing in a Crisis

Duration: 20 minutes | **Target Audience:** HR, Managers

Effective leadership is needed during the difficult times of a company crisis. Discover ways of managing in a crisis, including how to manage difficult conversations and crisis communications.

Becoming a Successful Collaborator

Duration: 30 minutes | **Target Audience:** All Employees

Collaboration is a necessary skill in today's labor market. Learn about the meaning of collaboration, teamwork, and best practices for being a successful collaborator. You will also examine conflict management styles that work for you and your team.

Forging Ahead with Perseverance and Resilience

Duration: 30 minutes | **Target Audience:** All Employees

Distractions, information overload, demanding pace, and accompanying stresses can often pull us off task. Developing personal resilience, adaptability, and perseverance can help. Discover how to build a work-life balance, sharpen your focus, and face and overcome setbacks.

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Contributing as a Virtual Team Member

Duration: 20 minutes | **Target Audience:** All Employees

Learn how to develop the skills you need to show leadership and be an effective member of a virtual team. Explore useful personal traits, strategies to stay connected, ways to manage your time, and how to overcome common challenges.



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Return to Work Checklist

Return to Work Checklist



Posting and Policies

<input type="checkbox"/>	Post the Families First Coronavirus Response Act (FFCRA) poster in a visible place. Where employees will remain working from home, send by email or post to Company intranet or employee website.
<input type="checkbox"/>	Review and revise hiring practices and policies: <ul style="list-style-type: none"> ○ Have staffing needs changed? ○ Do you need to change benefits or pay to become more competitive? ○ Use remote interviewing techniques as much as possible. ○ Update onboarding practices. ○ If you are recalling only some workers that were laid-off or furloughed, ensure your practices for determining who to recall do not discriminate against any group of employees.
<input type="checkbox"/>	Review and revise leave policies: <ul style="list-style-type: none"> ○ Know how the FFCRA affects your previous policies and practices. ○ Consider implementing PTO/vacation rollovers, grace periods, and revise guidelines for usage if vacation is forfeited if not used by year end. ○ Consider implementing or revising bereavement leave policies. ○ Ensure that all employees have access to and an understanding of all leave policies that may apply to them.
<input type="checkbox"/>	Review and revise work from home and child care policies.
<input type="checkbox"/>	Update work travel policies in light of any new orders in your state and any new practices being implemented in the workplace to keep employees/customers safe.
<input type="checkbox"/>	Review rehire/reinstate provisions for your benefit policies (eligibility/waiting periods).
<input type="checkbox"/>	Distribute all new or revised policies to all employees.

Health and Safety

<input type="checkbox"/>	Explain company policies and procedures related to illness, cleaning and disinfecting, and work meetings and travel.
<input type="checkbox"/>	Educate employees on how to reduce the spread of COVID-19 at home and at work (follow Centers for Disease Control and Prevention recommendations).
<input type="checkbox"/>	For employees returning to a worksite, make sure they understand what's expected of them in the workplace. For example, must they wear masks? Will masks, gloves, hand sanitizer and other items be provided? Are workplace hours different? Will you be taking employees' temperatures each day when they arrive? Is teleworking or staggered shift work allowed/encouraged?

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April 2020

<input type="checkbox"/>	Ensure that all employees who are currently ill or have contact with an ill family member stay home (follow CDC recommendations for length of time): <ul style="list-style-type: none"> ○ Do not return to work with symptoms. ○ Quarantine for 14 days.
<input type="checkbox"/>	If an employee becomes sick at work, send them home.
<input type="checkbox"/>	Promote safe social distancing in the workplace by encouraging employees to: <ul style="list-style-type: none"> ○ Remain at least 6 feet away from each other. ○ Email, message, call, or video call rather than meeting face to face. ○ Clean computer equipment, desktops, phones, and workstations often.
<input type="checkbox"/>	Provide hand sanitizer, cleaning supplies, and masks (where appropriate/necessary) and no-touch disposal receptacles.
<input type="checkbox"/>	Discourage handshaking.
<input type="checkbox"/>	Place posters throughout the business to encourage social distancing and hand hygiene.

Best Practices

<input type="checkbox"/>	Ensure your workplace cleaning company is up to date on current methods of safely removing COVID-19 hazards.
<input type="checkbox"/>	Communicate frequently and as transparently as possible with employees: <ul style="list-style-type: none"> ○ Provide expected timelines for recalling/rehiring employees. ○ Provide returning employees with recall or offer letters.
<input type="checkbox"/>	Train managers on dealing with employees that may face increased personal challenges during this time, such as bereavement and loss, childcare and school-cancellation challenges, financial stress, and other dependent care and support needs.
<input type="checkbox"/>	Offer flexibility wherever possible and adjust workloads to be reasonable.
<input type="checkbox"/>	Be prepared to quickly investigate and stop discriminatory speech or acts in the workplace.
<input type="checkbox"/>	Consider contracting with an employee assistance program (EAP) if you do not currently have one.
<input type="checkbox"/>	Designate a workplace coordinator who will be responsible for COVID-19 issues and their impact at the workplace.
<input type="checkbox"/>	Develop a plan to operate if absenteeism spikes or if another lockdown occurs in the future: <ul style="list-style-type: none"> ○ Implement a plan to continue essential business functions. ○ Implement flexible work schedules and leave policies. ○ Cross-train employees on performing essential business functions.
<input type="checkbox"/>	Develop emergency communications plans, including a way to answer workers' concerns.
<input type="checkbox"/>	Communicate your appreciation and welcome employees back to work.

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Quick Start Guide: Deciding Who to Recall from Furlough or Layoff

Quick Start Guide

DECIDING WHO TO RECALL FROM FURLOUGH OR LAYOFF

Deciding which employees to return to the workplace following a furlough or temporary layoff, and in what order you'll call them back, will require an individualized analysis for each organization. For those who aren't sure where to start, we provide this as a starting point.

Company Needs

First, think about overall operations in the future. How busy do you expect to be? It's best to slightly underestimate need; if employees stop their unemployment insurance (UI) claims only to be sent home again after a few days, their continuity of income may suffer. It's also easier administratively if you only need to furlough and then recall an employee once. And, you can always recall more employees once you're certain the need exists.

Think about whether there are parts of the products and services you offer that will be more or less important in the future. For instance, a bakery might have very little event catering in the next few months, but may need more delivery drivers. If your company went through the Great Recession, how were you impacted by the economic downturn at that time? Which departments and types of jobs were most essential as business resumed? Which were least essential?

Forecasting future staffing needs will likely require a lengthy discussion amongst the organization's leaders as well as a willingness to change course as business — and the economy itself — fluctuates.

Individual Employee Selection

Once you've settled on a general staffing plan, you'll need to decide which employees you want to return first. Establish one or more criteria for return. You don't have to adhere perfectly to the criteria you choose, but the more closely you follow your system the easier it will be to explain decisions to employees (or government agencies or lawyers) who may be unhappy with your approach. If you deviate from your system, be sure to take good notes on why you did so. Some potential criteria for employee selection include:

- **Unique or difficult-to-replace skill sets.** Business needs will likely dictate when you bring back individuals with special skills, but you may also want to make a point to reach out to these people sooner than later to ensure that they will be available when you need them.
- **Overall performance.** Preferably, performance-based decisions will be based on written documentation you already have, such as performance reviews, production metrics, disciplinary actions, or a history of attendance/tardiness issues. If performance — whether good or bad — has not been previously documented but will still be the basis of your decision, you should take the time to create that documentation now.

layoff decision is a simple, objective reason that can be documented. If the reason is not always in the employer's best interest or if the reason may not correlate with the skills you need most in the future, it may be more difficult to defend.

Outside of their usual assignments. These are uncertain times. Employees may be asked to wear masks, clean the bathroom or make a delivery. If the reason for recall is based on past actions or by asking employees to perform tasks significantly outside their job description, it may be more difficult to defend.

Strengths and standouts in any area. Document your reasoning. All criteria used should be documented.

Discriminating against protected classes is illegal: race, color, religion, sex, age, national origin, disability, citizenship status, marital status, and military status, and so on. Be sure to check state law.

Discrimination in particular that employees may fall into.

Protects employees who are 40 or older. Older employees may be disproportionately impacted by decisions to eliminate the highest earners from your workforce. Be sure to document your reasoning for finalizing your decisions.

Protects employees from the virus by not inviting them back. This should be based on the employee's ability to protect themselves and others. If you are considering making a decision that request, failing to bring an employee back with the best intentions — will be a clear case of age discrimination.

For employees, a similar state law may apply and cover

employers trying to protect their employees. But it is not enough to be based on their known or perceived disabilities and communication you use to offer employees a return to work. They may want to discuss safety issues or accommodations. The decision to do so based on their health — that decision is between

you should engage in the Americans with Disabilities Act (ADA) process. The ADA also must not affect your decision about whether to

For employees, a similar state law may apply and cover

ected leave, whether recently or in the distant past, does not constitute a reliability problem (for instance), it would have otherwise, will constitute retaliation. It is also important to state-mandated sick leaves, leaves under the Family Medical Leave Act (FMLA) and Emergency FMLA under the number of leaves that are protected by state law, such

gh it may feel like a mass furlough is the perfect solution, don't assume that their motives won't be questioned. Document why you chose each employee, as well as why each employee was chosen before

ou time to communicate that plan to everyone as the plan evolves. Don't communicate with the other half, they'll hear about it, and emailing you frantically for more information. Send a message from the outset and put people's mind at ease.

all, you should communicate that decision to each of your employees about their next job opportunity. Stringing someone along by bringing them back will result in ill-will. In the era of COVID-19, when many businesses will be fighting to rebuild their business, especially toward those who will no longer be

Thank You



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