



## COVID-19 Re-Opening Guidelines

May 7, 2020



# Reopening Guidelines-All Phases

## Employer's Duty

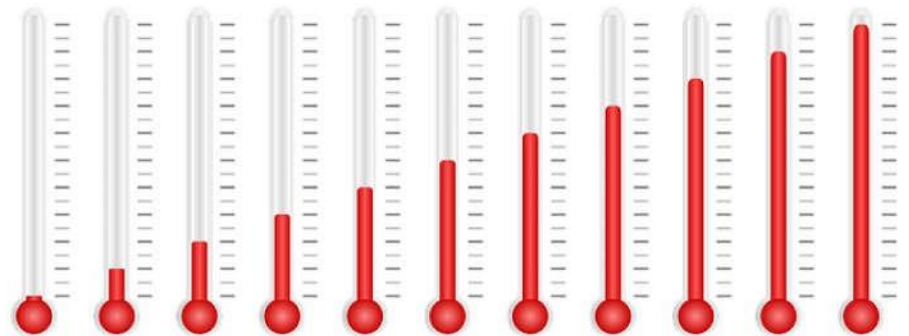
- Develop and implement appropriate policies, in accordance with Federal, State and local regulations and guidance and industry best practices.



# Reopening Guidelines-All Phases

## Employer's Duty

- Social Distancing
- Temperature Checks
- Sanitation
- Disinfect High Traffic Areas
- Limit Business Travel



# Reopening Guidelines-All Phases

## Employer's Duty

- Do not allow symptomatic employees to return to work until cleared by a medical provider.
- Develop and implement policies and procedures for workforce contact tracing following an employee positive test.

**Monitor workforce  
for indicative  
Symptoms.**



# Reopening Guidelines-All Phases

## Centers for Disease Control

- Shortness of Breath
- Difficulty Breathing
- Chills
- Muscle Pain
- Headache
- Sore Throat



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# Phase I-Reopening America

## Employer's Duty

- Continue to ENCOURAGE TELEWORK, whenever possible and feasible with business operations.



# Phase I-Reopening America

## Employer's Duty

- If possible, RETURN TO WORK IN PHASES.



# Phase I-Reopening America

## Employer's Duty

- Minimize NON-ESSENTIAL TRAVEL and adhere to CDC guidelines regarding isolation following travel.





# Phase I-Reopening America

## Employer's Duty

- Strongly consider SPECIAL ACCOMMODATIONS for personnel who are members of a VULNERABLE POPULATION.



- Elderly individuals.
- Individuals with serious underlying health conditions, including high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune system is compromised such as by chemotherapy for cancer and other conditions requiring such therapy.



# Phase II-Reopening America

## Employer's Duty

- Continue to ENCOURAGE TELEWORK, whenever possible and feasible with business operations.



# Phase II-Reopening America

## Employer's Duty

- Close COMMON AREAS where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.



# Phase II-Reopening America

## Employer's Duty

- Strongly consider SPECIAL ACCOMMODATIONS for personnel who are members of a VULNERABLE POPULATION.



# Phase III-Reopening America

## Employer's Duty

- Resume **UNRESTRICTED STAFFING** of worksites.



# Occupational Safety and Health Act

- General Duty Clause
  - Section 5(a)(1) of the Occupational Safety and Health Act (OSHA) requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.



# Occupational Safety and Health Act

## Monetary Penalty

- A willful violation may result in a penalty of \$5,000 up to \$70,000 for each violation.



# Occupational Safety and Health Act

## Workers Compensation

- An illness caused by work exposures can be considered an injury or an occupational disease.
- Occupational diseases are those identified by a State's Workers' Compensation Act, as well as the diseases that occur more often in specific jobs or industries.





# Occupational Safety and Health Act

## Workers Compensation

- Exposure to COVID-19, which resulted in the illness, would most likely be considered an injury, but could also be an occupational disease depending on the type of work performed.
- Most State's require employers to carry workers' compensation insurance or contribute to a State fund.
- Claims result in workforce interruption.



# Occupational Safety and Health Act

## Wrongful Death Lawsuits

- Toney Evans v. Walmart, Inc. et al.
  - Employee died from COVID-19 Complications.
  - An employee at the same Walmart also died four days after Evans.



- It was alleged that management knew that the several other employees exhibited signs of COVID-19 prior to the two employees' deaths.



# Occupational Safety and Health Act

## Wrongful Death Lawsuits

- Negligently and wantonly:
  - Ignoring employees who notified management that they suffered COVID-19 symptoms and allowing them to work without warning the deceased and other employees.



# Occupational Safety and Health Act

## Wrongful Death Lawsuits

- Not disinfecting the store or providing employees with masks, latex gloves and other personal protective equipment.
- Not implementing or enforcing Federal or State social distancing guidelines.
- Failing to evaluate employees for signs and symptoms of COVID-19.



- Hiring new employees without evaluating them for COVID-19.
- Not following recommendations from the CDC, such as:
  - having a disease response plan,
  - implementing infection prevention measures,
  - providing employees with proper supplies, and
  - Developing procedures for prompt identification and isolation of sick people.



# Occupational Safety and Health Act

## Wrongful Death Lawsuits

- Owner of shopping center sued as well.
  - Failing to close Walmart and other businesses knowing the infection was likely.
  - Not inspecting, cleaning or sterilizing Walmart's exterior.
  - Failing to impose procedures or guidelines on Walmart to prevent the spread infection.
- Failing to implement or enforce Federal or State government social distancing guidelines.
- Failing to follow CDC regulations and guidelines to prevent the spread of COVID-19 at commercial buildings and premises.



# Occupational Safety and Health Act

## Law Suit or Workers Compensation

- In some states, workers' compensation may be the exclusive remedy for work place injury or death.
- However, if the circumstances are egregious an exception could exist.



# Occupational Safety and Health Act

## Written

## Infection Prevention Policy

- Promote frequent and thorough handwashing, including by providing workers, customers and worksite visitors with a place to wash their hands.





# Occupational Safety and Health Act

## Written

### Infection Prevention Policy

- Encourage employees to remain home if ill.
  - Encourage respiratory etiquette, including coverings and sneezes.
  - Provide clients and the public with tissues and trash receptacles.
- Establish flexible worksites and telecommuting.
  - Staggered work shifts to increase physical distancing among employees.
  - Prohibit workers from using other employees' phones, desks, offices or other work equipment.





# Occupational Safety and Health Act

## Written

### Infection Prevention Policy

- Cleanliness
  - Maintain regular housekeeping practices.
  - Routine disinfection of surfaces, equipment and other elements of the work place.
  - Use EPA-approved disinfectants that are effective in killing the virus.



- Follow the manufacturer's instructions for use of all cleaning and disinfection products.

# Occupational Safety and Health Act

## Written Policy for Identifying Sick People

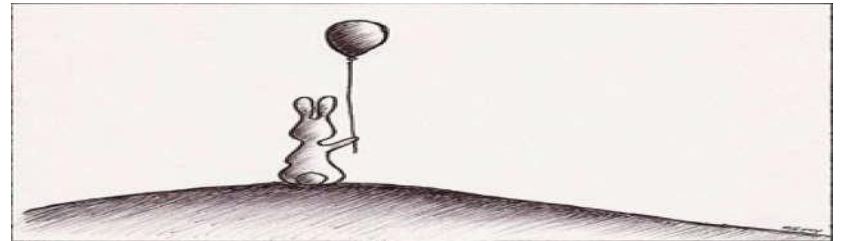
- The policy must be designed to promptly identify and isolate potentially infectious individuals, in order to protect employees, customers and others at the worksite.
- Employees must be informed to self-monitor for signs and symptoms of COVID-19 if they suspect exposure.
- The employer must have a policy and procedure for employees to report when they are sick or experiencing COVID-19 symptoms.



# Occupational Safety and Health Act

## Written Policy for Identifying Sick People

- Employer should develop policies and procedures for isolating people who have signs and symptoms of COVID-19 and train workers to implement them.
- Move potentially infectious people away from other employees and don't permit contact with customers.
  - Designated areas with closable doors may serve as isolation rooms.



# Occupational Safety and Health Act

## **Written Policy for Identifying Sick People**


- Take steps to limit the spread of the respiratory secretions of a person who may have COVID-19.



- Provide a face mask and ask/demand that employees wear it.
- Isolate sick employees.
- Restrict the number of employees entering isolation areas.
- Restrict employees from congregating.

# Occupational Safety and Health Act

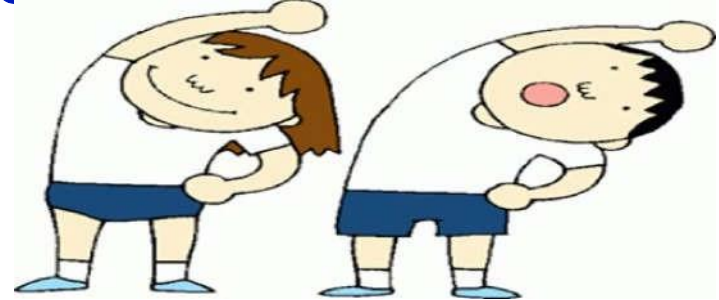
## **Written Policy for Identifying Sick People**

- Protect workers in close contact (within six feet) of a sick person or who have prolonged/repeated contact with other sick people through engineering or administrative controls.
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- Have a process for identifying whether certain employees are high risk.
    - Medium Risk
    - Very high risk
  - Employee certifications may be required.

# Occupational Safety and Health Act

## Communicate and Provide Written Policies to EEs

- Employers must develop, implement and communicate about workplace flexibilities and protections with employees.
- Actively encourage sick employees to stay home.
- Ensure that sick leave policies are flexible and consistent with public health guidance and that employees are aware of the policies.
- Ask you vendors about their COVID-19 policies.



# Occupational Safety and Health Act

## **Communicate and Provide Written Policies to EEs**

- Sick leave policies should not be punitive, in order to encourage employee reporting and safety.
- If employees are afraid to report illness or exposure, the disease will continue to spread.
  - Federal law provides some protection.
  - Employees may also require leave in order to care for an affected family member, which may be paid.





# Occupational Safety and Health Act

## **Communicate and Provide Written Policies to EEs**

- **Be aware of employee concerns about pay, leave, health and safety and other issues that may arise due to COVID-19.**
- **Provide adequate, usable and appropriate training and education and informational material about:**
  - Business essential job functions
  - Worker health and safety
  - Proper hygiene
  - Work place controls (protective equipment)
- **Workers who feel safe are less likely to be absent.**





# Occupational Safety and Health Act

## **Communicate and Provide Written Policies to EEs**

- Employees should be fully informed regarding the availability of insurance and other benefits in the event they contract COVID-19.
- Employers should not condition leave benefits due to respiratory illness on the employee producing a doctor's note.
- Healthcare providers and medical facilities are extremely busy and may not be responsive.
- Delayed leave approval could put the employee's life and others in jeopardy.



# Occupational Safety and Health Act

## Workplace Controls

- OSHA's position is that the best way to control a hazard is to systematically remove it from the workplace rather than rely on employees to reduce the hazard.

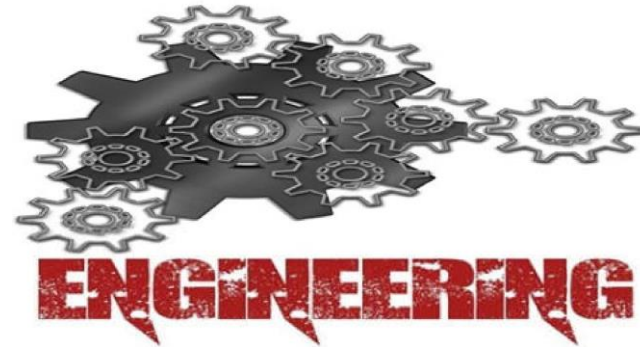


- Engineering Controls
- Administrative Controls
- Safe Work Practices
- Personal Protective Equipment

# Occupational Safety and Health Act

## Workplace Controls: Engineering

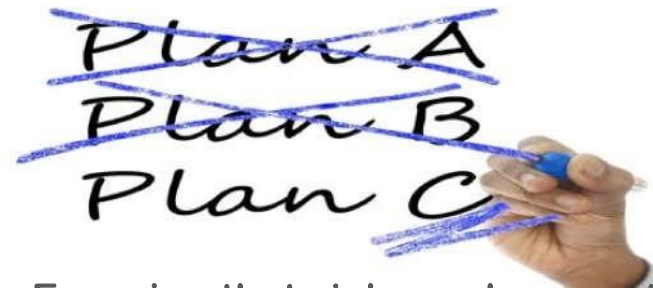
- Engineering controls involve isolating employees from work-related hazards, without relying on employee behavior.
  - Installing high efficiency air filters.
  - Increasing ventilation rates in the work environment.
  - Installing physical barriers, such as plastic screens and sneeze guards.



# Occupational Safety and Health Act


## Workplace Controls: Administrative Controls

- Administrative controls require action by the worker or employer, through changes in policies and procedures.
- Ensuring that sick employees stay home.
- Minimizing contact among workers by implementing teleworking.
- Meet with clients through virtual communication, like Zoom.
- Have employees work on alternating days to reduce the number of employees in the office at one time.



# Occupational Safety and Health Act

## Workplace Controls: Administrative Controls

- Provide employees with up to date training on COVID-19 risk factors and protective behaviors.
  - Discontinue nonessential travel.
  - Train employees on how to put on and wear protective clothing and equipment properly.
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- All training materials must be easy to understand and available in the appropriate language and literacy levels for all workers.



# Occupational Safety and Health Act

## Workplace Controls: Safe Work Practices

- Safe work practices are a type of administrative control that includes procedures for safe and proper work used to reduce the duration, frequency or intensity of COVID-19.



- Providing tissues, no touch trash cans, hand soap, alcohol based hand rubs and disposable towels that employee can use to clean their work space.
- Posting signs regard the proper way to clean hands.



# Occupational Safety and Health Act

## Workplace Controls: Protective Equipment

- PPE should be used to prevent exposure.
  - Gloves
  - Goggles
  - Face Shields
  - Respiratory Protection



- PPE should be selected based on the hazard to the worker.
- Consistently and properly worn.
- Regularly inspected, cleaned, properly stored, as applicable to avoid contamination to the environment and others.





# Thank You!

Questions? Call 802-254-6016

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