

BACK-TO-BUSINESS

Bringing The Workforce Back



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SBA PPP FAQ 46-47: Good Faith Certification

- Borrower, together with its affiliates, that received PPP loan with original principal amount of **less \$2 million** will be deemed to have made the certification in good faith
- Borrowers with loans **greater than \$2 million** may still have adequate basis for good-faith certification based on individual circumstances and prior guidance
 - If deemed that borrower lacked adequate basis: repayment of loan and no forgiveness availability
 - If the loan is repaid, SBA will not pursue administrative enforcement or referrals to other agencies.
- Deadline to return money – May 18, 2020

GENERAL RETURN-TO-WORK PRINCIPLES

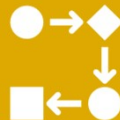
During **Phase One**, employers are recommended to follow five steps

Step One



Continue to encourage **remote work and telework** whenever possible and feasible with business operations

Step Two



If possible, return to work **in phases**

Step Three



Close **common areas** where personnel are likely to congregate and interact, enforce **strict** social distancing protocols

Step Four



Minimize **non-essential business travel** and adhere to CDC guidelines regarding isolation following travel

Step Five



Strongly consider **special accommodations** for workers who are members of a **vulnerable population**

GENERAL RETURN-TO-WORK PRINCIPLES

During **Phase Two**, employers are recommended to follow four steps

Step One



Continue to encourage **remote work and telework** whenever possible and feasible with business operations

Step Two



Continue to close **common areas** where personnel are likely to congregate and interact, or enforce **moderate** social distancing protocols

Step Three



Businesses can resume **non-essential business travel**

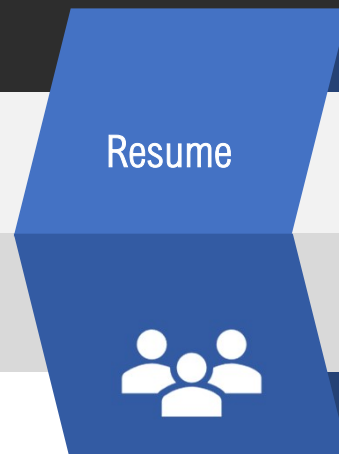
Step Four



Continue to consider **special accommodations** for workers who are members of a **vulnerable population**. Encourage **remote work and telework** whenever possible and feasible with business operations

GENERAL RETURN-TO-WORK PRINCIPLES

During **Phase Three**, employers can resume unrestricted staffing



States and regions that have no evidence of a rebound of COVID-19 cases, and satisfy the gating criteria a third time, are ready to enter Phase Three. During this phase, the guidance is simple: employers can resume **unrestricted staffing** of worksites



Louisiana's Return to Work – Phase I

- › Eff. May 15, 2020
- › Essential businesses (CISA) – follow existing protocols (CDC/OSHA)
- › Non-Essential businesses & churches – follow protocols and limit to 25% occupancy (110 feet per person)
 - › Include employees and customers
 - › State Fire Marshal ([OpenSafely.la.gov](https://www.opensafely.la.gov))
- › Additional businesses removed from 'mandatory closure' list



RESTART PLAN OF ACTION

- › Designate COVID-19 response team
- › Reimagine processes
- › Protocols, procedures and policies
- › Evaluate local and state shutdown orders

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RESTART PLAN OF ACTION

- > Finances (PPP Forgiveness)
- > Supplies, goods and materials necessary to operate
- > PPE supplies
- > Disinfection protocols
- > Protocol for health screening of employees, vendors, visitors, customers
- > Transportation
- > Training of managers, supervisors and employees
- > Signage



WORKPLACE SAFETY

OSHA Compliance

- › General Guidelines
- › Personal Protective Equipment (PPE)
- › Bloodborne Pathogens standard
- › Infectious disease response plan
- › Recordkeeping
- › Reporting

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WORKPLACE SAFETY

Common Questions

- › Employee refuses to return
- › Taking temperatures of employees, vendors and customers
- › Masks in the workplace
- › Fitness for duty exams
- › Employee tests positive



WORKPLACE PRIVACY

- › Antibody testing and other health related info
- › Data privacy statutes
- › HIPAA obligations

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EMPLOYEE RETENTION

- › Program to rebuild trust/loyalty/engagement
- › Pay and benefits
- › Child care
- › Problem identification
- › Problem solving
- › Work site safety



HUMAN RESOURCES

Preparing For Return To The Worksite

- › Safe Workplace Protocols
- › Safety Committee
- › Communications
- › Cleaning/Disinfection
- › Healthy Workforce
- › Signage
- › Protocols for customers and on-site visitors



MANAGEMENT AND SUPERVISORS

- › Advance training on all new policies and protocols
- › Responding to questions or concerns by employees and other stakeholders
- › Share updates impacting the business

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COMMITMENT THROUGH COMMUNICATIONS

Connect and
Retain

- > Strategy
- > Schedule
- > Audience
- > Messenger
- > Methods
- > Messages

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COMMITMENT THROUGH COMMUNICATIONS

Messages –
Common Themes

- › Care and Concern
- › Business Plans
- › Policies and Programs
- › Resources

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COMMITMENT THROUGH COMMUNICATIONS

Methods
to Engage

- › For all employees
- › For employees working remotely
- › For customers / stakeholders

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HUMAN RESOURCES

Best Practices For Returning Employees

- › Furloughed employees
- › Re-hiring terminated employees
- › Arbitration agreements
- › Employment contract revisions
- › Collective bargaining agreement revisions



REMOTE WORK RULES

- › Technology
- › Equipment
- › Work process
- › Written policy

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FAMILIES FIRST RESPONSE ACT

- › Emergency Paid Sick Leave
- › Emergency Family And Medical Leave Act

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EMERGENCY PAID SICK LEAVE

Qualifying Reasons

Must provide paid sick time “to the extent the employee is unable to work (or telework) due to a need for leave because:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. The employee is caring for an **individual** who is subject to an order or self-quarantine as described above
5. The employee is caring for a son or daughter if school or child care is closed/unavailable
6. The employee is experiencing “any other substantially similar condition” specified by HHS (catch all)



EMERGENCY FAMILY AND MEDICAL LEAVE

Qualifying Reasons

12 weeks of job protected leave when:

- > “The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency”
- > Likely FMLA definition of “son or daughter” will apply



EMPLOYEE'S REQUEST FOR LEAVE OF ABSENCE FORM

[Company Name]

Employee's Request for Leave of Absence

This form is intended for use by employees requesting a Leave of Absence pursuant to the Families First COVID-19 Response Act. Employees applying for leave must complete this form and return it to _____ as soon as practicable. Please consult the Company's Emergency Paid Sick Leave Policy and Emergency FMLA Policy [previously sent to employees/posted on _____] for more information regarding your possible entitlement to emergency leave. Additional documentation may be required before leave is approved.

Employee's Name: _____ Date of Request: _____

Start date of requested leave: _____

Date Employee expects to return: _____

Address: _____

Telephone Number: _____

Email Address: _____

LEAVE REQUESTED

A. EMERGENCY PAID SICK LEAVE - UNABLE TO WORK OR TELEWORK (work from home): select reason below:

- (1) ___ I am subject to a Federal, State, or local quarantine or isolation order related to COVID-19. I understand that I must provide documentation accompanying this request to support this requested leave, such as a copy of the Federal, State or local quarantine or isolation



WAGE AND HOUR Compliance

- › State laws
- › Bonuses
- › Pay adjustments
- › Maintaining exempt status

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TRADE SECRETS, NON-COMPETITION, AND DUTY OF LOYALTY ISSUES

- › Confidential information
- › Restrictive Covenant
- › Non-compete restrictions

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BACK TO BUSINESS FOR EMPLOYERS

Engage

- > Develop or enhance social media presence to regularly engage the workforce
 - > Highlight positive projects or outcomes
 - > Encourage employees
 - > Promote special programs, opportunities, company occasions, etc.
- > Institute supervisory huddles at the beginning of each shift to offer words of encouragement, gratitude, and support



BACK TO BUSINESS FOR EMPLOYERS

Listen and
Communicate

- Establish clear lines of communication with employees and/or union representatives
- Communicate on a regular basis
- Consider townhalls via web applications
- Provide updates via email or hardcopy, depending on your operation

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BACK TO BUSINESS FOR EMPLOYERS

Solicit Feedback

- > Set up a feedback portal to solicit questions and concerns
- > Research job placement sites for comments and reviews to identify common threads of employee concerns
- > Conduct an employee engagement survey to get the pulse of the workforce
- > Skip-Level Meetings – Solicit employee feedback about supervisors as a tool for proactively addressing issues before they lead to PCA or union activity by the employees

Visit **FISHER PHILLIPS** **RESOURCE CENTER** for **Employers**

Post-Pandemic Back-To-Business FAQs For Employers

Comprehensive set of FAQs that will be continually updated throughout the recovery period. not only do we go deeper on all these topics, but we also have detailed information about:

- SBA Loans
- Paid Sick Leave and E-FMLA
- Benefits
- Unemployment
- I-9s and Immigration Issues
- International Workplaces
- Trade Secrets Concerns
- ...and more

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Final Questions

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Our wishes, you, your family, your workforce, and
those you care about stay well.