

New OSHA Guidance Clarifies Return-to-Work Expectations

Recommends hazard assessments for each job

By Nancy Cleeland

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The Occupational Safety and Health Administration (OSHA) has issued guidance for reopening businesses that recommends each establishment conduct a hazard assessment for all jobs. It also clarifies OSHA's positions on temperature checks, coronavirus testing and face masks.

"This is fairly consistent with guidance that OSHA has already issued and posted on its website," said Cressinda D. Schlag, an associate at Jackson Lewis in Austin, Texas. "The challenge is how to work this guidance in with the patchwork of orders and other guidance" from federal, state and local governments and health authorities.

SHRM RESOURCE SPOTLIGHT

Coronavirus and COVID-19 (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx)

Among the key takeaways in the return-to-work booklet (<https://www.osha.gov/Publications/OSHA4045.pdf>):

- Employers should conduct a thorough hazard assessment that examines the potential COVID-19 exposures for each job category and outlines protective measures.
- Employers may perform daily temperature checks and health assessments of employees, so long as the checks are administered transparently and fairly and anyone performing the checks is protected from possible infection. However, asking employees to self-check at home may be more efficient, especially when paired with sick-leave policies that encourage workers to stay home if they feel ill. Temperature screening "may have limited utility on its own," OSHA wrote.
- Employers don't have to keep a record of temperature checks or other health assessments for returning employees (unless state or local guidelines require it). If they do, those records could qualify as medical records under OSHA's Access to Employee Exposure and Medical Records standard and would then have to be stored confidentially for the length of the worker's employment plus 30 years.
- Cloth face masks are recommended to prevent the spread of COVID-19 by those who are infected, including those who are asymptomatic or pre-symptomatic, and cloth masks may count as administrative controls for keeping the workplace safe. However, OSHA reiterated that cloth face masks are not personal protective equipment (www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/pages/face-masks.aspx) (PPE) and so are not subject to requirements for training and fit testing. Cloth face masks cannot be used in place of more protective N95 masks, which are required as PPE in certain health care, construction and other settings.
- If PPE is required but not available and there are no other ways to safely do the job, "the work tasks must be discontinued," OSHA wrote.

Feedback

For Kristin R.B. White, a partner at the Denver office of Fisher Phillips, the instructions for conducting hazard assessments for individual jobs were particularly helpful. She's already been recommending that clients conduct such assessments, White said, because one-size-fits-all solutions might not work for everyone. For example, a receptionist dealing with members of the public may require more protection than back-office employees who can be more easily protected from others.

She also said language around creating health assessment records offered greater clarity for employers. In Colorado, for example, employers are required to check temperatures and keep a temporary record of those checks. The OSHA guidance made clear that those records would fall under its 30-year retention requirement only if they are "made or maintained by a physician, nurse, or other health care personnel, or technician."

[SHRM members-only HR Q&A: What are the OSHA record-keeping requirements for cases of COVID-19 in the workplace?]

(www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/osha-record-keeping-covid-19.aspx)

A Framework for Reopening

"While covered employers are always responsible for complying with all applicable OSHA requirements, the agency's standards for PPE (29 CFR 1910.132), respiratory protection (29 CFR 1910.134), and sanitation (29 CFR 1910.141) may be especially relevant for preventing the spread of COVID-19," the guidance noted. "Where there is no OSHA standard specific to SARS-CoV-2, employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970."

As a framework for employers, OSHA listed nine areas that reopening plans should address:

- Hazard assessment, or looking for when, where and how workers are likely to be exposed to the coronavirus on the job.
- Hygiene, including hand hygiene, respiratory etiquette, and cleaning and disinfection.
- Social distancing, or looking for ways to maintain distance between people at work, using 6 feet as a rule of thumb.
- Identification and isolation of sick employees.
- Policies for returning to work after illness or exposure.
- Controls, including engineering and administrative controls, safe work practices, and personal protective equipment selected as a result of an employer's hazard assessment.
- Workplace flexibilities around telework and sick leave.
- Training on the signs, symptoms and risk factors associated with COVID-19 and how to prevent its spread.
- Anti-retaliation policies that ensure that no adverse action is taken against an employee who raises workplace safety and health concerns.

Regardless of the types of infection prevention and control measures employers adopt, OSHA said, employers should consider ways to communicate those measures to workers, including through training and providing a point of contact for any worker questions or concerns. In addition, employers should continue to emphasize social distancing; workplace flexibilities such as telework; and basic hygiene, including handwashing and disinfection of surfaces.

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Feedback