

## Checklist Part II: OSHA and Safety Issues Regarding COVID-19 When Returning to Work

---

May 9, 2020 Matthew Deffebach, Mini Kapoor

---

**PRACTICES** OSHA, Employment Litigation, Labor and Employment, Litigation

---

As more employers re-open or are in the process of re-opening for business, they are following the current guidance for preventing the spread of coronavirus infection in the workplace by, among others, ensuring good hygiene practices, requiring social distancing, and screening employees for the COVID-19 illness. While implementing these safe workplace practices, employers should consider some helpful strategies to avoid claims down the road alleging that they failed to provide a safe workplace.

Significantly, during the current pandemic, thousands of coronavirus-related complaints have been filed with OSHA just during the period when only essential businesses were allowed to operate. With numerous employees returning to work now in non-essential businesses, it is expected that OSHA will be bombarded with additional complaints where employees allege that the safety controls being used by their employers are inadequate to protect them from COVID-19 exposure.

Moreover, some employees or their estates may attempt to by-pass the workers' compensation exclusive remedy scheme and turn to litigation claiming that a COVID-19 exposure was due to an employer's willful/gross negligence in failing to provide a safe workplace.

In order to navigate both potential OSHA proceedings and the threat of civil lawsuits, employers may find the following checklist helpful to review before employees return to the workplace. Of course, every workplace is different and specific measures will depend on the variables unique to each employer. Accordingly, employers should work in consultation with legal counsel on the best approach for their operations. The items discussed below are in addition to those recommended in our first [checklist](#) for returning to work, which addressed safety and other employment issues.

Read the full article [here](#).

Related Alerts:

[Protecting Your Company from Coronavirus-related Premises Liability Claims](#)

[Checklist for Return to Work \(or Reinstatement\) for Employees Impacted by COVID-19](#)

[Federal OSHA's New COVID-19 Enforcement Guidance](#)

[OSHA Relaxes Requirement for Work-related Assessment for COVID-19 Recordkeeping for Certain Employers](#)

[CARES Act Relief Checklist: Considerations in Deciding What Relief is Right for Your Business](#)

[Employers Providing Face Masks Should Review Their Health and Safety Obligations](#)

[Relief for Employers and Workers under the CARES Act](#)

[COVID-19 OSHA Guidance: Hazard Assessments at Workplaces Considered Essential Businesses Under Shelter in Place Orders](#)

[COVID-19 Restructuring and the WARN Act](#)

[FFCRA - Temporary Non-Enforcement - Employer Payroll Tax Credit](#)

[Employment Issues under the Families First Coronavirus Act of 2020](#)

[New York Enacts COVID-19 Sick Leave Act](#)

[Employer Checklist for Responding to a Positive COVID-19 Test](#)

[COVID-19 and Discrimination Issues](#)

[COVID-19 and the American With Disabilities Act](#)

[COVID-19 and OSHA](#)