

Return to Work Toolkit

Introduction

Many counties in Washington State are moving closer, or have already moved, to Phase 2 of the Governor's Safe Start plan to return to the workplace after COVID-19 disruptions. This CH& Return to Work Toolkit is designed to help employers navigate the changing expectations and regulations related to welcoming employees back to the workplace. It pays special attention to the requirements for construction jobsites and office locations.

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Disclaimer

This Return to Work Toolkit represents the knowledge and recommendations of the authors based on the best information known as of the date of publication (June 2020). Information about implementation of the various re-entry Phases is consistently changing and may vary based on county and city policies. Businesses are strongly advised to stay independently abreast of the re-entry rules, policies, and procedures applicable to your industry and business location. The attorneys at Cairncross & Hempelmann remain ready to help you navigate this landscape. We encourage you to reach out with any questions.

About Cairncross & Hempelmann

Cairncross & Hempelmann is a full-service law firm with office in Seattle's historic Pioneer Square District. Founded in 1987, CH& advises companies and individuals in business, real estate, land use, and litigation. Our attorneys stand ready to help clients navigate through the workplace changes created by the COVID-19 pandemic and related announcements by government and health officials.

I. Prepare Your Policies and Facilities

Employers should prepare policies and facilities well in advance of employees returning to work. As part of the Phase 2 reopening, all workplaces will be required to have at each office or jobsite a COVID-19 Plan which states that policies should be carefully reviewed and cross-referenced against requirements provided by local agencies. Facilities may require additional supplies for cleaning or establishing safe return for employees, and delivery of these items may take longer than anticipated. It is wise to plan ahead.

A. Create Back to Work Taskforces

As employees begin returning to work, they will be looking for leadership and guidance to help them navigate your new policies. Designate Taskforce Leaders in advanced to ensure a smooth transition. Below are some proposed job descriptions and responsibilities for your Return to Work teams:

- Return to Work Taskforce Leader:** One individual should be designated as the Head of your Return to Work Taskforce. This person should be responsible for coordinating the other teams and providing guidance to the other team members to ensure all safety protocols and needs are met.
- Site Manager(s) (aka “COVID-19 Supervisor” for jobsite or office location):** These individuals should be responsible for overseeing and coordinating safety protocols and Sanitation Leads, Social Distancing Leads, Inventory Managers, and HR Managers at each jobsite or office location.
- Sanitation Lead(s):** Have at least one individual at each jobsite or office location responsible for managing and implementing daily and periodic sanitation logistics, including routine and deep cleaning and disinfection processes in accord with the protocols. This person should oversee the sanitation teams and check the cleaning audit reports for compliance.
- Social Distancing Lead(s):** Designate at least one individual at each jobsite or office location who will manage the social distancing logistics with respect to employee scheduling, staggering shifts to ensure different arrival/departure times for employees and overseeing the arrival of visitors and other contractors. This person should also assist in preparing your reconfiguration plan for your office or workspace, so as to increase your employee’s ability to maintain a six-foot distance.
- Inventory Manager:** Have one individual responsible for purchasing and maintaining inventory for all necessary sanitation and other supplies to implement safety protocols.
- Communications Lead:** Designate one individual responsible for managing all necessary employee communications regarding workplace safety protocols and for posting information and updates as needed.
- Designated HR Managers:** You should designate a few of your HR professionals as your “Go To” COVID-19 specialists to handle employee questions regarding leaves of absences and other employee policies.

If you are a contractor looking to restart construction or begin a new construction project in Phase 2¹ or a subsequent phase, implementing the above task force leadership positions can certainly help you get your project underway. But it is important to note that contractors, specifically, are explicitly required by Governor Inslee’s “Stay Home, Stay Healthy” plan to designate a site-specific **COVID-19 Supervisor**. The

¹ While King County applied for a modified Phase 1 plan, King County’s approved plan allows construction to proceed under Phase 2 rules. Therefore, if you have new or resuming construction projects within King County, you should comply with the Phase 2 rules discussed herein.

COVID-19 Supervisor shall be responsible for monitoring the health of employees and enforcing the contractor's COVID-19 jobsite safety plan. With the exception of single-family residential jobsites with six or fewer people on-site, a site's designated COVID-19 Supervisor must be present at all times during the project's construction activities. Additionally, contractors are required to clearly post at the jobsite the name and contact information of their COVID-19 Supervisor.

B. Develop a COVID-19 and Phase 3 Safety Plan

Contractors Must Have A “COVID-19 Exposure Control, Mitigation, and Recovery Plan” in Place

As part of Governor Inslee’s Safe Start reopening plan, safety criteria for the construction industry has been issued by the Governor’s Construction Working Group. [The construction COVID-19 jobsite requirements are available on the Governor’s website.](#) Protocols are necessary for construction to commence regardless of which phase a Washington State county is in. Contractors must develop a COVID-19 plan for each jobsite that addresses the following policies for control measures:

- PPE utilization
- On-site social distancing
- Hygiene
- Sanitation
- Symptom monitoring
- Incident reporting
- Site decontamination procedures
- COVID-19 safety training
- Exposure response procedures
- Post-exposure incident project wide recovery plan
- Job hazard analysis (“JHA”)

All professional-service offices must also have a COVID-19 Plan that includes all the policies addressed above, except for JHA. The JHA requirement has been added as part of Phase 2’s requirements for construction as a means to address necessary controls and protection measures for types of work where social distancing cannot be maintained. JHAs are only required for jobsites where workers will be working within six feet of one another. The JHA must cover what L&I has categorized as “medium” and “high” levels of transmission risk by identifying what types of work will fall within those two categories and how the workers will be protected and the risk of transmission be lessened.

- Medium transmission risk includes tasks that require workers to work within six feet of each other for several minutes, several times per shift.
- High transmission risk includes tasks performed by two or more people within confined spaces or work that requires workers to be less than three feet apart for more than ten minutes in an hour, multiple times per shift.

Template plans for Phases 1 and 2 construction are readily available online through many organizations including Master Builders Association and the Building Industry Association of Washington. However, it is always recommended that a careful review and legal consultation occur when adapting a template to fit your specific needs for any such plan or contract.

Create Phase 3 Safe Start Plan

Washington's Phase 3 of the Reopening Plan requires that all reopening employers develop a written Safety Plan outlining how its workplace will prevent COVID-19. Consider incorporating this Toolkit as part of your Safety Plan, but also fill out [this template](#) provided by the State.

C. Create Protocols for Sanitation and Cleaning Workspaces

Before bringing employees back to the office or jobsite, ensure that clear protocols are developed for properly sanitizing workspaces.

Create Regular Sanitation Schedules for Office Spaces

Assign responsibility for regular, regimented disinfection of shared-work areas, including:

- Scheduled sanitation of high-touch areas multiple times a day, such as bathrooms, handles, elevators, printers/scanners, rest areas
- Standard cleaning of entire office on daily basis
- Deep cleaning of entire office on weekly basis
- Increase frequency of HVAC system filter changing
- See Sample Cleaning Checklist provided in **Materials**

Create “Deep Cleaning” and Disinfection Protocol

In the event someone tests positive for COVID-19, be prepared with a deep cleaning plan of the shared workspace to limit the risk to other employees. You may choose, however, in lieu of “deep cleaning” the space, to shut down your office for 72 hours to allow for the natural deactivation of the virus, followed by your regular disinfection of the common areas. The CDC offers [this guidance](#) for deep cleaning procedures.

It is recommended to hire an outside professional cleaning firm to conduct any deep cleaning of your facilities. Put tight controls in place on who enters and exits the site during the cleaning shutdown. Only a select few authorized employees should be on-site to monitor the cleaners during this third-party deep clean process.

If you have other specific questions on how you can maintain a safe and healthy workplace, contact a [Washington Department of Occupational Safety & Health consultant near you](#).

Take Steps to Ensure that the Office Space is Ready for Employees to Return

Many office spaces have been almost entirely shutdown since mid-March 2020. Be prepared for the likelihood that it will take additional cleaning to ready the space for your return. Here are a few things to consider in the days leading up to your office re-opening:

- Deep clean and disinfect entire office/facility prior to anyone returning.
- Replace or clean and disinfect HVAC air filters.
- Safely dispose of any food products that may have been left behind.
- Test your water lines. Unfortunately, the consequences of potential long-term water stagnation are relatively unknown. However, some experts have expressed concerns that the stagnant water left in the water lines of unattended offices can create hazards for returning occupants. The CDC offers this [Water Management Program Toolkit](#) to help reduce the risk of Legionella in your water system.

More information from the CDC with Guidance for Reopening your Workplace is available [here](#).

D. Reconfigure Office Layout

For your office employees, you may need to reconfigure workstations and desks to allow adequate social distancing. Below are some recommendations for rethinking your office workspaces:

- Evaluate current arrangements of desks and consider facing employees away from each other and away from walking pathways.
- Stagger people where possible – spatially and temporally. In Washington, Phase 2 *requires* that indoor office spaces limit their office space occupancy **to 50% of their maximum occupancy**. King County, under its Phase 1.5 Plan, limits office occupancy **to 25% or less** of the space's maximum occupancy. Review employee schedules to ensure compliance with this limit.
- In high-traffic areas, such as near elevators, reception, and near printing/copying machines (or anywhere else where people may tend to queue), place floor decals six feet apart so as to remind visitors and employees to maintain distance. You can purchase Social Distance Floor Decals at [Vistaprint](#) and other online printing stores.
- Install touchless hand sanitation dispensers in these same high-traffic areas.
- Consider other “touchless” equipment (e.g., sign-ins, garbage cans).
- Establish a single point of entry/exit.
- Consider installing physical barriers (e.g., plexiglass) in meeting and reception areas.
- Establish designated areas for pick-ups and deliveries, limiting contact to the extent possible.
- Consider removal of extra seats in conference rooms, and meeting and reception areas.
- Replace multi-use utensils and drinkware with single-use dishes and utensils.

E. Adjust Existing Employee Policies for Leave and Accommodations

Leave and accommodation issues will be an ongoing challenge once businesses are permitted to reopen. Businesses will need to stay diligent about providing leave and accommodations once stay at home orders are lifted and employees begin to return to the jobsite or office. Doing so may require employers to adjust existing leave policies for the foreseeable future. Here are some primary considerations:

- The Families First Coronavirus Response Act (FFCRA) will remain in effect through at least December 31, 2020. This federal act provides up to 10 days of emergency paid sick leave for certain COVID-19 related circumstances, and an additional 10 weeks of leave for school and daycare closures related to COVID-19. Even if your employee has exhausted other types of leave, they may be eligible for FFCRA leave. See the [April 2020 CH& Client Alert](#) on this topic for more information.
- Remember your obligations under the Americans with Disabilities Act and related state law, such as the Washington Law Against Discrimination. Employees with COVID-19 disease or suffering from other effects of the disease may be entitled to leave as a reasonable accommodation. Employers must also be careful not to run afoul of the prohibitions against treating employees disparately because they are regarded or perceived as having a disability. This might arise where an employee is mistakenly thought to have COVID-19 and suffers adverse employment action as a result.
- Depending on the circumstances, employees may be entitled to leave under Washington's Paid Family & Medical Leave Act. If an employee requests time off due to COVID-19, be sure to discuss this option with them and provide information on how to apply, if applicable.

- Setting aside other leave entitlements, employers should consider implementing flexible leave policies. If employees have exhausted other paid leave entitlements, time off can be without pay. Depending on the reason the employee is taking time off, they *may* be eligible for unemployment benefits. [The Washington State Employment Security Department has created an infographic to aid in determining an individual's eligibility for certain benefits.](#)
- Consider flexible work schedules as an alternative to leave and/or as another form of accommodation.
- Review your vacation policy and consider limiting the number of employees permitted to be out on vacation at one time. As part of this policy adjustment, consider requiring employees to quarantine before returning to work, especially if traveling to high-risk areas.
- Consider updating your policies to *require* that employees remain home if they are sick or exhibiting symptoms consistent with COVID-19 or other infectious illness. Include that employees will be sent home from work if exhibiting signs of illness at work. Be cautious that you implement such practices fairly, however, to avoid claims of bias or discrimination.
- Be sure to comply with [Governor Inslee's Proclamation 20-46: High-Risk Employees - Workers' Rights](#), which remains in effect until June 12, 2020, unless extended (which we expect it will be). Key points to remember: If alternate work arrangements and social distancing measures are not feasible, or if the employee declines, the employer must allow the high-risk employee to use any accrued leave or seek unemployment benefits, maintain the employee's health insurance benefits, and the employer is prohibited from permanently replacing high-risk employees.

F. Purchase Personal Protective Equipment (“PPE”) and Sanitation Equipment for All Offices and Jobsites

Prior to reopening an office or jobsite, ensure that there are sufficient equipment and materials to maintain a regular sanitation schedule.

Supplies for Offices

- Confirm each office has an adequate supply of soap, disinfectant spray, sanitizing hand gel, paper towels and tissue.
- Set up portable disinfection stations for each work area, complete with disinfectant spray and wipes and hand sanitizer.
- Confirm your stock of face masks, gloves, and glasses or face shields on-site.
- Maintain an inventory of additional PPE and sanitation supplies with sufficient lead time, so as to account for likelihood of backorders and delays in receiving supplies.
- Sites should keep at least a 30-day supply of sanitation supplies and PPE.
- Ensure that posters and policies regarding hygienic practices are posted in clear view.

Recommended PPE and Sanitation Materials

- **Masks:** Disposable, single-use surgical masks.
- **Nitrile gloves:** TouchFlex/Surgical Nitrile Gloves.
- **Infrared thermometer:** Medical infrared thermometer / Measures ranges 32°C to 42.5°C meets ASTM E965-1998 (2003) (one per 100 employees or for each site locations).

- **Disinfectant spray/wipes:** 10% bleach (sodium hypochlorite) solution made fresh daily, or a hospital-grade disinfectant. Alcohol-based disinfectants must contain at least 60% alcohol.
- **Spray bottles:** 1-liter plastic spray containers.
- **No-touch hand sanitizer floor stand:** One for each high traffic area (e.g., elevators, reception, breakrooms).
- **Face shields:** Provide either safety glasses or polycarbonate face shields for additional protection for employees who may not be able to remain six feet from other people at all times.
- **Bio-hazard container:** Keep bags on hand that can be sealed and tagged as contaminated material.

Supplies for the Jobsite

- **Masks:**
 - For negligible and low transmission risk work: Reusable cloth face coverings that fully cover mouth and nose.
 - For medium transmission risk work: Non-cloth disposable masks such as dust masks, KN95 or other non-approved foreign-system NIOSH-style filtering facepiece respirators, or non-FDA approved procedure masks.
 - For high transmission risk work: (1) Elastomeric half- or full-face respirator with particulate filters; (2) Powered-air purifying respirator (PAPR) with particulate filter. (Tight-fitting respirators must be fit-tested and the wearer must be clean-shaven. No fit-testing is required for loose-fitting systems.); OR (3) Industrial use N95, R95 or P95 or foreign system non-NIOSH approved filtering facepiece respirator (or other particulate respirator).
- **Gloves:** Unlike in Phase 1 where workers had to wear gloves at all times on the jobsite, Phase 2 requires that workers only need to wear gloves in cases where employees are sharing tools or if normally needed for certain construction activities. The type of gloves should be appropriate to the task performed.
- **Eye protection:** Unlike in Phase 1 where workers must wear eye protection at all times on the jobsite, Phase 2 requires that eye protection be worn if normally required to safely perform certain construction work.
- **Handwashing stations:** Handwashing stations with soap and running water; portable washing stations and soap where no running water is available.
- **Thermometers:** “No touch” or “no contact” thermometers highly preferred.
- **Hand sanitizer:** Alcohol-based hand sanitizers with greater than 60% ethanol or 70% isopropanol.
- **Posted notices:** Posters and policies regarding hygienic practices should be posted in clear view.
- **Disinfectant spray/wipes/cleaning supplies:** Maintain an adequate supply of disinfectant spray, sanitization wipes, and cleaning supplies for regular use on the jobsite.

Where can I find Supplies?

- Review the [Environmental Protection Agency \(EPA\) List](#) for products that meet EPA's criteria for use against SARS-CoV-2 (COVID-19).
- [BESS International](#) is prioritizing PPE supplies for Washington businesses and residents.
- [Touch-Free Floor Stand Hand Sanitizer Stands](#)

G. Provide Trainings on HR Policies, Sanitation

HR Training Resources

HR Departments are likely to be inundated with questions and requests as employees return to the workplace. Make sure that your HR Team is abreast of updates and legal requirements for providing leave options for qualifying employees, and that they know of the various options for employees who do not feel comfortable returning to work. Ensure that your HR Department receives training and information so that they are prepared to address questions as they arise.

Webinars/Podcasts/Video Trainings for HR

- <https://courses.jumpstart-hr.com/p/hr-and-people-operations-during-the-coronavirus-outbreak>
- <https://www.hr.com/en/resources/coronavirus>
- <https://www.thinkhr.com/covid19/>

HR Communities

- <https://www.facebook.com/groups/hropensource/>
- <https://hrforhr.org>

Sanitation Training

For those assigned to designated sanitation teams, ensure that they are trained on appropriate cleaning methods and understand which products are approved for use against COVID-19. Below are some links to training resources and information for your sanitation team members:

- [CDC Written Guidance on Sanitation of Facility](#)
- [EPA Written Guidance for Cleaning and Disinfecting Spaces](#)
- [Washington L&I Workplace Safety and Health Guidance](#)
- [Water Management Program Toolkit](#)

Safety Training for All On-Site Employees

Phase 2 requires that *all* on-site employees be trained on new COVID-19 business policies, and sanitation and social distancing requirements. As part of the training, office employees should receive a copy of the Phase 2 Guidance for Professional Service Offices, along with the published workplace safety recommendations from OSHA and Washington Department of Labor, as provided in **Materials**.

Construction Jobsite Required Trainings

Like Phase 1's requirements, Phase 2 requires contractors to conduct a safety stand-down/toolbox talk/tailgate training session on all jobsites on the first day of returning to work or of a new project, and weekly thereafter, to go over the protective measures in place for all workers. The trainer will sign in each attendee, attendance will be communicated verbally, and social distancing must be maintained at all such trainings. While not required in Phase 1, contractors must ensure that they educate/train the workers about COVID-19 symptoms, how to prevent transmission, and the contractor's COVID-19 policies in the language understood best by the worker.