

The background is a dark blue gradient with a subtle pattern of white dots. On the left side, there are several overlapping circular elements. A large, semi-transparent scale is visible, with numbers ranging from 140 to 260. The scale has tick marks and is partially obscured by other circular patterns. There are also several smaller circles, some with dashed outlines and arrows, suggesting a sense of motion or a process. The overall aesthetic is clean, modern, and technical.

BUSINESS REOPENING AFTER COVID-19: WHAT EMPLOYERS NEED TO KNOW

DISCLAIMER

- This is strictly for informational purposes. The information is intended to be used solely by the subscribers to the Webinar.
- Any answered questions are for hypothetical purposes only. There is no attorney-client privilege information or specific advice.
- If you have specific questions and are a part of Foley & Foley's On-Call Triage Service, then please feel free to reach out to me at wendy@foleylawpractice.com.

CDC GUIDELINES FOR REOPENING

- The CDC last week issued guidance for reopening businesses and described best practices by sector. The Trump administration subsequently removed these guidelines. However, this is still crucial information with regard to OSHA complaints and subsequent state guidance.

GENERAL GUIDANCE - PHASES

- Phase 1: Reopen only if business can ensure **strict** social distancing, proper cleaning and disinfecting requirements, and protection of your workers and customers. If you cannot do this, then do not yet open until this is possible.
- Phase 2: Reopen only if business can ensure **moderate** social distancing, proper cleaning and disinfecting requirements, and protection of your workers and customers. If you cannot do this, then do not yet open until this is possible.
- Phase 3: Reopen only if business can ensure limited social distancing, proper cleaning and disinfecting requirements, and protection of you workers and customers.

GENERAL GUIDANCE – SAFETY ACTIONS

Promote Healthy Hygiene Practices (Phases 1-3)

- Enforce hand washing, covering coughs and sneezes, and using cloth face coverings when around others where feasible; however, certain industries may require face shields.
- Ensure that adequate supplies to support healthy hygiene behaviors, including soap, hand sanitizer with at least 60 percent alcohol, tissues, and no-touch trash cans.
- Post signs on how to stop the spread of COVID-19

GENERAL GUIDANCE – SAFETY ACTIONS

Intensify Cleaning, Disinfection, and Ventilation (Phases 1-3)

- Clean, sanitize, and disinfect frequently touched surfaces at least daily and shared objects between use.
- Avoid use or sharing of items that are not easily cleaned, sanitized, or disinfected.
- Ensure safe and correct application of disinfectants.
- Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible by opening windows and doors, using fans, or other methods. Do not open windows and doors if doing so poses a safety risk to individuals and employees using the workspace.
- Take steps to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of Legionnaires' disease and other diseases associated with water.

GENERAL GUIDANCE – SAFETY ACTIONS

Ensure social distancing (Phases 1-3)

- Limit service to drive-throughs, curbside take out, or delivery options, if possible (Phase 1).
- Consider installing physical barriers, such as sneeze guards and partitions, and changing workspace layouts to ensure all individuals remain at least six feet apart.
- Close communal spaces, such as break rooms, if possible (Phase 1) or stagger use and clean and disinfect in between uses (Phases 2 & 3).
- Encourage telework for as many employees as possible.
- Consider rotating or staggering shifts to limit the number of employees in the workplace at the same time
- Replace in-person meetings with video- or tele-conference calls whenever possible.
- Cancel all group events, gatherings, or meetings of more than 10 people (Phase 1), of more than 50 people (Phase 2), and any events where social distancing of at least 6 feet cannot be maintained between participants (all Phases)
- Restrict (Phase 1) or consider limiting (Phase 2) any nonessential visitors, volunteers, and activities involving external groups or organizations.
- Limit any sharing of foods, tools, equipment, or supplies.

GENERAL GUIDANCE – SAFETY ACTIONS

Limit travel and modify commuting practices (Phases 1-3)

- Cancel all non-essential travel (Phase 1) and consider resuming non-essential travel in accordance with state and local regulations and guidance (Phases 2 & 3)
- Ask employees who use public transportation to consider using teleworking to promote social distancing
- Train all managers and staff in the above safety actions. Consider conducting the training virtually, or if in-person, ensure that social distancing is maintained.

GENERAL GUIDANCE – MONITORING AND PREPPING

Checking for signs and symptoms (Phases 1-3)

- Consider conducting routine, daily health checks (e.g., temperature and symptom screening) of all employees.
- If implementing health checks, conduct them safely and respectfully, and in accordance with any applicable privacy laws and regulations. Confidentiality should be respected. Employers may use examples of screening methods in CDC’s General Business FAQs as a guide.
- and in accordance with any applicable privacy laws and regulations. Confidentiality should be respected.
- Encourage employees who are sick to stay at home.

GENERAL GUIDANCE – MONITORING AND PREPPING

Plan for when an employee becomes sick (Phases 1-3)

- Employees with symptoms (fever, cough, or shortness of breath) at work should immediately be separated and sent home.
- Establish procedures for safely transporting anyone sick to their home or to a healthcare facility.
- Notify local health officials, staff, and customers (if possible) immediately of a possible case while maintaining confidentiality as required by the Americans with Disabilities Act (ADA); other information on civil rights protections for workers related to COVID-19 is available [here](#).
- Close off areas used by the sick person until after cleaning and disinfection. Wait 24 hours to clean and disinfect. If it is not possible to wait 24 hours, wait as long as possible before cleaning and disinfecting. Ensure safe and correct application of disinfectants and keep disinfectant products away from children.
- Inform those who have had close contact with a person with COVID-19 to stay home and self-monitor for symptoms, and follow CDC guidance if symptoms develop.

GENERAL GUIDANCE – MONITORING AND PREPPING

Maintain healthy operations (Phases 1-3)

- Implement flexible sick leave and other flexible policies and practices, such as telework, if feasible.
- Monitor absenteeism of employees and create a roster of trained back-up staff.
- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
- Create and test communication systems for employees for self-reporting and notification of exposures and closures.

OSHA POSTER ON MASKS

- Wash your hands prior to putting on the face mask
- Check for any damage
- Cover both your nose and mouth with the mask
- Adjust to ensure there is no leakage
- Wash your hands after taking off the mask
- <https://www.osha.gov/Publications/OSHA4015.pdf>

CDC POSTERS

- Handwashing: https://www.cdc.gov/handwashing/pdf/19_309599-A-Frankson_Handwashing.pdf
- Respiratory etiquette: https://www.cdc.gov/flu/pdf/protect/cdc_cough.pdf
- Germs: <https://www.cdc.gov/handwashing/pdf/poster-germs-are-everywhere.pdf>;
<https://www.cdc.gov/coronavirus/2019-ncov/downloads/stop-the-spread-of-germs.pdf>
- Cloth Coverings: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/cloth-face-coverings-information.pdf>
- How to protect yourself and others: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention-H.pdf>
- What to do if you are sick: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/sick-with-2019-nCoV-fact-sheet.pdf>

CALLING BACK EMPLOYEES

You need to offer the employee the same position they had prior to the furlough or lay off. They cannot continue on unemployment if they refuse the same position.

- Employees who are scared – those who do not return out of fear or concerns related to COVID-19 that are not backed up by a health care profession either need to come into work or they will have resigned from their position. They will not be able to collect unemployment.

CALLING BACK EMPLOYEES

- Employees who need an accommodation – those who are considered at-risk (65+ or immune compromised) can request for an accommodation. You must:
 - Engage in the interactive process with the health care provider
 - Determine a reasonable accommodation (you can chose amongst accommodations)
 - Determine if all of the reasonable accommodations pose undue hardship.

CALLING BACK EMPLOYEES

- Employees who qualify for leave under the FFCRA – they are entitled to Emergency Paid Sick Leave or Emergency Family and Medical Leave if:
 - They are subject to a quarantine or isolation order, they are required to self-quarantine due to the recommendation of a health care provider because of concerns related to COVID-19, they have symptoms of COVID-19 and are seeking a diagnosis, they need to care for an individual who is required to self-quarantine at the recommendation of a health care provider, or the child's school has been closed due to COVID-19.

CALLING BACK EMPLOYEES

- Employees are entitled to unemployment if it is not the same job the previously held with the organization and if they exhausted leave under the FFCRA and still cannot return to work.
- If you receive at least \$1 from unemployment (regular or PUA) you then will receive the additional \$600 every week until 7/31/20.
- If you don't have the exact same position open, consider including hazard pay to entice employees to work.

RELIABLE SOURCES

- Department of Labor's – this agency is in charge of promulgating and executing the rules under the FFCRA, if it comes from them, then it is the most accurate/up-to-date information.
- Internal Revenue Service – this agency is in charge of applying tax credits to the FFCRA, they will have the most up to date information.
- Department of Treasury – this is department in charge of the PPP loans, here's their update FAQ to lenders: <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.
- Center of Disease Control – In charge of providing evidence-based, scientific information on COVID-19, how to prevent it, how to manage it, and what they symptoms are.
- State or Local Government Orders – each state website has an location where all the executive orders are kept. The order will have the list of essential businesses and the expected enforcement.
- State Department of Health – This will provide the up to date statistics on COVID-19 in your area.
- For SBA loans (PPP) – TALK TO YOUR LENDER, they are the entity taking on the liability of the loan, you want to be sure what they expect from you for forgiveness and implementation of the loan. Link to the interim final rule: https://www.sba.gov/sites/default/files/2020-04/PPP%20Interim%20Final%20Rule_0.pdf and additional guidance: <https://www.sba.gov/sites/default/files/2020-04/Interim-Final-Rule-Additional-Eligibility-Criteria-and-Requirements-for-Certain-Pledges-of-Loans.pdf>

BIO – WENDY HANSEN

- After graduating law school on a merit scholarship, Wendy Hansen organized and created a legal compliance program for a large manufacturer in Massachusetts. Starting from the ground up, Wendy taught legal compliance and leadership training; implemented and produced policies from employee records to employee reviews; drafted and implemented a framework for a new Human Resources department for the company; and conferred with upper management regularly on HR and general business problems. This experience gives Wendy an insider's perspective on the day to day challenges HR and management face.
- As well as her strong human resources background, Wendy worked at an insurance defense litigation firm in Boston. She reviewed and analyzed employment law agency charges, demand letters, and litigation. Wendy worked with employers under their employment practice liability insurance on a variety of claims, including harassment, discrimination, retaliation and wrongful termination.
- Wendy graduated from New England School of Law, cum laude and received the Outstanding Scholastic Achievement Award. She was an Comment and Note Editor for New England Law Review, where her case comment, *Morrow v. Balaski: When Good Intentions Go Bad*, was published. She was a Mock Trial Regional Finalist her second year.
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Q&A

The background is a dark blue gradient with a field of small white stars. Overlaid on this are several technical diagrams in a lighter blue color. In the top right, there is a large circular gauge with a scale from 0 to 210 and a needle pointing to approximately 190. Below it is a smaller circular diagram with concentric circles and arrows. In the bottom right, there is another circular diagram with concentric circles and arrows. In the bottom left, there is a circular diagram with a dashed arrow pointing left. In the top left, there is a small circular diagram with a dashed arrow pointing left.