



## **Reopening a Business Without Opening Employer Liability #2**

Employers face a myriad of issues in thinking through whether and how to reopen for business, or how to thoughtfully phase out furloughs or teleworking models currently in place for ongoing enterprises. While federal, state, and local authorities haggle over who will decide which businesses can reopen and under what circumstances, employers should start preparing now.

### **Requiring an Employee to Stay Home**

An employer can require an employee to stay home and not work on site in three situations. First, if an employee has returned from traveling internationally. Second, if an employee is exhibiting symptoms of COVID-19 such as a fever (100.4 F or higher) and shortness of breath/difficulty breathing. Third, if an employee has had close contact with someone who has a confirmed diagnosis of COVID-19 (including any person that resides in the employee's household). In these situations, an employer is not required to pay an employee for the time out and we recommend requiring the employee to provide medical certification of fitness for duty before they return to work on site.

### **Recommended Phases of Returning to Normal Operations**

We recommend employers reopening mirror the phased recovery periods following the three federal government guidelines.

1. Continuing to follow safety recommendations regarding social distancing; use of personal protective equipment (PPE); disinfection of all common, high-traffic areas; and limiting business travel. Temperature testing may also be considered.
2. Monitoring your workforce for indicative symptoms.
3. Continuing to enforce policies and procedures for workforce contact tracing following an employee testing positive for COVID-19. This would include continuing to ask infected associates to identify all individuals who they worked in close proximity to.

### **Phase One**

Under the guidelines, at Phase One, all employers should:

- Continue to encourage telework, whenever possible and feasible with business operations;
- Close common areas where employees are likely to congregate, and enforce strict social distancing protocols;
- Minimize nonessential business travel; and

- Strongly consider special accommodations for employees who are members of a vulnerable population.

Vulnerable individuals include the elderly, pregnant women, people with serious underlying health conditions, and people whose immune system is compromised. If an option, maintain remote work operations for at risk associates.

## **Phase Two**

Under the guidelines, at Phase Two, all employers should:

- Continue to encourage telework, whenever possible and feasible with business operations;
- Close common areas where employees are likely to congregate, and enforce moderate social distancing protocols; and
- Strongly consider special accommodations for employees who are members of a vulnerable population, including providing PPE or an alternative work assignment.

In Phase Two, nonessential business travel can resume.

## **Phase Three**

Under the guidelines, at Phase Three, employers can resume unrestricted staffing at worksites.

SESCO Management Consultants will continue to monitor and report on developments with respect to the COVID-19 pandemic and will post updates in the firm's [COVID-19 Resource Center](#) as additional information becomes available.

SESCO retainer clients and members of select associations can call or email SESCO to discuss specific industry, state and/or company questions and concerns. Those receiving these alerts that are not SESCO clients can contact SESCO by phone, fax or email to explore support options.

To ensure that you are receiving the most up to date information, please subscribe to [SESCO News Blasts](#).



**P.O. Box 1848  
Bristol, Tennessee 37621  
(423) 764-4127  
(423) 764-5869 (Fax)**

**web site: [www.sescomgt.com](http://www.sescomgt.com)  
e-mail: [sesco@sescomgt.com](mailto:sesco@sescomgt.com)**