Health and Safety Protocols for Reopening Municipal Offices Checklist

PRACTICAL LAW GOVERNMENT PRACTICE

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A Checklist of health and safety considerations for local governments reopening office facilities after closing or reducing operations in response to a public health emergency, such as the 2019 novel coronavirus disease (COVID-19) global pandemic. This Checklist addresses protocols municipalities can use to protect employees and the public at a typical city hall facility. It provides guidance on social distancing policies, workplace and public area modifications, and screening protocols.

Many local governments either partially or totally shut down their on-site office operations in response to the 2019 novel coronavirus disease (COVID-19) global pandemic. Those measures have included directing some or all office employees to work from home or closing facilities to the public. This resource addresses health and safety protocols municipalities should consider when reopening offices following closures and disruptions resulting from the COVID-19 pandemic.

For legal and practical considerations associated with reopening municipal offices and bringing employees back to work, see Municipal Office Reopening and Return to Work Checklist (W-025-4053). For steps the Centers for Disease Control and Prevention (CDC) recommends for resuming office operations, see CDC: COVID-19 Employer Information for Office Buildings. For further guidance on emergency preparedness and response for local governments, see:

- Continuity of Operations Plan for Local Government Checklist (W-024-4808).
- Municipal Office Emergency Preparedness Checklist (W-024-9698).

- Municipal Office Emergency Response Checklist (W-024-9958).
- Temporary Remote Employee Considerations for Government Employers Checklist (W-024-7118).

For more information and resources on COVID-19 generally, see Global Coronavirus Toolkit (W-024-3138) and Government Coronavirus Toolkit (W-025-0513).

IMPLEMENT SOCIAL DISTANCING MEASURES

- Develop a social distancing policy. Clearly communicate the policy to all employees before asking them to return to the workplace. (See Standard Document, Social Distancing Policy. (W-025-3320))
- Train:
  - managers about the importance of the policy and the need to consistently enforce it; and
  - employees on the importance of social distancing and the need for collective compliance to ensure its effectiveness.
- Consider scheduling measures designed to minimize the number of employees in the workplace or common spaces (such as entrances and in and around elevators) at a given time, such as:
  - continued or increased teleworking to the extent feasible;
  - alternating work schedules by day or time of day;
  - staggered lunch and break times; and
  - staggered arrival and departure times.
- Impose limits on gatherings of both employees and the public by, for example:
  - encouraging and facilitating online meetings and limiting in-person meetings;
  - capping the numbers of people permitted to attend any given meeting in person;
  - closing dining areas and break rooms or imposing social distancing measures for their use; and
  - encouraging employees to take lunch or breaks at their desks, outdoors, or in a larger area where social distancing is possible rather than a smaller dining area or common break room.

- Upgrade teleconference or videoconference technology to accommodate:
  - increased use of online meetings; and
  - municipal court proceedings.

  (See Municipal Office Reopening and Return to Work Checklist: Determine How the Municipality Will Handle Public Gatherings and Proceedings (W-025-4053) and Holding Virtual Municipal Public Meetings During the COVID-19 Emergency Checklist (W-024-7342).)
- Prohibit physical contact, such as handshakes.
- Restrict workplace access to non-essential visitors and where possible provide:
  - curbside or drive-through services;
  - service windows with glass or other see-through separation for collecting payments or other in-person transactions;
  - online options for making payments, submitting permit applications, and other transactions and interactions with the government; and
  - payment boxes outside buildings.
- If municipal employees from other facilities normally visit the offices during their workday, consider restricting their access until normal operations resume.
- Consider having employees who travel to multiple locations during their workday, such as code enforcement officers, limit their presence in the office by using measures like:
  - moving between their personal vehicles and government vehicles without entering the building; and
  - submitting reports and other communications electronically.
- Consider using available technological developments (such as watches or other personal devices) that alert employees when they are standing closer than six feet from another individual. However, if requiring the use of specific Internet of Things (IoT) technologies or equipment, be aware of the potential:
  - need to pay for an employee's personal device; and
  - privacy concerns if a device is recording any personal or health information about employees (see Practice Note, The Internet of Things: Key Legal Issues: IoT Privacy and Data Security Regulation (W-002-6962)).
- If possible, impose limits on the number of persons allowed at the same time in:
  - elevators; and
  - restrooms.

MODIFY WORKSPACES AND PUBLIC AREAS AS NECESSARY

- Reconfigure open floor plan workspaces to create:
  - sufficient social distancing based on the most recent Centers for Disease Control and Prevention (CDC) guidance or other official public health directives (see, for example, CDC: Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19) (first issued in February 2020)); or
  - partitions or other physical barriers between employee workspaces.

- Physically mark the necessary intervals on the floor:
  - where needed to assist employees with maintaining proper social distancing;
  - if necessary, around elevators or other common areas where people may congregate; and
  - in areas where citizens may line up to conduct transactions or receive in-person service.
- Redirect foot traffic flow in high-use areas to one-way pathways.
- In high-traffic areas with multiple entryways, consider designating some doors for entering and other doors for exiting.
- Reduce seating capacity in public meeting rooms, conference rooms, dining areas, and other common spaces. For example, consider removing every other chair.
- Consider structural modifications to enable or expand internal service windows or drive-through service.
- Check building systems for health and safety and consider:
  - draining water pipes of stagnant water; and
  - enhancing filtration in HVAC systems.
- Post notices throughout the building reminding employees and others about social distancing, hand washing, and reporting illness and other safety and health protocols.
- Ensure there are sufficient washing stations with soap or hand sanitizer throughout the workplace.

CLEAN AND DISINFECT THE FACILITIES

- Thoroughly clean and disinfect municipal facilities before reopening according to CDC and local guidance (see CDC: Reopening America: Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools, and Homes).
- Determine the best methods to address cleaning and disinfecting needs before and after reopening, considering measures such as:
  - using existing custodial personnel or supplementing crews with new personnel or outsourced cleaning contractors; and
  - engaging office employees to maintain cleaning and disinfecting efforts during their work hours, especially in their individual workspaces.
- Arrange with the facilities coordinator for an enhanced cleaning schedule and routine after reopening.
- Ensure those with cleaning responsibilities have sufficient and appropriate personal protective equipment (PPE) to perform cleaning and are trained on safely using and removing PPE.
- Regularly clean and disinfect high use surfaces, public areas, and employee common areas.
- Prohibit sharing electronic hardware and other office equipment, such as staplers, as much as possible. If shared equipment is essential, such as a copy machine or printer:
  - provide hand sanitizer and disinfecting wipes near the equipment or other appropriate cleaning supplies to promote good hygiene habits;
  - require employees to wipe down equipment before and after each use;

- consider providing gloves for employees to wear when using the equipment and appropriate receptacles for used gloves; and
- encourage employees to find alternatives to using the shared equipment.

■ Make additional cleaning materials available to employees for their personal workspaces to encourage them to be part of containing the virus and protecting employees and others.

■ Communicate with employees about the enhanced cleaning measures the employer is taking to keep the workplace clean and safe.

PROVIDE THE NECESSARY SUPPLIES AND EQUIPMENT AND GUIDANCE ON USE

■ Before reopening, determine what supplies and equipment the local government should provide to implement its health and safety and screening protocols.

■ Recognize that different safety standards may apply to different situations and individuals, for example:

- requiring PPE, such as face masks and gloves, for employees who have public-facing roles; and
- allowing PPE on a voluntary basis in other situations.

(See Practice Note, Pandemic Flu Preparation and Response: Respiratory Protection Standards. (3-505-0385))

■ Provide sufficient supplies and equipment to carry out protocols, such as:

- PPE;
- testing kits if available and appropriate to the workplace;
- thermometers or remote temperature scanners if the municipality plans to take temperatures of employees and others;
- cleaning and disinfectant supplies; and
- hand sanitizers near commonly touched surfaces and at high traffic and common use areas, such as entrances or exits.

■ Provide guidance on:

- proper use procedures for employees and others who are to use PPE in the municipality's facilities; and
- effective cleaning and disinfecting procedures for various surfaces and types of equipment, including electronics.

■ For employees and others who are to use PPE, encourage methods to prevent cross contamination, such as storing masks and gloves separately from other personal belongings when not in use.

■ Allow employees to bring their own PPE if the PPE complies with CDC guidance and is appropriate for the workplace.

TAKE MEASURES TO ENSURE COMPLIANCE

■ Assign a team or individual to monitor and advise on compliance with social distancing measures and other health and safety protocols.

■ Encourage employees to report violations without fear of retaliation.

■ Communicate to employees that violations of the policy may result in disciplinary measures as with other personnel policies.

CREATE SCREENING PROTOCOLS FOR PERSONS ENTERING GOVERNMENT FACILITIES

■ Determine the level and types of screening the municipality should use for:

- employees (see Implement Screening Measures for Employees);
- government officials, including elected officers, board members, and municipal court judges;
- contractors and vendors who come to the offices; and
- visitors.

■ Consider using signage or other measures to prevent persons from entering the municipality's facilities if they:

- have been in close contact (within six feet) with a confirmed case of COVID-19;
- have been in locations or participated in activities that subjected them to an elevated risk of exposure to COVID-19; or
- are experiencing any symptoms associated with COVID-19, as shown on signage or otherwise made known by the municipality (see CDC: Symptoms of Coronavirus).

■ Consider taking the temperature of employees and other persons entering the local government facilities. If taking temperatures:

- determine who will take the temperatures and what method to use, such as with a forehead thermometer or a thermal-imaging scan to detect a fever;
- consider non-touch temperature-taking technology, such as telethermographic device systems, which detect human temperature compared to the surroundings and have been approved by the FDA for screening purposes during the COVID-19 pandemic with certain recommendations (FDA: COVID-19: Thermography Devices Guidance);
- ensure the individuals taking employees' temperatures are trained professionals or that they receive appropriate training;
- provide the temperature takers with adequate PPE, including physical barriers;
- require temperature takers to follow safe PPE protocol, such as guidelines for removing and disposing of gloves and replacing them with new gloves;
- provide guidelines for the temperature takers to be discreet when advising persons that they have elevated temperature readings;
- understand that temperature alone is not necessarily indicative of illness;
- ensure there are sufficient temperature stations, personnel, and distancing measures so that building entry procedures do not violate social distancing protocols;
- determine whether to maintain records of employee temperature readings, considering the extent to which state public records acts and privacy requirements for employee medical records apply; and
- prepare potential responses for employees and others who refuse to have their temperature taken.

■ Evaluate the municipality's legal authority for its plans to screen the public and place restrictions on visits and interactions. Decide

on an appropriate mechanism for implementing these measures, such as:

- a resolution or other official action of the governing body; or
- an order of the mayor.

■ Recognize that protocols are likely to change if:

- antibody or immunity testing is generally available and reliable; or
- a safe vaccine becomes available.

IMPLEMENT SCREENING MEASURES FOR EMPLOYEES

■ Implement screening measures for all employees who report to the municipality's offices, including:

- performing routine daily health checks at building entries (see Create Screening Protocols for Persons Entering Government Facilities);
- documenting the procedures in a written policy; and
- communicating the policy to all employees and conducting training on implementing and enforcing the policy.

■ Consider using health questionnaires to gather information about an employee's:

- symptoms;
- recent travel; and
- exposure to infected individuals.

■ Understand that the Equal Employment Opportunity Commission (EEOC) has approved the use of certain screening measures without violating the Americans with Disabilities Act of 1990 (ADA) during the COVID-19 pandemic, including:

- asking employees about their symptoms, relying on the CDC, public health authorities, or other medical professionals to identify relevant symptoms;
- monitoring employees' temperatures using a forehead thermometer or remote temperature scanner, recognizing that some people with the virus do not run a fever;
- screening applicants for symptoms after making a job offer and, for a newly hired employee who is symptomatic, either delaying the start date or withdrawing the offer if the municipality needs to fill the job immediately and the position requires in-person work (the EEOC has issued guidance authorizing an offer of withdrawal, but determine whether this conflicts with state law); and
- disclosing the name of COVID-19-positive employees to a public health agency (but not to other employees).

(EEOC: What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws: Question G.1 (ADA Guidance); see also Anti-Discrimination Laws: State Q&A Tool.)

■ Do not use antibody test results for determining whether to allow employees to return to the workplace. CDC guidance states that employers should not use antibody test results to make return to work decisions. The EEOC has stated that requiring antibody testing before allowing employees to enter the workplace is impermissible under the ADA, though this may change if the CDC changes its position. Note that an antibody test is different from testing to determine if a person currently has COVID-19. (EEOC: ADA Guidance: Question A.7 (updated June 17, 2020)).

■ Recognize that the degree of allowable screening may change as the severity of the pandemic diminishes.

■ Develop procedures to ensure that all screening and testing is conducted in a confidential manner and that information gathered is kept confidential.

■ Require employees to inform human resources (HR) or a member of the COVID-19 response team before returning to work if they:

- have been diagnosed with COVID-19;
- are experiencing COVID-19 symptoms, recognizing the CDC or other public health authorities may revise the list of COVID-19 symptoms as they learn more about the disease;
- have been in close contact (within six feet) with a confirmed case of COVID-19; or
- have been in locations or participated in activities that subjected them to an elevated risk of exposure to COVID-19.

■ Require sick employees to stay home.

■ Develop enhanced protocols for individuals returning to work who previously tested positive for COVID-19, were sent home with COVID-19 symptoms, or were quarantined because of exposure to an employee or other individual with COVID-19, including measures like:

- requiring a medical certification of fitness to return to work, though employers should recognize the strain on the medical system during a pandemic and not place undue burdens on employees or medical professionals;
- conducting testing or requiring proof of negative test results; and
- asking about the employee's quarantine behavior to ensure they did not risk further exposure, but considering that certain state laws restrict employers from taking adverse actions based on an employee's lawful off-duty activities.

■ Determine whether to require testing of all employees or offer testing at the workplace. Although EEOC guidance allows testing where an employee may pose a direct threat to others, such as with the COVID-19 pandemic, most employers do not want responsibility for conducting testing. EEOC guidance further cautions that employers conducting testing must:

- ensure that the test is accurate and reliable;
- recognize the possibility of false-positives and false-negatives with testing; and
- understand that testing only identifies the presence of the virus at a point in time and that an employee can later have an opposite test result.

(ADA Guidance: Question A.6.)

■ If taking temperatures at the workplace, realize that the time waiting for and having employees' temperature taken likely must be paid as compensable time (see Practice Note, Compensable Time Under the FLSA: Overview (9-508-0191)).

■ During later phases of reopening, consider requiring employees to present a certification that they have:

- been vaccinated, once a safe vaccine is available (but be aware of potential liability for religious discrimination by employees objecting to vaccines on religious grounds) (see Mitigating Employer Reopening Liability Checklist: Avoid Common Discrimination Claims (W-025-2473)); or

- received a positive immunity or antibody test, once reliable testing is available.

- Understand that the presence of an antibody to a specific strain of the COVID-19 virus does not necessarily prevent:
  - an employee from contracting the virus again; or
  - a new strain of the virus from developing and infecting the employee.

CONTROL EXPOSURE TO INFECTED OR POTENTIALLY INFECTED EMPLOYEES

- Create a protocol for identifying employee illness or symptoms and promptly isolating employees who are likely to be infected.

- Notify and train employees about the policy and the importance of compliance.

- Promptly send home any employees displaying COVID-19 symptoms. The CDC has found that symptoms may appear between 2 and 14 days after exposure to the virus. Although the list may be further revised, the CDC has found that COVID-19 symptoms may include:
  - fever;
  - cough;
  - shortness of breath or difficulty breathing;
  - chills;
  - repeated shaking with chills;
  - muscle pain;
  - headache;
  - sore throat;
  - new loss of taste or smell; and
  - gastrointestinal symptoms like nausea, vomiting, or diarrhea (less common).

  (See CDC: Symptoms of Coronavirus.)

- Require isolation of symptomatic individuals consistent with CDC guidance (see CDC: Discontinuation of Isolation for Persons with COVID-19 Not in Healthcare Settings (Interim Guidance)).

- Take appropriate measures to clean and disinfect all areas visited and surfaces touched by an infected employee or other individual. Consider a temporary evacuation or partial or total facility closure, depending on the physical space.

- Determine the criteria for allowing employees with a positive test to return to work, such as whether they must get additional testing or are subject to further screening.

- Identify the person that employees should report to when experiencing symptoms or after a positive test result.

- If an employee or other person who has been in the building is infected, develop a contact tracing protocol to determine that person's exposure to others. Contact tracing should cover the time period recommended by public health officials. Contact tracing options may include:
  - a questionnaire or interview process; or
  - a smart phone app (in development) that traces an individual's contacts over a given time period.

- Maintain appropriate privacy of employees' protected health information (PHI) (see Practice Note, HIPAA Privacy Rule (4-501-7220)).

- Notify employees if there has been a confirmed COVID-19 case in the workplace.

- Notify those identified as individuals who came in close contact with an infected employee or another infected person for a prolonged time period without disclosing the infected person's name. Although guidance may change, close contact for a prolonged period is generally considered to be within six feet of an infected person for between ten and 30 minutes, depending on the distance. (See CDC: Public Health Recommendations for Community-Related Exposure.) Some state or local governmental orders may require broader notification protocols.

- Create a protocol for asymptomatic workers who have been exposed to COVID-19. At a minimum, consider applying the CDC guidelines for asymptomatic critical infrastructure workers who have been exposed to COVID-19, which include:
  - pre-screening comprised of measuring employees' temperatures and assessing symptoms each day before the employees enter the worksite;
  - regular self-monitoring for symptoms;
  - wearing a face mask for 14 days after the last exposure;
  - social distancing; and
  - cleaning and disinfecting the workplace.

  (See CDC: Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19.)

- Alternatively, adopt a more conservative approach that requires asymptomatic COVID-19-exposed individuals to self-quarantine for 14 days after exposure. Employers may be more likely to take this approach if employees:
  - can feasibly telework; or
  - are not essential workers.

- Offer employees the opportunity to present proof of immunity to the disease using:
  - antibody testing (to the extent safe and reliable testing has been developed and is available); or
  - other medically accepted procedures.

- Note that information about the disease and the possibilities for contracting it multiple times or across strains is still developing and may change employer calculus on risks.

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