

Transitioning Employees Back into the Workplace

Disclaimer: The information provided in this document does not, and is not intended to, constitute legal advice; instead, all information in this report is for general informational purposes only. Information in this document may not constitute the most up-to-date legal or other information. Viewers of this material should contact their attorney to obtain advice with respect to any particular legal matter. No viewer of this material should act or refrain from acting on the basis of information in this document without first seeking legal advice from counsel in the relevant jurisdiction. Only your individual attorney can provide assurances that the information contained herein – and your interpretation of it – is applicable or appropriate to your particular situation. Use of, and access to, this document does not create an attorney-client relationship between the reader and the National Apartment Association (NAA) or any contributing law firms. All liability with respect to actions taken or not taken based on the contents of this presentation are hereby expressly disclaimed.

Purpose: To educate National Apartment Association (NAA) members on guidance and resources available to assist with safely and effectively transitioning employees back into the workplace to resume business operations as shelter-in-place orders stemming from the COVID-19 pandemic are relaxed.

Applies to: C-suite leadership, human resources personnel, regional property managers and other NAA members who are involved in workforce relations and onsite operations.

Overview: For most employers, protecting workers necessitates emphasizing basic infection prevention measures. All employers should implement good hygiene and infection control practices, including promoting frequent and thorough hand-washing, encouraging employees to stay home if they are sick and reinforcing respiratory etiquette, including properly covering coughs and sneezes.

Maintaining regular housekeeping practices, including routine cleaning and disinfecting of surfaces, equipment and the overall work environment should remain a priority. When choosing cleaning chemicals, employers should consult [information](#) on Environmental Protection Agency (EPA)-approved disinfectant labels with claims against emerging viral pathogens. Products with EPA-approved emerging viral pathogens claims are expected to be effective against SARS-CoV-2 based on data for aggressive viruses. Follow the manufacturer's instructions for use of all cleaning and disinfection products (e.g., concentration, application method and contact time, PPE).

Additionally, employers should develop an "Infectious Disease Preparedness and Response Plan" that includes a section on transitioning employees back into the workplace. The following guidance is offered to help your organization understand the most important factors of this plan to ensure an effective and safe transition back to the workplace for all employees.

Guidance:

1. **Safety Protocols** – Apartment communities face the challenge of balancing the safety and health of their onsite staff with the quality and consistency of service provided to their residents. Careful attention must be paid to the responsibilities of onsite staff when determining risk exposure. The below questions should be addressed in your company policy:
 - a. **Issuance of Personal Protective Equipment (PPE).** Examples of PPE include gloves, goggles, face shields, face masks and respiratory protection, when appropriate. Employers have an obligation to equip their workers with PPE needed to keep them safe while performing their jobs. In addition, a materials management strategy for future orders, to

include identifying staff responsibility, is needed to ensure adequate stock is available to each property.

- b. **Determine work schedules.** Consider staggering work times/days, or employ a four-day workweek schedule to reduce the number of employees in the office at the same time. Grouping employees into teams that consistently work together will allow for reduced exposure. Lunch and break times can be scheduled or lengthened to minimize the number of occupants in one area at any given time. As employers transition their employees back to work, it is important to note that in areas such as Washington, D.C./Maryland/Virginia, there are laws of multiple states at play regarding stay-at-home orders that may affect employees who live in one state and travel to another for work.
- c. **Consider standard screening procedures.** Screening procedures for employees, visitors and contractors should be evaluated. In some states, it may be required to conduct temperature checks for all who enter the building. Check your local and state regulations to determine applicable requirements for your communities. Other health assessment measures such as questionnaires to assess the level of exposure may be helpful. It should be noted that all screening initiatives should be implemented consistently to avoid discrimination claims. For more information, please click [here](#).
- d. **Review necessary workplace modifications.** Employers should explore the establishment of policies and practices to increase the physical distance among employees and between employees and others if state and local health authorities recommend the use of social distancing strategies, such as flexible worksites (e.g., telecommuting) and flexible work hours (e.g., staggered shifts). Discourage workers from using others' phones, desks, offices, work tools and equipment, where possible. Other modifications may include availability of hygienic products and desk shields for leasing, concierge and reception areas.
- e. **Worker Classification.** The Occupational Safety and Health Administration (OSHA) has released [guidance](#) on preparing workplaces for COVID-19. OSHA classifies worker exposure to COVID-19 into four levels: very high, high, medium and lower risk. OSHA determines that most American workplaces satisfy the conditions of medium- and lower-risk levels, while high and very high levels are generally associated with healthcare and emergency services. Apartment industry positions generally will fall between the low- and medium-risk categories, depending on specific job function and exposure to the general public.

2. **Childcare Considerations** – Childcare is a significant limiting factor on reopening. Parents and caregivers may find it difficult to find adequate childcare if daycares and schools remain closed. It is important to stay ahead of this challenge by constructing a policy to assist employees by considering what flexible options will be offered to affected employees and how to determine consistency and fairness on a case-by-case basis. If feasible, consider allowing employees to work remotely and adjust work schedule (hours and days) as needed.

If allowing employees to make the decision to return to work based on individual levels of personal comfort, consider evaluating upgrades for work-from-home (WFH) spaces such as additional monitors, chairs, desks and the like. If a company wants to avoid considerations at the individual level, it can consider offering employees a set number of hours of Emergency Paid Time Off (PTO) for the purpose of any COVID-related time away from work. The employee can determine if and when that time is needed. One thing to stress is the importance of flexibility during this time, as everyone continues to adjust to the daily changes implemented across the nation, in their homes and in the workplace.

Employees finding it difficult to return to work due to childcare responsibilities may qualify for relief under the Families First Coronavirus Response Act (FFCRA). Specifically, employers with fewer than 500 employees must grant 10 weeks of paid family and medical leave for the care of a child younger than 18 whose school has been closed due to COVID-19. The first 10 days of an employee's leave may be unpaid, although an employee may substitute unpaid leave with any accrued vacation, medical or sick leave, or any other paid leave. After the initial 10 days, any subsequent leave must be paid by the employer at two-thirds the employee's regular rate of pay. Businesses with fewer than 50 employees may be [afforded exemption](#) from the family and medical leave requirement. The new law

requires the U.S. Department of Labor (DOL) to establish rules that exempt business in this category if they “jeopardize the viability of a business as a going concern.” For more information on this Act, please click [here](#).

3. **Social Distancing** – A return to “normal” may depend on the location of the property and the immediate need for service. In the coming days, weeks and months, social distancing will continue to be practiced. Considerations for your business include:
 - a. Will office hours be limited? This decision may change depending on the time of the month; for example, rent collection week may have regular office hours versus other days of the month. If your property is fully occupied and without vacancy issues, this can help inform the decision regarding the available hours your office should be open.
 - b. If allowing in-person tours, will you require an appointment or allow walk-ins? If prospective residents are touring, will masks be provided to them?
 - c. Companies likely will slowly reintroduce employees into the workplace, rather than bringing everyone back at once. A gradual return will help maintain social distancing, but you will need to decide which employees and job functions will return first. Will the transition back be geography-based, as regulations are set by state governors?
 - d. For amenity spaces, how will you monitor and enforce social distancing requirements? Will you hire monitors to oversee the occupancy limitations while also focusing on adherence to cleanliness guidelines?
 - e. For all visitors, consider asking everyone to answer a series of questions from the Centers for Disease Control and Prevention (CDC) guidelines to ensure that no one (i.e., employees, residents, guests and suppliers) have COVID-19 symptoms before they are permitted to enter any public space.

4. **High-risk** – For employees with underlying health issues or living with someone considered high-risk for infection, will special circumstances be put into place to accommodate their additional safety needs? You may want to allow extended work-from-home privileges to a later date when the risk of exposure is reduced, or the employee has self-elected to return to the workplace. Your company will need to determine how this date will be decided and revisit your policy as necessary. You may consider that high-risk associates be accommodated similarly to associates with childcare issues, as outlined above. If the employee’s position is not feasible for remote work, there should be considerations made to include leave policies (paid or unpaid) depending on the employees’ individual situations. In addition to leave time, you should ask the employee to review the FFCRA sick-leave policy, as the following from the Act applies: “The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2). More information on FFCRA can be found [here](#).”

5. **Job Descriptions** – Will there be changes in job requirements for those working from home versus those working in the office? How will this be determined to ensure fairness? In the near-term, there should be open communication and balancing of job duties to ensure work is evenly distributed. If the situation persists, it may be necessary to consider job description, title and pay changes based on the work required.

6. **Employment Risks** – Consulting with legal counsel before re-opening the workplace is recommended to establish an assessment of your overall risks, areas in need of improvement and potential updates to company policies. Procedures for attending to special circumstances without incurring liability should be a part of the conversation. Employers have a duty under the Occupational Safety and Health Act to provide a safe workplace. Thought should be given to suspending nonessential travel in general, and specifically to areas with ongoing COVID-19 outbreaks. You can regularly check CDC [travel warnings](#).

7. **Mental Health** – What resources are available for employees as they transition back into the workplace? Many companies offer an existing Employee Assistance Program (EAP) that can be supplemented to include additional resources and information related to the COVID-19 pandemic.

Additional well-being resources include virtual visits with mental health professionals, as well as internal website resources featuring webinars and other multimedia offerings. Articles and physical activities that support and improve mental well-being should be shared. Any resources for employees need to be clearly communicated and readily available.

8. **Employee Training** – There is an increased need for employee training on virus awareness, continued business operations, PPE and OSHA requirements, to name just a few. Providing workers with up-to-date education and training on COVID-19 risk factors and safety behaviors is a necessity. Training workers on the proper use of PPE, including disposal, should be conducted in the context of their present and prospective responsibilities. Training material should be easy to understand and available in the appropriate languages and at a literacy level understandable to all employees.
9. **Communication** – Transparent communication is critical in effectively operating your company. Consider offering town hall-style calls on an ongoing basis to ensure employees understand the current status and any forthcoming changes. Consider offering an employee survey or anonymous response method to allow employees to voice their concerns about any changes. A simple and free online survey is a great start to secure timely feedback that will help inform future changes. When communicating, it's important to consider how technology helps and hinders information sharing. Continue to encourage virtual meetings where possible and collaboration platforms will continue to keep staff connected professionally and personally. It's also recommended to encourage virtual meeting attendance for those who may be in the office as well.
10. **Increased Absenteeism** – Similar to influenza, COVID-19 has the potential for repeated and ongoing outbreaks. Employees may be absent because they are sick; are caregivers for sick family members; are caregivers for children if schools or daycare centers are closed; have at-risk individuals at home, such as immunocompromised family members; or are afraid to come to work because of fear of possible exposure. Workplace flexibility may assist with allowing employees to continue employment while also ensuring business operations remain at an optimal level. OSHA recommends not requiring a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as healthcare provider offices and medical facilities may be extremely busy and unable to provide documentation in a timely way.

Related Links and Forms

[CDC Interim Guidance for Businesses and Employers](#)

[Guidance on Preparing Workplaces for COVID-19](#)

About NAA

The National Apartment Association (NAA) serves as the leading voice and preeminent resource through advocacy, education and collaboration on behalf of the rental housing industry. As a federation of more than 150 state and local affiliates, NAA encompasses over 82,000 members representing more than 10 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community that emphasizes integrity, accountability, collaboration, community responsibility, inclusivity and innovation. NAA thanks its strategic partners Maintenance Supply Headquarters and Yardi. To learn more, visit www.naahq.org.

###