

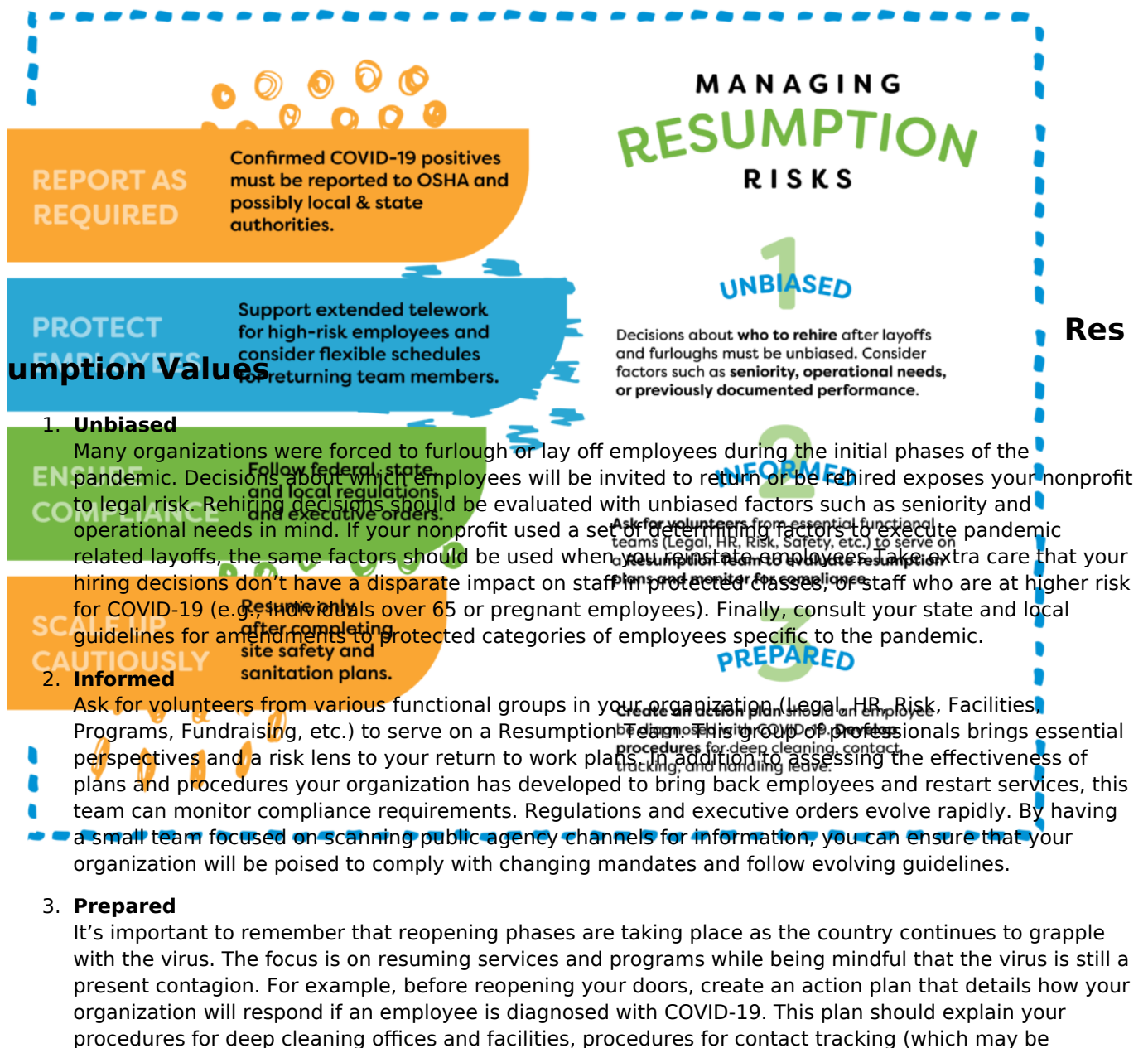


Managing Resumption Risks

Resource Type: Infographics, Risk eNews

Topic: Crisis Management, Crisis Communications, HR Risk and Employment Practices

To manage compliance and legal risks related to reopening offices, consider these 3 core values and 4 action items.



required by local regulations), and the process for handling leave requests. Be aware that your employees may be entitled to paid sick and family medical leave under the [Families First Coronavirus Response Act \(FFCRA\)](#) or other similar legislation at the state and local levels.

Take Appropriate Action

Report as required. OSHA has established COVID-19 as a “recognized hazard.” This means that employers must report when employees test positive for the virus when the employer believes that “it is more likely than not that exposure in the workplace played a causal role.” This [reporting guidance](#) applies to most organizations due to the highly contagious nature of the virus. In addition to OSHA requirements, state and local authorities may also have reporting requirements should employees test positive for COVID-19. Your organization should consult with local health authorities to ensure that the proper procedures are identified and followed in the event one of your employees becomes ill.

Protect employees. While there are many concerns about reopening offices, employee safety should be your primary concern. We explored strategies related to staff safety last month in our [Risk eNews “Take 10: Resume and Thrive Strategies.”](#) However, you may be obligated to offer procedures such as extended teleworking as a reasonable accommodation for high-risk employees. According to “[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)” issued by the EEOC and revised to include guidance specific to COVID-19, “Telework is an effective infection-control strategy that is also familiar to ADA-covered employers as a reasonable accommodation. In addition, employees with disabilities that put them at high risk for complications of pandemic influenza may request telework as a reasonable accommodation to reduce their chances of infection during a pandemic.”

To protect the safety of team members returning to the office, adopt a plan to reduce the total number of employees on-site at any given time. For example, consider asking employees to work with alternating schedules (one week in the office, two weeks telework), staggering start and end times, or utilizing shifts.

Ensure compliance. Federal, state, and local authorities have developed guidelines that govern reopening procedures. Your jurisdiction may have metrics that must be met before allowing employees to return to work. It’s prudent to review all applicable documentation for requirements. These regulations should offer your organization clarity on protective measures or personal protective equipment (PPE) employers are required to provide. For example, the CDC has developed a [Resuming Business Toolkit](#), which provides employers with up to date resources, strategies, and factsheets.

Scale up cautiously. Resist the urge to reopen quickly. Your offices may require changes to the physical layout to maximize the efficacy of social distancing. Your offices and facilities should be deep cleaned, and additional sanitizing procedures should be established. Make the decision to reopen only after you have considered multiple site safety and sanitation issues. Areas of concern include any shared-use areas or equipment such as: stairwells, reception areas, kitchens and cafeterias, restrooms, copiers/scanners, and shared office equipment.

As the COVID-19 pandemic has proved to be a rapidly evolving situation, it’s essential to continue to monitor communications from state, local, and public health officials that may impact your plans for reopening. If you have any questions or concerns regarding the legal risks of your reopening strategies, we encourage you to consult your in-house or external legal counsel. Thoughtful and cautious reopening is key to safeguarding your mission.

Recommended Reading

- [“COVID-19 Lawsuits and Claims Increasing in Courts Nationwide,”](#) Littler
- [“Returning to the Workplace: Legal Obligations and Risks,”](#) ASAE
- [“Employers Should Be Mindful of New Employment Law Risks Created by COVID-19,”](#) Wilson Sonsini
- [“COVID-19: Best practice considerations for resuming work in an office setting,”](#) Norton Rose Fulbright
- [“Back to Business After COVID-19: Legal Considerations When Rehiring Employees,”](#) Fox Rothschild, LLC

The Nonprofit Risk Management Center welcomes your comments and questions about legal risks of resumption, at 703.777.3504 or info@nonprofitrisk.org.