

# Employment Practices Liability

May 13, 2020

## Phase 1 of Reopen Connecticut: May 20, 2020 - Business Reopening Guidelines

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On May 8, 2020, Connecticut issued guidelines for businesses to begin Phase 1 of its Reopen Connecticut plan scheduled to begin on May 20, 2020. All businesses subject to these guidelines are required to self-certify prior to reopening on May 20, 2020. The certification link will be added to the state's website at some point this week. Businesses permitted to reopen are allowed to make individual choices on when to reopen. However, these businesses must comply with the rules laid out by the state to keep employees and customers safe. Below is a summary of the state's guidelines for businesses to reopen on May 20th.

The following strict controls on business operations and societal interactions, among others, should be followed:

- 50% capacity limit for businesses that reopen;
- Follow strict cleaning and disinfecting protocols in all settings;
- Employees who can work from home should continue to work from home;
- Employees in high risk groups and over 65 should continue to stay safe and stay home (except that employees should not be compelled to do so or could raise issues under the Americans With Disabilities Act);
- Face masks should continue to be worn in the public;
- Limit social gatherings to a maximum of five (5) people.

If your business is unable to adhere to these guidelines, it is strongly recommended that you delay reopening beyond May 20. It is important to note that the rules provided by the state are the minimum precautions needed to protect the public's health. Employers should take additional measures recommended by their specific industry guidelines or common sense as applied by the specific situation.

### Reopening Process

- Ensure that additional appropriate measures are put in place to facilitate employees working from home;
- Share reopening rules with employees and inform them of additional measures you are taking in response to COVID-19;
- Appoint a program administrator to implement these rules;
- Stagger break times and start and stop times to minimize employee contact;
- Maintain a log of all employees to support contact tracing;
- Limit the number of visitors and on-site service providers, and designate a specific area for shipping and deliveries;
- Employers should implement a training program and ensure that employees participate in this program prior to reopening. The training must include:
  - The rules listed in the state's reopening guidelines; and
  - Protocols on how to safely clean and use cleaning products.
  - It is the employer's responsibility to ensure that subcontracted employees who are on-site are also appropriately trained.
  - This training should be of no cost to employees and conducted during working hours.
  - This training shall be conducted at the language and literacy

level of employees, and weekly refreshers should be provided.

- Employers should estimate and procure required personal protection for employees;
- Develop a cleaning plan that incorporates the reopening rules and clarify which employees are responsible for implementing these rules;
- Employers should complete a thorough cleaning before reopening. These areas include, but are not limited to, entrances and lobbies, bathrooms, hallways, kitchens, elevators, doorknobs and handles, shared printers, scanners, phones, vending machines, computers, monitors, and desks.
- Employers should complete the self-certification on the DECD website in order to receive a Reopen CT badge. After completion, the employer can choose to post this badge on-site and on their social media pages.

### Physical Space Set Up

- Post clear signs that reinforce new policies such as social distancing, cleaning and disinfecting measures, personal protection protocols including masks, and encourage staff to stay home when sick;
- Where possible, increase ventilation and outdoor air that circulates into the system;
- Rearrange office space to maintain 6 feet of distance between employees and avoid employees sitting opposite of each other;
- Employers should install visual social distancing markers to encourage their employees to maintain 6 feet of distance between each other in areas such as the lobby and in workspaces;
- Employers should segment workspaces into discrete zones where possible. For example, have employees stay on one floor or one part of the office;
- To the extent possible, employers should ensure that employees do not share equipment, and clean equipment after each use;
- Employers should close or remove certain amenities, such as coat rooms, to the businesses' main function;
- Employers should install touchless appliances where possible;
- Employers should encourage social distancing in elevators;
- Employers should post clear signs with the state hotline (211) contact information for employees to report potential violations.

### Personal Protection

- Employees are required to wear a face mask or some type of cloth covering that covers their mouth and nose completely, unless this would be contrary to the employee's health or safety, or a medical condition;
- Employees may wear their own cloth face covering over the face covering provided by the employer;
- Employees are required to wear gloves and eye protection when using cleaning chemicals;
- Employees may remove their masks in workplace settings where they are working alone in segregated spaces such as private offices and cubicles with walls;

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- Employees must wear a face covering from the time they enter the workplace until the time they arrive at their workstation, and every time they leave the workstation such as moving around in common areas;
- Employees working in shared congregate spaces such as open manufacturing floors, areas open to the public, and shared office spaces, should follow the above guidelines;
- Where employees work outdoor and do not regularly come within 6 feet of other employees, continuous wearing of masks is not required;
- Employers are responsible for providing their employees with personal protection. If the employer does not have adequate personal protection, it cannot reopen;
- Employers are not required to provide personal protection for customers and visitors. Your customers and visitors are required to bring and wear their own personally provided masks or cloth face covering that covers their mouth and nose completely, unless this would be contrary to the employee's health or safety, or a medical condition. An employer must either provide a face covering to a visitor or customer who does not have one, or not allow this visitor or customer to enter the facility.

## Cleaning and Disinfecting

- Employers shall provide hand sanitizers at entrances and common areas where possible;
- Employers should ensure that employees routinely wash their hands with soap and water for at least 20 seconds;
- Employers should make cleaning, disinfectant products, and/or disposable disinfectant wipes available near commonly used surfaces, where possible. Examples of commonly used surfaces includes desks, chairs, elevators, bathrooms, coffee makers, and shared equipment such as printers and scanners;
- Bathrooms should be cleaned and disinfected frequently, and a cleaning log for tracking should be implemented. Cleaning should be done multiple times per day and hourly during busy hours.

## Health Guidance For Employees

- Employers can ask employees resuming on-site work to confirm they have not experienced any COVID-19 like defined symptoms and to monitor their symptoms including **cough** or **shortness of breath** and **any two** of the following symptoms:
  - The rules listed in the state's reopening guidelines; and
  - Fever
  - Chills
  - Repeated shaking with chills
  - Muscle pain
  - Headache
  - Sore throat
  - Loss of taste or smell
- If an employee tests positive, the employee must inform the employer and follow state contact testing and tracing protocols;
- An employer may not retaliate against an employee who raises concerns about COVID-related safety and health concerns;

- An employer must adhere to federal paid leave guidelines and provide this guidance to employees;
- Employers should post the [Family First Coronavirus Response Act \(FFCRA\) Department of Labor poster](#).

Click on the links below for guidance on other sectors allowed to reopen during Phase 1:

- [Hair Salons & Barbershops](#)
- [Museums and Zoos](#) (Outdoor Only)
- [Restaurants](#) (Outdoor Only)
- [Retail & Malls](#)

If you are an employer that has any questions or concerns about compliance with federal or state law during the COVID-19 pandemic, Rose Kallor, LLP provides a full range of legal counseling to private and public-sector employers. Please contact us with any COVID-19-related issues you face or anticipate facing, and we will be happy to assist you.

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The attorneys at Rose Kallor, LLP regularly represent and advise private and public sector employers on matters pertaining to the employer-employee relationship, including the selection process, discrimination and harassment related issues and frequently conducts neutral workplace investigations. If you have questions about this legal update, please contact Rose Kallor, LLP at 860-361-7999. If you wish to receive future updates on labor and employment related topics, please contact Jacqueline Smith, CIRMA Marketing and Creative Design Associate at [jsmith@ccm-ct.org](mailto:jsmith@ccm-ct.org).

**For more information about CIRMA's Employment Practices Liability Helpline Program, please contact your CIRMA Risk Management Consultant.**



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**Have a question or concern about Employment Practices?**

Call CIRMA's EPL Helpline at **833-544-4110**

or email at

[cirmahotline@rosekallor.com](mailto:cirmahotline@rosekallor.com)

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