

May 13, 2020

The Honorable Michael R. Pence
Vice President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Vice President,

On behalf of the technology sector, I want to thank you for your efforts to contain the spread of the COVID-19 virus and to provide transparency regarding the state of the pandemic in the U.S. and the government's response. We understand the importance of balancing public health measures and safely reopening workplaces across the country, and that there will be nonuniversal date for all workers to return to physical work locations. As we look to move from the response phase into the economic recovery phase, employers and employees alike will need clear guidance on how to resume workplace operations while mitigating the risk of a resurgence of the virus.

Consistent, scientific, and data-driven recommendations to protect workers and workplaces are key to ensuring employers, employees, and customers have confidence in the safety of their environments to return to normal economic activity. While some guidance will be localized according to community conditions, many questions are well-suited to federal guidance. We must prevent patchwork of federal, state, and local policies that will cause needless, time-consuming, and resource-draining confusion that will delay our national economic recovery.

Also contributing to potential confusion and a slow return to the workplace is the prevalence of potentially conflicting guidelines from at least seven different federal authorities. Some of this guidance predates the current crisis, while some of it is specific to COVID-19, and tension exists among some of these guidelines without indication of which guidelines should be supreme in guiding the private sector response.¹ For example, the websites for the Centers for Disease Control and

¹ For instance, CDC guidance advises “[e]mployers should not require sick employees to provide a COVID-19 test result or a healthcare provider’s note to validate their illness, qualify for sick leave, or return to work” due to the burden on healthcare providers during the pandemic. Centers for Disease Control and Prevention, “FAQs for Business,” May 3, 2020 (<https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>). Conversely, EEOC guidance advises that employers may require a doctor’s note:

Such inquiries are permitted under the ADA either because they would not be disability-related or, if the pandemic were truly severe, they would be justified under the ADA standards for disability-related inquiries of employees. As a practical matter, however, doctors and other health care professionals may be too busy during and immediately after a pandemic outbreak to provide fitness-for-duty documentation. Therefore, new approaches

Prevention (CDC), U.S. Department of Labor (DOL), U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), Occupational Safety and Health Administration (OSHA), and the White House reveal more than [two dozen federal guidance documents](#) relative to COVID-19 and private sector employers.

We urge federal, state, and local authorities to coordinate and coalesce around one set of guidelines addressing as many areas of concern as feasible to (1) reduce the risk of a patchwork response, and (2) make it easier for employers of all sizes to identify and follow health-protective guidance specific to COVID-19. With this goal in mind, below we identify areas where the technology sector seeks clear guidance to best support each other and protect our collective health as we strive to return to normal in our workplaces and lives.

It is all of our best interest to get back to work. Many in the technology sector will continue to work from home – and where feasible, employers and employees should be encouraged to do so to limit the exposure for others who cannot – but certain jobs and job functions will always require in-office or in-person interaction. When the time comes to more safely do so, accommodating these requests for guidance will expedite a health-conscious transition to the next phase. We welcome the opportunity to engage with you and members of the administration on the details of our recommendations. We look forward to continued collaboration on a plan that safely reopens our workplaces in a manner that ensures the trust of the public and places this great nation on a path to a prosperous recovery.

Sincerely,



Jason Oxman

President and Chief Executive Officer
Information Technology Industry Council

may be necessary, such as reliance on local clinics to provide a form, a stamp, or an e-mail to certify that an individual does not have the pandemic virus.

U.S. Equal Employment Opportunity Commission, “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws,” May 5, 2020 (<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>).



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REQUEST FOR THE DEVELOPMENT OF WORKPLACE REOPENING GUIDELINES

The Information Technology Industry (ITI) Council appreciates the continued efforts by federal, state, and local officials to develop and execute plans for reopening the United States economy. For the nation to prosper and maintain its global leadership in the technology sector, ITI believes coordinated measures are needed to keep employers, employees, and customers safe. ITI requests the Trump Administration develop enhanced guidelines focused on (1) assessing readiness; (2) health monitoring; (3) transmission mitigation techniques; and (4) employee support. We must recognize that today's pandemic is evolving, and we therefore urge the administration to regularly review and modify this guidance as appropriate. These guidelines will aid businesses of all sizes, across all industries – including technology – and in all localities determine the healthiest path to reopening workplaces.

Assessing Readiness

Assessing readiness: As employers across the U.S. begin to reopen, many are faced with the question of how to evaluate whether their workplace is ready for the safe return of employees, customers, and vendors. Our workforce also seeks affirmation of readiness; a recent survey found 63 percent of employees want assurance from public health officials prior to returning to the workplace.² Providing workplace readiness guidance that includes a checklist of considerations prior to reopening would enhance employee and consumer confidence while mitigating transmission of the virus. At a minimum the checklist should include assessment of entry controls, social distancing practices, cleaning protocols, building services, and communications. This guidance should strongly encourage landlords of commercial properties to utilize the readiness assessment and to work collaboratively with their tenants/business owners.

Health Monitoring

COVID-19 screening: There are myriad COVID-19 screening techniques under consideration across the government and private sector. General guidance on which screening methods, techniques, and technologies can be reliably used in particular work environments would encourage the widest possible deployment of employer-based screening. Should equipment be required for any of these screening methods, guidance on models or functions, and alternatives in the event of supply challenges, will be helpful to employers across all sectors. Additionally, according to many reports, a majority of individuals infected with the COVID-19 virus are asymptomatic. Employers and employees will benefit from guidance on effective screening measures to limit exposure among their workforce and the public from asymptomatic persons. Lastly, screening techniques in some circumstances may generate important data points of interest to public health authorities, necessitating guidelines that allow for and ensure limited, use-specific data sharing with public health officials in a manner that protects individual privacy.

² Qualtrics, "Is America ready to return to work and get back to business?," April 2020 (https://success.qualtrics.com/rs/542-FMF-412/images/Return_to_Work_and_Back_to_Business.pdf).

COVID-19 testing: Epidemiological and medical experts broadly agree that widespread testing is necessary to truly mitigate and contain further outbreaks until a reliable vaccine is commonly available across the globe. In many geographic regions, however, testing availability or testing guidelines remain a challenge to widespread testing. Any testing guidance should be flexible to give companies the ability to adopt testing measures based on the safety needs of their workforce. As testing capacity increases, guidance should encourage widespread testing, including of those who are asymptomatic. Employers may be incentivized to develop their own ongoing testing regimes to benefit the health of all employees; such employer-administered testing programs will aid the national effort to increase testing capacity as well as mitigate the spread of the virus through increased data sets and data sharing. Guidance around creating employer-administered programs should avoid discouraging private sector innovation and investment in testing or expanding national capacity.

Transmission Mitigation Techniques

Physical changes to office environments to enable social distancing: Today’s workplace designs are often incompatible with social distancing guidelines and retrofitting workplaces will both prove costly and take time. Employers and employees will benefit from space planning guidance, such as how to reconfigure cubical or open workspace environments, and how to appropriately mitigate transmission risk in shared spaces such as elevators, meeting rooms, kitchens, break rooms, cafeterias, locker rooms, and restrooms.

Alternative mitigation strategies where social distancing is infeasible: Some workspaces may not lend themselves to retrofitting, in which case employers and employees will benefit from guidance on mitigation techniques such as employing rotating shifts or work weeks, installing physical barriers, using face coverings, or altering air and foot traffic flow. Additionally, some job functions entirely prevent social distancing and other situations exist where social distancing may make a job function more dangerous to employees (e.g., moving or delivering heavy merchandise or equipment). Employers and employees will benefit from enhanced guidance on additional mitigation techniques that may be employed where social distancing is impractical.

Personal Protective Equipment (PPE) or face coverings: According to [Federal Emergency Management Agency \(FEMA\) guidance](#), employees should utilize cloth masks in accordance with [CDC guidelines](#) if they work in a non-healthcare setting and PPE is not otherwise required by law or regulation. Employers and employees will benefit from guidance on who is responsible for providing PPE or face coverings, and whether an employer may require employees to provide their own face coverings in an environment that does not require PPE. If employee-provided, however, guidance must clarify if employers are obligated to verify whether the face coverings conform to CDC guidelines.

High risk or vulnerable employees: [OSHA recommends](#) identifying workers who are “at a particularly high risk” of contracting COVID-19. Employers and employees will benefit from clear guidance on how this risk profiling should occur; identify related privacy obligations that arise; describe what

responsibilities, accommodations, or protocols particularly susceptible employees trigger; and how to encourage these individuals to appropriately protect themselves.

Sanitation and disinfectant protocols: While the EPA issued helpful [guidance](#) and a [decision tool](#) for regular cleaning, employers and employees will benefit from detailed guidance on sanitation and disinfectant protocols after a confirmed COVID-19 exposure occurs.

In-person gathering restrictions: Many industries and individual companies plan years or months in advance for meetings and gatherings of all sizes. In addition, meetings are a keystone of innovative and professional cultures. Clear guidance on what restrictions on in-person gatherings will persist will benefit employers, employees, and attendees alike.

Contact tracing: Contact tracing in both employment and social circumstances is an essential tool to mitigate and contain outbreaks. There are multiple efforts underway to design and deploy contact tracing and self-reported symptom applications. Federal guidance is necessary to coalesce around one set of protocols for the timely collection, processing, and sharing of data among private entities and federal, state, and local public health agencies to enable necessary interoperability and data sharing among bordering states and closely situated localities. Employers and employees will benefit from clear guidance on what records employers should maintain to support contact tracing efforts; how, when, and with whom those records should be shared; how and when to notify employees of a potential exposure; and properly addressing privacy risks or obligations that arise from this activity.

Compliance: Finally, mitigation techniques are only effective if they are deployed widely and consistently. Employers and employees alike will benefit from clear guidance on how to best encourage and ensure compliance with public-health driven guidelines by employees and customers.

Employee Support

Immigration guidance: Employers and employees alike are facing unexpected immigration challenges due to unprecedented restrictions on international travel. Due to COVID-19, employees whose work authorization expired or will soon expire, and who are unable to travel home or to an office in another country, face unavoidable visa overstays, loss of income, and other important benefits, resulting in significant legal uncertainty. Employers and employees will benefit from immediate but temporary government flexibility regarding immigration status and compliance deadlines.

Balancing health and safety and COVID-19 related family circumstances: Whether employees live with someone who has a higher susceptibility to COVID-19 complications or they support minor dependents whose school or daycare remain closed due to state or local government order, many employees will not be able to return to a workplace upon re-opening. Employers and employees alike will benefit from guidance on how to balance workplace re-openings, health and safety concerns, and COVID-19 family circumstances.