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June 8, 2020 | Contributor: Mary Baker (https://blogs.gartner.com/smarterwithgartner/author/mbaker/)

As the pandemic resets major work trends, HR leaders need to rethink workforce and employee planning, management, performance and experience strategies.

The coronavirus pandemic will have a lasting impact on the future of work in nine key ways. The imperative for HR leaders is to evaluate the impact each trend will have on their organization's operations and strategic goals, identify which require immediate action and assess to what degree these trends change pre-COVID-19 strategic goals and plans.

" 32% of organizations are replacing full-time employees with contingent workers as a cost-saving measure "

"It's critical for business leaders to understand that large-scale shifts are changing how people work and how business gets done," says **Brian Kropp (https://www.gartner.com/analyst/67144/Brian-Kropp)**, Distinguished Vice President, Gartner. "HR leaders who respond effectively can ensure their organizations stand out from competitors."

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Of the nine future of work trends, some represent accelerations of existing shifts; others are new impacts not previously discussed. And in some cases, COVID-19 has forced the pendulum of a long-observed pattern to one extreme.

No. 1: Increase in remote working

A recent Gartner poll showed that 48% of employees will likely work remotely at least part of the time after COVID-19 versus 30% before the pandemic. As **organizations shift to more remote work**

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(https://www.gartner.com/smarterwithgartner/9-tips-for-managing-remote-employees/) operations, explore the critical competencies employees will need to collaborate digitally, and be prepared to adjust employee experience strategies. Consider whether and how to shift performance goal-setting and employee evaluations for a remote context.

No. 2: Expanded data collection

Gartner analysis shows that 16% of employers are using technologies more frequently to monitor their employees through methods such as virtual clocking in and out, tracking work computer usage, and monitoring employee emails or internal communications/chat. While some companies track productivity, others monitor employee engagement and well-being to better understand employee experience.

Even before the pandemic, organizations were **increasingly using nontraditional employee monitoring tools (https://www.gartner.com/smarterwithgartner/the-future-of-employee-monitoring/)**, but that trend will be accelerated by new monitoring of remote workers and the collection of employee health and safety data. Make sure to follow best practices to ensure responsible use of employee information and analytics.

Read more: Do's and Don'ts of Using Employee Data (https://www.gartner.com/smarterwithgartner/dos-and-donts-of-using-employee-data/)

No. 3: Contingent worker expansion

The economic uncertainty of the pandemic has caused many workers to lose their jobs and exposed others for the first time to nonstandard work models. Many organizations responded to the pandemic's economic impact by reducing their contractor budgets, but there has since been a shift.

Gartner analysis shows that organizations will continue to expand their use of contingent workers to maintain more flexibility in workforce management post-COVID-19, and will consider introducing other job models they have seen during the pandemic, such as talent sharing and 80% pay for 80% work.

"Our research finds that 32% of organizations are replacing full-time employees with contingent workers as a cost-saving measure," says Kropp. "While gig workers offer employers greater workforce management flexibility, HR leaders will need to evaluate how performance management systems apply to these workers and determine whether they will be eligible for the same benefits as their full-time peers."

No. 4: Expanded employer role as social safety net

The pandemic has increased the trend of employers playing an expanded role in their **employees' financial, physical and mental well-being (https://www.gartner.com/smarterwithgartner/return-to-workplace-guide-for-hr-leaders/)**. Support includes enhanced sick leave, financial assistance, adjusted hours of operation and child care provisions. Some organizations supported the

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community by, for instance, shifting operations to manufacturing goods or providing services to help combat the pandemic and offering community relief funds and free community services.

The current economic crisis has also pushed the bounds of how employers view the employee experience. Personal factors rather than external factors take precedence over what matters for organizations and employees alike. Employing such measures can be an effective way to promote physical health and improve the emotional well-being of employees.

No. 5: Separation of critical skills and roles

Before COVID-19, critical roles were viewed as roles with critical skills, or the capabilities an organization needed to meet its strategic goals. Now, employers are realizing that there is another category of critical roles — roles that are critical to the success of essential workflows.

To **build the workforce you'll need post-pandemic (https://www.gartner.com/smarterwithgartner/build-the-workforce-you-need-post-covid-19/)**, focus less on roles — which group unrelated skills — than on the skills needed to drive the organization's competitive advantage and the workflows that fuel that advantage. Encourage employees to develop critical skills that potentially open up multiple opportunities for their career development, rather than preparing for a specific next role. Offer greater career development support to employees in critical roles who lack critical skills.

No. 6: (De-)Humanization of employees

While some organizations have recognized the humanitarian crisis of the pandemic and prioritized the well-being of employees as people over employees as workers, others have pushed employees to work in conditions that are high risk with little support — treating them as workers first and people second.

Be deliberate in which approach you take and be mindful of the effects on employee experience, which will be long-lasting. Address inequities if remote and on-site employees have been treated differently. Engage task workers in team culture and **create a culture of inclusiveness (https://www.gartner.com/smarterwithgartner/3-steps-sustainable-diversity-inclusion-strategies/)**.

No. 7: Emergence of new top-tier employers

Prior to COVID-19, organizations were already facing increased employee demands for transparency. Employees and prospective candidates will judge organizations by the way in which they treated employees during the pandemic. Balance the decisions made today to resolve immediate concerns during the pandemic with the long-term impact on the employment brand.

For example, advise CEOs and executive leaders on decisions regarding executive pay cuts and make sure financial impacts are absorbed by executives versus the broader employee base.

Progressive organizations communicate openly and frequently to show how they are supporting employees despite the implementation of cost-saving measures. Where feasible, look for opportunities to arrange talent-sharing partnerships with

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other organizations to relocate employees displaced from their jobs by COVID-19.

No. 8: Transition from designing for efficiency to designing for resilience

A 2019 Gartner organization design survey found that 55% of organizational redesigns were focused on streamlining roles, supply chains and workflows to increase efficiency. While this approach captured efficiencies, it also created fragilities, as systems have no flexibility to respond to disruptions. Resilient organizations were better able to respond — correct course quickly with change.

To build a more responsive organization, design roles and structures around outcomes to increase agility and flexibility and formalize how processes can flex. Also, provide employees with varied, adaptive and flexible roles so they acquire cross-functional knowledge and training.

"D&I leaders will need to be involved in role design and creation of flexible work systems to ensure that employees of all backgrounds and needs are considered when the organization designs new workflows," said Ingrid Laman, Vice President, Advisory, Gartner.

No. 9: Increase in organization complexity

After the global financial crisis, global M&A activity accelerated, and many companies were nationalized to avoid failure. As the pandemic subsides, there will be a similar acceleration of M&A and nationalization of companies. Companies will focus on expanding their geographic diversification and investment in secondary markets to mitigate and manage risk in times of disruption. This rise in complexity of size and organizational management will create challenges for leaders as operating models evolve.

Enable business units to customize performance management, because what one part of the enterprise needs might not work elsewhere. As organizational complexity complicates career pathing, providing reskilling and career development support — for example, by developing resources and building out platforms to **provide visibility into internal positions (https://www.gartner.com/smarterwithgartner/make-easier-employees-change-jobs-internally/)**.

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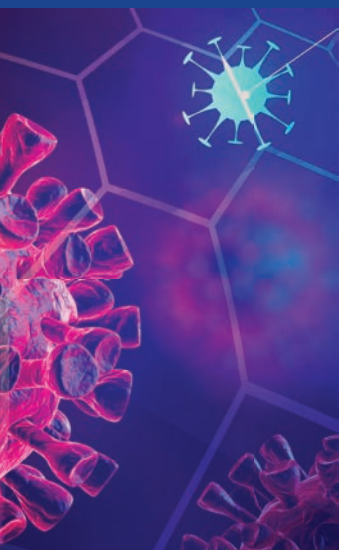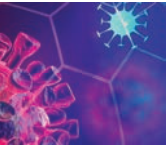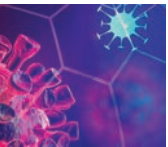# COVID-19

Impact Survey

MORRISON
FOERSTER

In response to the unprecedented global coronavirus (COVID-19) pandemic, Morrison & Foerster surveyed 110 in-house general counsels from global corporations to understand how this unanticipated health crisis is impacting their businesses now and over the long term and what they perceive to be their biggest business challenges over the next 12 to 24 months.

METHODOLOGY

For our Coronavirus (COVID-19) Business Impact Survey, Morrison & Foerster surveyed in-house legal professionals around the globe with organizational revenues ranging from less than $250 million up to more than $20 billion. The survey was conducted between March 20th and 24th, 2020. The top three industries represented in the study are: finance and insurance (19.1%), technology (12.7%), and manufacturing (10%).

WHAT IS YOUR ORGANIZATION'S ANNUAL REVENUE?

- **12.7%** More than $20 billion
- **27.3%** Less than $250 million
- **44.5%** $1 billion – $20 billion
- **15.5%** $250 million – $999 million

FINDINGS

As expected, coronavirus (COVID-19) is having a significant impact on businesses, with impact averaging 7.2 on a 10-point scale—10 representing the most severe impact—and continuing near that same level (7.1) for the next six months. Legal counsels expect the impact level to decrease over the next 12 (5.7) to 24 (4) months, but do not see it completely dissipating.
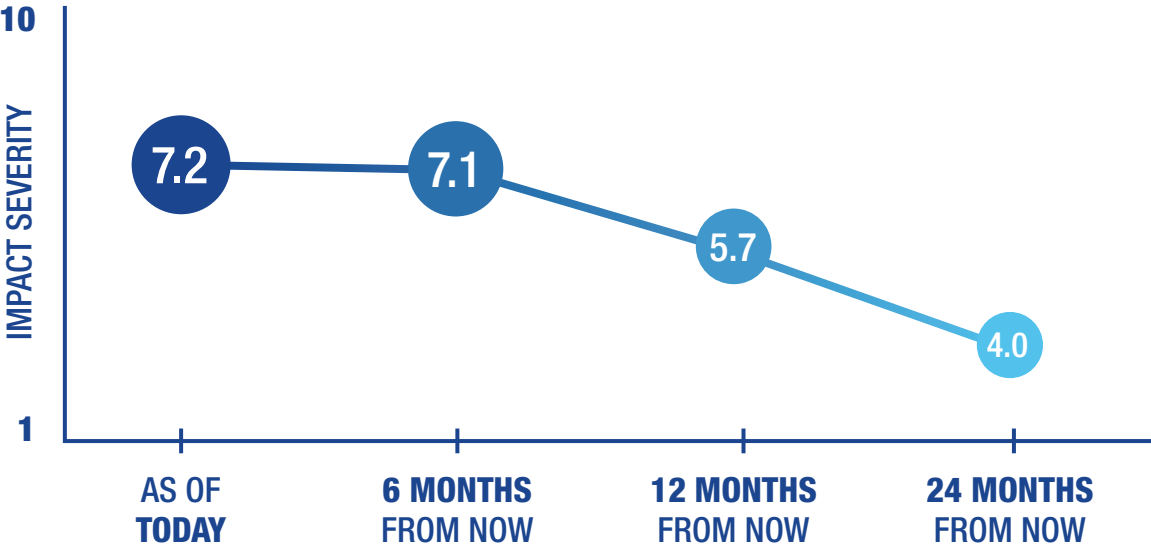
> **IT IS CLEAR THAT THE COVID-19 CRISIS WILL HAVE A LONG-TERM IMPACT ON THE WAY BUSINESS IS DONE AROUND THE WORLD—AFFECTING EVERYTHING FROM THE WAY WORKFORCES ARE MANAGED AND HOW GLOBAL SUPPLY CHAINS ARE CONFIGURED TO CAPITAL STRUCTURES AND CORPORATE GOVERNANCE**

David Newman, Morrison & Foerster Partner and Head of the Firm's Coronavirus (COVID-19) Task Force, who served as Chief of Staff of the Ebola response office in 2014-2015 while an official on the National Security Council staff.

Although impact was not rated at the "Severe" level (8+) on average, it's important to note that over half (52%) of the surveyed companies rated today's impact level at 8 or higher. This likely reflects the varied impact that COVID-19 is having across different businesses and industries.

## IMPACT COVID-19 HAS/WILL HAVE ON YOUR BUSINESS (SCALE OF 1–10)

IMPACT SEVERITY

7.2	7.1	5.7	4.0
AS OF TODAY	6 MONTHS FROM NOW	12 MONTHS FROM NOW	24 MONTHS FROM NOW

That variation of impact across different businesses is even clearer when looking at companies valued at $20 billion or more in revenue, with 79% rating the impact of COVID-19 on their businesses at 8 points or higher—a 27 percent difference over companies in general. This difference may reflect the more global nature of $20-billion-plus companies and the likelihood they felt the impact of COVID-19 earlier than other companies not as geographically dispersed.

COVID-19 SEVERITY IMPACT (RATING 8–10) HIGHEST ON $20-BILLION+ COMPANIES TODAY

79%
Companies valued $20 billion or higher

52%
Companies in general
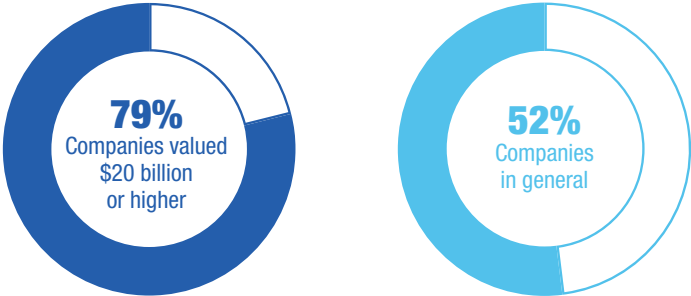
It is interesting to note that, within 24 months, the percentage of companies reporting low impact "as of today," and the percentage of companies reporting severe impact "as of today," will reverse (Today: Low 10%; Severe 52%; 24 months from today: Low 51%; Severe 12%).
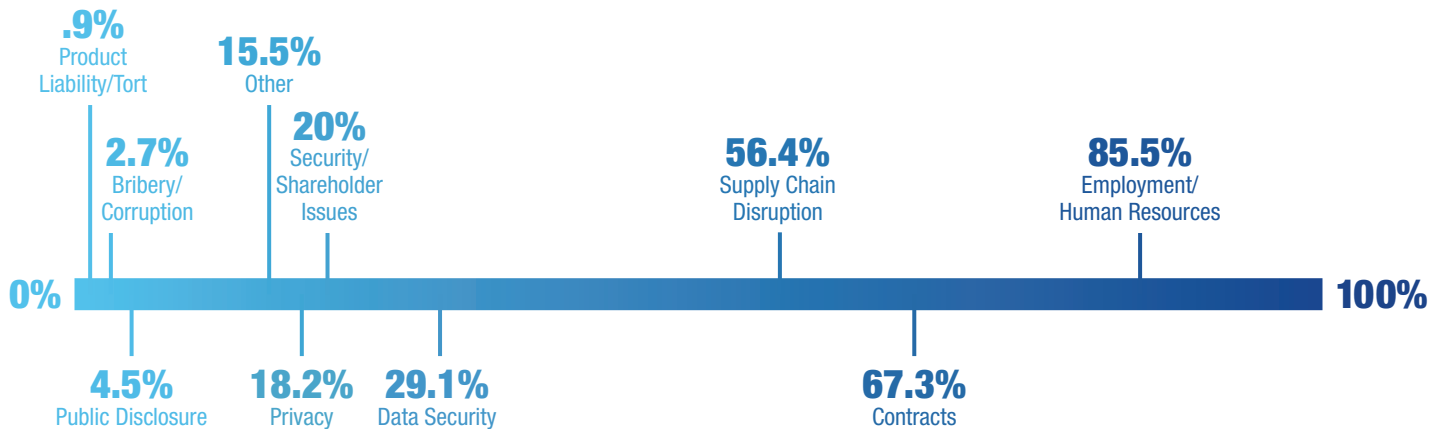
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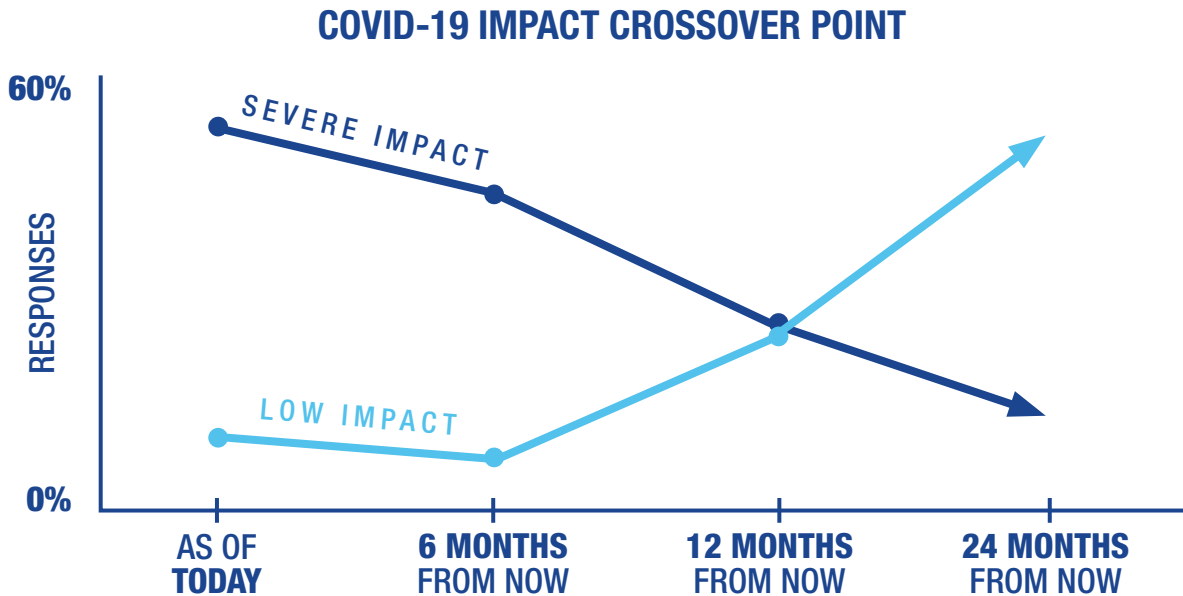
Employment/human resources (85.5%), contracts (67.3%), and supply chain disruption (56.4%) are seen as the top three legal risks posed by COVID-19, regardless of company size. **This is not surprising, given that COVID-19 is at this time first and foremost a human health crisis.**

"These findings resonate with the broad range of the COVID-19-related business challenges we are assisting our clients to navigate," added Mr. Newman. "It is critically important to mitigate not only the immediate crisis but also the long-term fallout. That's why we are actively advising our clients on steps they can be taking both immediately and over the long term as this global pandemic continues to evolve."

"Although it feels like we are in uncharted territory with regard to employees, the good news is there are some well-established legal principles in employment law that offer guidance on how to approach this issue," said Morrison & Foerster Employment & Labor Partner Janie Schulman. "Among others, one very important guiding principle for employers to consider in this unprecedented situation is the need to be flexible," she added. "Employees have long memories and they will remember how you treated them on this occasion and it will likely have an impact on their loyalty and their morale."

TOP LEGAL RISKS COVID-19 POSES TO YOUR BUSINESS

.9% Product Liability/Tort

2.7% Bribery/Corruption

15.5% Other

20% Security/Shareholder Issues

56.4% Supply Chain Disruption

85.5% Employment/Human Resources

0% — 100%

4.5% Public Disclosure

18.2% Privacy

29.1% Data Security

67.3% Contracts

Those companies that are suppliers of goods and services need to be thinking not only about their own operations but also about those of their entire supply chain and customer base. "In this economic environment, all companies should be closely monitoring their significant business partners for signs of distress." said Morrison & Foerster Business Restructuring and Insolvency Partner, Jennifer Marines. "In addition to monitoring press coverage and public securities filings where available, companies should also closely review their customer accounts for abnormal payment activities. Often, one of the indications a company may be getting ready to file for bankruptcy is when trade terms are stretched without consent. There are several levers a company can exercise to mitigate risk in these circumstances, but it requires continued vigilance so that the company is not caught flat footed."

By contrast, legal risk issues related to data security (29.1%) and privacy (18.2%) came in lower on COVID-19-related legal concerns. "Security appears to be lower on the scale likely because the other risks are paramount at the moment. Unfortunately, the number of data security incidents is likely to rise in the near future which may impact many organizations," said Morrison & Foerster Privacy & Data Security partner Miriam Wugmeister.
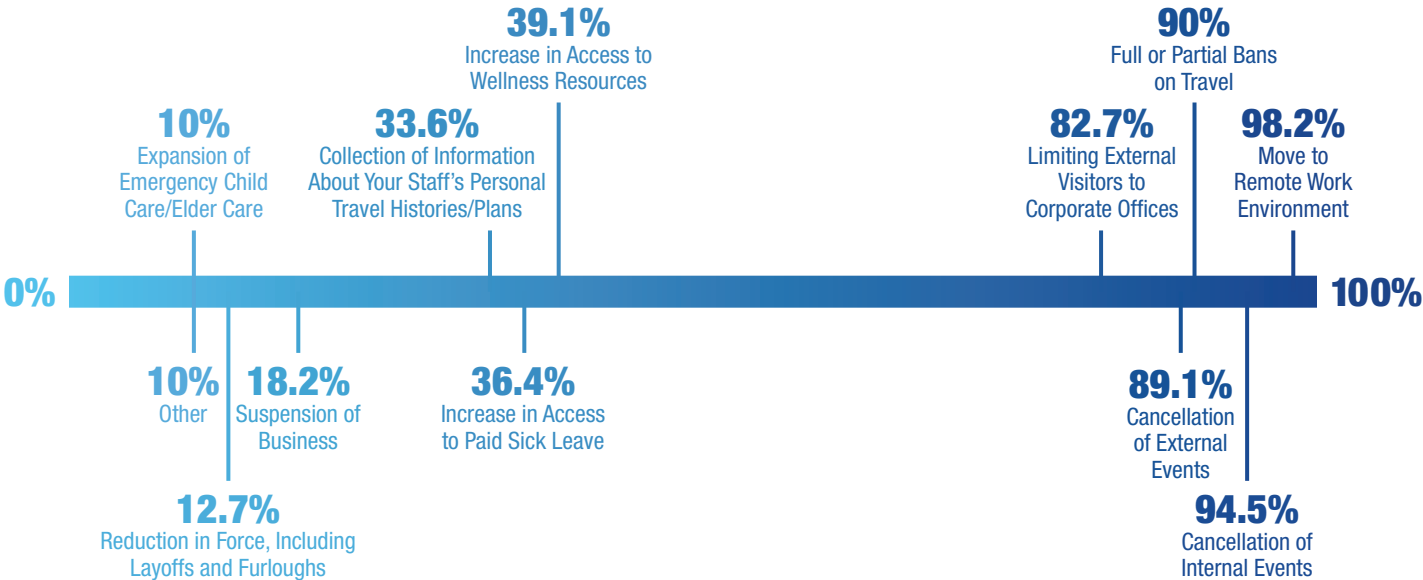
> **IN ASIA, AS THE FIRST GEOGRAPHY IN THE WORLD TO FACE THIS HISTORIC GLOBAL PANDEMIC, OUR CLIENTS ARE JUST NOW STARTING TO SETTLE INTO A NEW NORMAL WAY OF DOING BUSINESS AND LEARNING WHAT WORKS AND WHAT DOESN'T AS THEY GO.**
>
> Timothy W. Blakely, Morrison & Foerster Hong Kong Managing Partner

In terms of business actions taken in response to the spread of COVID-19, the vast majority of companies surveyed are offering remote working environments (98.2%), canceling external (89%) and internal meetings/events (94.5%), and banning travel (90%) to address the COVID-19 challenge to their business.

Only a minority of businesses at this time have taken more drastic measures such as suspension of business (18.2%) or reductions in workforce, including layoffs and furloughs (12.7%) to address the COVID-19 challenge. This reflects that the majority of companies surveyed have operations in place to keep business running by offering effective remote working environments. Companies seem to be weathering the storm now, but may have to resort to more drastic measures as the crisis continues over the next six to 24 months.

BUSINESS ACTIONS TAKEN IN RESPONSE TO THE SPREAD OF COVID-19

39.1%
Increase in Access to Wellness Resources

90%
Full or Partial Bans on Travel

10%
Expansion of Emergency Child Care/Elder Care

33.6%
Collection of Information About Your Staff's Personal Travel Histories/Plans

82.7%
Limiting External Visitors to Corporate Offices

98.2%
Move to Remote Work Environment

0%

100%

10%
Other

18.2%
Suspension of Business

36.4%
Increase in Access to Paid Sick Leave

89.1%
Cancellation of External Events

12.7%
Reduction in Force, Including Layoffs and Furloughs

94.5%
Cancellation of Internal Events

Some other actions in-house counsel have taken to lessen the impact of the crisis on their business include the following:
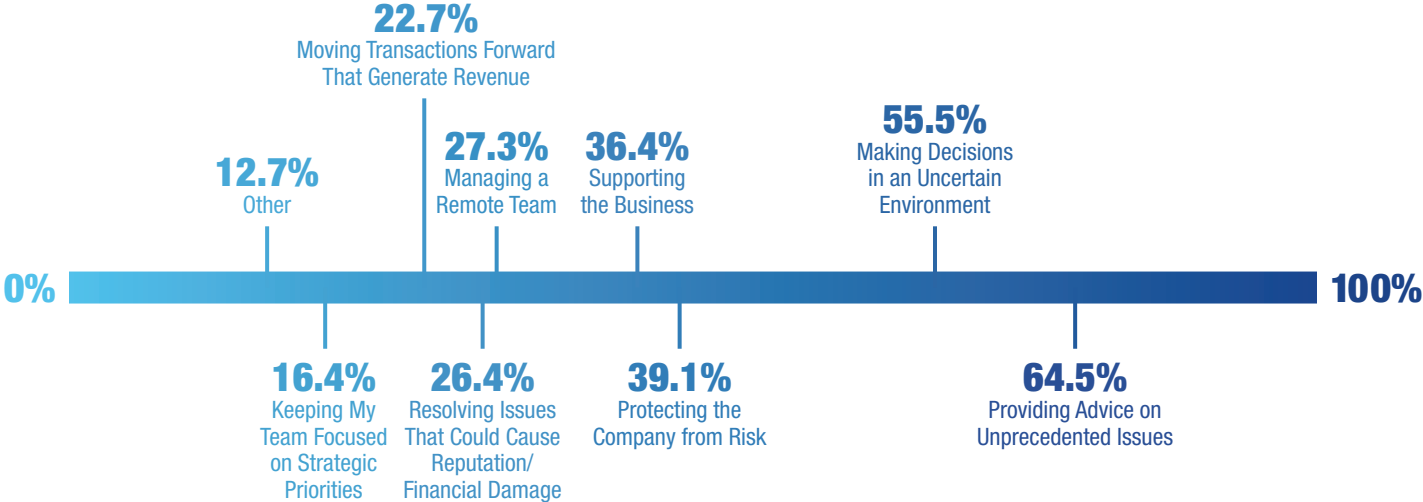
- "*Stood up international BCM COVID-19 working group; expanded VPN; expanded flex-time; allowed equipment purchases for home use; ensuring safety for those who are essential to work in facilities; building management in APAC offices have to check temperatures for those returning to the offices.*"

- "*Closed offices to all but essential on-site employees; closed cafeteria and exercise facilities; prohibited children from coming to our facilities.*"

- "*Continuation of benefits for furloughed employees*"; "*Continuing pay to non-exempt employees who cannot work remotely.*"

To cope with some of these unprecedented challenges, in-house counsels said the following strategies were making a positive impact on their business:

- Transparent and frequent senior management communications to employees: "*Comprehensive and regular communication at all levels; dedicated website with information for personnel.*"

- Placing employee well-being first and foremost: "*Allowing people to shift their schedules around child care responsibilities and not requiring them to take PTO if they cannot work a full day*"; "*Acknowledge personal impact. Focusing on people. Not only business.*"

- Using online technology to stay in touch and on top of issues: "*Dramatically increased use of video conferencing using simple apps like Microsoft Teams and Zoom has helped bridge the physical divide.*"

In terms of legal department workload, approximately three out of five of respondents (62.7%) report that their current workload has increased as an immediate result of COVID-19 while one out of five (20%) report that workload has remained the same but changed, reflecting that companies are shifting their regular business priorities to deal with these new and more immediate priorities. Many reported that this increase in workload is expected to continue for the next six to 12 months.

BIGGEST CHALLENGES PERSONALLY FACED IN ROLE RIGHT NOW

22.7%
Moving Transactions Forward
That Generate Revenue

12.7%
Other

27.3%
Managing a
Remote Team

36.4%
Supporting
the Business

55.5%
Making Decisions
in an Uncertain
Environment

0%   **100%**

16.4%
Keeping My
Team Focused
on Strategic
Priorities

26.4%
Resolving Issues
That Could Cause
Reputation/
Financial Damage

39.1%
Protecting the
Company from Risk

64.5%
Providing Advice on
Unprecedented Issues

From a personal perspective, in-house counsels report providing legal counsel on unprecedented issues (64.5%) and making decisions in uncertain times (55.5%) brought on by COVID-19 as being their biggest personal challenges.

Traditional legal priorities normally reported as challenges in their roles are now much lower on their challenge list, with only 22.7% of respondents saying focus on keeping transactions moving forward and 16.4% reporting keeping their teams focused on strategic priorities were their top challenges.

IN THEIR OWN WORDS: BIGGEST CHALLENGES FACING IN-HOUSE COUNSEL

"It is impossible to narrow this to 3 top challenges because there are so many and they are all happening simultaneously and are equally important. It is difficult to prioritize."

"Significantly increased workload in a less optimal working environment."

"Building executive consensus around important decisions at an unprecedented pace."

CONCLUSION

As companies around the world adapt to conducting business in a post-COVID-19 world, there is strong evidence to suggest that at least for the foreseeable future (the next six to 12 months, according to our results) priorities in the legal department will shift to address the more immediate and urgent needs that have arisen as a result of this global pandemic. Some of these issues may force GCs and in-house legal professionals to step outside of their comfort zones, but responses from survey participants positively indicate that many of their companies are well positioned to adapt accordingly and move forward. Indeed, as large and unprecedented as the COVID-19 pandemic is, it is, in fact, a crisis. And as in any other major crisis, there are lessons that can be learned by going through the crisis itself and using the experience to develop future plans and preparations to mitigate similar situations when the next unanticipated global crisis or pandemic comes knocking on the door.
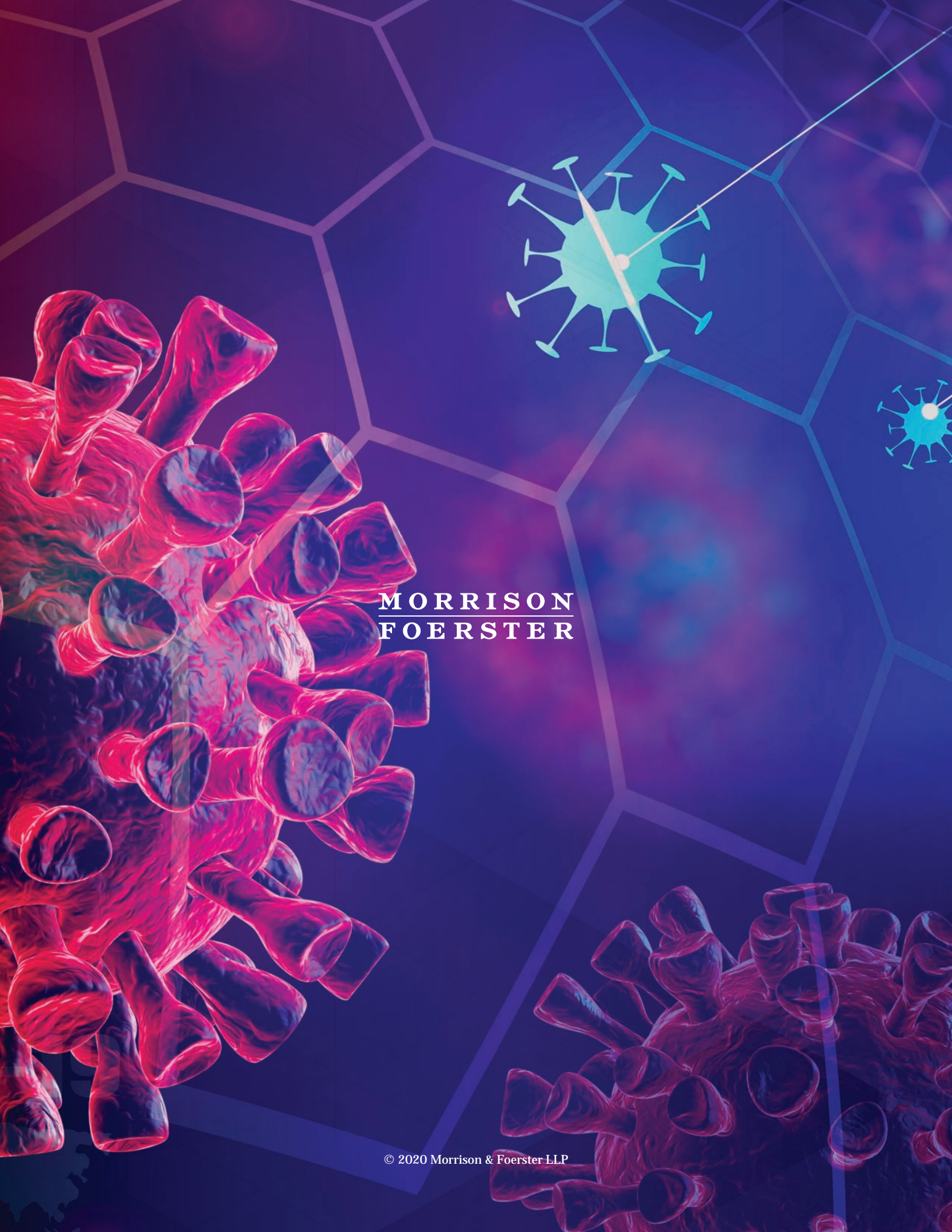
MORRISON
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IMPACT SURVEY

COVID-19 and Easing of
Stay-At-Home Orders

**MORRISON
FOERSTER**

In response to the global COVID-19 pandemic, Morrison & Foerster released its _COVID-19 Business Impact Survey_ in March of this year, to understand how in-house general counsel from global corporations were managing the immediate and long-term business impact of the virus. Now, as the world adapts to the ongoing COVID-19 pandemic, Morrison & Foerster has once again surveyed over 100 in-house general counsel from global corporations to understand how the pandemic and the easing of stay-at-home orders are impacting their businesses now and how they expect to be impacted over the long term.

As companies begin to map out their recovery plans, assess how business has changed, and determine which operating guidelines will become permanent or semi-permanent to accommodate COVID-19's continued presence, "business as usual" no longer applies. As in-house general counsel adapt to this new business reality, assessing the impact of COVID-19 on the business as they gradually reopen after months of shutdowns, and the legal risks they believe they are facing over the next six to 12 months, will be critical to their ongoing recovery.

METHODOLOGY

For our Coronavirus (COVID-19) Easing Stay-at-Home Orders Survey, Morrison & Foerster surveyed in-house legal professionals around the globe with revenues up to more than $20 billion. The survey was conducted between May 20 and 28, 2020.

The top three industries represented in the study include: technology (22%), followed by finance and insurance (20%), and manufacturing (9%).

WHAT IS YOUR ORGANIZATION'S ANNUAL REVENUE?

14.8% More than $20 billion

40.9% $1 billion – $20 billion

29.5% Less than $250 million

14.8% $250 million – $999 million

FINDINGS

While COVID-19 continues to have a significant impact on companies worldwide, and many of the issues that were top of mind in our first study still remain, our new findings indicate increased optimism with respect to how businesses are navigating the impact of the pandemic as well as a shift in priorities in the current environment now that businesses have had a few months to adapt to the new business landscape.

" [T]HE SURVEY SUGGESTS AN INCREASED FOCUS ON PRIVACY AND DATA SECURITY AS COMPANIES OF ALL SIZES APPRECIATE THE RISKS OF OPERATING IN REMOTE WORK ENVIRONMENTS AND STUDY THE FEASIBILITY OF MEASURES TO MITIGATE THE SPREAD OF INFECTION AS STAY-AT-HOME ORDERS ARE LIFTED.

David Newman, Morrison & Foerster Partner and Head of the Firm's Coronavirus (COVID-19) Task Force, who served as Chief of Staff of the Ebola response office in 2014 – 2015 while an official on the National Security Council staff.

"The survey underscores that the pandemic continues to have a dramatic and disruptive impact on companies and legal departments – and that significant disruption is expected to remain the norm for at least the next two years," said David Newman, Morrison & Foerster Partner and Head of the Firm's Coronavirus (COVID-19) Taskforce. "While the overall assessment of disruption is largely unchanged from the previous survey conducted two months ago, we are seeing cautious indications of optimism. In addition, the survey suggests an increased focus on privacy and data security as companies of all sizes appreciate the risks of operating in remote work environments and study the feasibility of measures to mitigate the spread of infection as stay-at-home orders are lifted."

As expected, Coronavirus (COVID-19) is continuing to have a significant impact on businesses, with the severity of the impact changing little from the previous two months. Impact averaged 6.7 on a 10-point scale – 10 representing the most severe impact – versus 7.2 previously and continues near that same level (6.0) for the next six months, compared to 7.1 previously. As referenced earlier, legal counsels expect the impact level to decrease over the next 12 (5 vs 5.7) to 24 (3.7 vs 4) months, but they do not see it completely dissipating.

IMPACT COVID-19 HAS/WILL HAVE ON YOUR BUSINESS (SCALE OF 1–10)
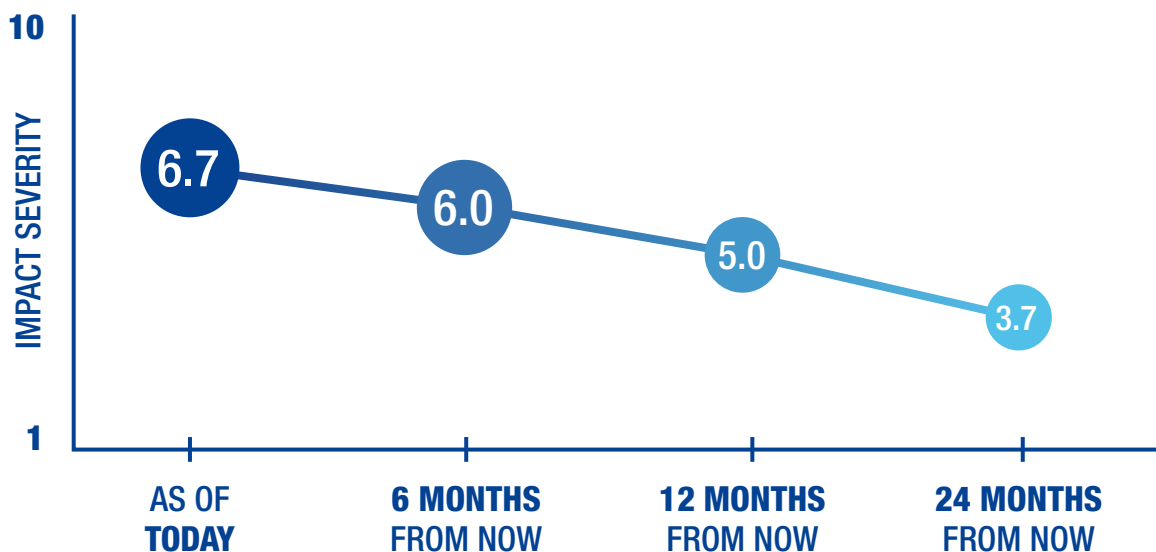
Although average impact levels have changed little over the past two months, one can see that there is greater optimism today than two months ago when looking at those that rated impact as "Severe" (8+). The number of companies rating the impact as severe today versus two months ago dropped by 10 percentage points, from 52% of companies to 42%. This likely reflects companies' experience having navigated and survived the challenges of the first months of the pandemic – and greater optimism accompanying an easing of stay-at-home orders. That more optimistic view of impact, as well as the recovery, can be seen across the board, regardless of time frame.

COVID-19 IMPACT CROSSOVER POINTS
MARCH VS. MAY
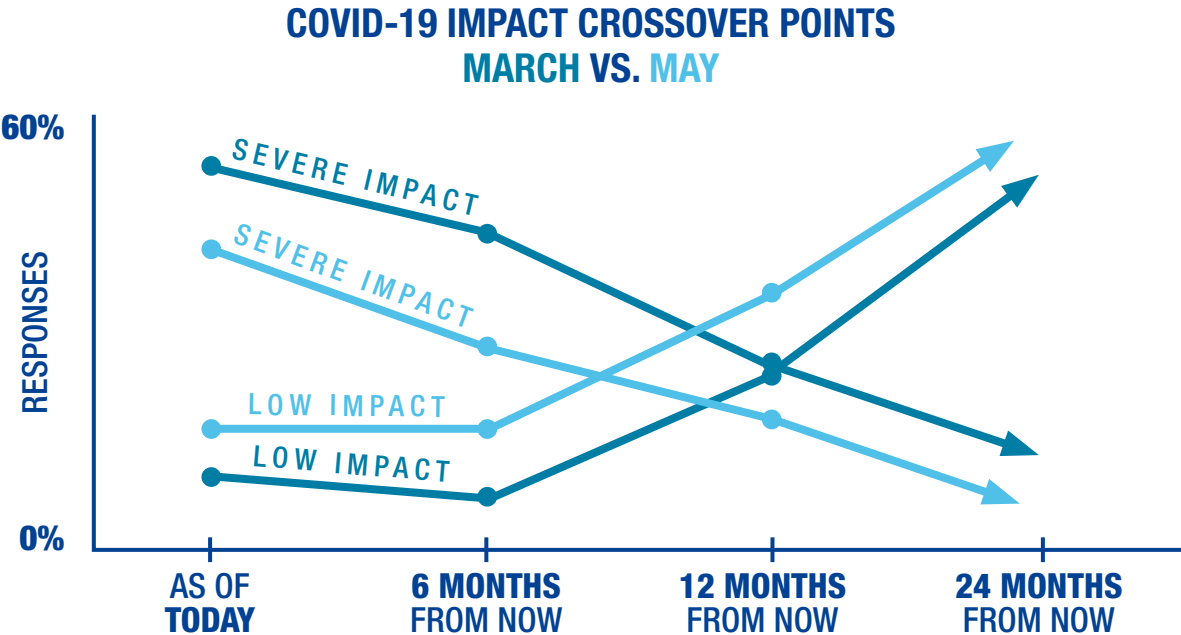
That said, it bears emphasis that companies still believe full or near recovery is still 24 months away.

In terms of legal department workload, little has changed in two months, with approximately three out of five respondents (69%) reporting that their current workload has increased as an immediate result of COVID-19 and that a majority expect it to continue to increase for the next six months (51%). It's interesting to note that, although workload has increased, few companies report increases in legal department staffing levels today (5%) or six months from now (7%). However, staffing increases are expected to begin 12 months from now, potentially reflecting the length of time typically required to recruit legal talent and/or tighter budgets based on the immediate revenue impact of COVID-19.

"It is unclear how legal departments are going to bridge the gap between the immediate increase in workload and the delay in getting additional resources," said David Newman. "Likely, they will have to reallocate the budgets they do have and prioritize the mission critical concerns at least over the short term, until they begin to re-hire and see their staffing levels begin to increase."

TOP LEGAL RISKS COVID-19 POSES TO YOUR BUSINESS AS COVID-19 STAY-AT-HOME ORDERS EXPIRE/RELAX
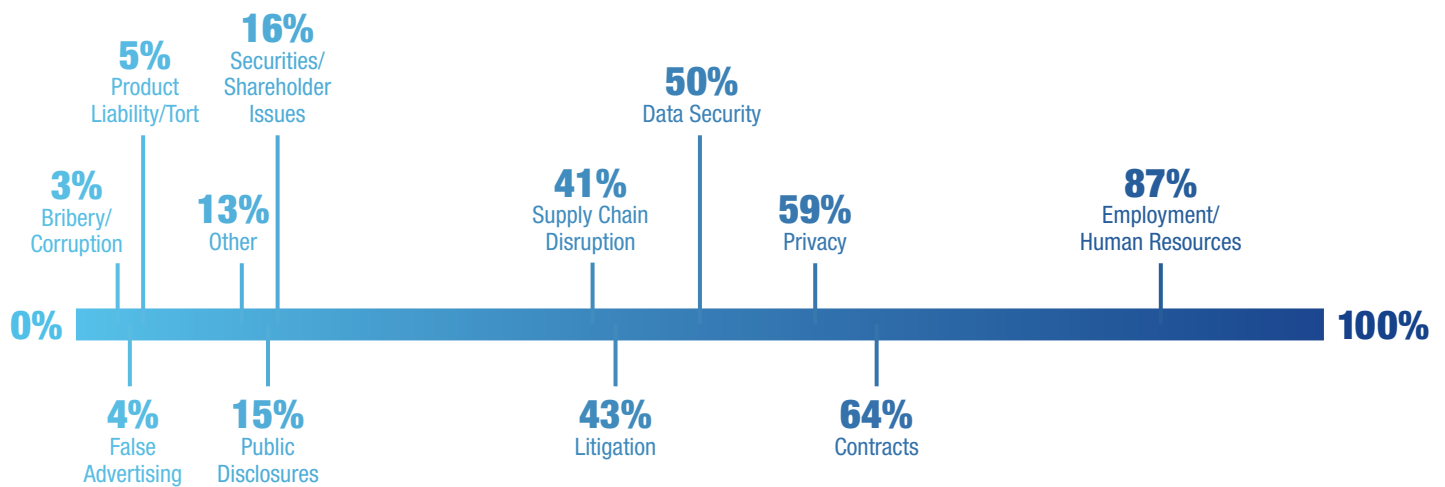
3% Bribery/Corruption

5% Product Liability/Tort

16% Securities/Shareholder Issues

13% Other

50% Data Security

41% Supply Chain Disruption

59% Privacy

87% Employment/Human Resources

0% — **100%**

4% False Advertising

15% Public Disclosures

43% Litigation

64% Contracts

Employment/Human resources (87%) and contracts (64%) continue to be the top two legal risks posed by COVID-19, regardless of company size or industry.

"Many companies have established new practices for their employees and resolved issues arising from shelter in place orders. The challenge now is to navigate the complex and sometimes conflicting guidance from authorities in having their employees return safely to the office," said Morrison & Foerster Employment and Labor Partner Janie Schulman.

In contrast to our previous findings, issues related to privacy and data security have more than doubled, with privacy now considered the number three risk to the company at 59%, versus 18% just two short months ago. Similarly, data security has moved up as the fourth risk with 50% of respondents citing it as a significant concern today, versus just 18% previously. As these issues have risen in risk level over the past two months, supply chain disruption has dropped from the number three risk to the number five risk (56% to 42%).

> **WITH THE VAST MAJORITY OF LARGE COMPANY EMPLOYEES WORKING REMOTELY DURING THE COVID-19 PANDEMIC, WE'VE SEEN A SIGNIFICANT INCREASE IN CYBERATTACKS, PHISHING ATTEMPTS, AND SCAMS THAT HAVE OCCURRED.**
>
> Miriam Wugmeister, Morrison & Foerster
> Partner and Co-Chair | Privacy and Data Security

"With the vast majority of large company employees working remotely during the COVID-19 pandemic, we've seen a significant increase in cyberattacks, phishing attempts, and scams that have occurred. Hackers and bad actors are capitalizing on the fear of the moment and the widespread use of unsecured wireless networks by unassuming employees," said Miriam Wugmeister, Partner and Co-Chair of Morrison and Foerster's Privacy and Data Security practice. "While all of this is happening, IT departments and cybersecurity groups have never been more stretched and the bad guys know it. Now, more than ever, companies are under increased pressure to reinforce their privacy and data security plans and demonstrate to regulators how they intend to mitigate these new and evolving risks."

"We're not out of the woods when it comes to supply chain issues brought on by the pandemic," said Business Restructuring + Insolvency Partner Jennifer Marines. "The virus itself has largely dictated disruptions in the supply chain as well as consumer demand. The best thing suppliers of goods and services can do to protect themselves is take proactive steps to put themselves in a more favorable position in the event that a customer files for bankruptcy."

In terms of company size, it's interesting to note that although only 16% of companies overall cited securities or shareholder risk, of those citing it as a risk, 70% were companies with revenues over $1 billion dollars. And, again, although only 15% of companies cited public disclosures risk, 85% citing it were from companies with revenues over $1 billion dollars.

"This likely reflects the fact that companies have already made the necessary disclosures. The issue will be additional disclosures required if there continues to be a deterioration or a sudden improvement in business conditions," said David Lynn, Morrison & Foerster Partner and Corporate Finance Co-Chair.

WHAT LITIGATION ACTIONS DO YOU EXPECT YOUR BUSINESS WILL FACE AS STAY-AT-HOME ORDERS EXPIRE/RELAX?
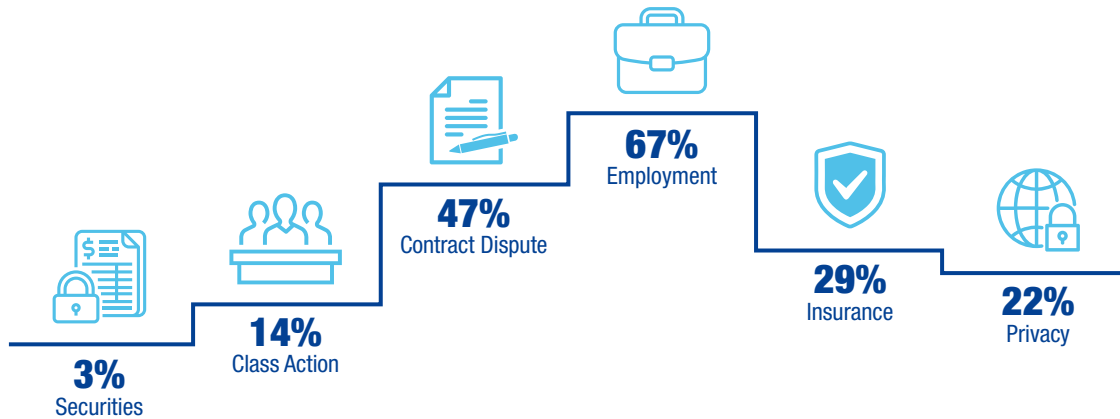
67%
Employment

47%
Contract Dispute

29%
Insurance

22%
Privacy

14%
Class Action

3%
Securities

In terms of litigation actions, respondents expect their business to face with the easing of stay-at-home orders, two out of three companies (67%) expect employment/human resource litigation to be the top action they face, followed by contract disputes (47%), directly aligning with the top two reported business risks. Regardless of company size or industry, these risks were top of mind.

"Employment and human resources litigation may be inevitable as employees head back into their offices because there are competing regulations, individuals making decisions about where they work based on unique medical factors, and different levels of risk tolerance," said Janie Schulman. "However, knowing all of this, employers need to be devising detailed plans and outlining how they intend to protect their employees in these circumstances. You don't want to be the business that's on the 6 o'clock news in a report that says one of your employees died because you wouldn't let employees wear masks in the workplace."

When asked about business transactions companies are considering taking in the next nine months, approximately one-third (31%) of respondents reported that acquiring assets or making an acquisition offer was part of their immediate plan. Approximately one out of five companies plan on raising capital (23%) or terminating or slowing down any transactions currently in process (23%). Less than 3% of companies were considering selling the business altogether, while 16% are considering selling assets or business divisions. "There seems to be a clear divide between companies that have weathered the crisis well and those who haven't. On one hand, there are those companies that are opportunistically using the market opportunity and their liquidity to seek out and purchase

WHICH ACTIONS IS YOUR COMPANY CONSIDERING TAKING IN THE NEXT 9 MONTHS?
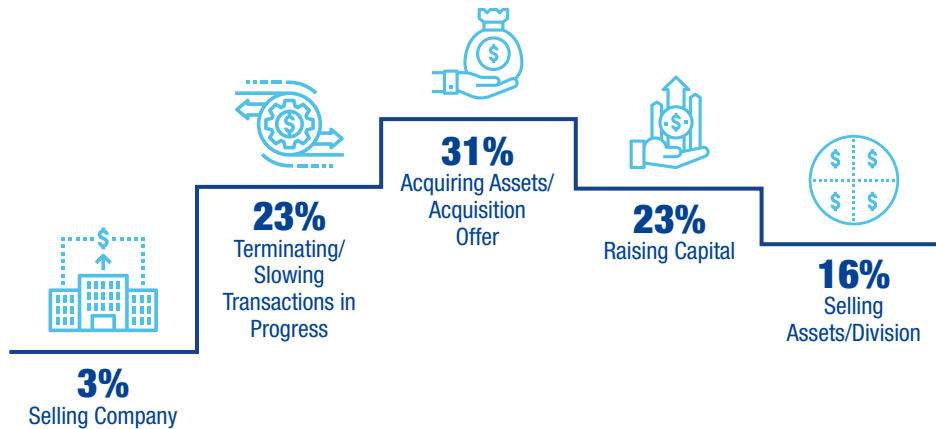
31% Acquiring Assets/ Acquisition Offer

23% Terminating/ Slowing Transactions in Progress

23% Raising Capital

16% Selling Assets/Division

3% Selling Company

discounted assets. And, on the other, those that are cash constrained and raising capital to ensure that they have enough cash on hand to withstand a prolonged slump or resurgence of COVID-19 restrictions in the fall and are perhaps selling off assets and/or the company in its entirety," said Morrison & Foerster Corporate Department Co-Chair Eric McCrath.

Nearly two-thirds of respondents report that business leadership is moderately to extremely concerned with the threat of subsequent lockdowns (67.7%), followed by conflicting government guidance (62.4%). Over half are also moderately to extremely concerned with the threat of new COVID-19-related regulations/ restrictions (55.9%) as well as anticipating post COVID-19 market trends (55.9%).

HOW CONCERNED ARE YOU AND YOUR BUSINESS LEADERSHIP REGARDING THE FOLLOWING:

Category	Moderately/Extremely Concerned	Not at All/Slightly Concerned
Subsequent Lockdowns	67.7%	32.3%
Conflicting COVID-19 Government Guidance	62.4%	37.6%
Anticipating COVID-19 Market Trends	55.9%	44.1%
Threat of New COVID-19 Regulations	55.9%	44.1%
Liquidity/Cash Flow/ Financial Survival	43%	57%
Requirement to Report COVID-19 Cases	48.4%	51.6%
Opening of International Borders	33.3%	67.7%
Increased Government Influence Following Aid	28%	72%

■ Not at All/Slightly Concerned   ■ Moderately/Extremely Concerned

"These findings are consistent with what we're hearing in our conversations with our clients," said David Newman, Morrison & Foerster Partner and Head of the Firm's Coronavirus (COVID-19) Taskforce. "The challenge now will be understanding what the next phase of the pandemic will look like. But having just lived through the first stage of the virus, companies now have some insight into the challenges and issues involved in operating at a time of stay-at-home orders and with a persistent risk of infection."

On the flip side, a large majority of respondents were not at all or only slightly concerned about increased government influence following government aid (71%) and the opening of international borders to enable better flow of goods and people for business (67%), while slightly more than half were not at all or only slightly concerned about their liquidity/cash flow financial survival of their company/business and a requirement to report suspected or confirmed employee COVID-19 cases.

BUSINESS ACTIONS TAKEN IN RESPONSE TO THE RELAXATION OR REMOVAL OF COVID-19 STAY-AT-HOME ORDERS

16%
Pay For or Supplements
Parking/Bike Leasing/Taxi/
Car Service

0%
Take Temperatures
Before Entering
Business

11%
Other

26%
Evaluate and/or
Implement Tools That
Enable Contact Tracing

53%
Accelerate
Automation and Other
New Ways of Working

70%
Pay for Personal
Protection Equipment
for Employees

0%   **100%**

3%
None of
the Above

12%
Provide
Childcare
Accommodations

45%
Require Employees with
Pre-existing Conditions/
Elevated Risks to Work
Remotely

55%
Require Employees
to Complete Health
Questionnaire

23%
Collect Information About
Your Staff's Personal
Travel Histories/Plans

Some immediate business actions in-house counsel say their companies are planning to take in response to the relaxation or removal of COVID-19 stay-at-home orders include paying for personal protection equipment for employees (70%), by far the highest initiative planned. That was followed by slightly more than half of companies planning to require employees to complete

a questionnaire regarding their health status (55%) and accelerating automation and other new ways of working (53%).

Few companies planned to lessen the burden on employees by paying for or supplementing parking/ bike leasing/taxi/car service for employees to avoid public transportation (16%) or provide childcare accommodations for employees (12%) or implement more personally invasive actions, such as taking temperatures of employees, clients, and customers before entering the business or workplace (<1%), evaluating and/or implementing tools that enable contract tracing or geo tracking of employees (26%), or collecting information about staff's personal travel histories/plans (23%).

> **I HAVE BEEN IMPRESSED WITH EMPLOYERS' GENUINE CONCERN FOR THE WELFARE OF THEIR EMPLOYEES AND UNDERSTAND THEIR ADDITIONAL CONCERN ABOUT POTENTIAL LIABILITY IF THEY DO NOT TAKE PRECAUTIONS SUFFICIENT TO SATISFY THE DIZZYING MAZE OF RULES WITH WHICH THEY HAVE BEEN INUNDATED OVER TWO SHORT MONTHS.**
>
> Janie Schulman, Morrison & Foerster
> Partner | Employment and Labor

"I have been impressed with employers' genuine concern for the welfare of their employees and understand their additional concern about potential liability if they do not take precautions sufficient to satisfy the dizzying maze of rules with which they have been inundated over two short months. At the same time, however, employers are mindful of the need to reserve capital and control cash flow at a time when revenue is down and the economy uncertain. Employers are working hard to strike this delicate balance," said Morrison & Foerster Employment and Labor Partner Janie Schulman.

When asked to share their thoughts on the business or legal impacts of COVID-19 and the subsequent loosening of stay-at-home orders, survey respondents offered a wide range of challenges they expect to face in the coming months. Given some of these challenges, some respondents said their companies might even move to a permanent work-from-home business environment:

- "I am worried about inconsistent approaches of states and keeping up with changes/requirements."

- "Effective planning to reopen has been incredibly difficult for our company without widespread testing, treatments, and vaccines. Information is a black hole of contradictions and assessing risks impossible in the absence of reliable data. Cases are undercounted, asymptomatic carriers are unidentified, and the stakes are life or death. It's a nightmare."

- "We anticipate 'Work From Home' will be our primary method of operation for many months, and, for a good portion of our employees, it may now be permanent."

- "Our industry (financial services) was exempt from most orders, so their imposition (and relaxing) has not directly affected us. We closed our offices 'voluntarily' in the interest of employee, client, and public health."

- "We will likely have much more work from home and over time decrease our office space footprint."

WHERE YOUR COMPANY IS ON ITS TRANSITION TO THE "NEW NORMAL"

- 1% Still in Crisis Mode
- 1% Fully Operational
- 28% Mostly in Crisis Mode
- 9% We Know What the Future Holds
- 18% Well on the Way to the New Normal
- 43% We Have Begun Our Transition
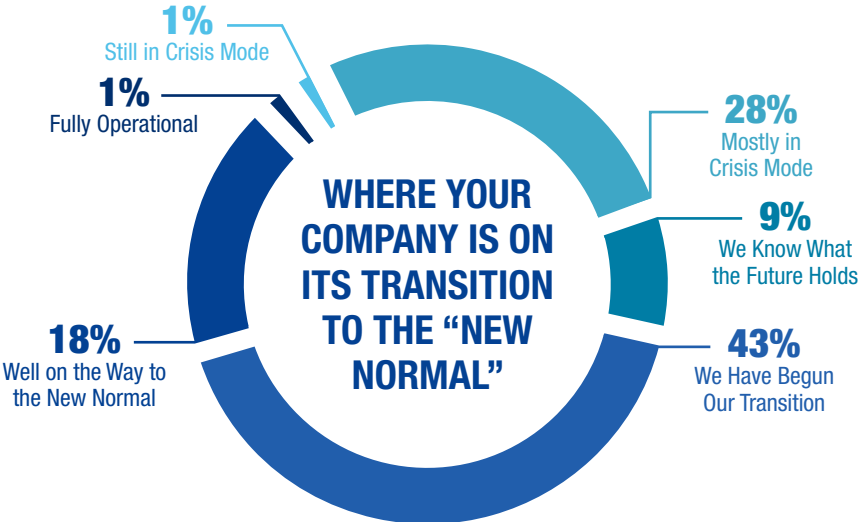
And finally, as companies around the globe adapt to conducting business in a post-COVID-19 world, we asked respondents to identify where they felt they were on the transition to the "New Normal." On the good news side, regardless of size of the company, companies appear to be highly resilient, with nearly two-thirds of the companies reporting that they have at least begun their transition or are fully operational in the "New Normal" (i.e., have begun transition with a long way to go (43%), are well on their way to the "New Normal" (18%), or are fully operational in the "New Normal" (1%)). Unfortunately, approximately one-quarter of the companies are either still in crisis mode, not looking to the future (1%) or mostly in crisis mode, or starting to talk about the future (28%).

CONCLUSION

It is clear that, even months into this pandemic, many companies are still in crisis mode. However, contrary to where they were three months ago at the outset of the pandemic, there seems to be more optimism in terms of a long-term recovery now that companies have had a few months to adapt to their new ongoing COVID-19 business environments. The legal issues companies were originally focused on are now being reprioritized as legal departments are having to "make do" with the resources that they currently have and as new issues have come forward as a result of the evolving work environment and now as some companies prepare to bring people back into their offices and prepare for the next phases of the pandemic.

"We are coming to realize that there is no 'new normal,' when it comes to this pandemic," said David Newman, Morrison & Foerster Partner and Head of the Firm's Coronavirus (COVID-19) Taskforce. "There is nothing normal about the current situation that we are in, but we are encouraged by the progress that legal departments are making to navigate the crises, to prioritize and reprioritize in the face of new developments, and to mitigate the risks to their businesses."

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This document has been prepared as a starting point for employers bringing employees back to work. Every industry, worksite and workforce is different. Unionized workforces present additional considerations which must be addressed. And, because state and local law may have more or different requirements, employers should consult with experienced L&E counsel prior to implementing this or any policy, practice or form. This document does not and cannot replace legal guidance that is protected under the attorney-client privilege. As such, employers should consult with their Akerman lawyer prior to implementing this or any policy, practice or form.

How To Use This Policy

This policy addresses the voluntary use of cloth face coverings recommended by CDC to slow the spread of COVID-19. This policy does not address, and should not be applied to, workplaces or job functions that require respiratory protection or masks as a form of personal protective equipment to eliminate a workplace hazard. Further, this policy does not address requirements imposed by local jurisdictions that mandate the use of masks in certain workplaces. Whether a cloth face covering is personal protective equipment that must be paid for, or reimbursed, by the employer is fact- and jurisdiction-specific. Employers should consult with knowledgeable counsel before implementing this or any workplace mask policy.

WORKPLACE MASK POLICY

The health and safety of employees is our highest priority. Following guidance from the CDC and other governmental authorities, the Company has decided to [provide/permit] cloth face coverings to employees for voluntary use. The cloth face coverings recommended by the CDC are not medical grade surgical masks or respirators. But, based on available guidance, cloth face coverings may help slow the spread of COVID-19 by providing some protection from respiratory droplets.

[When you receive your face covering, we also will provide instructions on how to wear, clean and dispose of it. Should you require a replacement, contact [email]] OR [Due to the current short supply of cotton masks, we encourage all employees who require a simple cloth face-covering to follow CDC guidance on creating your own cloth face-covering.].

Cloth face coverings should:
- fit snugly against the side of the face;
- be secured with ties or ear loops;
- include multiple layers of fabric;
- allow for breathing without restriction; and
- be able to be laundered and machine dried without damage or change to shape.

Individuals should be careful not to touch their eyes, nose, and mouth when removing their cloth face covering and wash hands immediately after removing. If the cloth face covering needs to be removed at points during the workday, the face covering should not be placed directly on any

surface. Cloth face coverings that are visibly soiled or are damp should not be worn. Disposable masks, if worn, must be placed wrapped in tissue or a bag before being placed in a trash receptacle.

Please note that face coverings are an additional health protection, but they do not guarantee against the spread of the virus, and they do not replace important practices to keep yourself well: hand hygiene, staying home when symptomatic, and social distancing whenever possible. Further, cloth face coverings may present their own risks. Employees whose health or safety is put at risk by a cloth face covering should discontinue its use and contact [Human Resources.]

Where local law imposes more restrictive requirements regarding face coverings, the Company will comply with the more restrictive law's requirements.

AN EXPERT'S GUIDE TO

ENGAGING

INDEPENDENT
CONTRACTORS

ATRIUM

INTRO

According to recent reports, the gig economy now **totals nearly 60 million people** **in the U.S. alone** and is growing **three times faster** than the traditional U.S. workforce.

From small start-ups to large Fortune 500 companies, many organizations are turning to Independent Contractors in order to stay competitive while quickly responding to changing business goals.

THE BENEFITS OF UTILIZING ICs

Lower training + equipment costs

Reduced on-boarding time + administration

Access to industry experts + specialty skill sets

Increased flexibility, efficiency + productivity

Instead of expanding their full-time workforces, an increasing number of companies are seeking these highly-skilled professionals for specific projects and non-core business related tasks. As a result, an understanding of best practices for identifying, engaging and managing Independent Contractors is both crucial and in high demand.

THIS GUIDE SERVES AS A USEFUL RESOURCE FOR NAVIGATING THE COMPLEXITIES ASSOCIATED WITH ENGAGING INDEPENDENT CONTRACTORS.

01. CLASSIFY

While there are many benefits to working with independent contractors, there are several disadvantages as well. Say hello to liability, audit risks and legality.

✖ ✖ ✖ ✖ ✖ ✖ ✖ ✖ ✖

If it has been determined an IC is the right move for your business, proper classification and compliance will be your top priority. **Companies must engage Independent Contractors in a lawful manner.** However, accurately distinguishing between full-time employees and ICs can often become blurry.

DO YOU NEED AN IC?

QUESTIONS TO ASK TO DETERMINE:

• Do you have a skill gap a contractor could fill?

• Do you have a small budget but need big results?

• Do you need someone for a short-term role?

• Do you have a time-sensitive project?

• Does the project require specialist knowledge?

• Are you under-resourced but don't have enough work for a full-time role?

Again, while it may sound like a perfect solution for your business, it is vital your organization engages ICs properly.

CHECKLIST: WHAT MAKES AN INDEPENDENT CONTRACTOR COMPLIANT?

- ☑ IC is financially independent from any one client

- ☑ IC determines when, where and how the work is performed

- ☑ IC is free from client direction in the performance of the services

- ☑ Services provided are not an integral part of the client's course of business

- ☑ IC's business maintains appropriate insurances, licenses and certifications

- ☑ IC provides services to multiple clients at once that are usually performed off-site

02. ENGAGE

To achieve a qualified IC status, workers must provide supporting documentation at the time of evaluation. All documents collected from the worker must be stored securely and easily accessible for the full duration of the engagement.

List of documents will include:

• Business license or proof of DBA

• Articles of incorporation (if applicable)

• W-9 Form to confirm Employer ID # (EIN)

• Evidence of revenue sources

• Evidence of insurance

• Project proposal or Statement of Work (SOW)

It is important to keep in mind that ICs often require access to the organization's systems and network which contain proprietary and sensitive data. Therefore, it is vital to ensure that proper information barriers and security firewalls are in place when hiring Independent Contractors.

DATA SECURITY TIPS

• **Run criminal background and identity checks**

• **Have ICs sign non-disclosure agreements**

• **Keep records of IC activity**

• **Limit access to systems and data**

• **Provide unique usernames and passwords**

• **Promptly revoke system access**

• **Password protect files on shared drives**

03. MANAGING

Just like your regular employees, you need to show your ICs that you appreciate them. Making your Independent Contractors feel valued goes a long way towards ensuring that they make positive contributions and deliver their best work.

Ultimately, making your ICs feel valued isn't challenging — it just requires your attention. And by consistently showing your appreciation, you stand a greater chance of building lasting relationships with top talent who can help your business advance.

HOW TO MAKE YOUR
INDEPENDENT CONTRACTORS FEEL VALUED

Show an interest in them beyond the work they're doing for you.

Ask them about other projects they've worked on or interests they have outside of work. This shows that the relationship is more than just transactional. As a result, you can build a strong relationship and improve the chances of them wanting to work with you again in the future.

Treat them like team members.

Don't expect them to do everything in a vacuum. Keep them informed about how projects are progressing and share good news. If they're onsite or close by, invite them to important meetings and team lunches.

Offer them work perks.

If onsite, you can offer ICs perks such as use of the company gym or fully-stocked kitchen. However, seek advice from your legal department before proceeding to make sure you are not raising any worker classification issues.

HOW TO MAKE YOUR

INDEPENDENT CONTRACTORS FEEL VALUED

Include them in your social networks.

Interact with them on LinkedIn, Facebook, Twitter and any other social networks you use. It's also a good idea to invite them to any company groups.

Invite them to events.

Online and onsite events can be a great way for ICs to feel more involved with your company. Moreover, events give them the opportunity to expand their networks, which can help them attract more business.

Thank them for their contributions.

Always remember to give your ICs positive feedback — and to thank them when the project is completed.

By consistently showing your appreciation, you stand a greater chance of building lasting relationships with top talent who can help your business advance!

ABOUT ATRIUM

We are a pioneering WBENC-certified organization delivering workforce management and talent acquisition solutions. Informed by people, process and technology, our goal is to enhance the candidate experience and elevate each unique employer brand.

Our nationwide service offerings include:

Temporary + Direct Hire Staffing	**Payrolling Services**	**Independent Contractor Compliance**

Managed Service Provider (MSP)	**Intern Program Design**

To learn more visit atriumworks.com

Tracking Employee Exposures to COVID-19

NIEHS Worker Training Program
April 15, 2020

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Division of Occupational & Environmental Medicine
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Disclosures

Nothing to disclose

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Brief Bio

Associate Professor

Internal Medicine and Occupational Medicine

Research on work disability risk and impact of opioids

Online instructional designer

Consultant on Occupational Health issues to UMB and College Park campuses

UMB Medical Campus Community

UMB

University of Maryland Medical Center – Patient Care

FPI

Faculty Physicians, Inc. – Outpatient Practices

University of Maryland, Baltimore – Research & Education

UMMC
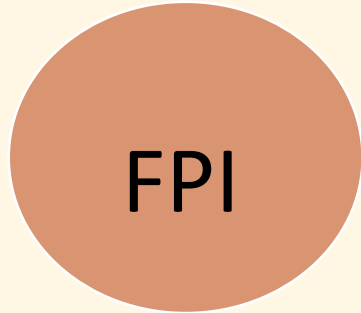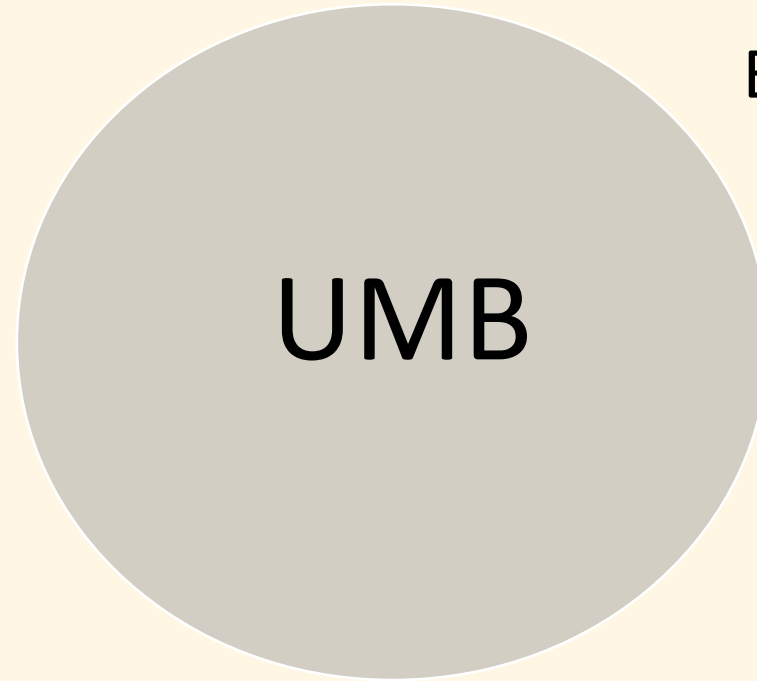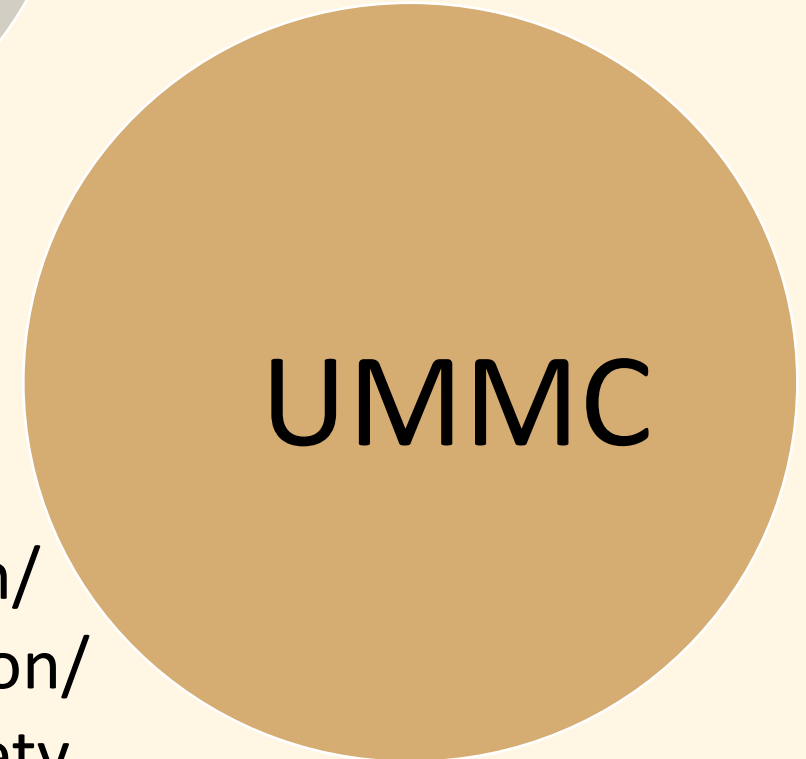
What the Pandemic Taught Us

UMB

FPI

UMMC
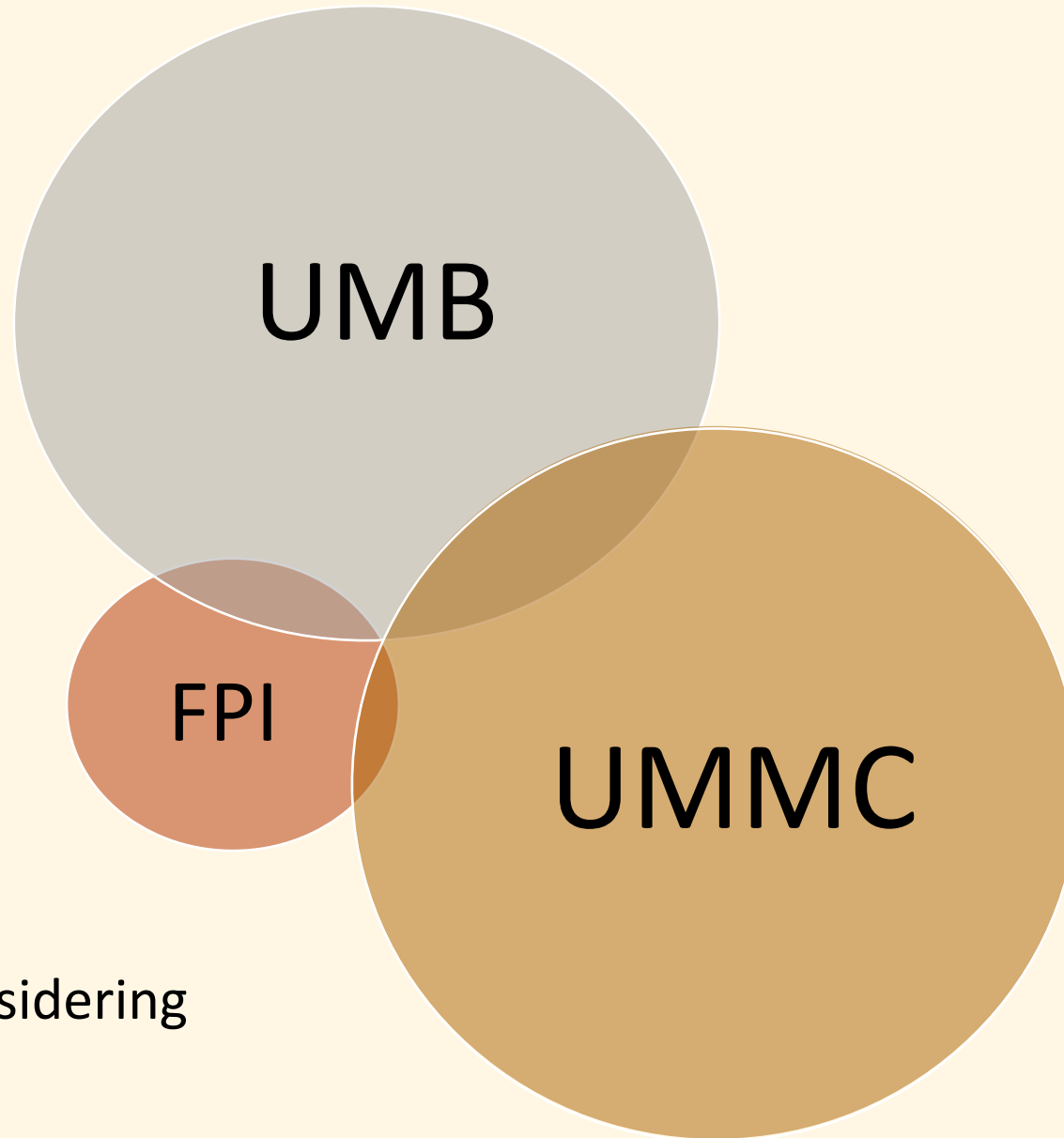
(Ironically enough, considering social distancing...)

Challenges in an Overlapping World

Reporting illness and exposures

Contact tracing

Communicating risk

Duplicating effort

Dropping balls
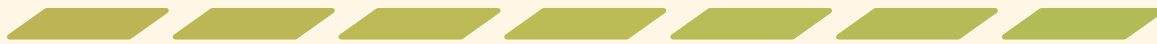
Discordant policies

Consider an infected faculty member, who practices in the hospital…
with an outpatient practice …
and a research lab

How many campus organizations and people may be affected?

Planning for a Pandemic

Brought together key experts and stakeholders from all campus organizations to:

- Plan response (staffing, space, supplies, equipment)
- Write and reconcile policies across organizations
- Decide on personal protective equipment and develop training
- Develop implementation protocols

Tabletop Exercise

Secure web application for online surveys and databases

Developed by Vanderbilt University and shared with the world

Designed to support online or offline data capture for research studies and operations

The REDCap Consortium - a vast support network of collaborators

Academic institutions and non-profit organizations share management

The UMB COVID-19 Employee Tracking System in REDCap

Employee COVID-19 Exposure Tracking in REDCap

No Symptoms --> Exposure Report

Symptom Monitoring

Quarantine Decision Based on Risk

If Symptoms --> Illness Report
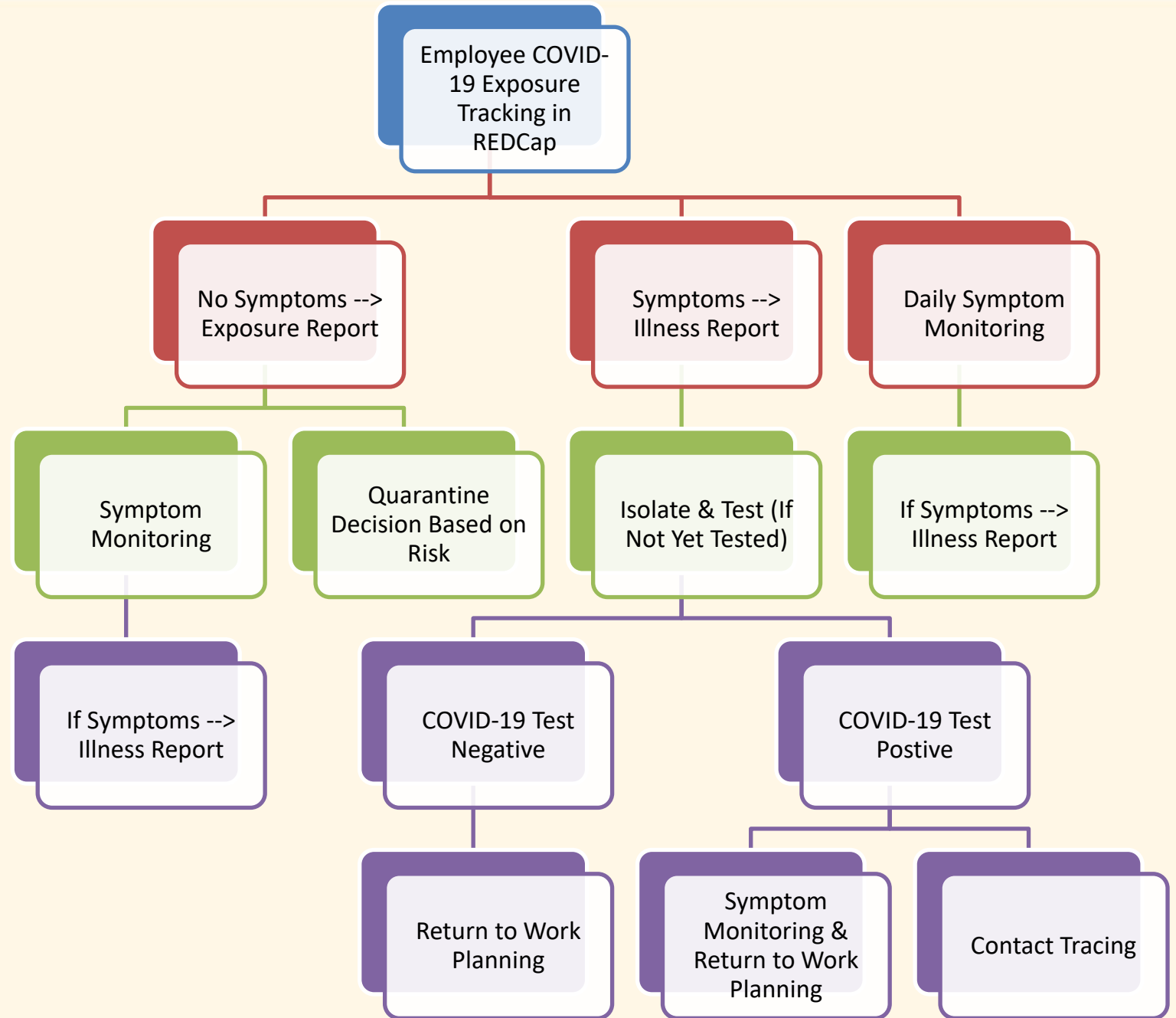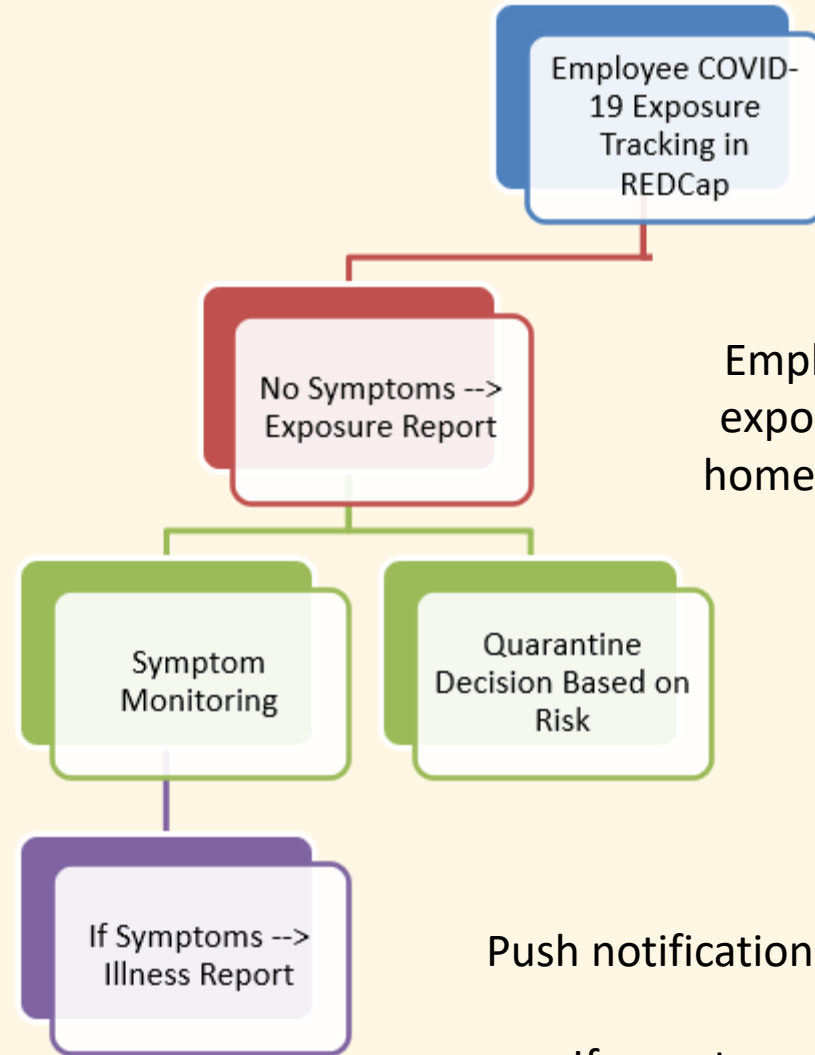
Employee enters information about exposure event – colleague at work, home/ community, patient encounter

Employee health reviews information, interviews if necessary, determines risk, triggers written notification with symptom monitoring plan and decision about quarantine or return to work

Push notifications twice a day to employee to complete symptom report
If symptoms reported, flag to employee health
Employee is directed to complete illness report and moves to illness path and decisions

The UMB COVID-19 Employee Tracking System in REDCap

If employee is already having symptoms, completes information about symptoms, onset, testing completed and results, last time at work

Employee health reviews and decides on isolation plan, facilitates access to testing if not already done

Pathway branches depending on results of COVID-19 testing

System pushes reminders to employee to monitor and report symptoms twice a day Return to work plan is based on symptom improvement and COVID-19 status

Employee COVID-19 Exposure Tracking in REDCap

Symptoms --> Illness Report

Isolate & Test (If Not Yet Tested)

COVID-19 Test Negative

COVID-19 Test Postive

Symptom Monitoring & Return to Work Planning

Symptom Monitoring & Return to Work Planning
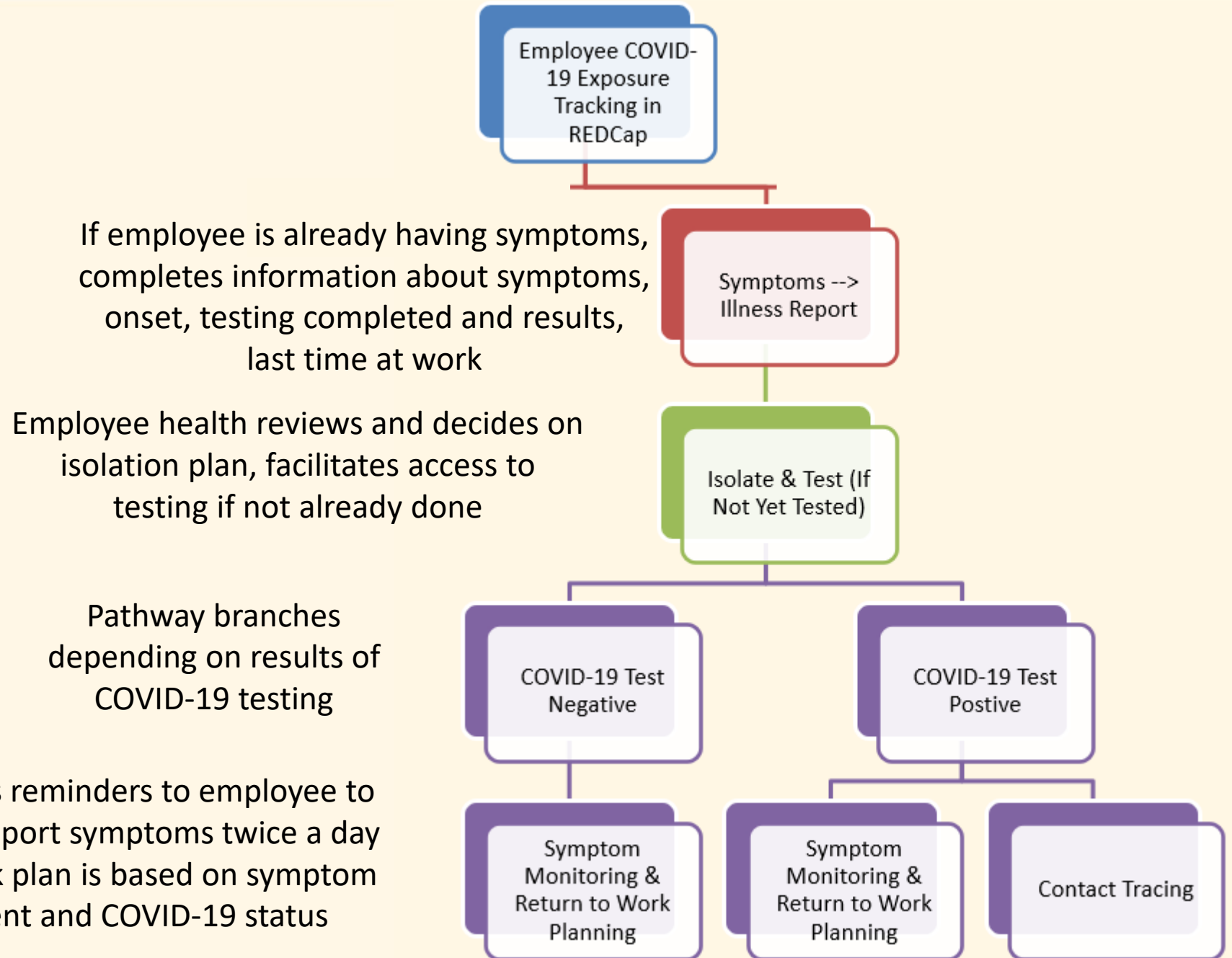
Contact Tracing

The UMB COVID-19 Employee Tracking System in REDCap
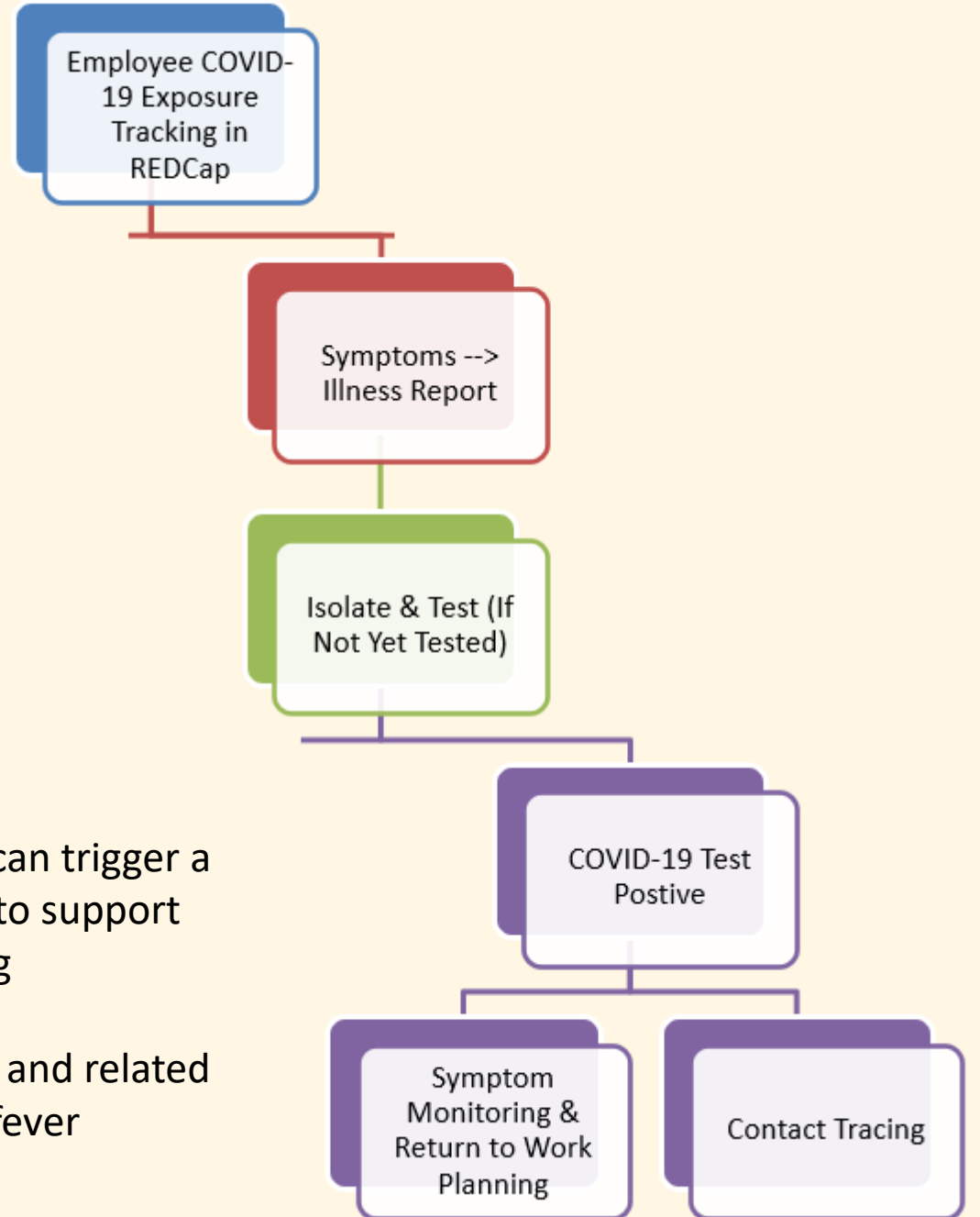
If COVID-19 positive, we can trigger a self-report on contacts to support contact tracing

Isolation period is longer, and related to days since last fever

The UMB COVID-19 Employee Tracking System in REDCap

Employee COVID-19 Exposure Tracking in REDCap

Daily Symptom Monitoring

If Symptoms --> Illness Report

Possible future feature

Tracking daily symptoms of frontline employees reporting to work
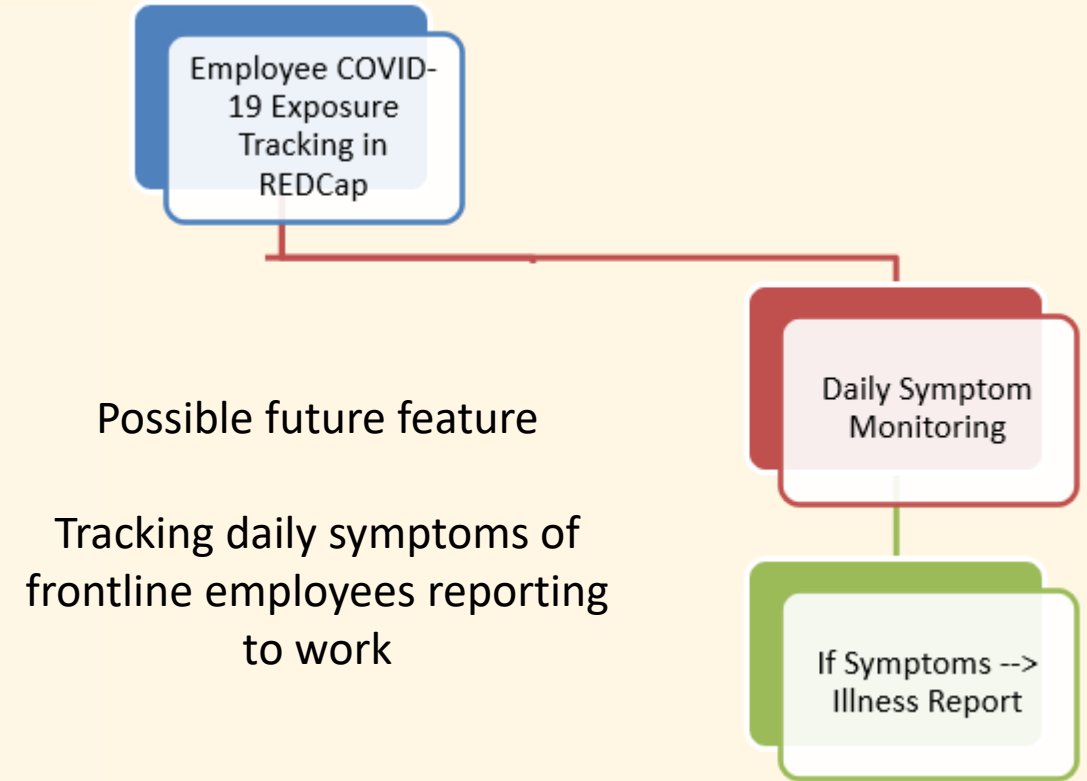
Option 1

EXPOSURE REPORT

Exposure Report Form

Please complete the survey below.

Thank you!

Is this report an exposure or an illness?
* must provide value

⦿ Exposure without illness

○ Illness with/without known exposure

reset

Please enter the information below:

Report Date
* must provide value

| 04-15-2020 | 📅 | Today | M-D-Y |

1. Employee Last Name
* must provide value

Cloeren

And additional contact info...

4a. Role

- ⦿ Employee
- ○ Student
- ○ Faculty
- ○ Resident/Fellow
- ○ Other

reset

5. UM Affiliation

* must provide value

- ○ Downtown UMMC
- ○ Midtown UMMC
- ○ UMMS
- ⦿ FPI
- ○ UMB
- ○ Other

reset

5b. Work Location

Family Medicine

6. Exposure Type

* must provide value

- ⦿ Patient
- ○ Coworker
- ○ Household Member
- ○ Community Member
- ○ Travel

reset

6. Exposure Type

* must provide value

- 🔴 Patient
- ⚪ Coworker
- ⚪ Household Member
- ⚪ Community Member
- ⚪ Travel

reset

10. Date of most recent suspected or known exposure

* must provide value

04/15/2020   📅   Today   M-D-Y

13. Where were you working when you were exposed?

* must provide value

Exam room B

14. Estimated time of exposure

11:00   🕐   Now   H:M

(24 Hour Format)

16. Is this a suspected or laboratory-confirmed case of COVID-19?

- ⚪ Suspected Case
- 🔴 Laboratory Confirmed COVID-19 Case

reset

19. How close did you get to the patient?

- 🔴 Physical Contact
- ⚪ Less than 3 ft
- ⚪ 3-6 ft
- ⚪ More than 6 ft

reset

20. In total, how much time did you spend with the patient

- ⚪ Only momentarily
- ⚪ Less than 2 minutes
- ⚪ 2-5 minutes
- 🔴 5-15 minutes
- ⚪ Longer than 15 minutes

reset

21. Please describe *patient* use of mask covering nose AND mouth?

- ⚪ The patient wore a mask the whole time
- ⚪ The patient put on the mask within a minute
- ⚪ The patient wore a mask part of the time
- 🔴 The patient DID NOT put on a mask

22. Were you wearing the following personal protective equipment during the encounter?

	Yes	No
22a. A Surgical mask	○	●
		reset
22b. N-95 respirator that I have been fitted with	●	○
		reset
22c. N-95 respirator that I have not been fit tested with	○	●
		reset
22d. Powered Air Purifying Respirator (PAPR)	○	●
		reset
22e. Eye protection	●	○
		reset
22f. Gown	●	○
		reset
22g. Gloves	●	○
		reset
22h. Other	○	●
		reset

23. How long do you believe that you were exposed to the patient suspected of, or diagnosed with, having COVID-19 before putting on your PPE?

- 🔴 PPE worn for the entire encounter
- ⚪ Only momentarily
- ⚪ Less than 2 minutes
- ⚪ 2-5 minutes
- ⚪ 5-15 minutes
- ⚪ Longer than 15 minutes
- ⚪ No PPE was worn

reset

24. Were you coughed or sneezed on by the patient suspected of, or diagnosed with, having COVID-19 prior to putting on your personal protective equipment?

- 🔴 Yes
- ⚪ No

reset

25. Were you otherwise exposed to the body fluids of the patient suspected of, or diagnosed with, having COVID-19?

- ⚪ Yes
- 🔴 No

reset

26. Please describe how you were exposed:

Evaluating a patient for possible COVID-19. Coughed on me while getting specimen.

Expand

Assessment of Risk and Plan

Employee health reviews, interviews employee if needed

Determines risk

Establishes plan for

    Symptom monitoring

    Return to work vs. quarantine (work at home)

    Timelines

Sends communication via REDCap with recommendations

Follow-up

SYMPTOM MONITORING

Symptom Monitoring

Automated prompts to measure temperature and document symptoms twice a day
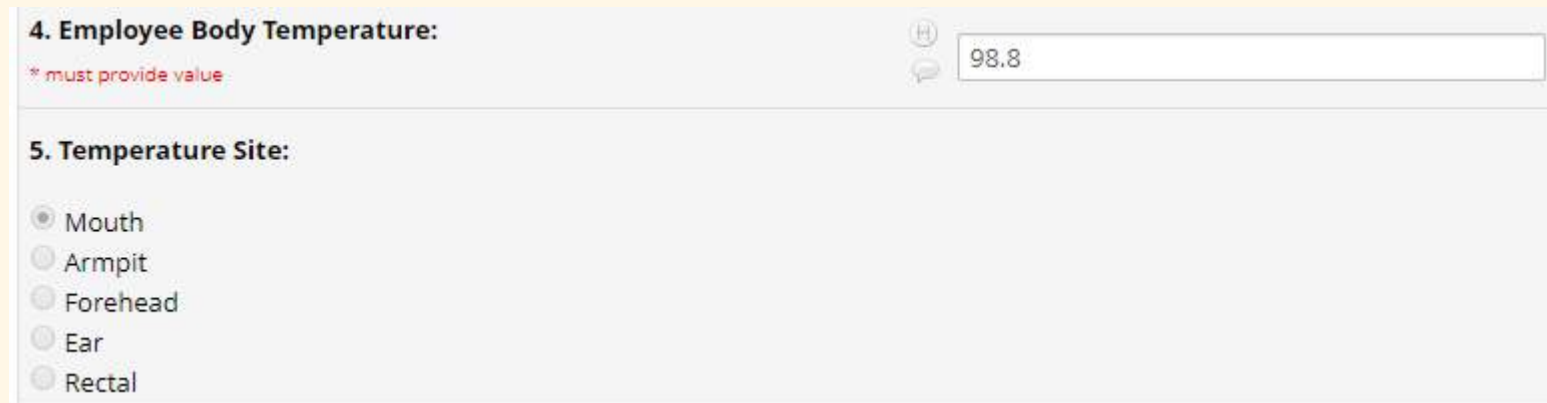
Email notification

Can be sent via phone

Logs responses

Tracks missed responses

Flags abnormal responses for employee health attention

4. Employee Body Temperature:

* must provide value

98.8

5. Temperature Site:

- Mouth
- Armpit
- Forehead
- Ear
- Rectal

	YES	NO
6a. Fever (defined as ≥ 100F or ≥ 38C) ⓗ * must provide value	○	●
6b. Chills ⓗ * must provide value	○	●
6c. Cough ⓗ * must provide value	●	○
6d. Trouble Breathing ⓗ * must provide value	○	●
6e. Sore Throat ⓗ * must provide value	●	○
6j. Decreased sense of taste ⓗ * must provide value	○	●
6k. Decreased sense of smell ⓗ * must provide value	○	●
6f. Nausea ⓗ	○	●
6g. Vomiting ⓗ	○	●
6h. Diarrhea ⓗ	○	●
6i. Other ⓗ	●	○
6isp. Specify other symptom:		Runny nose

Symptom Monitoring Form Completed by Exposed Employee Twice a Day

Employee Health notified by e-mail ("flag") if any fever or positive symptom during post-exposure monitoring

Illness developing during post-exposure symptom monitoring triggers prompt to report illness

4. Employee Body Temperature: em4	5. Temperature Site: em5	6a. Fever (defined as ≥ 100F or ≥ 38C) em6a	6b. Chills em6b	6c. Cough em6c	6d. Trouble Breathing em6d	6e. Sore Throat em6e	6f. Nausea em6f	6g. Vomiting em6g	6h. Diarrhea em6h	6i. Other em6i
98.7	Ear (4)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)
98.9	Mouth (1)	No (0)	No (0)	Yes (1)	No (0)	Yes (1)	No (0)	No (0)	Yes (1)	No (0)
99.0	Mouth (1)	No (0)	No (0)	Yes (1)	No (0)	Yes (1)	No (0)	No (0)	No (0)	No (0)
98.2	Mouth (1)	No (0)	No (0)	Yes (1)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)
98.6	Mouth (1)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)	No (0)
98.3	Mouth (1)	No (0)	No (0)	No (0)						
98.4	Mouth (1)	No (0)	No (0)	No (0)						
97.9	Mouth (1)	No (0)	No (0)	No (0)						
			No							No

Dashboard views to review aggregate employee data
Flexible report options - customizable

Option 2

ILLNESS REPORT

Exposure Report Form

Please complete the survey below.

Thank you!

Is this report an exposure or an illness?

* must provide value

○ Exposure without illness

🔴 Illness with/without known exposure

reset

Please enter the information below:

Report Date

* must provide value

04-15-2020 | 📅 | [Today] M-D-Y

1. Employee Last Name

* must provide value

Additional contact info...

Cloeren

Working While Sick?

5b. Work Location

Family Medicine

48. Date of illness onset
* must provide value

04/06/2020 📅 Today M-D-Y

49. Are you working?

○ Yes on site

○ Yes at home

🔴 No

reset

50. Last Date at Work Location
* must provide value

04/09/2020 📅 Today M-D-Y

51. Please check any symptom you have had since illness onset

	Yes	No
51a. Fever (defined as ≥ 100F or ≥ 38C)	●	○
		reset
51b. Chills	○	●
		reset
51c. Cough	●	○
		reset
51d. Trouble Breathing	○	●
		reset
51e. Sore Throat	●	○
		reset
51f. Decreased sense of taste	●	○
		reset
51g. Decreased sense of smell	●	○
		reset
51h. Nausea	○	●
		reset
51i. Vomiting ...	○	●

Fever History and Known Exposures

52. Highest measured temperature

102.3

Enter highest measured temperature since illness onset

52a. Date of Highest Measured Temperature

04/12/2020 📅 Today M-D-Y

53. History of exposure to someone with lab-confirmed COVID-19?

🔴 Yes

⚪ No

reset

54. Have you been tested for COVID-19?

- ⦿ Yes
- ◯ No
- ◯ Not yet but scheduled

54a. Date of COVID-19 Test

04/09/2020   📅   Today   M-D-Y

54b. Location of COVID-19 Test

UMB Urgent Care

54c. Result

- ⦿ Positive
- ◯ Negative
- ◯ Pending

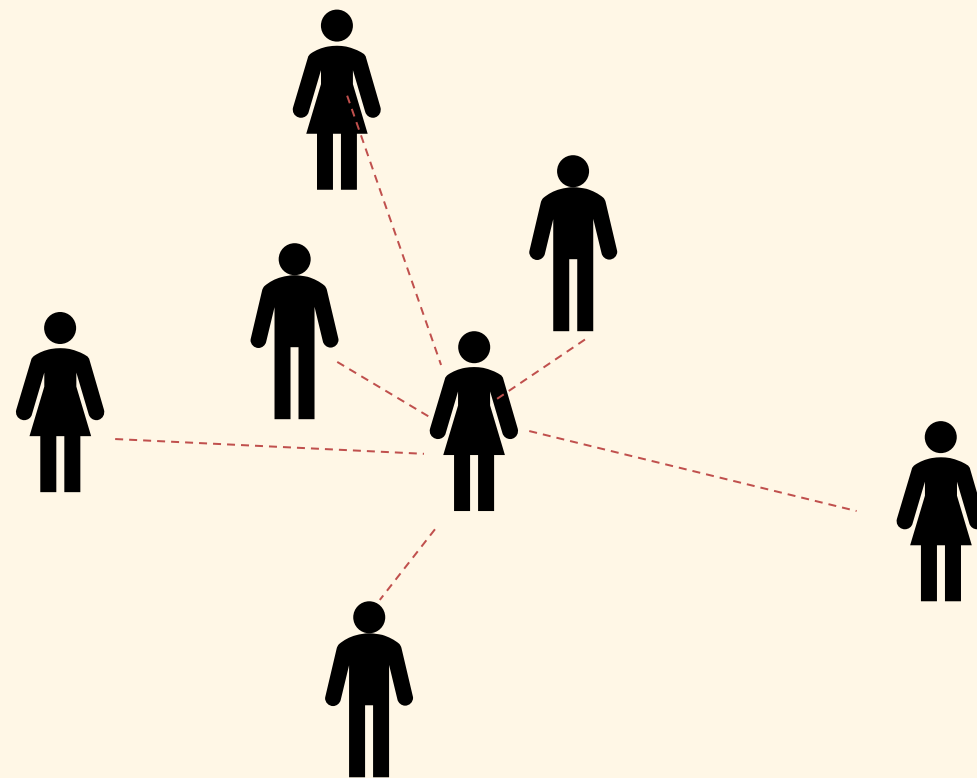# Assessment & Plan

Healthcare worker who worked for 3 days while sick

Tested positive

Common story

Plan:

Isolate until 10 days fever free

Contact tracing

▦ Contact Tracing

✏ Editing existing Record ID **28**

Event Name: **Exposure Report**

Record ID	28

Date

* must provide value

Ⓗ 💬 [04-15-2020] 📅 [Today] M-D-Y

Time:

* must provide value

Ⓗ 💬 [13:00] 🕐 [Now] H:M

(24 Hour Format)

Person completing this form:

* must provide value

Ⓗ 💬 [Marianne Cloeren]

Enter First and Last Name

Case Information (Patient Information)

1. First Name

* must provide value

Ⓗ 💬 [Marianne]

2. Last Name

* must provide value

Ⓗ 💬 [Cloeren]

13. Date tested for COVID-19:

(H)

* must provide value

04/09/2020 📅 Today M-D-Y

14. Date of positive result:

(H)

* must provide value

04/11/2020 📅 Today M-D-Y

Clinic Information

The following questions are to help us identify work locations where you may have been in contact with other people, exposing them before you knew you were infected with this virus. Please think back to the week before you developed symptoms and recall the work locations where you spent more than 15 minutes.

Please interpret "Work Location" as clinical practice, unit, building, department, address; for example, "phlebotomy area in 419 Redwood." Please list each of these and answer the questions that follow, to the best that you can. It is impossible to create a form like this to capture every work situation, so please share other information that will help us understand your situation in the week before you became ill, in the comments section.

15. Number of Work Locations you have worked at in the last 7 days from your first symptom.

(H)

* must provide value

1

(0-20)

List of Contacts with Corresponding Information

17. How many employees have you had close and/or prolonged contact with?

(H)

* must provide value

2

(0-20)

Comments: Please share any other information that will help us understand your situation in the week before you became ill:

(H)

Working closely with occupational health nurses to don and doff PPE for training videos

17. How many employees have you had close and/or prolonged contact with?

* must provide value

2

(0-20)

Employee #1

18. Employee #1: First Name

18a. Employee #1: Last Name

18b. Employee #1: Phone Number

18c. Employee #1: UM Affiliation

18d. Employee #1: To your knowledge, is this person sick?
◯ Yes   ◯ No

reset

18e. Employee #1: Supervisor Contacted?
◯ Yes   ◯ No

reset

Employee #2

19. Employee #2: First Name

19a. Employee #2: Last Name

The UMB COVID-19 Employee Tracking System in REDCap

Used to track COVID-19 in 2/3 organizations on campus

Current features and potential uses

Opportunities for collaboration?

REDCap Exposure Report

Triggers 14-day post-exposure symptom monitoring

Push notifications, positive symptom flags and missed reports; templated guidance

Link sent to employees reporting exposures or identified via contact tracing

REDCap COVID-19 Illness or Diagnosis Report

Employee completes to document COVID-19 consistent illness, test results

14-day recovery symptom monitoring for planning return to work

Push notifications and missed reports; templated guidance on self-isolation

Contact tracing report to document last time at work and employee contacts

REDCap Daily Symptom Monitoring (Future)

Surveillance for front-line clinicians (proposed approach)

Push notifications, positive symptom flags, missed report options

Templated guidance on other resources next steps if symptoms

Ahu Yildirmaz | Sara Klein

The Workforce View 2020

Volume Two post-COVID-19

The outlook immediately
after the COVID-19 outbreak

ADP | **Research** INSTITUTE®

At the end of 2019 and very early 2020, we surveyed over 32,000 workers in 17 countries around the world to explore workers' feelings towards, opinions about, and experiences of a wide range of workplace issues. The findings were outlined in The Workforce View 2020 Volume One: pre-COVID-19 report.

Then the pandemic hit, triggering major changes to the world of work and altering the outlook for employers and employees alike. It was therefore important to revisit our research to gauge how attitudes have changed since then.

In May 2020, we surveyed over 11,000 workers in six of the countries, seeking their views on key questions in a post-COVID-19 world. These countries were chosen as appropriate representative samples of the Asia Pacific, European, North American and Latin American regions at that time.

Here, in Volume Two, we present these findings and, comparing them against what respondents in those same six geographies said in January 2020, provide a robust picture of worker sentiment immediately before and after the virus took hold.

We recognize that the effects and implications of the pandemic are changing rapidly. New developments are emerging weekly — sometimes daily — and significant variations are occurring in different locations and industry sectors, or from company to company. Nevertheless, shining a spotlight on these issues, in these geographies, over these two snapshots in time, should provide vital insight to help employers support their workforce and thereby support their businesses through these challenging times.

Executive summary — in the wake of the pandemic

The advent of COVID-19 represents an unprecedented global health emergency and a critical economic test. So far, in terms of its impact on the world of work, in some respects so much has changed, but in others, the trends and issues we were seeing before the pandemic spread remain consistent across the six countries that we selected to represent the four regions of Asia Pacific, Europe, North America and Latin America.

Worker sentiment about the general outlook for the workplace and the long-term prospects for jobs is holding up remarkably well, although there is an awareness that difficult decisions around pay may have to be made in the short term. The gig economy remains as attractive as before, but there are signs that contractors are more likely to expect and accept some tough choices. Unfortunately, there is still progress to be made to combat discrimination. However, the crisis could represent a new dawn for flexible working. It is a complex picture.

1. **Positivity persists:** Confidence has declined less than one might expect, with 84% of workers today still feeling optimistic about the next five years in the workplace (down from 86% pre-pandemic), and 75% who feel buoyant about the year ahead. Optimism among young people is highest of all.

2. **Limited life expectancy for today's jobs:** More than one in five workers (22%) believe their job will not exist five years from today, rising to one in three (33%) in APAC. However, most (65%) are upbeat about the flexibility of opportunities they will have in the future, which is virtually unchanged since before the crisis hit.

3. **Perceived discrimination remains prevalent:** The overall proportion of workers who say they feel they have been discriminated against by their employer remains static at one in three. Incidences of perceived discrimination have inched upwards in APAC and North America since before COVID-19, while Europe has seen a slight decrease.

4. **Flexible working on the rise:** As remote working takes off, 44% of employers now have official flexible working policies in place, up from 24% pre-COVID-19. However, over half of respondents (54%) say they have felt pressure to come into work at some point during the pandemic.

5. **Sacrifices on pay:** The amount of unpaid overtime workers are doing has increased by an hour on average since COVID-19 hit. Almost two in five (38%) of workers would be prepared to take a pay cut if necessary to save jobs due to COVID-19 but one in three (32%) are resistant to any moves to cut pay or defer salaries, even if it ultimately means saving jobs.

6. **Tough choices in the gig economy**: Interest in gig work has not declined since the pandemic; in fact, it has seen a small increase. That said, gig workers are more prepared to take deeper pay cuts, defer salaries longer or even accept termination to save jobs during COVID-19 than regular workers. They are also likely to work more unpaid overtime or feel under pressure to come into work during lockdown.

Introduction

In the immediate wake of the COVID-19 outbreak in early 2020, traditional norms surrounding the way people work and the expectations they have for the future have been upended. Uncertainty abounds and there are many challenges to face, as well as opportunities to be explored.

As we enter this new phase, the impact on economic growth and employment levels remains to be seen, but assumptions around job security and earning power are being put to the test.

At the same time, employers and workers are also finding solutions. Remote working has come to the fore, innovation is ramping up as businesses quickly pivot their operations and new support networks are emerging as people find novel ways to interact with each other.

The decisions employers make today could have a lasting impact on workers themselves and on commercial success. The way workers feel, and the way employers anticipate and respond to those feelings, may be more important right now than ever before. These two dynamics could reshape the world of work forever.

The workers' perspective

Employees' need for stability is a critical factor shaping workplace trends (Yildirmaz and Klein, 2016[1]). With the emergence of COVID-19, concerns about physical health and safety are pitted against concerns for financial and economic wellbeing and the isolation of social distancing is also being felt. By understanding workers' outlook around the world, strategies can be developed to help people navigate changes in the working environment so they feel equipped to embrace them.

The employers' perspective

Employers have much on their minds: from whole industries having to suspend operations and re-design business models, to maintaining productivity while altering how work is done, whether remotely or at a safe social distance. For others in key sectors, dealing with an overload of work brings its own pressures. Amid all this, a strong focus on worker wellbeing and workforce connectedness is advisable. ADP Research Institute's US report *A Post-Pandemic Workforce: Tracking Perspectives Amid COVID-19*[2] suggests that employers who are taking steps to encourage remote collaboration and social interaction, communicating with positive messaging and focusing on safety are likely to be repaid in staff loyalty.

[1] Ahu Yildirmaz and Sara Klein. The Evolution of Work: The Changing Nature of the Global Workplace (2016)

[2] ADPRI A Post-Pandemic Workforce: Tracking Perspectives Amid COVID-19

Data and methodology

The Workforce View 2020 Volume Two post-COVID-19 explores whether the effects of the pandemic have impacted employees' attitudes towards the current world of work and what they expect and hope for from the workplace of the future.

ADP Research Institute surveyed 11,428 workers in six countries around the world between 28 April and 14 May 2020, including over 3,000 working in the gig economy.

3,808 in Europe (represented by Spain and the UK)
1,909 in North America (represented by the USA)
1,904 in Latin America (represented by Brazil)
3,807 in Asia Pacific (APAC) (represented by China and India)

These countries were selected to provide suitable representative regional samples, based on our knowledge of the unfolding COVID-19 pandemic and national public policy and business responses to it at the time the research was initiated.

We then compared our findings with the research results from the same six geographies with the same sample sizes between 29 October 2019 and 6 January 2020.

All respondents were currently in work when we carried out the research. Gig workers self-identified as those who work on a contingent, temporary, or seasonal basis, or as a freelancer, independent contractor, consultant, gig worker, or use an online platform to source work. Traditional employees self-identified as those who are not working as gig and instead have a regular or permanent full or part-time position.

The surveys were conducted online in the local language. Overall results are weighted to represent the size of the working population for each country.
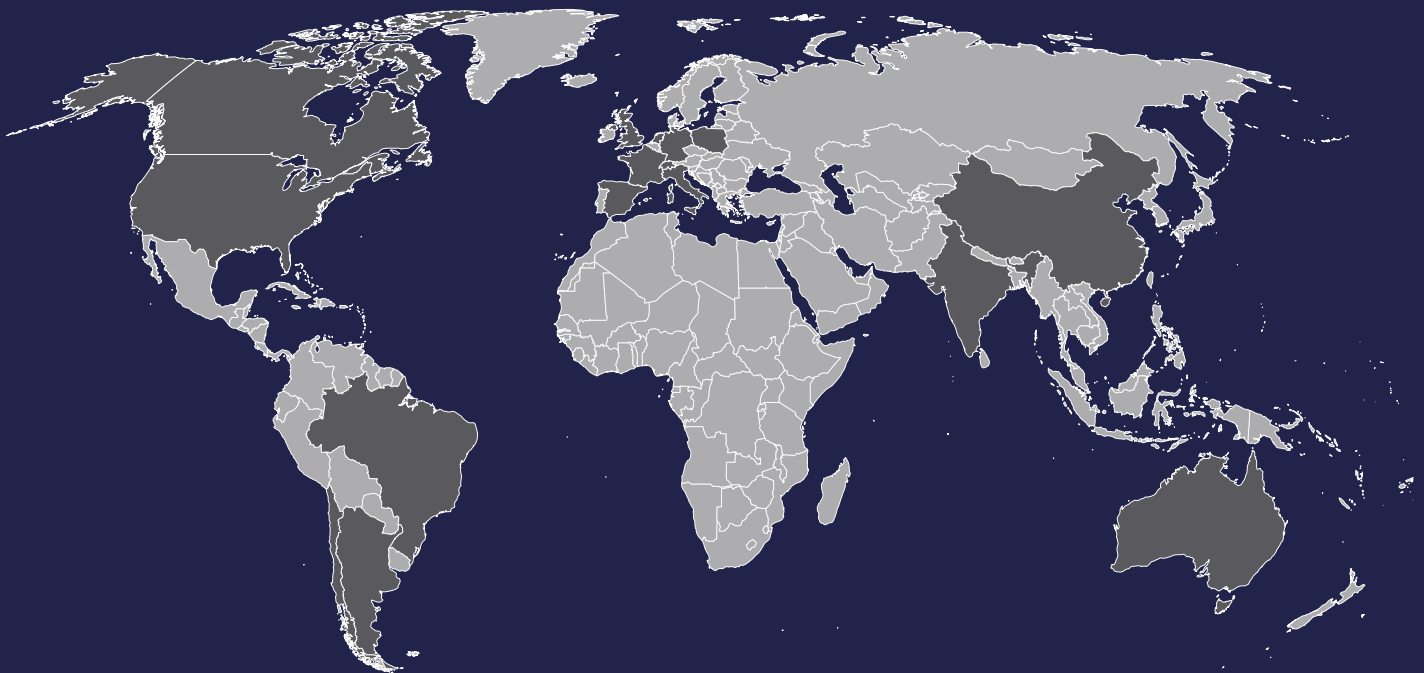
Positivity persists

As the last decade drew to a close, confidence about the workplace and employees' prospects was high as we saw in Volume One of this report. At the start of January 2020, 86% of respondents in the six geographies we focus on here said they felt optimistic about the next five years in the workplace, a promising indicator for employee motivation and productivity.

Fast forward and the outlook for the next five years remains largely unchanged: 84% of respondents remain optimistic in May 2020. Just as we saw at the very start of the year, though, there are notable regional differences.

In APAC optimism levels have fallen 8%, albeit from a much higher starting point, bringing the region more into line with the global average. That drop means that employees in APAC no longer top the most positive rankings table — that position now goes to Latin America (represented now by Brazil) which has risen from second place before the pandemic. In contrast, optimism among those working in Europe is unchanged compared to January 2020, while in North America (as represented by the USA) it has actually increased by 5%.
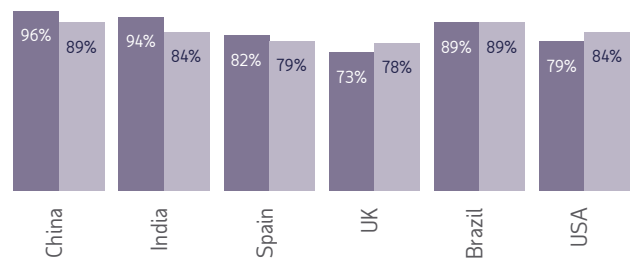
Long-term optimism has declined, but still remains high

Optimism about the next five years in the workplace

January 2020   May 2020

By region
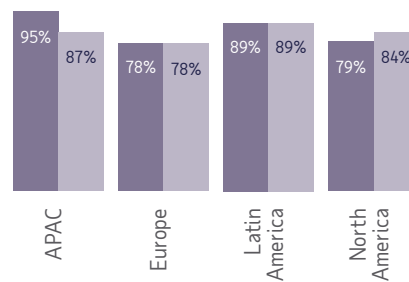
By country

Nearer-term, worker optimism is more cautious — understandably so perhaps, given that virus containment measures are still in place in many areas and predictions about the future are hard to make accurately. Added to which, different timings and approaches to lockdown entry and exit, and to business continuity, re-opening and recovery are taking place across different geographies and industries, and even within different departments within organizations.
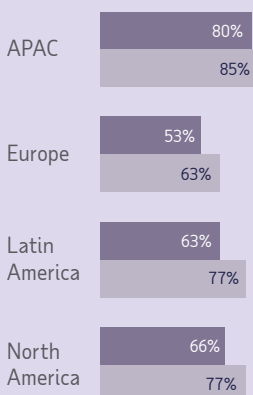
Despite this, two thirds of employees feel optimistic about the next six months, and three quarters have a positive outlook for the coming year. However, confidence among European workers is lagging. Albeit slightly, over half are feeling upbeat about the next six months ahead, compared to four in five who say the same in APAC. This pattern is consistent with the long-term (five year) view we saw pre-COVID but may also in part be a reflection that countries like China are further along the infection and recovery curve.
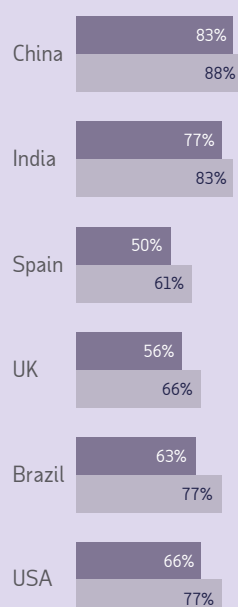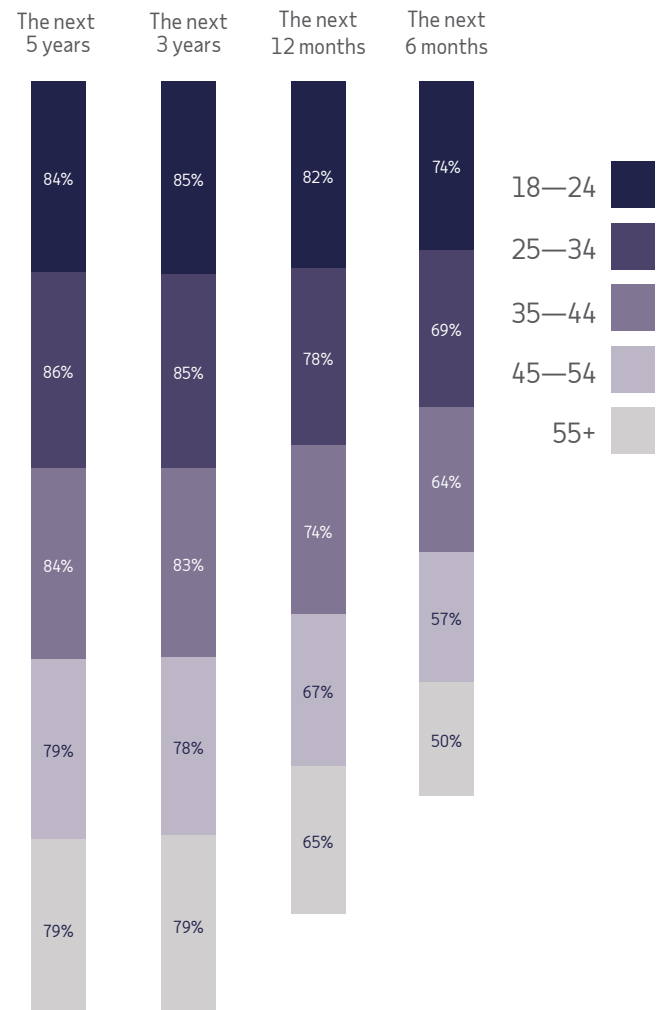
In January 2020, optimism about the workplace was inversely related to age, with optimism declining among older workers. In May 2020, the same is true: younger workers remain the most optimistic, especially for the next 6 and 12 months. Three in four 18–24 year olds are optimistic about the next six months, compared to only one in two workers over the age of 55. That nearly 25 percentage point difference narrows considerably when it comes to predictions over time, with only a five percentage point difference between the youngest and oldest workers when considering the workplace five years from today.

Confidence: the short-term view

Optimism about the workplace for:

The next 6 months   The next 12 months

By region

APAC
80%
85%

Europe
53%
63%

Latin America
63%
77%

North America
66%
77%

By country

China
83%
88%

India
77%
83%

Spain
50%
61%

UK
56%
66%

Brazil
63%
77%

USA
66%
77%

Analysis by age (May 2020)

Optimism about the workplace for…

The next 5 years	The next 3 years	The next 12 months	The next 6 months
84%	85%	82%	74%
86%	85%	78%	69%
84%	83%	74%	64%
79%	78%	67%	57%
79%	79%	65%	50%

18—24
25—34
35—44
45—54
55+

Life expectancy for today's jobs

Against this backdrop of optimism, we now look at what workers believe is in store for their jobs specifically. Overall, the proportion of workers who do not think their current job will exist five years from today is similar when comparing pre- and immediately post-COVID outbreak responses, at under a quarter.
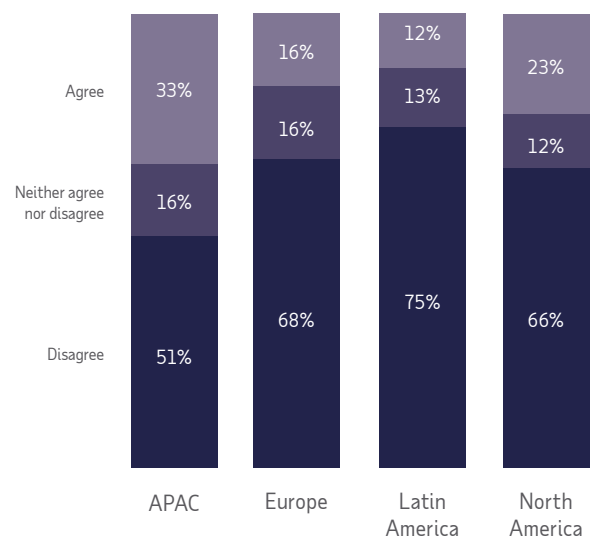
Geographical differences are stark, however. Within APAC, 44% of respondents in India believe their job will cease to exist by 2025 — an increase of 7 percentage points since before the coronavirus pandemic. However, in China only 22% now feel like this — 17 percentage points fewer than before.

Respondents in Latin America (namely Brazil) remain the least likely to predict an end to the job they do within this time with just 12% saying so. And whereas North American respondents' views (in the USA at least) before the outbreak were broadly in line with their European counterparts, that is no longer the case, after a 7 percentage point increase in the proportion who see an end to their job within five years.
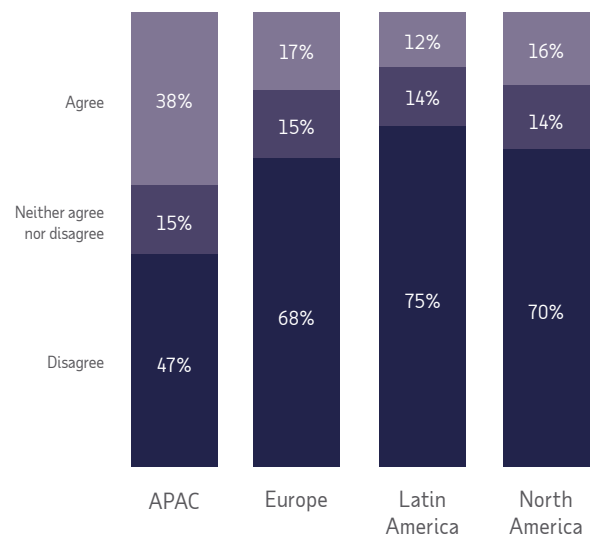
APAC most skeptical about job longevity…

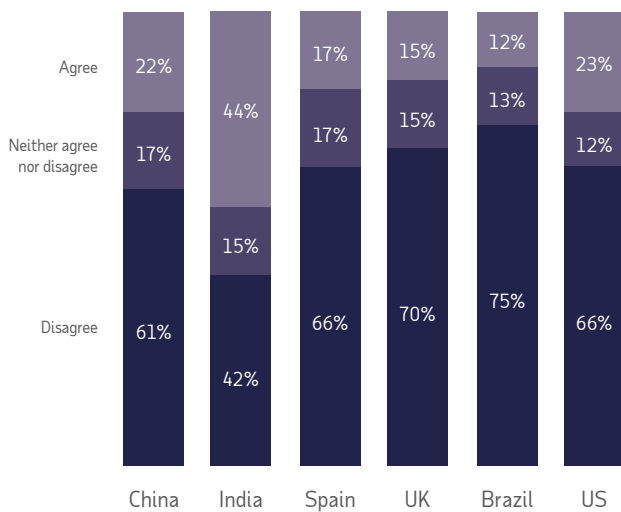*The job I do today will not exist five years from today*

May 2020*

	APAC	Europe	Latin America	North America
Agree	33%	16%	12%	23%
		16%	13%	12%
Neither agree nor disagree	16%			
Disagree	51%	68%	75%	66%

January 2020*

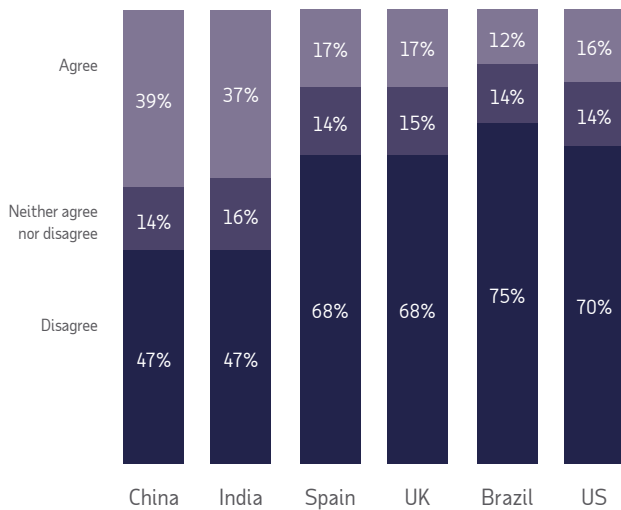|	APAC	Europe	Latin America	North America
Agree	38%	17%	12%	16%
		15%	14%	14%
Neither agree nor disagree	15%			
Disagree	47%	68%	75%	70%

...But views have changed rapidly in China and India

The job I do today will not exist five years from today

May 2020*

Agree
Neither agree nor disagree
Disagree

	China	India	Spain	UK	Brazil	US
Agree	22%	44%	17%	15%	12%	23%
Neither agree nor disagree	17%	15%	17%	15%	13%	12%
Disagree	61%	42%	66%	70%	75%	66%

China India Spain UK Brazil US

January 2020*

Agree
Neither agree nor disagree
Disagree

	China	India	Spain	UK	Brazil	US
Agree	39%	37%	17%	17%	12%	16%
Neither agree nor disagree	14%	16%	14%	15%	14%	14%
Disagree	47%	47%	68%	68%	75%	70%

China India Spain UK Brazil US

It does not necessarily follow, though, that workers are overly concerned about this. Two thirds of workers feel they will have more choices around how and where they work five years from today, similar to before the outbreak hit.

Perhaps, rather than seeing this as a threat, for many workers it could be an opportunity; for example to develop skills rapidly, or to pursue linear and non-linear career progression or portfolio careers.

* Numbers may not add to 100% due to rounding.

Perceived discrimination remains prevalent

In January 2020 one in three workers reported having felt discriminated against at work, with age and gender the most likely reasons. In May, that proportion has not changed.

However, drilling down a little deeper into the findings reveals that perceived discrimination has edged up in some areas, while in others it has fallen.

Whilst North American workers have seen a six percentage point increase in perceived discrimination, with 10% now saying this is due to gender up from 7%, in Europe, workers are having the opposite experience, with the incidence of perceived discrimination declining by four percentage points.

Perceived discrimination remains highest in APAC, as it was before the pandemic, with more than two in five seeing themselves as being affected and where there has been a three percentage point increase.

It is worth noting that in Volume One of this report, our research found that many workers said they would not be comfortable raising a claim if they felt they had been discriminated against at work, nor would they know who to contact in the event of an issue. Therefore, as well as putting adequate policies and procedures in place to tackle potential discrimination and unconscious bias, employers must consider a proactive approach to ensure they stay alert to this issue. Especially since, once again, the list of possible reasons for feeling targeted is long, including issues around appearance, education, background, mental health, family circumstances and neurological differences such as dyslexia, as well as race, religion, disability, gender and age.

Parent power

With schools and childcare closed for extended periods of time in many places, working parents face unprecedented pressures to balance work and family life throughout the whole working week. It is notable that in light of this, reports of discrimination because of having children have not meaningfully changed compared to pre-COVID. Parents as a whole are actually less likely than non-parents to feel they have been discriminated against for any reason, not just due to having children but also because of their gender or other factors. Today, 32% of parents say they have faced discrimination at work, compared to 36% of those without children.

These findings are interesting in light of improved flexible working arrangements (which is dealt with in more detail in the next chapter). We found that parents are not only more likely than non-parents to say their companies have policies that allow flexible working (almost half versus two in five) but also, crucially, that they feel empowered to take advantage of them (28% versus 23%).

Flexible working on the rise

In the short-term at least, COVID-19 has ushered in fresh impetus for flexible working, with mass moves to remote working disrupting traditional nine-to-five, workplace-based working practices.

Employers are adapting fast. Nearly half (44%) of respondents say employers now have official flexible working policies in place, compared to just one in four (24%) before, while the proportion of respondents saying that senior management allow it has jumped from 19% to 28%.

Respondents in APAC and Latin America are most likely to say their employers have formal policies, with half or more reporting this is the case (up from just over a quarter before), whereas in Europe only around one in three do so (up from fewer than one in four).

Flexible working goes mainstream

By region

		APAC	Europe	Latin America	North America
My company has an official or written policy allowing flexible working arrangements	May 2020	53%	34%	50%	39%
	January 2020	28%	23%	27%	15%
Senior management states that flexible working arrangements are allowed	May 2020	37%	19%	31%	22%
	January 2020	25%	15%	19%	13%

By country

		China	India	Spain	UK	Brazil	USA
My company has an official or written policy allowing flexible working arrangements	May 2020	57%	49%	34%	33%	50%	39%
	January 2020	25%	30%	25%	22%	27%	15%
Senior management states that flexible working arrangements are allowed	May 2020	35%	39%	17%	21%	31%	22%
	January 2020	27%	23%	14%	17%	19%	13%

The reality on the ground

Despite this progress, there may still be some way to go in enabling workers to feel empowered to take advantage of flexible working options, with only a quarter confident enough to do so (a proportion that has barely changed since the COVID-19 crisis).

Mixed messaging could be at play here. While employers' acceptance of flexible working appears to be on the rise, more than half of respondents say they have at some point during the pandemic felt pressure from their employer to come into the workplace, even though officials recommend non-essential workers stay at home. There are signs that even when senior management and HR direct workers to stay home, individuals in lower management tiers are making their own decisions. In fact, 16% of workers report that individual managers determine whether one can work flexibly, regardless of official company policy.

The proportion of respondents who report feeling compelled to be physically present in the workplace is almost twice as high in APAC as it is in Europe (74% versus 38%). However, in Spain, despite strict lockdown measures, nearly half (45%) of respondents have felt pressure to come into work.

Pressure to come into work highest at the beginning of the crisis

If you live or work in an area where officials recommend/ recommended or required non-essential workers to stay home as much as possible, did you/do you feel any pressure from your employer to still work in the office?

*By region**

	APAC	Europe	Latin America	North America
Yes, I felt pressure at the beginning but not anymore	40%	18%	30%	22%
Yes, I felt pressure at the beginning and continue to feel pressure	24%	15%	17%	17%
Yes, I feel pressure now but didn't at the beginning	10%	4%	7%	5%
No	19%	54%	43%	50%

*By country**

	China	India	Spain	UK	Brazil	USA
Yes, I felt pressure at the beginning but not anymore	41%	38%	21%	15%	30%	22%
Yes, I felt pressure at the beginning and continue to feel pressure	27%	22%	19%	12%	17%	17%
Yes, I feel pressure now but didn't at the beginning	13%	7%	4%	4%	7%	5%
No	12%	25%	51%	57%	43%	50%

For some, this is a persistent problem — and it appears to be worse for younger workers. Although the sense of being expected to come into work appears to have been most intense at the beginning of the crisis as businesses transitioned into lockdown, almost one in five workers say that they continue to feel under pressure to come into work. This is disquieting, given that ADP Research Institute's recent paper *A Post-Pandemic Workforce: Tracking Perspectives Amid COVID-19* found that one in four US workers have actually reduced hours or stopped working because of concerns about exposure.

*Respondents who said they do not live in an area where officials said to stay home are not shown.

Sacrifices on pay

Presenteeism has been pervasive in the workplace for some time and now workers are giving employers even more 'free' time in the wake of the COVID-19 outbreak than before.

On average, employees say they work seven hours of unpaid overtime per week, up from six hours when the same question was asked pre-COVID-19. In APAC, workers say the average is nine hours — nearly twice the amount that workers in Latin America (as represented by Brazil) say they do. However, it is notable that China is the only country where the average number of hours of unpaid overtime has fallen since the start of the pandemic. Since this may well be a result of lockdown starting earlier, shutting down or reducing the capacity of some businesses, it will be interesting to see if the pattern in other countries follows suit.

Almost a fifth (19%) of workers say they now work 11 or more hours for no extra pay each week, up from 15% before the outbreak. That rises to 28% in APAC, albeit again with a marked decrease in China. Respondents in North America (as represented by the USA) have seen a marked uptick in 'free' work, with the proportion doing 11-plus hours almost doubling in a matter of months.

There could be several reasons for this rise, from job security concerns spurring people to work even harder to demonstrate their worth, to staff failing to 'switch off' when working from home. Whatever the cause, employers will want to weigh up whether this is resulting in improved productivity and keep a close eye on the impact on stress levels and job satisfaction.

Free labor

On average, how many hours per week do you believe you work for free (i.e. hours worked over lunch breaks, staying late, etc.)?

	APAC	Europe	Latin America	North America
	Mean: (Hours)			
January 2020	8.5	4.8	4.3	4.1
May 2020	9.4	5.8	5.3	7.1

Saving job roles

In an environment where many businesses have had to shut or downsize their operations, temporarily at least, the prospect of having to lay off or furlough workers has been a concern for employers and employees alike. Our survey suggests that many workers recognize that hard choices are having to be made due to the pandemic.

In order to save as many jobs as possible amid the pandemic, the most palatable option out of pay cuts, salary deferments, or no action to prevent employment terminations, is to take a pay cut — though there are important regional differences which are discussed below.

Almost two in five respondents said pay cuts would be an appropriate and acceptable course of action for their employer to take if they had to, in order to save jobs during lockdown. This is certainly the preferred option in Latin America, where nearly half of respondents said this would be acceptable as a job-saving measure — far more than taking a deferred salary (less than one in five).

What level of pay cut workers would be prepared to take is the obvious follow-on question. On average, a cut of 15% is the maximum amount employees would be willing to accept if it meant jobs would not be lost, although less than 10% is the most common answer. Most people consider more than 20% to be unacceptable.

One in three would consider it acceptable for their employer to defer salaries if necessary to save jobs during COVID-19, with the consensus being that two months should be the maximum. China stands out as the only country where a salary deferment is far more likely to be considered appropriate than a pay cut.

Clearly, different countries and sectors have varying needs and COVID-19-specific support measures in place, and these will drive differences in responses. In addition, the strength of worker protections already on offer and employees' expectations of job security prior to the pandemic are likely also to have an effect, when coming to terms with these new realities.

Our findings indicate that workers in APAC are more likely to consider these actions acceptable if it meant saving jobs, followed by Latin America (as represented by Brazil). There is widespread resistance in Europe and North America, where

the most common response (40% and 43% respectively) is that no action on the part of employers would be acceptable to save jobs. Only 26% say the same in Latin America and 21% in APAC. The level of pay cut workers in Europe and North America would be prepared to accept is lower too.

A thorny issue requiring careful handling

Clearly, this is a contentious issue. Even if some workers recognize that sacrifices may have to be made as a temporary measure or as a last resort, employers should be prepared for significant resistance. Moves to reduce or delay pay would have a serious negative impact on workers, so employers will want to tread carefully, ensuring that decisions are not made lightly and that their actions can be justified. That could include keeping measures to the absolute minimum necessary to ensure the continued smooth running of the business while maintaining employee motivation and taking care over the consultation/ communication process to create transparency and maintain trust.

If implementing such moves does become unavoidable, it is even more important that workers are paid correctly and on time, and more frequent payments also merit consideration. The research we presented in Volume One shows that late or inaccurate payments can cause serious financial hardship and emotional strain for workers. Respondents reported that late payments or payment errors trigger stress, cause bills to go unpaid or mean that they are forced to borrow money from family and friends.

What sacrifices are workers willing to make?

What would you consider appropriate and acceptable for your employer to implement on your role if it meant saving jobs within your company during COVID-19?

By region*

	APAC	Europe	Latin America	North America
A pay cut	42%	32%	46%	33%
Deferred salary	51%	24%	18%	24%
Termination	11%	5%	9%	7%
I wouldn't consider anything appropriate and acceptable	21%	40%	26%	43%

By country*

	China	India	Spain	UK	Brazil	USA
A pay cut	34%	51%	32%	33%	46%	33%
Deferred salary	60%	42%	25%	23%	18%	24%
Termination	9%	13%	6%	5%	9%	7%
I wouldn't consider anything appropriate and acceptable	20%	22%	39%	42%	26%	43%

*Percent selecting "other" is not shown, less than 5% in all countries.

How deep a cut?

Of those who considered it appropriate and acceptable to receive a pay cut: What is the maximum decrease you would be willing to receive?

By region

Maximum acceptable pay reduction during COVID-19	APAC	Europe	Latin America	North America
10% decrease or less	40%	45%	25%	48%
11-20% decrease	32%	38%	34%	29%
21-30% decrease	19%	12%	27%	13%
More than 30%	9%	5%	14%	11%

By country

Maximum acceptable pay reduction during COVID-19	China	India	Spain	UK	Brazil	USA
10% decrease or less	47%	35%	45%	45%	25%	48%
11-20% decrease	35%	30%	36%	40%	34%	29%
21-30% decrease	13%	24%	14%	10%	27%	13%
More than 30%	5%	12%	6%	4%	14%	11%

The view on the gig economy

The term 'gig economy' has come to the fore in recent years, most frequently as a way to describe platforms such as Uber and Deliveroo, which enable individuals to work flexibly by taking on 'gigs', to fit around their lifestyle. But the term also encapsulates the broader workforce of contractors and freelancers employed on a flexible basis across a whole range of industries, which has also been on the rise in the last decade.

Although permanent roles remain by far the preferred option both pre- and post-COVID, our findings reveal gig work has not declined in appeal. Before the crisis, 15% of all workers (regular and gig) said they would choose gig work over a permanent role if both were available. Today that figure is 18%. North America (namely the USA) is the only region where the attraction of gig working has dipped slightly. There, 16% of workers would now prefer a gig role, compared to 21% before COVID-19.

Not all gig workers work this way out of choice, but two in five prefer it — and they have good reasons for doing so. Our pre-COVID research found that contractors scored gig work higher than permanent employment on a number of important factors, including flexibility, ability to balance personal and family needs, enjoyment and control over what they work on. Perhaps, now that home working is the norm for so many, the appeal that gig working provides of having even greater flexibility over how and when to work could increase further.

Issues around job security may also come into the equation. The protections that permanent work ostensibly provides may have been somewhat tarnished as unemployment rises in many areas. Some people may see working for more than one employer as a way to spread their sources of income and mitigate employment risk.
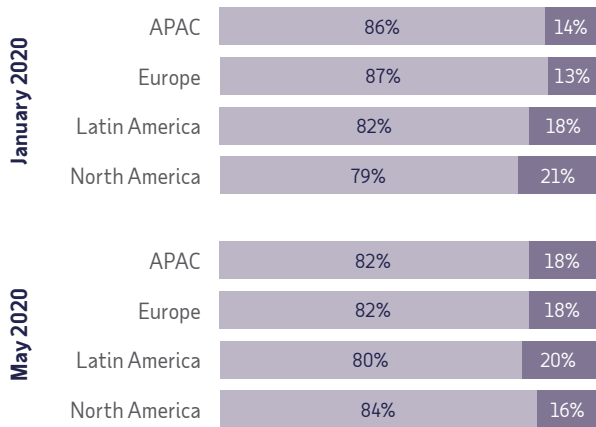
Having said that, gig workers ranked permanent work more highly for financial considerations, such as annual income and pay rate and for providing regular hours or notice of hours. In tough times, these factors matter even more.
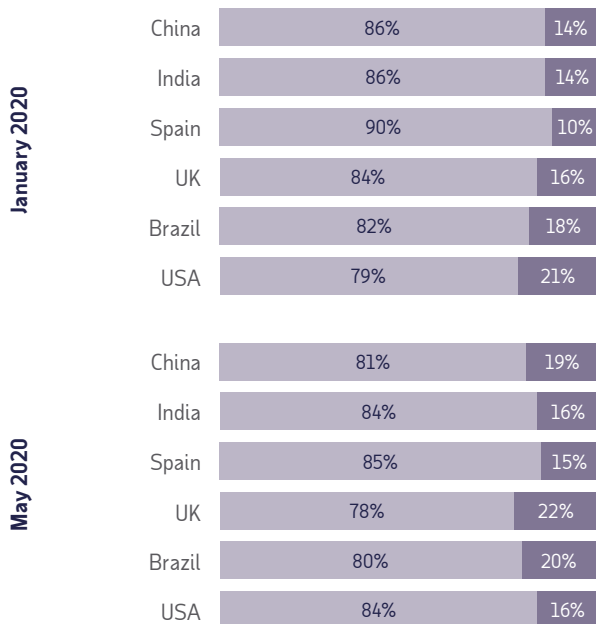
The appeal of gig work holds up well

Assuming you had the choice and could find a good job, how would you most prefer to work?

Regular   Gig

By region

January 2020

Region	Regular	Gig
APAC	86%	14%
Europe	87%	13%
Latin America	82%	18%
North America	79%	21%

May 2020

Region	Regular	Gig
APAC	82%	18%
Europe	82%	18%
Latin America	80%	20%
North America	84%	16%

By country

January 2020

Country	Regular	Gig
China	86%	14%
India	86%	14%
Spain	90%	10%
UK	84%	16%
Brazil	82%	18%
USA	79%	21%

May 2020

Country	Regular	Gig
China	81%	19%
India	84%	16%
Spain	85%	15%
UK	78%	22%
Brazil	80%	20%
USA	84%	16%

Hard choices

Gig workers are more likely to work a greater number of hours of unpaid overtime than employed colleagues (an hour more on average) and may be more likely to feel pressure to go into work despite official calls to stay at home (57% versus 53%). At the same time, they are also more likely to accept that employers may have to make some hard choices, such as pay cuts or deferred salaries to save jobs.

Our research suggests that the dynamics of the gig economy and how it fits into the wider world of work have not altered radically since the advent of COVID-19 and it remains to be seen how this will play out as time goes on. There is a possibility that some gig workers may have less choice over how they work in the immediate future at least.

However that may be, optimism among gig workers is on a par with that of regular workers when looking ahead at the next six months, one year and five years in the workplace. What's more, they feel just as confident that they will have more choices about how and where to work five years from today. All of which paints a positive picture about prospects for the gig economy in the future.

The outlook for employers

Although the immediate impact of COVID-19 has been significant, the long-term ramifications remain unclear. Things may never be quite the same again but while there are hurdles to overcome, this presents the potential for the world of work to evolve in a raft of positive ways.

Shifts to remote working are unlikely to be immediately reversed, even when offices re-open, partly because businesses and employees have adapted and partly due to ongoing social distancing requirements. The health and safety of all workers will remain a top priority. Financial security may feel uncertain for some time.

Employers and HR professionals face having to juggle multiple — and sometimes competing — imperatives. That might mean making tough calls around jobs and pay while maintaining worker morale and motivation. It may mean normalizing flexible working on a more permanent basis, but in a way that is fair for everyone and takes into account their different needs, as well as those of clients and customers.

It could also mean supporting workers in new ways, for example ensuring people feel part of virtual teams, that individuals can continue to develop their skills, or improving conditions for those working on the 'front line'.

In a post-COVID-19 world, traditional corporate structures may have to be re-shaped to fit more closely around the fundamental needs of workers as well as around the requirements of the organization itself. Closer alignment between employers and employees can only be a good thing, resulting in a more dynamic working culture and a more productive and satisfied workforce.

All of this is predicated on understanding the outlook of those who will be personally impacted by these changes — the workers. Businesses often say their people are their greatest asset. If that is true, then this year more than most, insight into the workforce view is critical.

Notes

Notes

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National Institute of Environmental Health Sciences
Worker Training Program

NIEHS WTP TRAINING BEST PRACTICES IN THE TIME OF COVID-19

WEBINAR SERIES

Purpose

- Provide a forum across WTP grantees and consortia members to share challenges, solutions, demonstrations and lessons learned in delivering engaging health and safety training in the COVID-19 era.

Background

- Each webinar will focus on different topics that were raised during the first phase of the WTP COVID-19 needs assessment.

Audience

- The calls will be applicable to both grantee staff and trainers delivering online and in-person instruction across a variety of health and safety topics.

NIEHS WTP TRAINING BEST PRACTICES IN THE TIME OF COVID-19 / WEBINAR SERIES

NIH National Institute of Environmental Health Sciences
Worker Training Program

Call 1: Setting Up Online Training - Practices & Platforms

Thursday, September 3, 3:00-4:30 p.m. EDT

Call 2: Tools for Creative Engagement on Virtual Platforms

Thursday, September 10, 3:00-4:30 p.m. EDT

Call 3: In-Person Training under COVID-19: Protocols and Practices

Friday, September 18, 3:00-4:30 p.m. EDT

To register: https://niehs.zoomgov.com/meeting/register/vJIsdOyupz4sGQq9EcAlIjY1x-fERYelpoA

All will be recorded and posted on the ***COVID-19 Webinars and Presentations*** web page https://tools.niehs.nih.gov/wetp/index.cfm?id=2592

Thanks to the Planning Group Members!

Arturo Archila, The Labor Institute/United Steelworkers

Cesar Bandera, Cell Podium

David Coffey, The New England Consortium

Ashlee Fitch, United Steelworkers

Gary Gustufson, CPWR – The Center for Construction Research and Training

Lois Harrison, University of Minnesota/Midwest Consortium

Mike Kassman, CPWR – The Center for Construction Research and Training

Pete Raynor, University of Minnesota/Midwest Consortium

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Mitchel Rosen, Rutgers University/New Jersey/New York Consortium

Eugenia Russell, NOVA Southeastern University

Yodit Semu, UCLA/Western Region Universities Consortium

Tom Sundly, CPWR – The Center for Construction Research and Training

National Clearinghouse: Betsy Galluzzo, Joy Lee, Deborah Weinstock

Your Facilitators and Administrators Today

Facilitator

- Demia Wright, NIEHS

Zoom Administration/Chat Monitor

- Kerri Voelker, National Clearinghouse

- Joy Lee Pearson, National Clearinghouse

Agenda/Outline for the Webinar

3:00 PM	Introductory remarks
3:10 PM	Panel Presentations
3:45 PM	Breakout Rooms
4:00 PM	Report Back and Discussion
4:30 PM	Close

Panel Presentations

Showing and Sharing: Demonstrating Equipment-based Training On-Line
- **Lois Harrison,** Program Director, University of Minnesota/Midwest Consortium

Using the Small Group Activity Method for Engaging On-line Participants
- **Luis Vazquez,** Education Coordinator, International Chemical Workers Union Council Center for Worker Health and Safety Education

Incorporating Hands-on Activities during Virtual Training
- **Kevin Riley,** Principal Investigator, University of California Los Angeles-Labor Occupational Safety and Health Program (UCLA-LOSH)/Western Region Universities Consortium

Using Platform Tools in New Ways
- **Yodit Semu,** Environmental Career Worker Training Program Coordinator, UCLA-LOSH/WRUC
  - **Have scratch paper and a pen/pencil handy

Tips for Zoom to enhance your user experience

- Speaker view versus gallery view
- Rename yourself
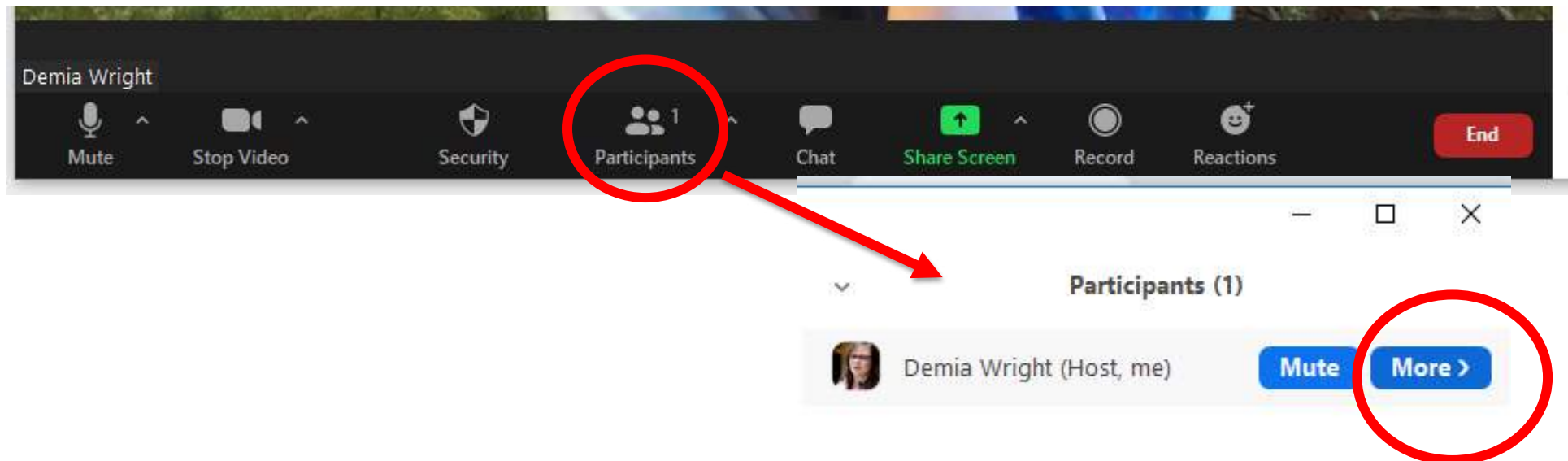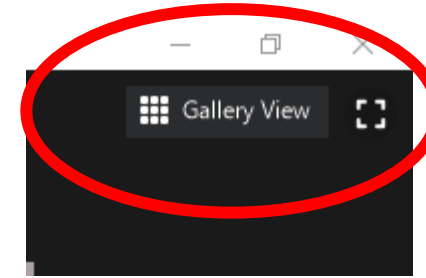
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- Raise hand
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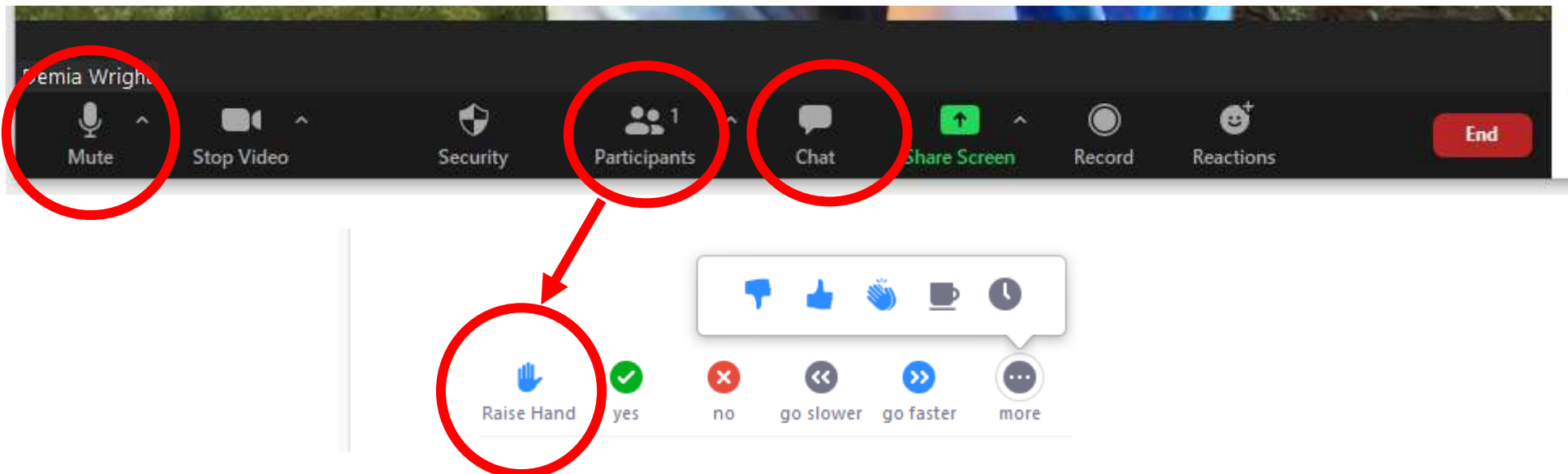
Request for Breakout Room Facilitators, Sept 22/23

- We're looking for breakout room facilitators for our Fall Virtual WTP Workshop! September 22-23
- You can facilitate one or more sessions – can request one that most applies to you
  - HWWT, HDPTP, ECWTP, DOE, Infectious Diseases, E-Learning
- Email Deborah to sign up (dweinstock@michaeldbaker.com) or write your name in the chat box

Breakout Groups

Breakout Room Number	Facilitator	Notetaker
	Kevin Riley, WRUC	Dylan Williams, National Clearinghouse
	Yodit Semu, WRUC	Lesley Skalla, National Clearinghouse
	Lois Harrison, MWC	Mali Velasco, National Clearinghouse
	Chip Hughes, NIEHS	Amber Mitchell, Kelly contractor for NIEHS
	Lula Odom, ICWUC	Wendashia Ray, National Clearinghouse
	Peter Schmitt, Cell Podium	Kenda Freeman, National Clearinghouse
	Sherrod Elledge, United Auto Workers	Demia Wright, NIEHS
	Meg Rush, Gryphon Scientific	David Richards, National Clearinghouse

NIEHS WTP TRAINING BEST PRACTICES IN THE TIME OF COVID-19 / WEBINAR SERIES

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Worker Training Program

Breakout Room Questions

1. What tools or techniques have you used to successfully engage training participants?

2. Have you tried anything that has not worked out?

3. How have you adapted tools for different audiences, particularly based on their technology capacity?

Thanks to all participants!

Call 3: In-Person Training under COVID-19: Protocols and Practices

Friday, September 18, 3:00-4:30 p.m. EDT

To register: https://niehs.zoomgov.com/meeting/register/vJIsdOyupz4sGQq9EcAIIjY1x-fERYelpoA

Volunteer for Facilitating Sept 22/23 Breakouts!

Email Deborah to sign up (dweinstock@michaeldbaker.com) or write your name in the chat box

All will be recorded and posted on the *COVID-19 Webinars and Presentations* web page https://tools.niehs.nih.gov/wetp/index.cfm?id=2592

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Josh Cunningham

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Labor and Employment

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COVID-19: Impact on Employment and Labor

5/13/2020

The sudden emergence of the COVID-19 pandemic is dealing a severe blow to state economies, businesses and workers. First and foremost, states are strengthening their health care capacity in the event that demand for medical services surge. Ensuring there are enough licensed health care professionals is a key component in this preparation.

States are also restricting access to in-dining restaurants, theaters, concert halls, some retail stores and other non-essential businesses where large groups of people risk coming into close contact with one another. Additionally, public health officials and experts have warned Americans to stay home as much as possible and avoid doing anything that requires close contact with others. Many other businesses have voluntarily closed to protect their employees and the public as a whole. Perhaps the most visible closure has been the nearly universal shutdown of the professional sports industry. Those exposed to the virus are being advised to self-quarantine for at least 14 days presenting financial challenges for workers without paid sick leave.

These unprecedented challenges are having economic ripple effects across the country as thousands of Americans unexpectedly find themsleves out of work with the potential for significant increases in unemployment. States are taking action to address the employment concerns facing Americans and to protect those who are no longer able to work. Some immediate issues on the minds of policymakers include expanding paid leave for workers, preparing state unemployment insurance benefit programs for surges in demand and helping businesses transition to full-time teleworking.

Federal Response

Federal legislation addressing unemployment insurance benefits, paid leave and economic stimulus is currently making its way through Congress. NCSL is watching this legislation closely and [...]g for state legislatures around the country. Updates on federal action and its impact on stat[...] made as they happen. See NCSL's blog on the new Families First Coronavirus Response Act (/blog/2020/03/19/labor-economy-provisions-of-second-covid-19-relief-bill.aspx) for details on the new paid sick leave mandate and changes made to the federal unemployment benefits law.

Occupational Licensing During Public Emergencies

COVID-19 presents an unprecedented crisis for states, requiring swift action on many issues, including the process for licensing essential workers. Temporary suspension of occupational licensing laws in emergency situations is a common approach states take to help manage short-term crises. States have experience in adopting emergency licensing processes, most often in response to natural disasters and their aftermath. Typically, states will lift licensing restrictions on aid workers, including those providing health care, infrastructure and other services critical to disaster recovery. To respond to COVID-19, states are also exploring the temporary suspension of licensure requirements for volunteers and aid workers. See NCSL's Occupational Licensing During Public Emergencies (/default.aspx?tabid=34741) webpage for more details.

Paid Sick Leave

COVID-19 is causing very high numbers of workers to take sick leave. Many workers are not paid when they get sick. Currently, 12 states and Washington D.C. require employers to provide paid sick leave benefits. NCSL's Paid Sick Leave (/default.aspx?tabid=28589) webpage provides details on each state's program.

Unemployment Insurance Benefits

The Federal-State Unemployment Insurance Program (https://oui.doleta.gov/unemploy/uifactsheet.asp) provides temporary unemployment benefits to eligible unemployed workers. As states work to slow the spread of COVID-19, thousands of workers are finding themselves unemployed leading to a surge in applications for unemployment benefits. States are responding to this employment crisis including expediting the application process for unemployment insurance benefits and expanding eligibility to those under quarantine. NCSL's Unemployment Benefits (/default.aspx?tabid=34744)webpage provides specific examples of the actions states are taking.

Defining Essential Businesses and Workers

While the federal government has recommended that all Americans stay home to slow the spread of COVID-19, it is up to states and local governments to enact these recommendations. So far, 41 states have issued stay-at-home orders forcing the closure of all non-essential business properties. What constitutes an "essential" business is complex and varies from state to state. The U.S. Departme[...]

Homeland Security (https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19) has guidance for states on critical infrasture workers covering areas like healthcare services, p[...]s, food services, public transportation and financial services.

The federal guidance serves as a basic framework for most state policies. From there, states tailor their definition of essential workers to meet their own unique needs as well as their mechanisms for enforcing the orders. These definitions often include numerous exemptions and can change from day-to-day. The National Governor's Association (https://www.nga.org/wp-content/uploads/2020/03/Appendix-I-Essential-Business_3.31.20.pdf) has compiled a thorough breakdown of how each state is defining essential workers.

Teleworking

The COVID-19 outbreak is rapidly changing the workplace. As the race to containment continues, millions of Americans are moving their work spaces to their homes as states ask employers to offer flexible work arrangements, such as teleworking, and develop plans to ensure continuity in government. See NCSL's COVID-19: Teleworking (/default.aspx?tabid=34747)webpage for more specific and state examples.

Frequently Asked Questions

How does the paid sick leave and FMLA apply to state legislative staff?

On Wednesday, April 1st the U.S. Department of Labor just issued guidance on the FFCRA. Here is the link to the DOL rule (https://www.dol.gov/agencies/whd/ffcra), published in the Federal Registrar April 1. Below is additional information:
DOL issued new action regarding how American workers and employers will benefit from the protections and relief offered by the Emergency Paid Sick Leave and Emergency Family and Medical Leave Act (FFCRA). The Department's Wage and Hour Division finalized a temporary rule that issued regulations clarifying what entities are mandated to abide by the new paid sick and FMLA provisions. Specifically, the rule establishes and further defines "public agency" as having the same definition in section 203(x) of the Fair Labor Standards Act (FLSA). Those public agencies include the Government of the United States; the government of a State or political subdivision of a State; or an agency of the United States (including the United States Postal Service and Postal Regulatory Commission), a State, or a political subdivision of a State; or any interstate governmental agency." In addition to providing clarification on what defines a "public agency", the rule also defines coverage – specifically, "[a]ll covered public agencies must comply with both the EPSLA and the EFMLEA regardless of the number of employees they employ, although such employers may exclude employees who are health care providers or emergency responders as described in § 826.30(c).

What employers qualify under the paid sick leave provisions in the Families First Coronavirus Response Act?

FFCRA requires covered employers to provide eligible employees up to two weeks of paid sick leave at full pay, up to a specified cap, when the employee is unable to work because the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19. The act provides up to two weeks of paid sick leave at partial pay, up to a specified cap, when an employee is unable to work because of a need to care for an individual subject to a federal, state or local quarantine order related to COVID-19. The FFCRA covers private employers with fewer than 500 employees and certain public employers. Small employers with fewer than 50 employees may qualify for an exemption from the requirement to provide paid leave due to school, place of care, or childcare provider closings or unavailability, if the leave payments would jeopardize the viability of their business as a going concern.

How are states planning to pay for reimbursements to businesses for paid sick leave and FMLA?

They are not. State-paid sick leave laws are simply mandates for employers to provide these benefits to employees. Businesses are not reimbursed for providing paid sick leave. FFCRA will reimburse private employers that have fewer than 500 employees with tax credits for the cost of providing employees with paid leave taken related to COVID-19. Most state paid family and medical leave/temporary disability insurance programs are entirely employer funded. The states that do include an employer-funded component do not reimburse employers for their contributions.

How do the new unemployment insurance policies and guidance apply to seasonal, gig, and undocumented workers?

The CARES Act expands unemployment insurance from three to four months, and provides temporary unemployment compensation of $600 per week, which is in addition to and the same time as regular state and federal UI benefits. The benefits are extended to part-time, self-employed and gig economy workers. The Pandemic Unemployment Assistance (PUA) provides emergency UI to employees who do not qualify for the regular state UI. Up to 39 weeks of PUA is available immediately to workers who have lost work due to COVID-19. Workers who can telework or are receiving paid sick leave are not eligible for PUA.

Additional Resources

NCSL COVID-19 Resources:

- Unemployment Benefits (/default.aspx?tabid=34744)
- Occupational Licensing During Public Emergencies (/default.aspx?tabid=34741)
- Teleworking (/default.aspx?tabid=34747)
- COVID-19 Stimulus Bill: What it Means for States (/ncsl-in-dc/publications-and-resources/coronavirus-stimulus-bill-states.aspx)
- Labor, Economy Provisions of Second COVID-19 Relief Bill (/blog/2020/03/19/labor-economy-provisions-of-second-covid-19-relief-bill.aspx)

- NCSL WEBINAR: COVID-19 Workfoce and Labor Issues (/research/labor-and-employment/covid-19-workforce-and-labor-issues.aspx)

US Department of Labor Resources:

- Families First Coronavirus Response Act: Questions and Answers (https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)

- Families First Coronavirus Response Act: Employer Paid Leave Requirements (https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave)

- Families First Coronavirus Response Act: Employee Paid Leave Rights (https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave)

- US Department of Labor Announces New Guidance on Unemployment Insurance Flexibilities During COVID-19 Outbreak (https://www.dol.gov/newsroom/releases/eta/eta20200312-0)

- DOL State Unemployment Benefits Finder (https://www.careeronestop.org/LocalHelp/UnemploymentBenefits/find-unemployment-benefits.aspx)

- State Unemployment Insurance Trust Fund Solvency Report 2020 (https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf)

- DOL Advisories and Guidance Database (https://wdr.doleta.gov/directives/)

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- NCSL Staff Directories (/aboutus/ncslservice/ncsl-staff-directories-and-online-requests.aspx)
- Staff Directories (/aboutus/ncslservice/staff-directory-search-form.aspx)
- Terms and Conditions (/aboutus/ncslservice/ncsl-website-terms-and-conditions.aspx)

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- Legislative Websites (/aboutus/ncslservice/state-legislative-websites-directory.aspx)
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- State Legislatures Magazine (/bookstore/state-legislatures-magazine.aspx)

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- Calendar (/meetings-training/ncsl-meetings-calendar.aspx)
- Online Registration (https://www.ncslcommunities.org/CPBase__events?page=a0Zf4000002sn6DEAQ&site=a0df4000000SACyAAO)

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The State of Hiring in a Year of Crisis

Key insights on how hiring and recruitment have adapted in a year of unprecedented change

Criteria

About the Report

Every year, we survey hiring professionals from across all industries to learn more about how they attract, hire, and retain their teams.

For our third annual report, we shifted our focus towards understanding how organizations are responding to one of the most tumultuous years in recent memory. COVID-19 and the resulting increase in unemployment have fundamentally shifted the balance in hiring. With a record number of employees now working from home, hiring has largely become a remote process for many organizations. On another front, greater calls for diversity and inclusion have caused organizations to reconsider the efficacy of their current hiring strategies. As a result, the world of hiring looks a lot different from last year, and this report explores those changes.

The results in this report are based on a survey of over 400 hiring professionals across organizations large and small, and across a wide breadth of industries. Responses were collected in August 2020. For the first time, the 2020 report surveyed a global audience, with the majority of respondents hailing from the United States, Australia, and Canada.
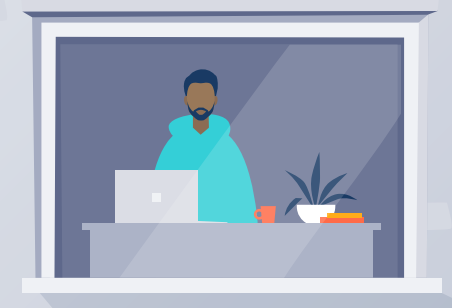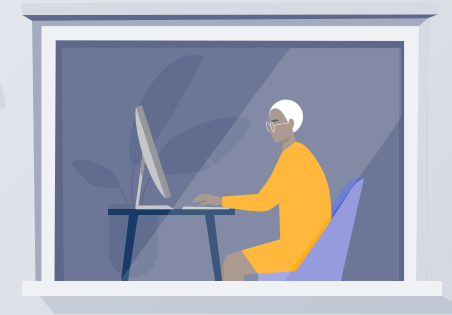
WHO WE ARE

Criteria is an assessment company dedicated to helping organizations make better talent decisions using objective, multidimensional data. We are fascinated by all things hiring, and we built this report to explore how modern organizations hire today. Visit us at criteriacorp.com to learn more.

Criteria

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Criteria

Key Insights From the Report

1

Nothing has shaped 2020 more than COVID-19.

As a result of the global pandemic, 69% of hiring professionals said their organization transitioned to remote work in some capacity; 51% reduced hiring; 36% froze hiring, and 30% had to lay off or furlough employees.

2

Growth is slow but positive.

Overall, hiring professionals predict that their hiring volume will increase by 1.4% in the next 12 months, but this varied widely by industry. The Technology industry, for example, expected to hire 64% more people in the next 12 months. Meanwhile, HR spending isn't budging, with respondents predicting an increase of 0.6% over the next 12 months.

3

Hiring is less challenging than it was before.

Across the board, hiring professionals feel that hiring isn't as challenging as it was last year. 54% even said that COVID-19 has made it easier to hire remote employees.

4

Remote work has made a positive impression.

Of those organizations that did transition to remote work, 54% view remote work more positively now; 42% say their view is unchanged, and just 4% view remote work more negatively.

5

Diversity is a priority for most organizations.

34% of hiring professionals say that increasing diversity in the workplace is a "top priority." 46% say it's "somewhat of a priority" and just 22% say it's "not a priority."

6

Hiring professionals are overwhelmingly optimistic about the future.

Not only has hiring become less challenging, but hiring professionals have also become more confident in their hiring processes. And when looking towards 2021, the majority (66%) of hiring professionals feel positive about the future health of their organizations. Just 6% feel negative about the future, while 20% feel neutral and 9% are unsure.
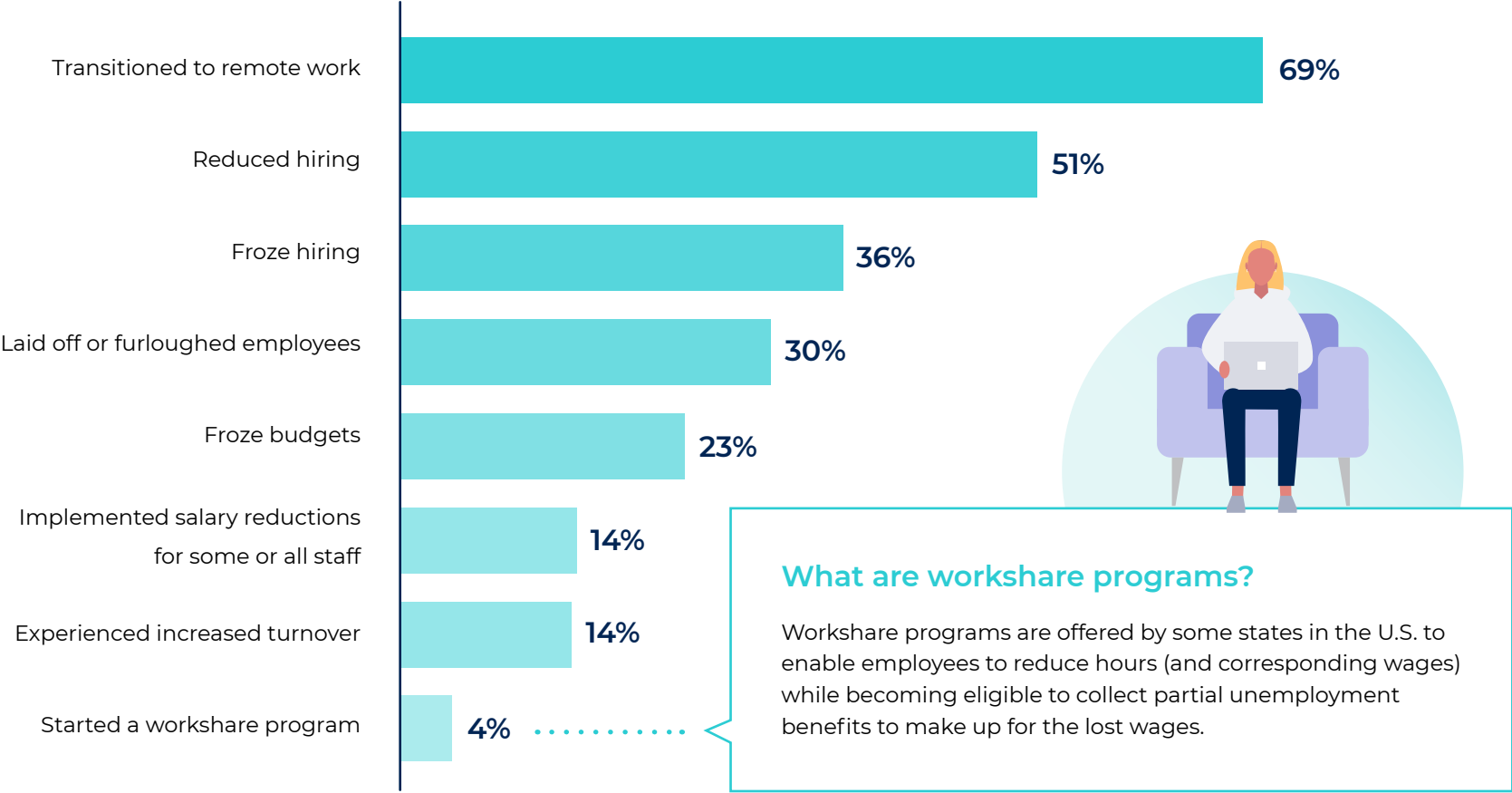
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The Impact of COVID-19

Nothing has shaped 2020 more than COVID-19.

Every organization has been affected in some way by the COVID-19 pandemic. While regional and national responses differ around the world, organizations have managed to adapt to the crisis in a variety of ways. A large majority (69%) of respondents said their organization transitioned to remote work in some capacity. About half (51%) reduced hiring, while 36% froze hiring completely. 30% had to lay off or furlough employees, while 14% opted to reduce employee salaries. These strategic decisions have a cascading impact on the way organizations are hiring in 2020.

How has COVID-19 impacted your HR or hiring initiatives?

Category	Percentage
Transitioned to remote work	69%
Reduced hiring	51%
Froze hiring	36%
Laid off or furloughed employees	30%
Froze budgets	23%
Implemented salary reductions for some or all staff	14%
Experienced increased turnover	14%
Started a workshare program	4%

What are workshare programs?

Workshare programs are offered by some states in the U.S. to enable employees to reduce hours (and corresponding wages) while becoming eligible to collect partial unemployment benefits to make up for the lost wages.

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Hiring Trends

Hiring growth is slow, but trending in a positive direction.

For the last few years, the hiring landscape was characterized as a candidate's market, with organizations competing to attract candidates from a limited pool of talent. 2020 saw an abrupt shift in unemployment as a result of the COVID-19 outbreak. The unemployment rate in the U.S. shot up from 3.8% in February to a peak of 14.4% in April of 2020*.

By the time this survey was conducted in August of 2020, organizations had settled into a new normal, not yet recovered from the shockwaves of the pandemic but not yet back to normal either.

We asked organizations how many people they hired in the last 12 months compared to how many people they plan to hire in the next 12 months. Respondents anticipated hiring 1.4% more employees in the next 12 months. This sluggish growth is growth nevertheless, suggesting that organizations are cautiously investing in hiring again.
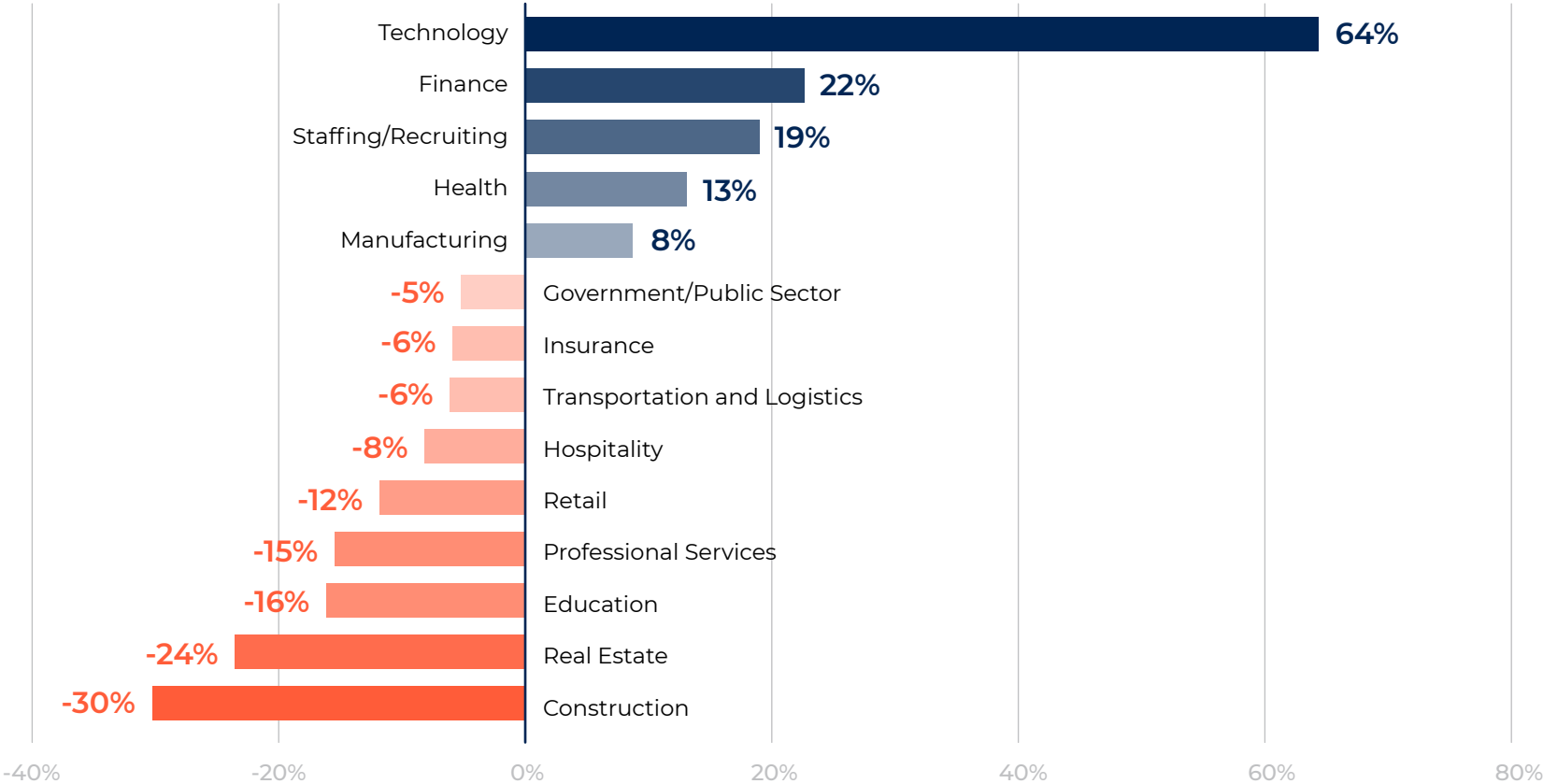
Next Year
↑ 1.4%

Hiring professionals predict that their hiring volume will increase by 1.4% in the next year.

*Pew Research

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Expected growth varies widely by industry.

Different industries had different outlooks for next year. Unsurprisingly, the tech industry projected the highest growth, anticipating a need to hire 64% more people in the next 12 months. As an industry, tech companies may have been best positioned to transition to remote work, and more able to bounce back from the crisis.

Several industries that rely on in-person interactions projected negative growth, including Retail, Hospitality, Education, Real Estate, and Construction. Meanwhile, the Health industry predicted more hiring, as did Finance, Manufacturing, and Staffing/Recruiting.

Anticipated Growth in Hiring Volume by Industry* (2020-2021)

Industry	Value
Technology	64%
Finance	22%
Staffing/Recruiting	19%
Health	13%
Manufacturing	8%
Government/Public Sector	-5%
Insurance	-6%
Transportation and Logistics	-6%
Hospitality	-8%
Retail	-12%
Professional Services	-15%
Education	-16%
Real Estate	-24%
Construction	-30%

Some industries were omitted from this graph due to small sample sizes.

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HR spend is flat.

Organizations aren't eager to alter their HR budgets dramatically any time soon. On average, respondents in the U.S. predict that their HR spend will increase a minimal 0.6% in the next 12 months.

Next Year
↑ 0.6%

Hiring professionals in the U.S.* predict that their HR budgets will increase by 0.6% in the next year.

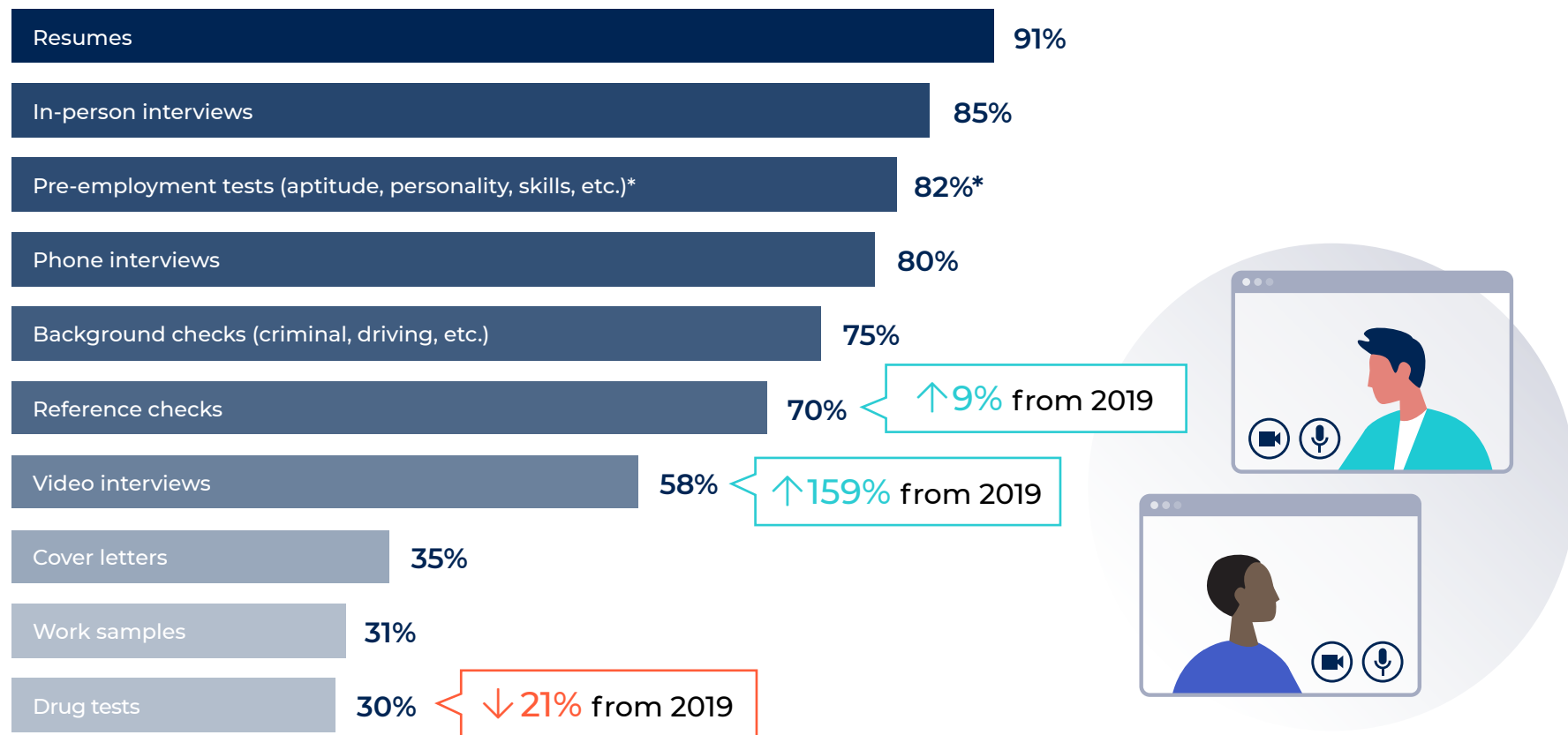** Data based on U.S. respondents only.*

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How Companies are Hiring

Hiring strategies have shifted to accommodate remote work.

Resumes and interviews continue to reign supreme as part of the traditional hiring process. However, a few notable shifts occurred as a result of COVID-19. Video interview usage went up 159%, from 22% in 2019 to 58% this year. Drug test usage dropped 21%, likely due to lack of availability for in-person testing. Reference checks also went up 9%, suggesting that organizations are looking for ways to learn more about their candidates when other in-person methods are no longer available.

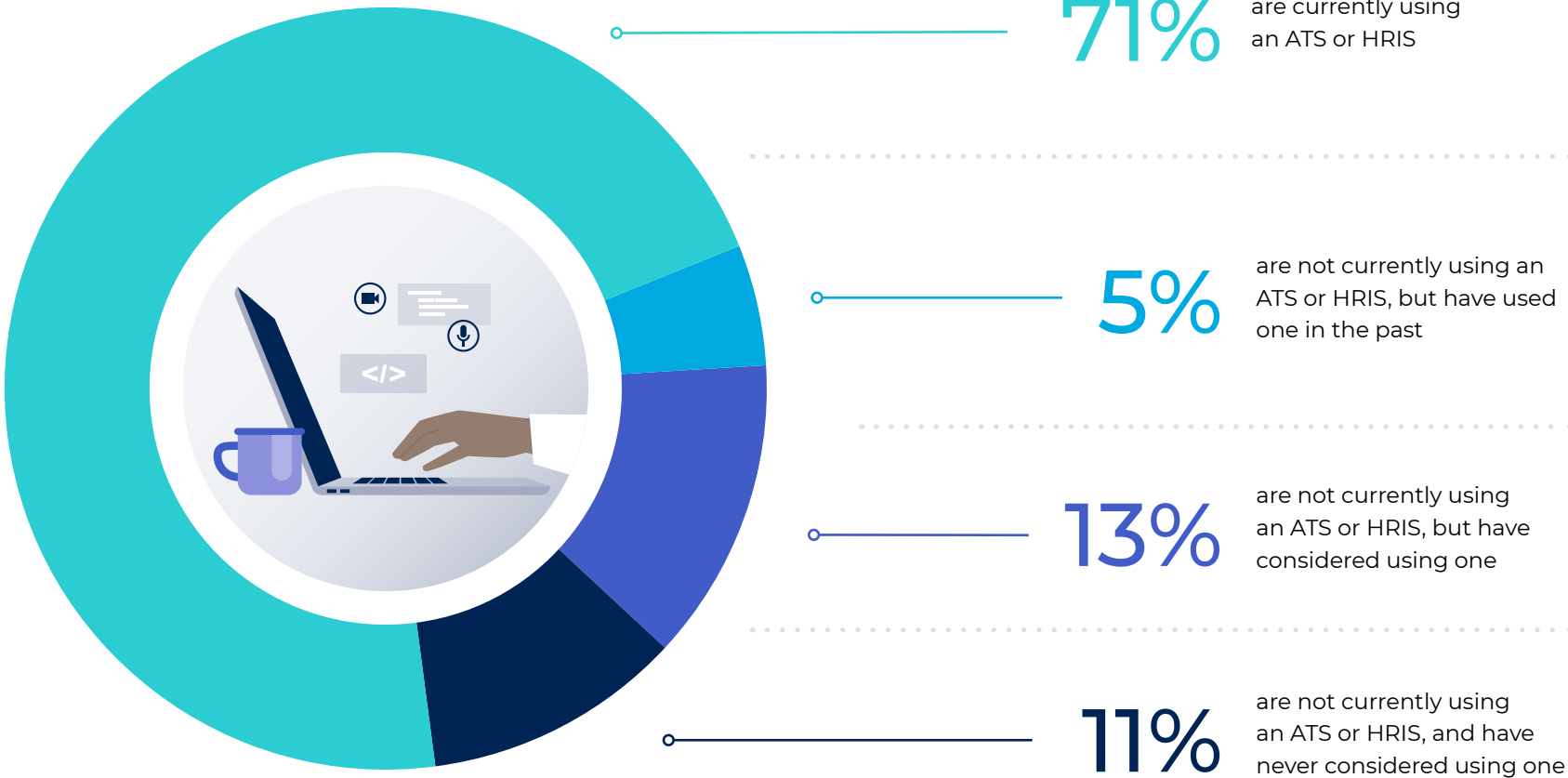## What percentage of organizations use these elements to make hiring decisions?

Element	Percentage	Change
Resumes	91%	
In-person interviews	85%	
Pre-employment tests (aptitude, personality, skills, etc.)*	82%*	
Phone interviews	80%	
Background checks (criminal, driving, etc.)	75%	
Reference checks	70%	↑9% from 2019
Video interviews	58%	↑159% from 2019
Cover letters	35%	
Work samples	31%	
Drug tests	30%	↓21% from 2019

A large proportion of our survey respondents are known users of pre-employment tests, which may influence the magnitude of this outcome. However, external data confirms that about 82% of companies use some form of pre-employment tests, in line with our result.

✕ Criteria

More organizations are relying on hiring software.

Compared to 2019, 29% more respondents said that they currently use an ATS or HRIS to hire. The definition of ATS or HRIS appears to be fuzzy, however. Respondents report using a wide variety of software solutions, many of which don't easily fit into neat categories. Regardless of category definition, organizations are taking advantage of the many unique hiring solutions available on the market.

What percentage of hiring professionals are using an ATS or HRIS to hire?

71% are currently using an ATS or HRIS

5% are not currently using an ATS or HRIS, but have used one in the past

13% are not currently using an ATS or HRIS, but have considered using one

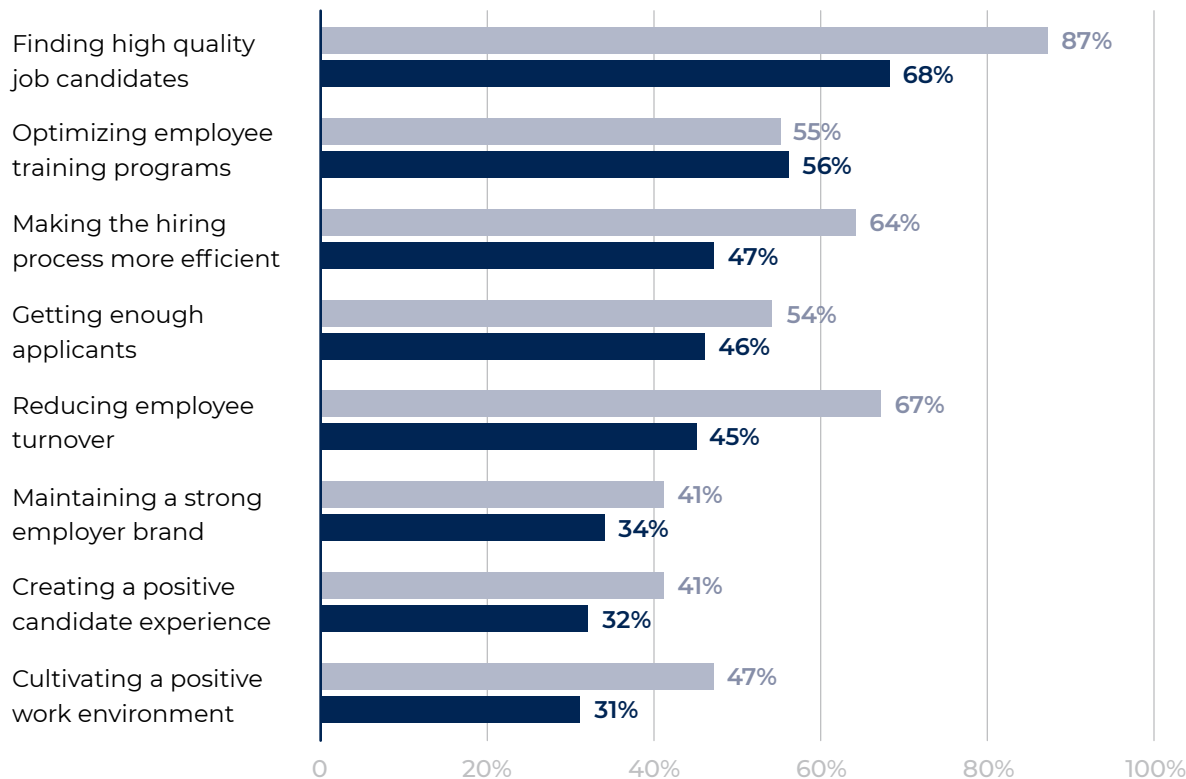**11%** are not currently using an ATS or HRIS, and have never considered using one

Criteria

Organizations find hiring to be less challenging now.

Is the candidate-driven market over? Across the board, hiring professionals find that the work of talent acquisition and talent management is less challenging than it was last year.

Finding high quality job candidates continues to be the most challenging task in 2020 at 68%, but it dropped significantly from 2019. Organizations are also less concerned about getting enough applicants, reducing turnover, or even cultivating a positive work environment this year. It's possible that hiring professionals are simply preoccupied with more pressing issues this year.

Percentage of hiring professionals who find these areas challenging:

Legend: 2019 (light) / 2020 (dark)

Area	2019	2020
Finding high quality job candidates	87%	68%
Optimizing employee training programs	55%	56%
Making the hiring process more efficient	64%	47%
Getting enough applicants	54%	46%
Reducing employee turnover	67%	45%
Maintaining a strong employer brand	41%	34%
Creating a positive candidate experience	41%	32%
Cultivating a positive work environment	47%	31%

Quality vs. Quantity

Hiring professionals aren't that worried about getting enough applicants anymore. In fact, 34% actually said getting enough applicants is "extremely easy" or "somewhat easy" (compared to 18% in 2019).

However, finding high quality job candidates continues to be the greatest challenge. It's the classic problem of quality vs. quantity. Regardless of the number of applicants available, finding the right match continues to be the biggest hurdle.
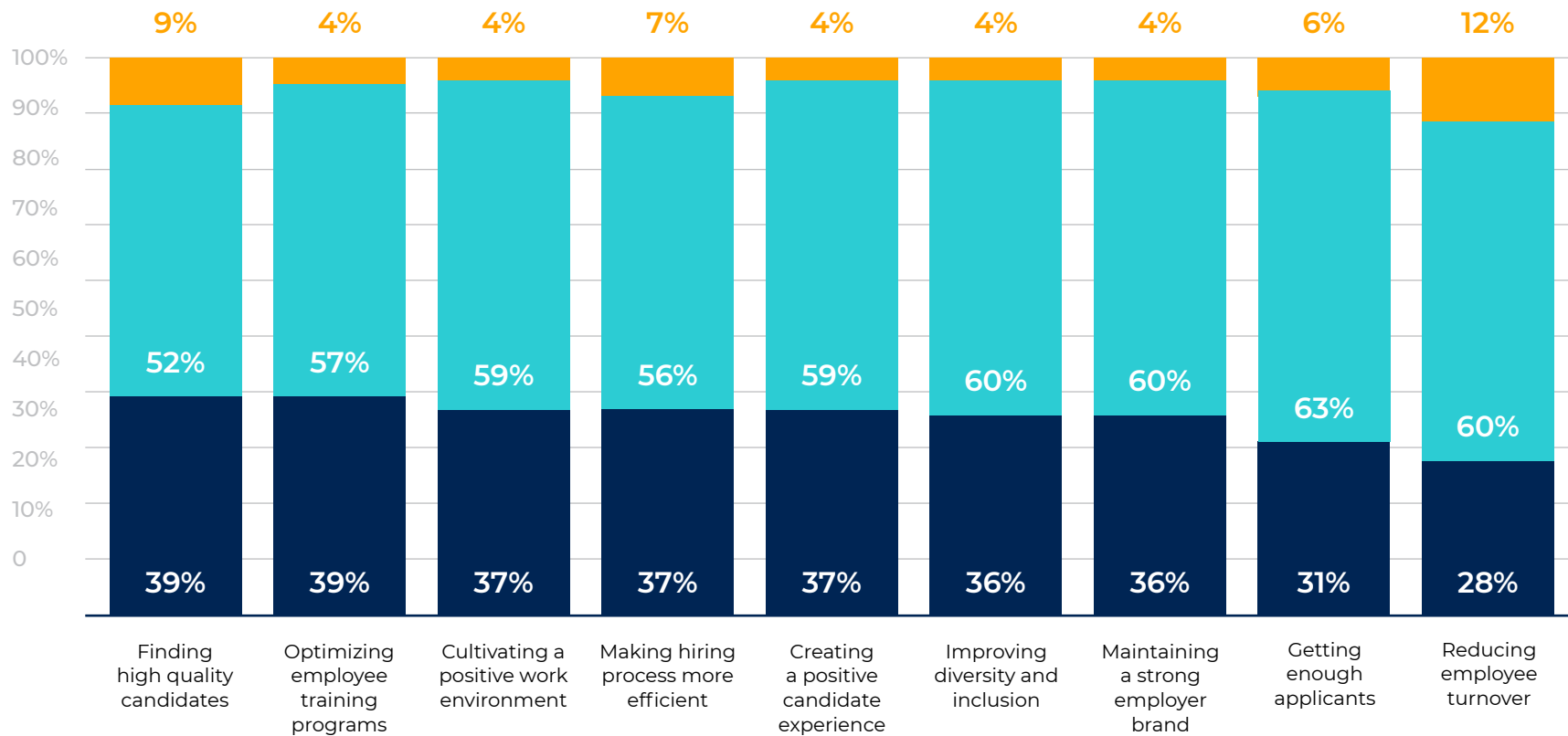
Criteria

Where are hiring professionals planning to invest their budgets?

Our respondents said that "finding high quality job candidates" was still their biggest challenge in 2020, and it's also the area that organizations are planning to invest in the most. Almost 40% intend to increase budget in that area.

Overall, the majority of organizations intend to keep budgets the same, with just over a third intending to increase budgets in each of the key areas.

Planned Investments in Various HR Goals

Legend: ■ Decrease ■ Stay the same ■ Increase

	Finding high quality candidates	Optimizing employee training programs	Cultivating a positive work environment	Making hiring process more efficient	Creating a positive candidate experience	Improving diversity and inclusion	Maintaining a strong employer brand	Getting enough applicants	Reducing employee turnover
Decrease	9%	4%	4%	7%	4%	4%	4%	6%	12%
Stay the same	52%	57%	59%	56%	59%	60%	60%	63%	60%
Increase	39%	39%	37%	37%	37%	36%	36%	31%	28%

Criteria

Remote Work

Remote work has been cast into the spotlight.

As shown earlier in the report, 69% of organizations transitioned to remote work at some point during the COVID-19 crisis. Now, 39% of organizations are still operating with 81-100% of their employees working remotely, compared to just 7% before COVID-19. Meanwhile, just 8% of organizations have no employees currently working remotely.

What percentage of your organization worked remotely before COVID-19 compared to now?

Legend: ■ Before COVID-19   ■ Now

	0% working remotely	1-20% working remotely	21-40% working remotely	41-60% working remotely	61-80% working remotely	81-100% working remotely
Before COVID-19	34%	48%	4%	5%	2%	7%
Now	8%	21%	12%	11%	9%	39%

Criteria
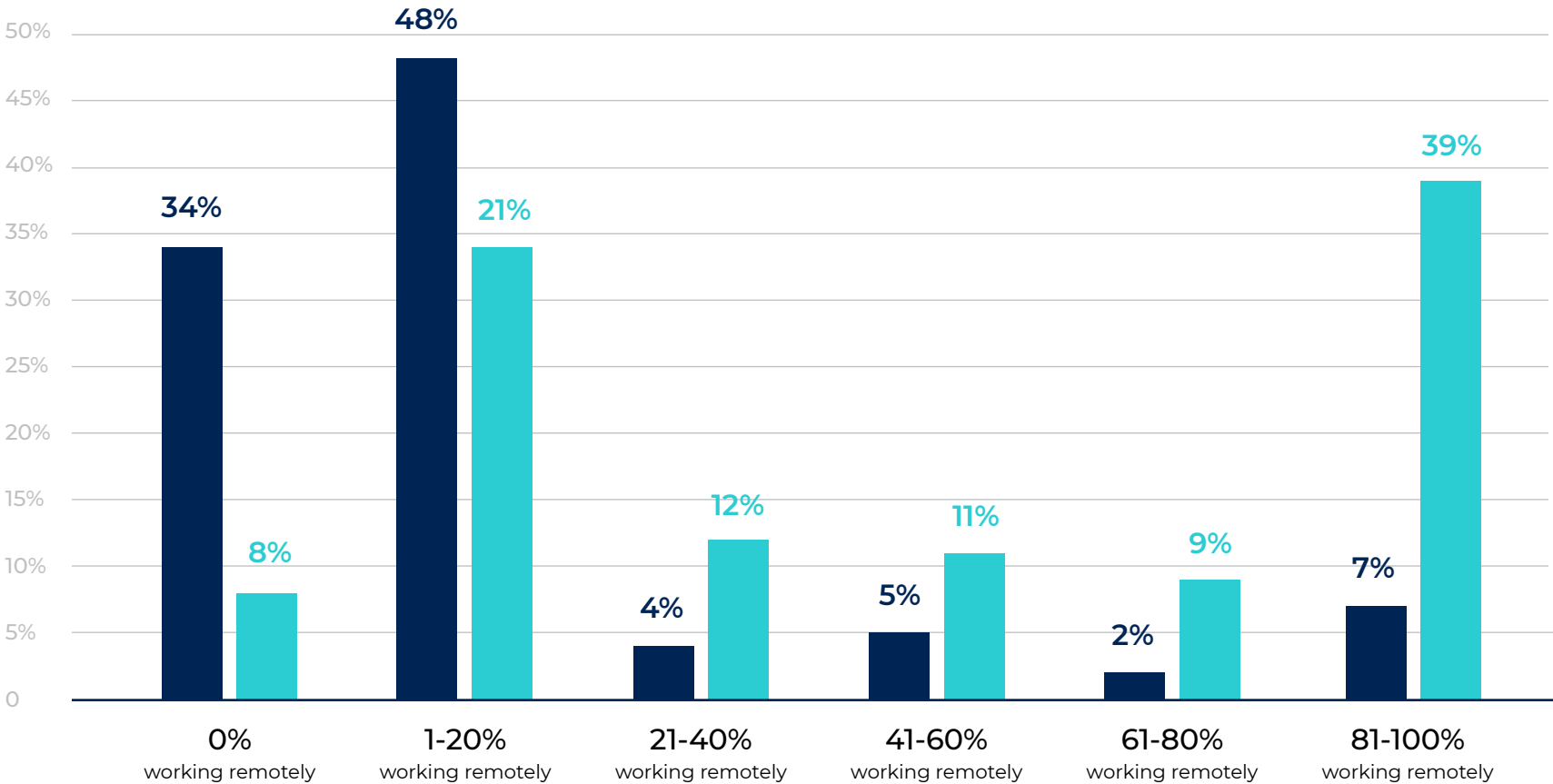
Remote work has made a positive impression.
Is it here to stay?

Organizations have warmed to the idea of remote work. While the vast majority of organizations were working in offices at the start of this year, over half of our respondents' organizations had to transition to remote work as a result of COVID-19. For most, their first taste of remote work has been overwhelmingly positive. Of respondents that did have to transition to remote work, 54% say they view remote work more positively than they did before COVID-19. Meanwhile, 42% view remote work the same, and just 4% view remote work more negatively.

Since the start of the COVID-19 pandemic, how has your opinion of remote work changed?

	More positive	Stayed the same	More negative
	54%	42%	4%

Criteria
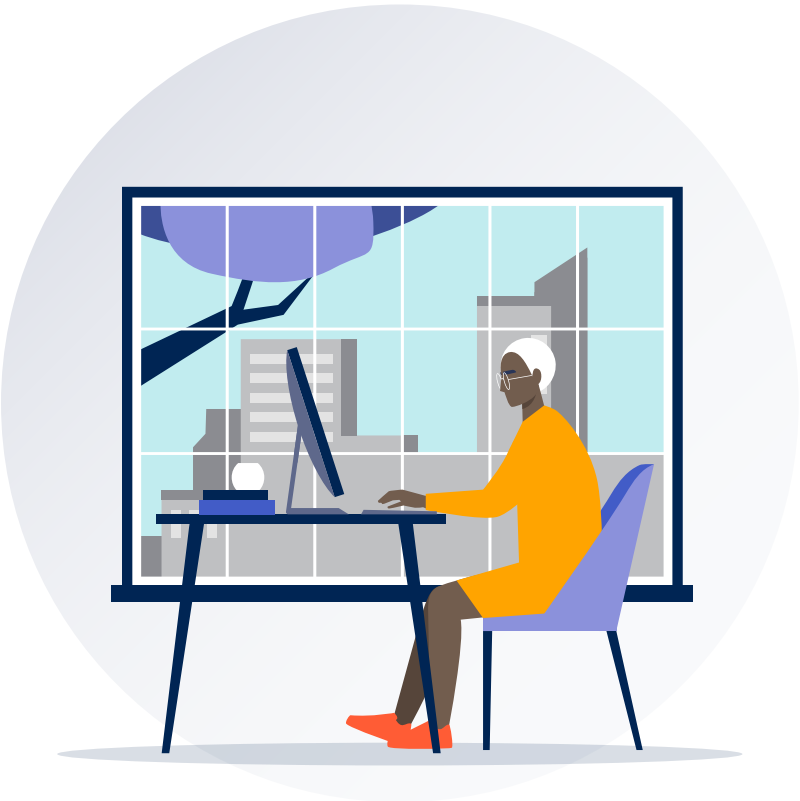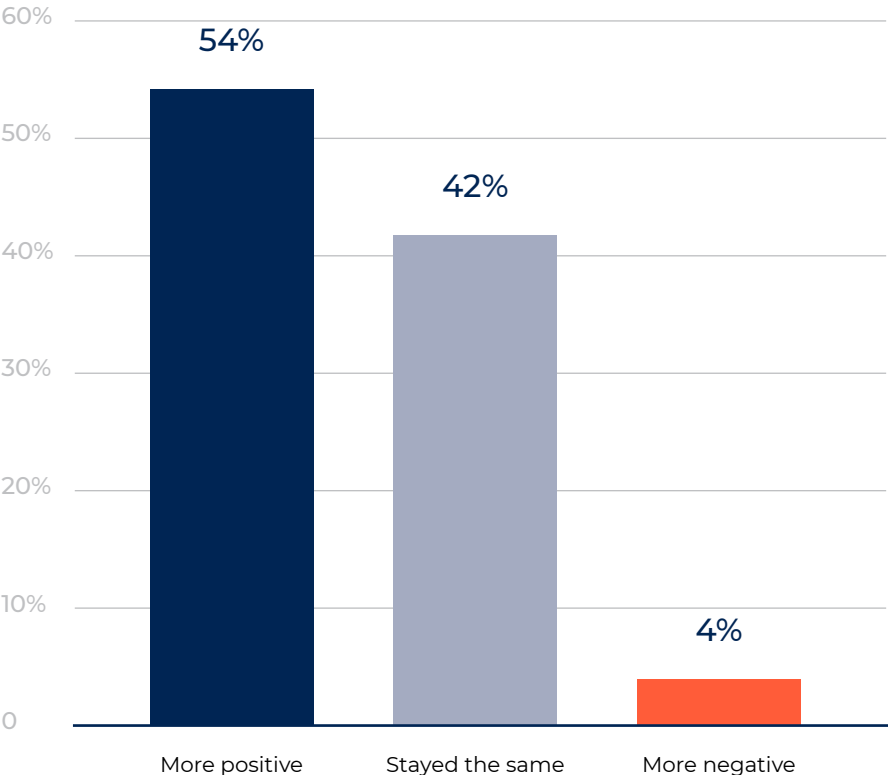
The benefits of remote work are compelling.

For those who said that they view remote work more positively as a result of COVID-19, there were many purported benefits. The biggest benefit of all? Less commuting, with 95% of respondents listing this as a major benefit to remote work.

What are the positive benefits of working remotely?

Benefit	Percentage
Less commuting	95%
Flexible schedule	76%
Better work-life balance	75%
Fewer office distractions	72%
More time with family	68%
More productivity	64%

Criteria
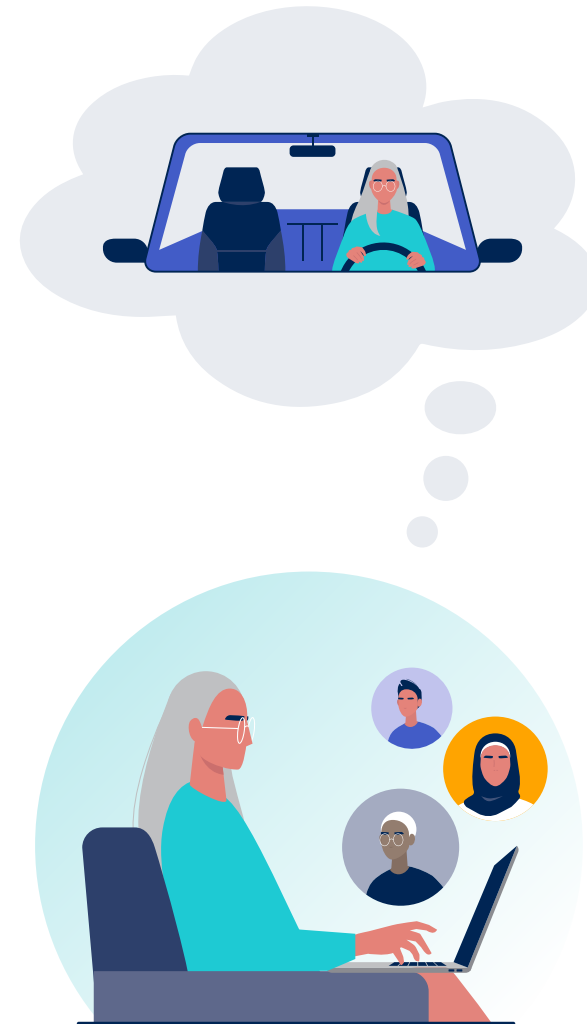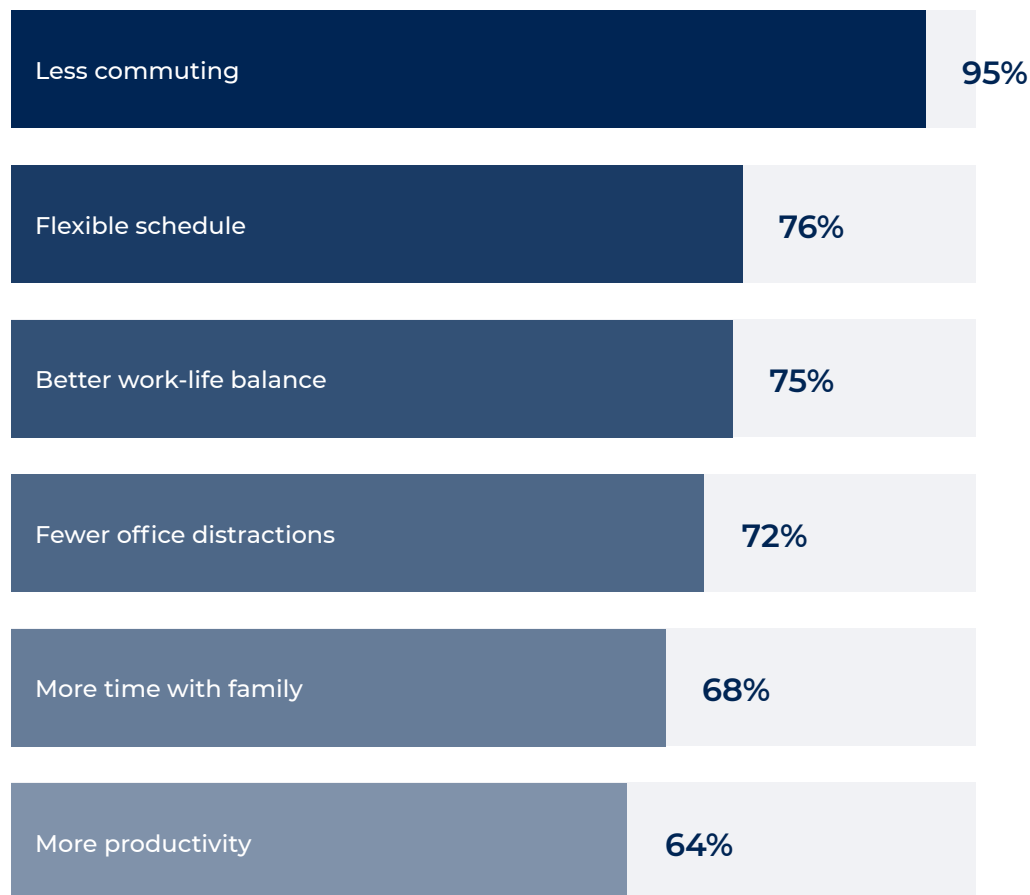
There are also some downsides to remote work.

Of the small group who said they view remote work more negatively as a result of COVID-19, the biggest issue related to productivity.

What are the biggest challenges of working remotely?

Less productivity	**75%**
Less time with my staff and team	**67%**
Home technology not equipped for my needs	**50%**
Juggling work and family at home	**33%**
Lack of proper internet	**33%**
Poor ergonomics	**33%**
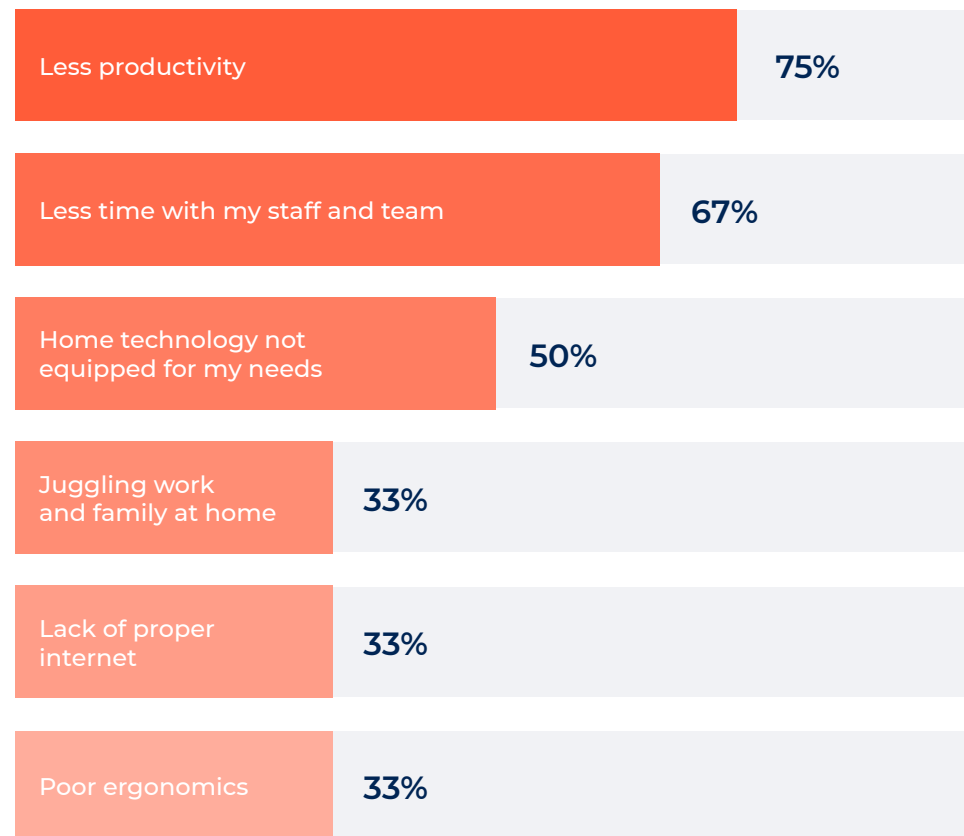
Does remote work help or hurt productivity?

75% of the group who view remote work negatively say that less productivity is the biggest reason why. However, earlier we saw that 64% of the group who view remote work more positively say that more productivity is one of the reasons. Why the discrepancy?

It likely comes down to personal preference and the realities of each person's arrangement at home. For those employees with the appropriate amount of space, resources, privacy, internet connection, and more, remote work can be a blessing. For others, remote work presents challenges, and organizations need to be able to provide additional support to those who may be struggling in a remote environment.

Criteria

Diversity

Diversity is a priority for most organizations.

Organizations are increasingly focused on strengthening the diversity of their teams. 32% of hiring professionals say increasing diversity in the workplace is a top priority; 46% say it is somewhat of a priority; and just 22% say it is not a priority.

Is increasing diversity in the workplace a priority for your organization?

32%
A top priority

46%
Somewhat of a priority

22%
Not a priority

Criteria

Some industries prioritize diversity more than others.

Hiring professionals from certain industries were more likely to list diversity as a "top priority" than others. The Education and Technology industries topped the list as the two industries that prioritized increasing diversity in the hiring process, followed by Insurance, Retail, Government/Public Sector, and Health.

Percentage of respondents by industry* who say increasing diversity is a "top priority":

Industry	Percentage
Education	60%
Technology	43%
Insurance	40%
Retail	36%
Government/Public Sector	36%
Health	35%
Finance	32%
Staffing/Recruiting	32%
Manufacturing	26%
Non-Profit	26%
Professional Services	25%
Real Estate	21%
Transportation and Logistics	18%

Some industries were omitted from this graph due to small sample sizes.

Criteria
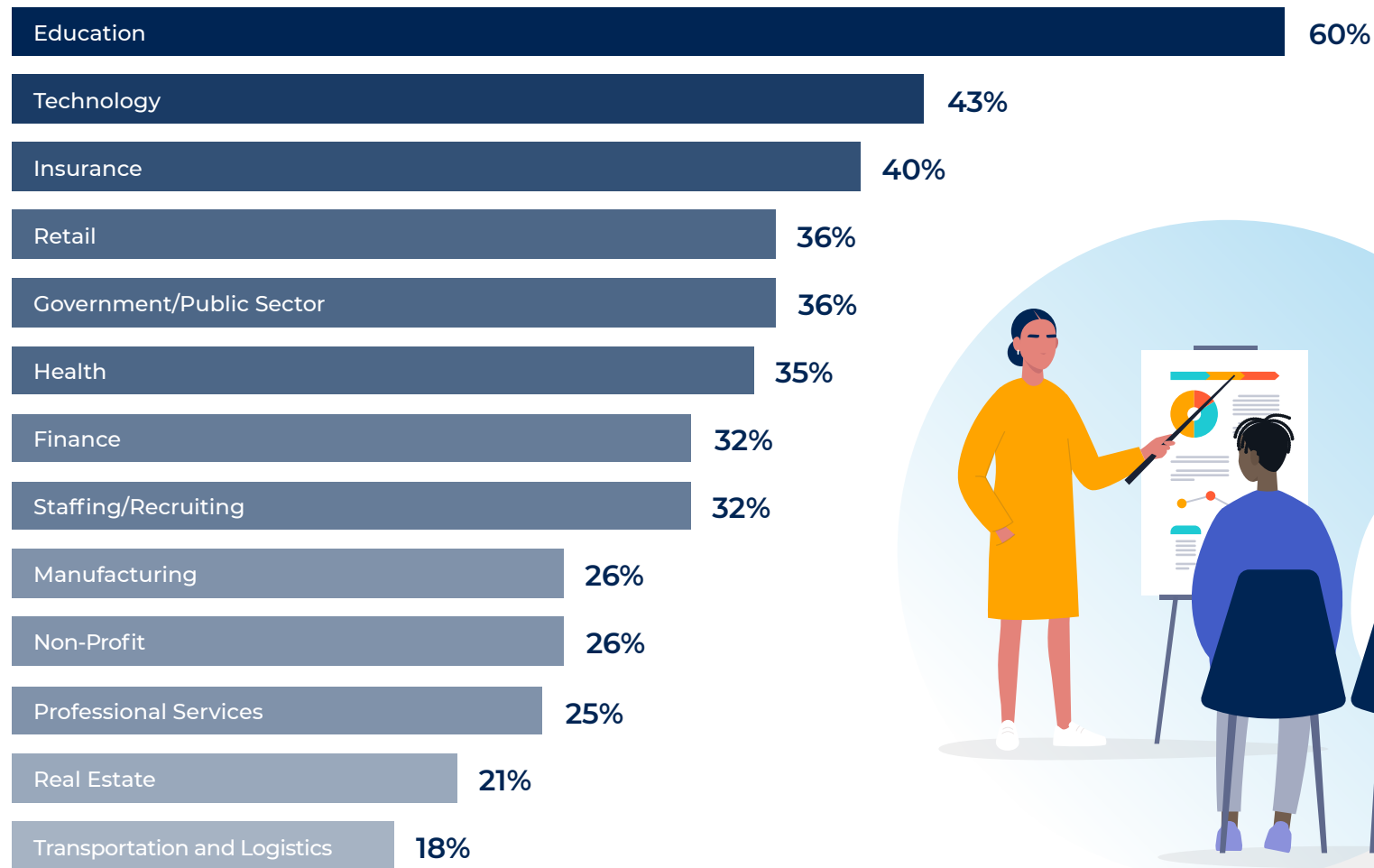
Larger companies are more likely to prioritize diversity.

From the data, a striking pattern emerged. The larger the organization, the more they prioritize increasing diversity in hiring. Over half (52%) of organizations with 2500+ employees view diversity as a top priority. Businesses with less than 20 people were the least likely to list diversity as a top priority, at 23%.

The pattern makes logical sense. Larger organizations have more resources to devote towards increasing diversity in the workplace, as well as more data to track progress towards those goals.

Percentage of respondents who say increasing diversity is a "top priority":

23%	25%	31%	38%	52%
Fewer than 20 employees	20-99 employees	100-499 employees	500-2,499 employees	2,500+ employees

Criteria
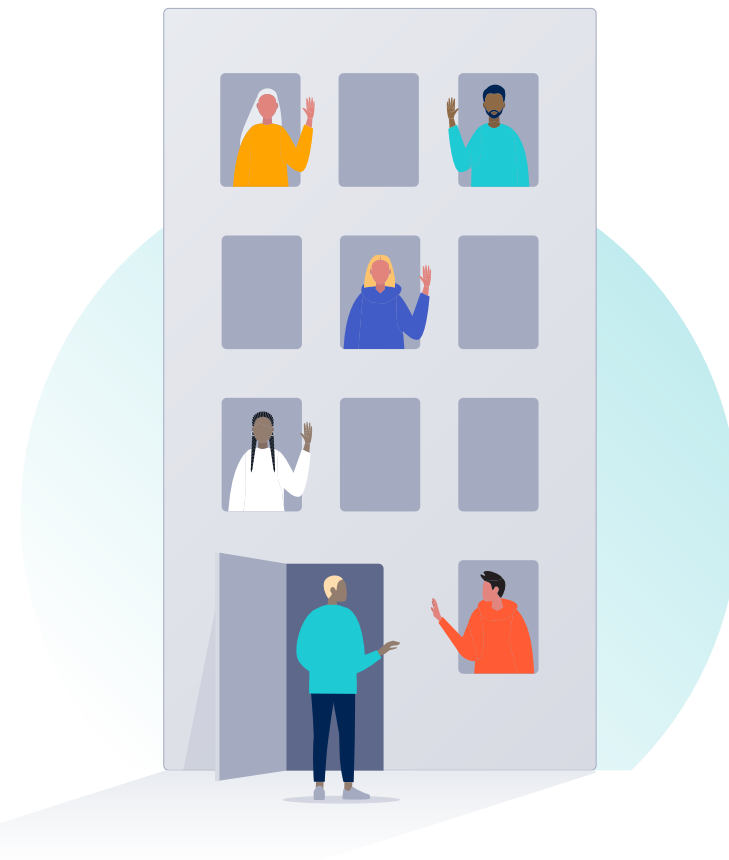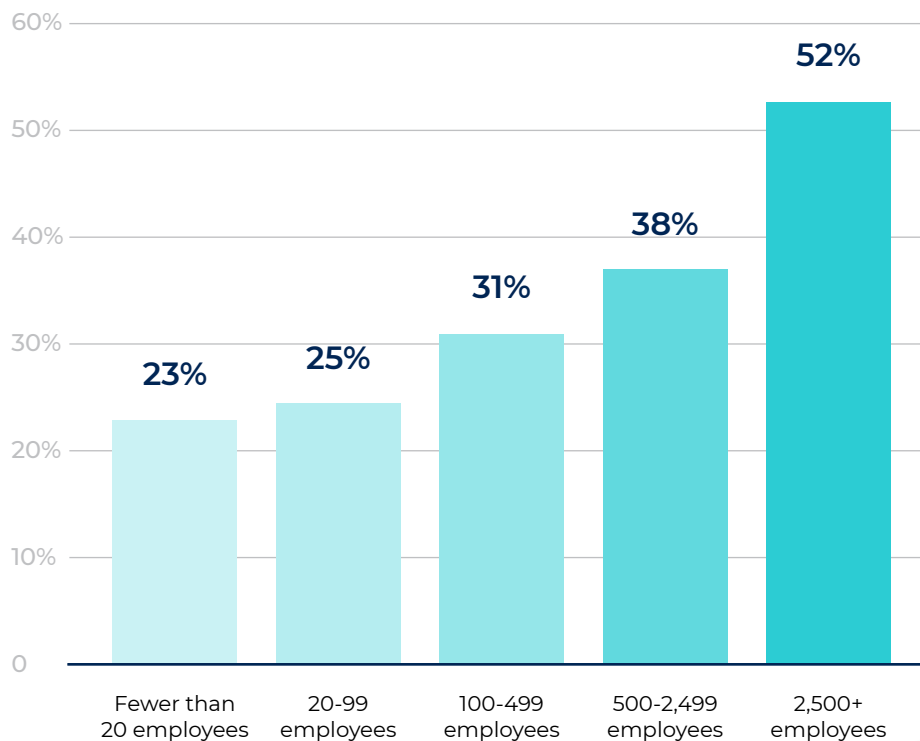
Improving diversity and inclusion can be challenging.

While diversity initiatives are at least somewhat of a priority for most organizations, it's a challenge for some more than others. Just 6% of hiring professionals said that improving diversity and inclusion was "extremely challenging," with 6% saying it was "extremely easy."

How challenging is it to improve diversity and inclusion?
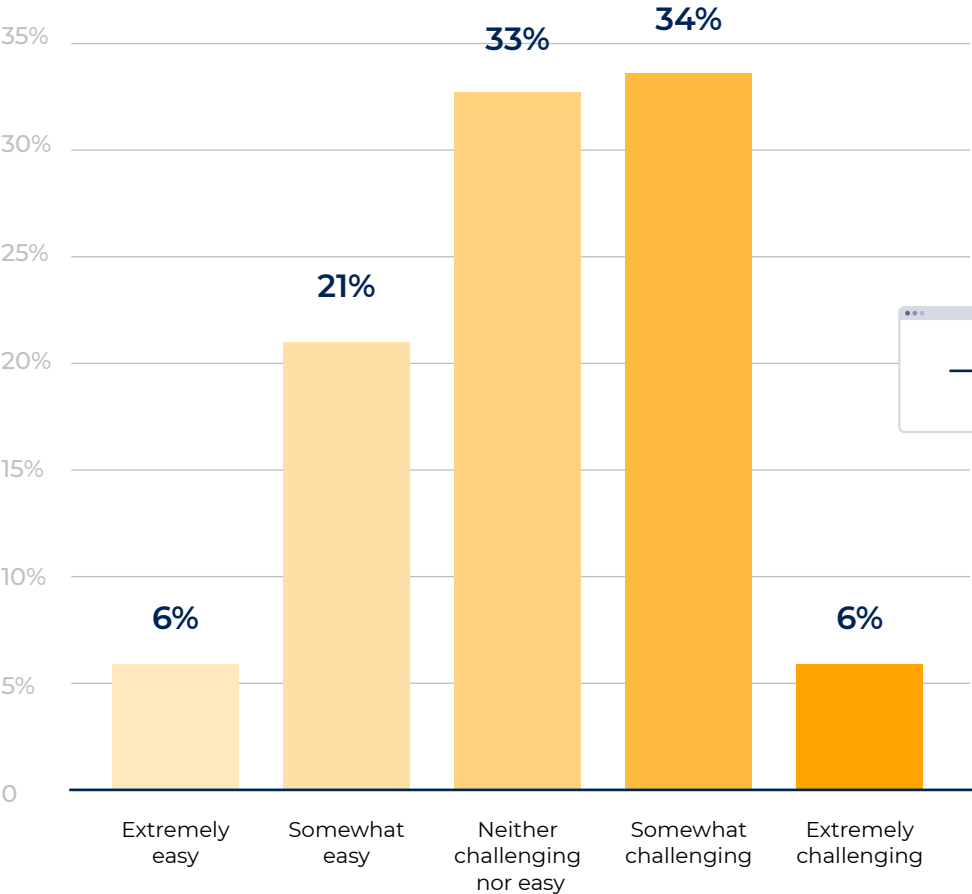
Organizations use a variety of initiatives to achieve diversity goals.

The most widely used strategy for hiring a more diverse workforce is through inclusive job descriptions. 58% of organizations do this. 46% of organizations proactively source candidates from underrepresented groups; 44% conduct diversity training for managers; and 38% create diverse hiring teams.

Meanwhile, 31% of organizations have created a Diversity & Inclusion team. This number is largely made up of larger organizations: 75% of organizations with 2500+ employees have created D&I teams.

From this data, we see that some of the less resource-heavy initiatives, such as job descriptions or proactive sourcing, are widely used because they are more accessible to businesses of all sizes. Bigger initiatives such as D&I teams and blind hiring are used less often due to the challenges of implementing these initiatives.

Percentage of organizations engaged in these activities to hire a more diverse workforce:

58%	46%	44%	38%	31%	16%
Inclusive job descriptions	Proactive sourcing of candidates from underrepresented groups	Diversity training for hiring managers	Diverse hiring teams	Creation of a Diversity and Inclusion team (D&I)	Blind Hiring

Criteria
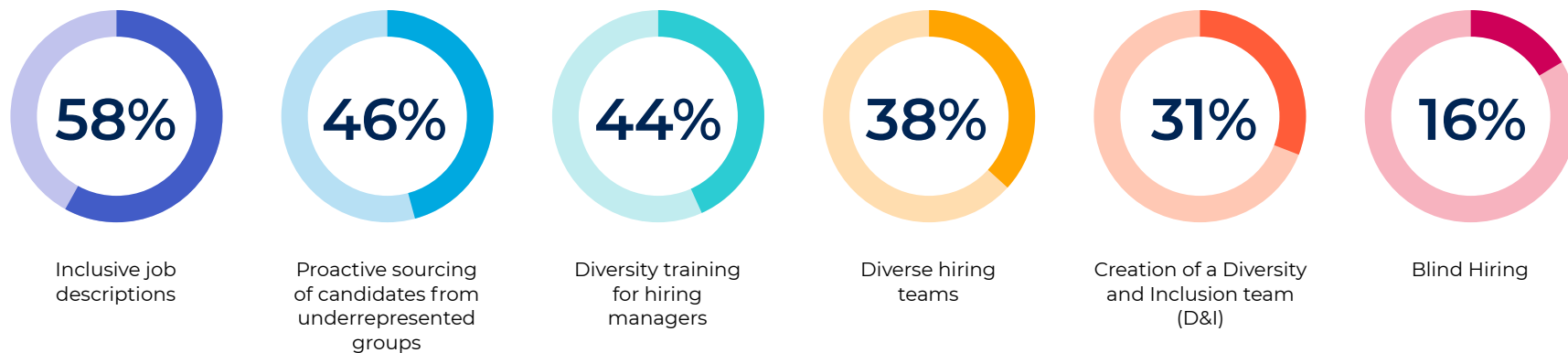
Future Outlook

COVID-19 doesn't necessarily make it harder to hire.

On average, hiring professionals don't think that COVID-19 will make things harder for them. In fact, 58% think that COVID-19 will make it easier to hire remote workers. Meanwhile, 34% think it will make it easier to find good talent, and 33% think it will be easier to hire college students or recent grads. This once again reinforces a shift in the balance of hiring, with more candidates actively seeking employment.

Percentage of hiring professionals who think COVID-19 will make these activities harder, easier, or the same over the next year:

Hire remote workers	Find good talent	Hire college students or recent graduates	Retain top candidates	Hire diverse candidates

	Harder	Same	Easier
Hire remote workers	7%	35%	58%
Find good talent	25%	41%	34%
Hire college students or recent graduates	17%	50%	33%
Retain top candidates	24%	50%	26%
Hire diverse candidates	9%	66%	25%

Criteria
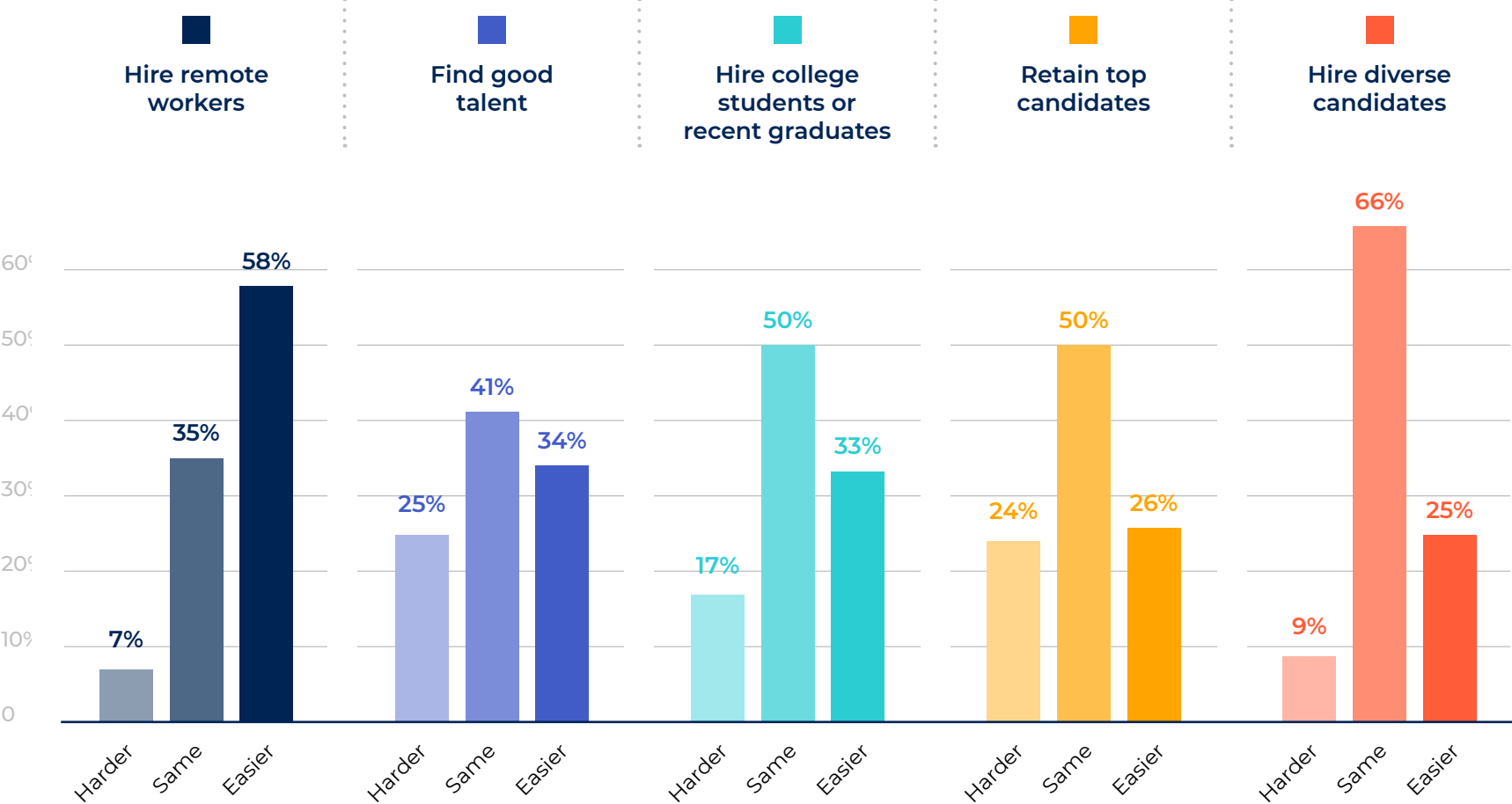
Confidence is up!

More hiring professionals are feeling confident about their hiring process this year when compared to 2019. When asked how confident they are in their current hiring process, 42% of hiring professionals said very confident. This is up 26% from 2019.

It's hard to say where the renewed confidence comes from, but it echoes the rest of the results across this report.
On average, hiring professionals are finding hiring to be less challenging, resulting in higher confidence overall.

Percentage of hiring professionals who are confident in their hiring process:

↑26% from 2019

- Very confident: 42%
- A little confident: 41%
- Neutral: 14%
- Not very confident: 3%
- Not at all confident: 0%

Criteria
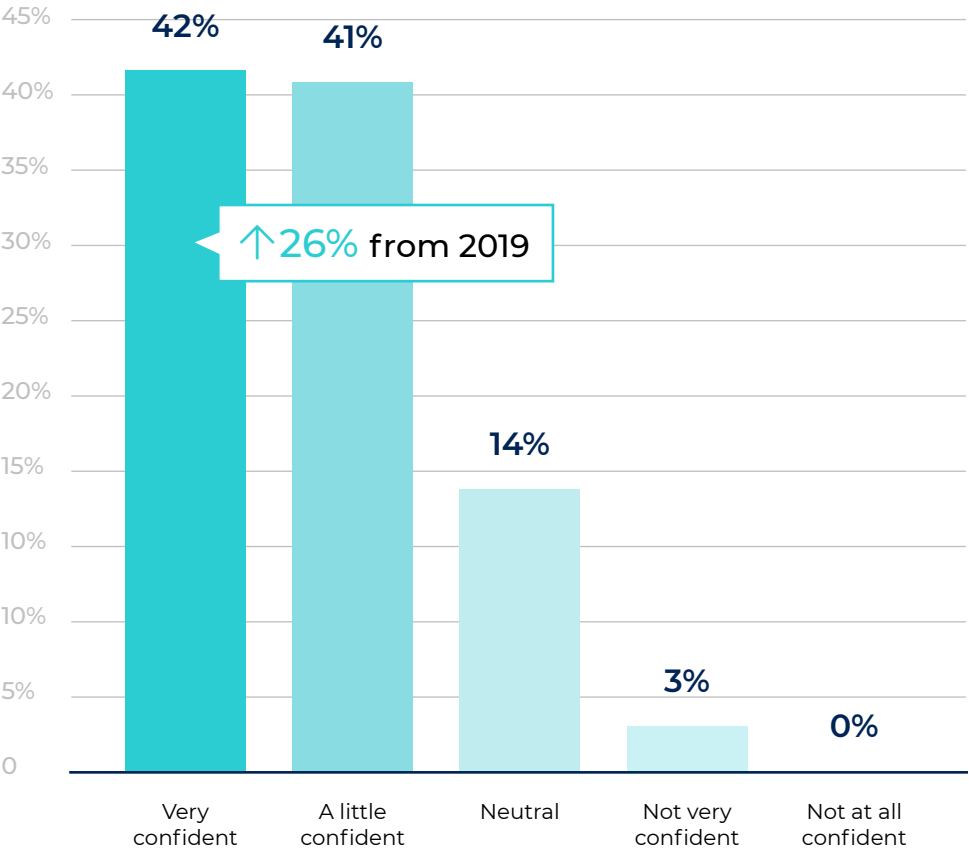
Hiring professionals are optimistic about the future.

The majority (66%) of hiring professionals feel positive about the future health of their organizations. Just 6% feel negative about the future, while 20% feel neutral and 9% are unsure.

Despite the many challenges that 2020 has presented, the results suggest that organizations may feel the worst is over and that 2021 may bring a return to a "new normal."
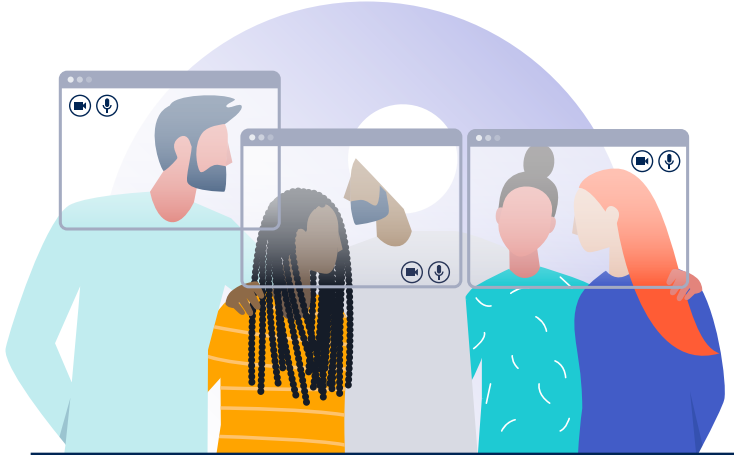
When thinking forward to 2021, what is the outlook for your organization?

	POSITIVE expect growth	NEUTRAL expect things to stay the same	NEGATIVE expect decline	UNSURE things are too unstable
	66%	20%	6%	9%
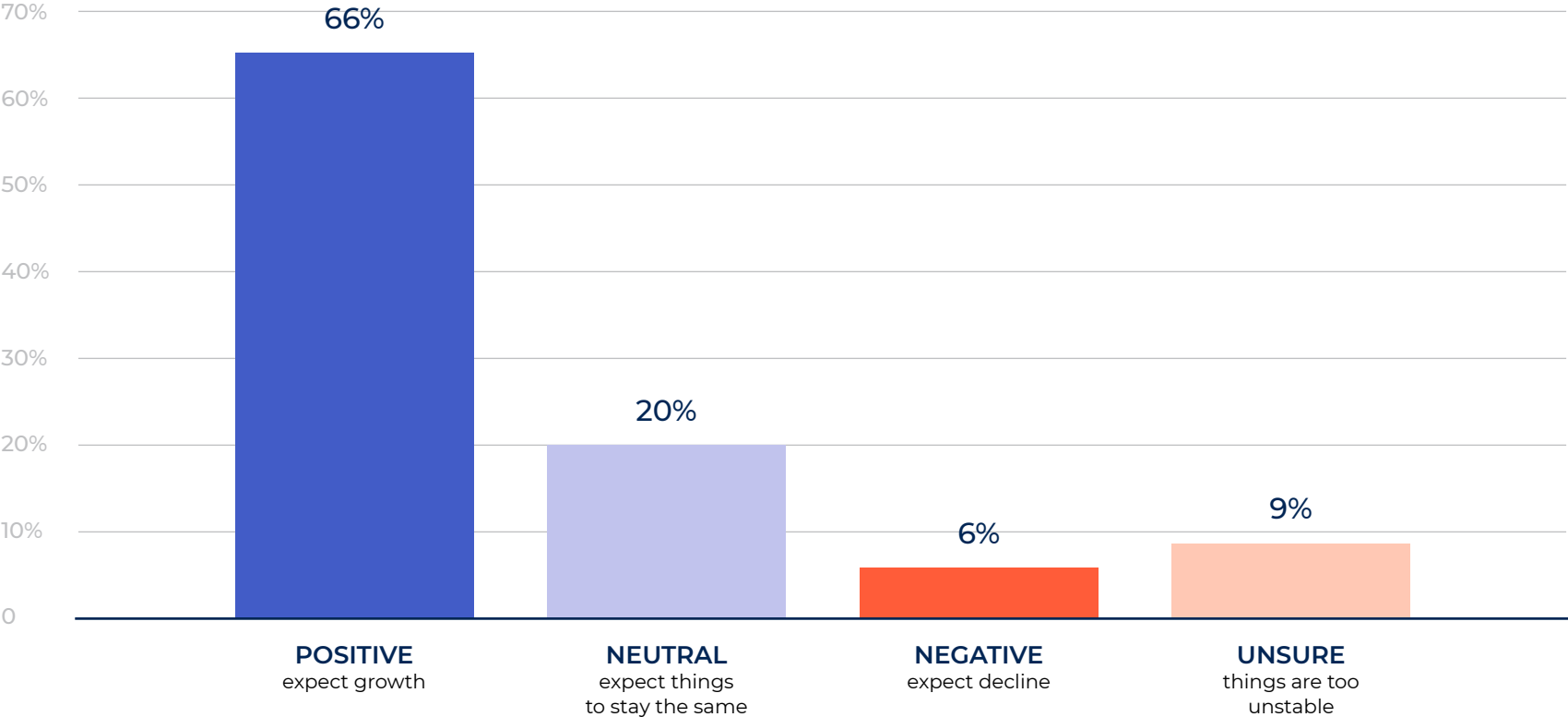
Criteria

Survey
Respondents

The survey respondents represent a wide range of industries.

Industry

- Energy 1%
- Media/Entertainment 2%
- Wholesale/Distribution 2%
- Hospitality 2%
- Construction 3%
- Insurance 3%
- Transportation & Logistics 3%
- Education 3%
- Retail 4%
- Real Estate 4%
- Non-Profit 4%
- Health 7%
- Manufacturing 7%
- Staffing/Recruiting 8%
- Government/Public Sector 8%
- Finance 10%
- Professional Services 13%
- Technology 16%
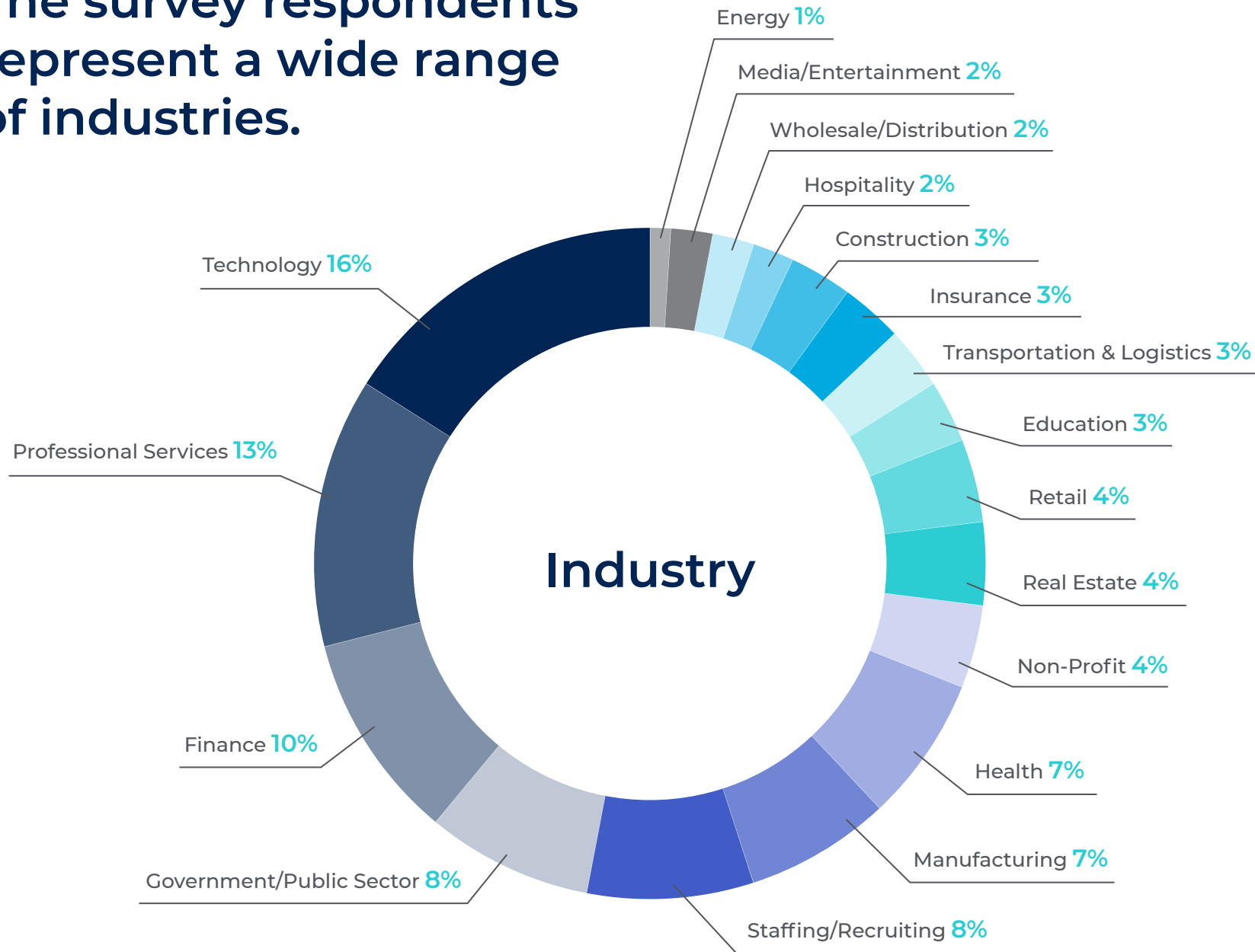
Criteria

They also hold many different types of roles and come from companies of all sizes.

Company Size

- 100-499 Employees **34%**
- 20-99 Employees **23%**
- 500-2,499 Employees **19%**
- <20 Employees **14%**
- >2,500 Employees **10%**

Respondent Role

- Human Resources **47%**
- Executive/Director **18%**
- Recruiter **15%**
- Owner **7%**
- Hiring Manager **5%**
- Individual Contributor **4%**
- Other **4%**
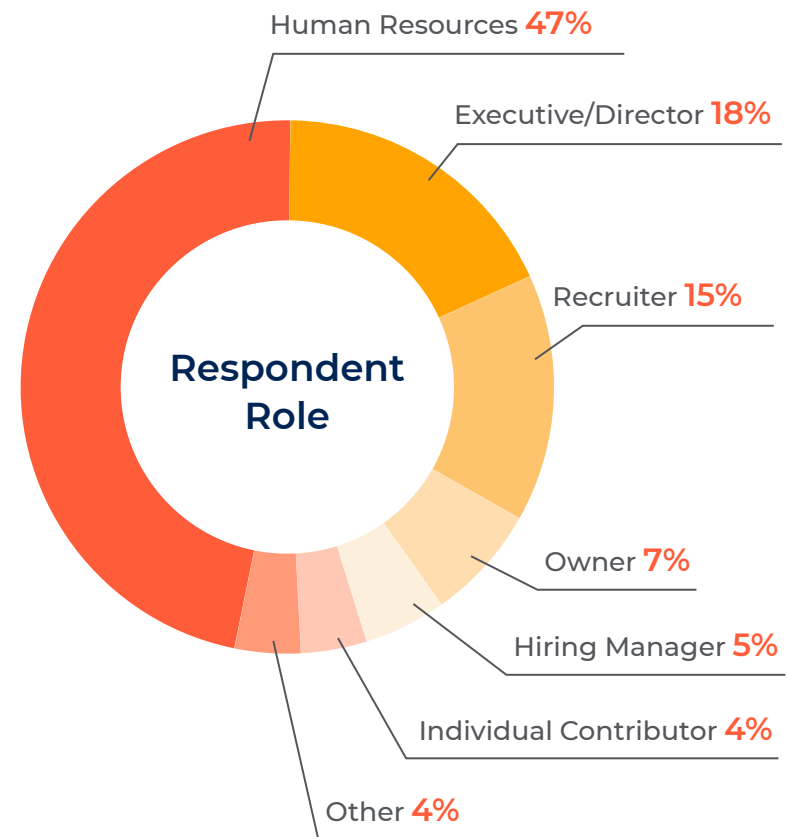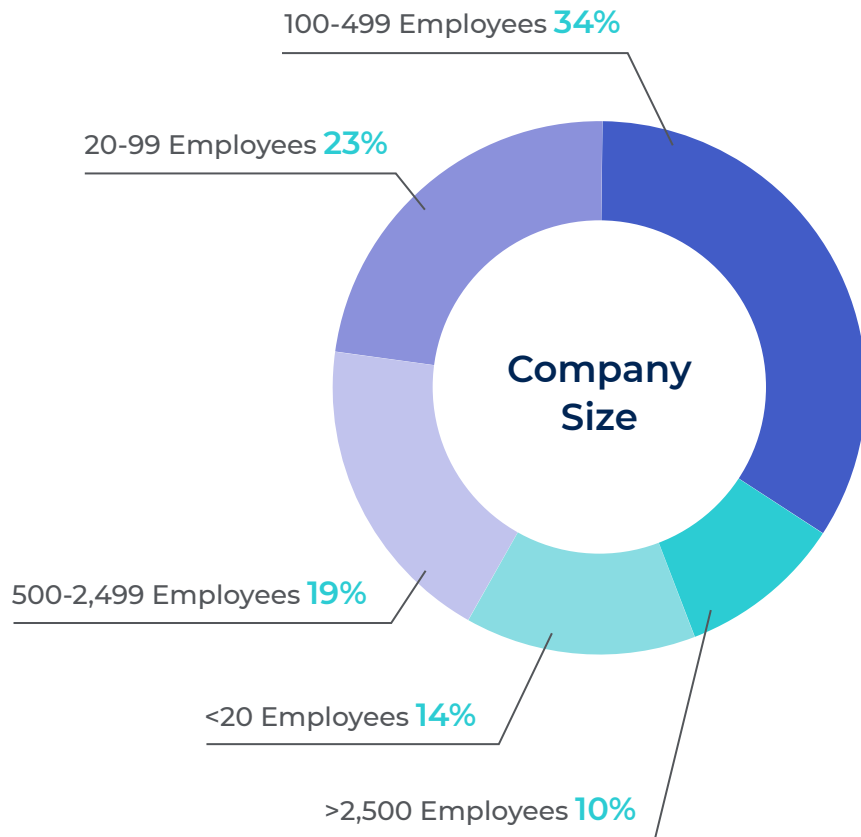
Criteria

Make Better Talent Decisions with Criteria

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Gartner for HR

Future of Work Trends Post-COVID-19

Long-Term Impact & Actions for HR

9 Future of Work Trends Post-COVID-19

What are the long-term implications of the coronavirus pandemic on the HR function and work?

Accelerated Trends

- More employees working remotely

- Increased use of employee data

- Greater role of the employer as a social safety net

- Wider use of contingent workers

New Impacts

- Critical skills are no longer synonymous with roles

- Some employees find work more humanizing in the crisis; others find it dehumanizing

- Crisis response distinguishes top-tier employer brands

Pendulum Swings

- Organizations prioritize resilience as much as efficiency

- Crisis adds to organizational complexity, straining design, culture and value proposition

Remote work

What's happening?

Nearly half of employees will work remotely at least some of the time.

30%	48%
Pre-Pandemic	Post-Pandemic
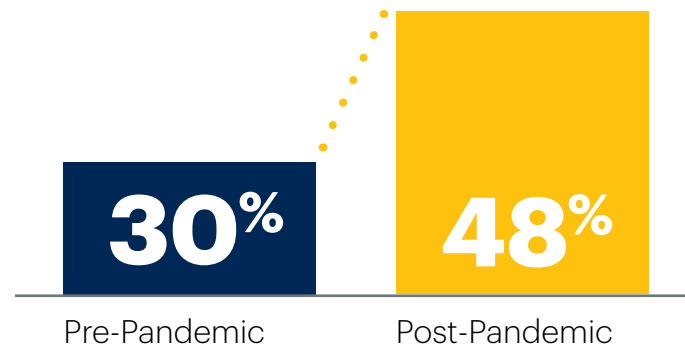
Percent of employees

HR actions

☐ **Critical skills and competencies:** Identify new skills that enable effective remote work, including greater digital dexterity.

☐ **Current and future leadership:** Adapt management styles to fit remote team needs.

☐ **Employee experience:** Create new "employee journey maps" for the remote world, provide flexible work options, rethink experience for a remote/mixed workforce.

☐ **Performance management:** Ask whether and how employee evaluation and goals need to change for remote setups.

☐ **Recruiting:** Seek new skills, potentially in new locations, and meet applicants' expectations for remote work options.

Turbocharge with analytics: Compare talent/skill needs within current footprint and beyond to optimize talent location strategy.

→ **Tool to get started:**
Learn 9 Tips for Managing Remote Employees

3

Employee data

What's happening?

Remote work increases passive data collection. Health and safety protocols may require new explicit data collection.

16% Already 16% of employers report passive employee data collection, including:

- Virtual logging/clocking in and out
- Computer/phone use
- Email/internal communication/chat
- Location or movement

n = 413 HR leaders
Source: Gartner COVID-19 Crisis Benchmarking Against Your Peers Webinar Poll (2 April 2020)

HR actions

☐ **HR technology strategy and management:** Improve data storage, management, analysis. Accelerate policy formulation over ethical and legal data use by organization and third parties.

☐ **Performance management:** Determine influence of data in evaluating productivity and performance evaluations, ratings, rewards.

☐ **Talent analytics:** Leverage continuous sentiment tracking to monitor culture/engagement across an increasingly dispersed workforce. Drive ethical data collection/use by the organization.

→ **Tool to get started:**
Do's and Don'ts of Using Employee Data

Employer as social safety net

What's happening?

Societal role of employers has grown, including above-market minimum wage, increased parental leave and push for gender equality.

HR actions

☐ **Employee experience:** Expand the bounds of employee experience, especially to account for personal factors, such as family responsibilities.

☐ **HR function strategy and management:** Consider having a chief well-being officer/chief mental health officer or other C-suite role to advocate for the pandemic-changed needs of employees.

☐ **Total rewards:** Tackle new compensation challenges, e.g., maintaining compensation for employees unable to work remotely. Advocate for physical and mental well-being benefits.

1954
First employer matching gift program

2004
39% of employers offer adoption assistance

2018
61% of companies offer financial well-being programs

2020
Technology companies double down on family leave to improve recruiting and diversity

Employers establish talent sharing arrangements to reduce the impact of layoffs and furloughs

Source: Gartner

5
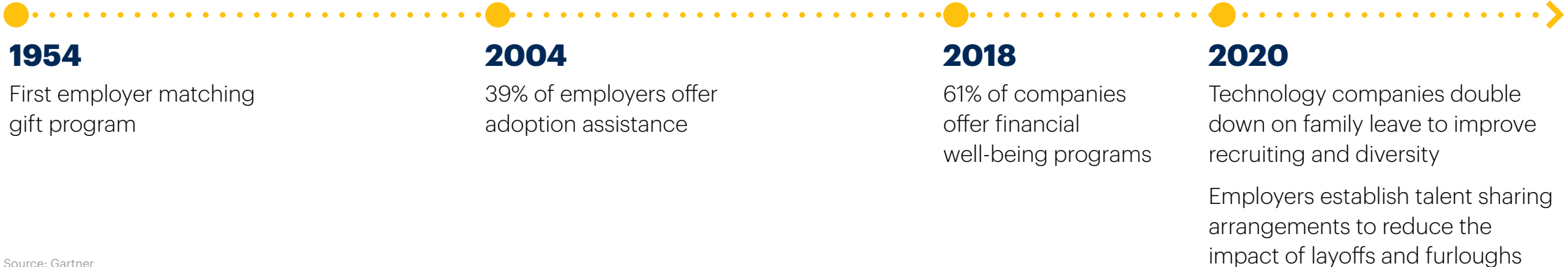
Contingent workers

What's happening?

Employers use contingent workers to reduce costs and augment staff.

32% Employer replacing FTEs with contingent workers as a cost saving effort

12% Employer using contingent workers to fill labor shortages due to illness
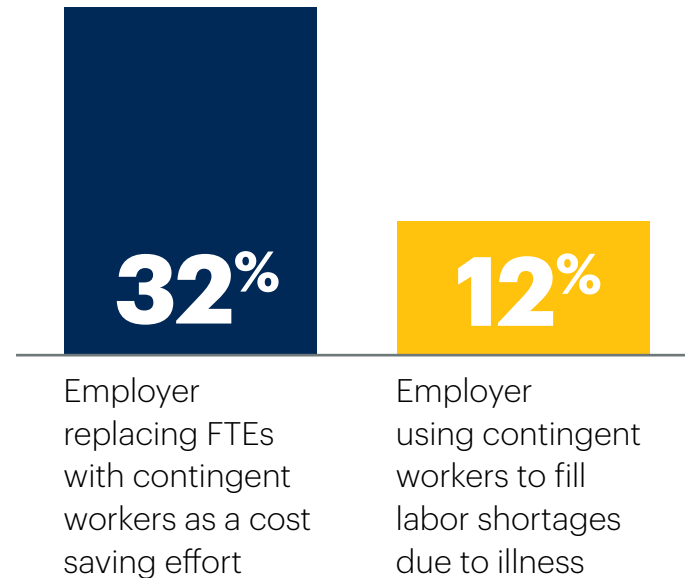
n = 4,535 employees, 39 HR leaders

Source: 2020 Gartner Cost Cutting and Employee Experience Survey, Gartner Optimizing Workforce Planning Investments Webinar Poll (7 April 2020).

HR actions

☐ **Critical skills and competencies:** Create gig work development plans to onboard and upskill contingent workers.

☐ **Future of work:** Formalize HR processes and management for nontraditional employment models.

☐ **Performance management:** Design systems to evaluate gig workers and include them in team processes.

☐ **Total rewards:** Determine whether contingent workers will be eligible for the same benefits as full-time peers. Stay alert to a possible culture of "haves" and "have-nots."

Turbocharge with analytics: Identify shifts in demand/supply for temporary and contract workers. Track which companies are increasing demand and in what locations.

Tool to get started:
Gig Economy FAQs for Talent Analytics Leaders

6

Critical skills

What's happening?

Organizations redefine criticality — the skills needed to meet strategic goals.

Those skills will no longer equate with roles.

Employees in critical strategic roles

Employees with critical skills

Employees in critical workflow roles

New definition of criticality
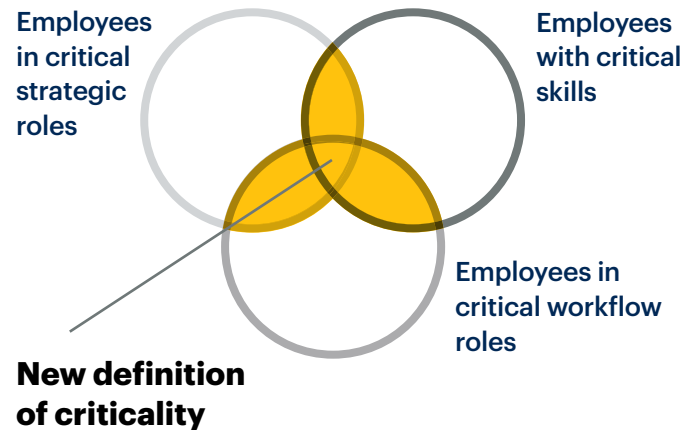
HR actions

☐ **Critical skills and competencies:** Motivate employees to develop critical skills that multiply their options; don't just prepare them for a specific next role.

☐ **Current and future leadership:** Reevaluate which roles need succession plans and bolster the development paths for potential successors.

☐ **Future of work:** Reengineer workforce planning to focus on critical skills versus critical roles.

☐ **Talent mobility:** Provide greater career development support to employees in critical roles who lack critical skills.

Turbocharge with analytics: Use external talent intelligence to analyze trends in skill evolution and talent profiles.

→ **Tool to get started:** Address Critical Skill Gaps With Labor Market Data Insights

7

(De)Humanizing work

What's happening?

Juggling the need for empathy and productivity raises the question: What is too much to ask of employees?

Working remotely

Consider what expectations are reasonable for managers whose employees are now working from home.

Working on-site

Advocating health and safety. Adding rewards: Hazard pay, childcare, health benefits, safety measures.

HR actions

☐ **Current and future leadership:** Ensure that leaders develop emotional intelligence and other soft skills. Help employees navigate expectations as you balance empathy and performance requirements.

☐ **Diversity and inclusion:** Fortify your culture of inclusiveness. Engage workers assigned to tasks or projects in the team culture.

☐ **Employee experience:** Take a holistic view of employee experience, supported by cross-organization partnerships.

☐ **Total rewards:** Make benefits highly relevant to employees. A market focus or "one-size fits all" approach may no longer work.

→ **Tool to get started:**
Improve the Employee Experience

Top-tier employer brands

What's happening?

Talent decisions made now will define employer brands for years to come. Organizations demonstrating their commitment to employees now will be viewed as top-tier employers.

Vulnerable Hourly Workers Amid Coronavirus Outbreak
Source: ABC News

The COVID-19 Corporate Response Tracker: How America's Largest Employers Are Treating Stakeholders Amid the Coronavirus Crisis
Source: Just Capital

How Are Companies Responding to the Coronavirus Crisis?
Source: World Economic Forum

HR actions

☐ **Future of work:** Partner with other organizations to redeploy employees displaced from their jobs by COVID-19.

☐ **Recruiting:** Prepare to articulate the "why and how" of your organization's decisions in response to the pandemic.

☐ **Total rewards:** Urge your organization to balance immediate financial concerns with the long-term impact on employer brand. Communicate to employees how you are supporting them despite cost-saving measures.

☐ **Working with the CEO/board/C-suite:** Help your CEO and board understand the lasting impact of workforce decisions.

Turbocharge with analytics: Benchmark your tech talent attraction strategy against key talent segment competitors to measure employment branding, job offer competitiveness and candidate experience.

Tool to get started:
Strengthen Your Employee Value Proposition

Organizational resilience

What's happening?

Prior to the COVID-19 crisis, the majority of organizational redesigns were focused on increasing efficiency. The pandemic shows the need for resilience.

Lean operations created limited flexibility during the pandemic

Customer

↑
Process breaks down because of disruption
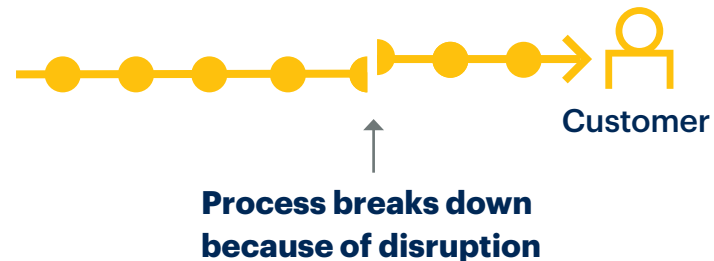
Source: Gartner

HR actions

☐ **Critical skills and competencies:** Evolve modeling of skill needs to quickly course correct as conditions change.

☐ **Diversity and inclusion:** Incorporate D&I into role design; create flexible work systems to ensure you consider employees of all backgrounds and needs.

☐ **Organization design and change management:** Design roles, structures and processes around outcomes rather than tasks to increase responsiveness and flexibility.

☐ **Talent analytics:** Collect data to support resourcing decisions and define the minimum critical inputs for deciding when to change or flex a process.

☐ **Talent mobility:** Provide employees with more varied, adaptive, flexible careers so they acquire valuable cross-functional knowledge and training.

Turbocharge with analytics: Differentiate between critical roles and critical skills and map enterprisewide pipelines for key skills.

→ **Tool to get started:** 10 Attributes of Resilient Enterprises

Organizational complexity

What's happening?

The crisis may prompt bailouts, and global M&As will likely increase as the pandemic subsides.

Value of Global M&A Deals Sinks in 1Q 2020 ...

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How COVID-19 Will Impact Future Paid Leave Laws

By Kris Janisch
Published Aug. 20, 2020

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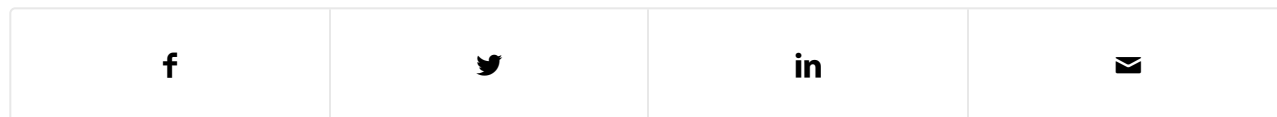
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How COVID-19 Will Impact Future Paid Leave Laws

Could more states include pandemic-related measures in future paid leave legislation? Plus, COVID-19 has reignited discussion of paid leave laws in general

Could more states include pandemic-related measures in future paid leave legislation? Plus, COVID-19 has reignited discussion of paid leave laws in general.

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Here, we will explore some of the immediate impacts of COVID-19 on paid leave laws across the country and what these measures could mean for paid leave laws in the future.

Changes Today

In the months following the outbreak of the coronavirus, jurisdictions moved swiftly to alleviate the concerns of employees who would have to miss work due to COVID-19.

The most notable, of course, is the Families First Coronavirus Response Act (FFCRA). It marked the first time the federal government provided paid leave.

Of course, the legislation is only in effect until Dec. 31, 2020, and only covers employers with fewer than 500 workers.

This is where other jurisdictions stepped in. Take Los Angeles, for example. The city passed an ordinance in response that covered companies with 500 or more employees.

Elsewhere, several cities and states expanded existing paid sick leave (PSL) laws to include workers who must miss time due to COVID-19, California, New Jersey, Philadelphia and San Francisco among them. New Jersey also permanently expended its paid family leave laws to cover employees in the event of a school or work closure.

Others, meanwhile, crafted new paid leave laws to cope with the effects of the coronavirus, including Colorado and New York, and eventually passed permanent paid sick leave laws.

Los Angeles County, San Mateo County, and the California cities of San Jose, Sacramento, Santa Rosa and Long Beach are all jurisdictions that passed COVID-19-related paid sick leave laws but do not have a permanent PSL law in place.

Seattle passed an ordinance specifically providing gig workers with emergency paid sick leave.

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But some of these new and updated laws aren't permanent, as is the case in the California cities of San Jose and Santa Rosa. And we also want to consider how paid leave laws will look in the future.

Future of Paid Leave Laws

For a glimpse at what the future may hold for paid leave laws, we can look at the legislation recently passed in Colorado.

Signed into law in mid-July 2020, it goes into effect Jan. 1, 2021, and contains a provision specifically in case of another pandemic.

Employers must provide workers an additional amount of paid sick leave during a public health emergency in an amount based on the number of hours the employee works, generally about two weeks.

The reasons for using the extra paid leave are directly tied to a public health emergency similar to the coronavirus:

- Self-isolation
- Seeking medical care
- Caring for family members
- Sheltering in place due to a public order
- Staying home due to being at risk for the emergency

While Colorado is among the more employee-friendly states in the U.S., its decision to include language related to a potential pandemic could be indicative of how such laws will be crafted in the future.

The breadth of the pandemic could prompt lawmakers in other jurisdictions to take a similar approach when creating paid leave laws.

The Future of Paid Leave

March 2020 research report from the Pew Research Center. And only 16 percent of private sector workers have access to paid family leave through their employer, according to the Bureau of Labor and Statistics.

These figures have been put in a new light during the pandemic, reigniting calls for new paid leave laws. For employers, the implications of new legislation, and how it's constructed, will have far-reaching implications.

The existence of paid leave laws can also influence how employees behave. Take a recent study from the Bipartisan Policy Center, for example. During the enhanced federal unemployment benefits that recently expired, 63 percent of individuals on unemployment said they would go back to work sooner if paid family and medical leave (PFML) were available. Only eight states, and Washington, D.C., have PFML laws on the books.

Though not directly related to COVID-19, there is another indication more paid leave laws could be on the horizon. Come Oct. 1, paid parental leave will be available to federal employees. Qualifying federal employees — and there are about 2 million of them — will receive 12 weeks of paid parental leave. And in the employment law pacesetting New York State, its new paid sick leave law will take effect soon.

The confluence of all these issues likely means we will see a push for more paid leave laws in the future.

Conclusion

The coronavirus pandemic will clearly influence new paid leave laws in the future. Exactly how lawmakers approach these laws remains to be seen.

We could see laws passed similar to Colorado's, with additional leave available in the event of a public health emergency. Jurisdictions may wait to make changes to existing paid leave legislation until something like COVID-19 arises again. Still others could (and have) made public health emergencies permanent parts of their paid leave laws.

And, of course, even before the pandemic, the number of jurisdictions considering paid leave laws had been on the rise.

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13 ways the coronavirus pandemic could forever change the way we work

Published Wed, Apr 29 2020·12:18 PM EDT   **Updated Thu, Apr 30 2020·3:11 PM EDT**

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In only a few months, the coronavirus pandemic has upended the daily lives of people around the world. For Americans, the economic impact of the virus has led to new categorizations of "essential" workers, a large-scale move to remote work and skyrocketing unemployment that is expected to continue increasing.

With more than 30 million people filing for unemployment in the past six weeks, the U.S. is predicted to experience a coronavirus-induced recession through 2021.

And amid stay-at-home orders across the country, office workers have ditched their daily commutes to work from dining room tables, couches and beds in their own homes. Many may find themselves in this situation for the long haul, as businesses struggle to find a path forward while restrictions slowly lift.

But what other changes will we see in the coming months and years? CNBC Make It spoke to futurists, employment experts, CEOs, designers and more to find out how the pandemic could forever transform the way we work.

Working in an office could become a status symbol

Following the pandemic, it's likely that more Americans will split their time between working from home and from a corporate office, says Brent Capron, the design director of interiors at architecture firm Perkins and Will's New York studio.

"People will still gather for work," he says. "But the amount of time you work in proximity with others, and what your work week looks like — I see that to be the biggest cultural shift moving forward."

With more people working remotely, companies may open regional hubs or provide access to co-working spaces wherever their workers are concentrated rather than have the majority of their workforce at one central office.

As a result, corporate headquarters may become a status symbol for the companies that still have the budget and a workforce big enough to warrant pricey real estate in a major city.

A company's investment in its headquarters could become a way to recruit talent, says Jane Oates, president of WorkingNation, a nonprofit campaign about unemployment, and a former assistant secretary at the Department of Labor.

Job seekers may consider it a draw to work for a company with a physical location, which could boost brand awareness and overall influence within the industry.

Most meetings could be replaced by email and IM

Expect your post-pandemic work calendar to contain fewer meetings overall, says Nadjia Yousif, managing director and partner of Boston Consulting Group's London office.

The pandemic has been a technological equalizer of sorts, she says, where people previously unaccustomed to using tech tools in the workplace have had no choice but to adapt. And in some cases, workers are becoming more efficient.

"People have been more patient in learning new technologies and engaging with them, simply because they've had to," Yousif says. "I think those best practices will live on. I think we're all developing new muscles to work virtually."

To that end, expect a generally more agile way of working and communicating with colleagues: More meetings will become emails, and more emails will become instant messages.

For team members who no longer work together in a central office, phone calls and meetings may move to video. This could help to build trust among workers who can't interact in person, Yousif says.

When you're able to pick up on nonverbal cues, or you're invited into a colleague's home via video chat, "a different type of intimacy is formed in a faster way than would happen in a traditional working environment," she says.

It could be the end of business travel as we know it

As travel of all kinds is halted, telecommuting is adopted at scale and companies attempt to cut costs and balance their budgets, many experts believe business trips as we know them will be a thing of the past.

"I don't think [business travel] is ever going to be exactly the same," says Gary Leff, a travel industry expert and author of the blog View from the Wing.

Changing consumer preferences and greater interest in social distancing will limit large group events such as conferences and conventions for the foreseeable future, says Leff, and permanently decrease the volume of business travel.

Additionally, Leff expects that during this time, companies will learn that some business travel is unnecessary and can be done via video meetings. He also points out as organizations attempt to recoup their pandemic-related losses, travel budgets will be cut.

Office buildings could become 'elaborate conference centers'

With the office building recast as the ultimate status symbol, its main purpose could shift.

"Does office space strictly become elaborate conference centers?" asks Capron. He predicts office buildings of the future may become facilities to gather, while focused work is done remotely.

This could mean fewer walled-off offices and more gathering spaces to host meetings, conferences and other company-wide events.

Beyond that, the open office floor plan will likely stick around. Despite criticism that they kill productivity, it's likely companies will still use the layout in an effort to lower real estate costs.

Open layouts will change, however: Desks could become spaced out, partitions could go up, cleaning stations stocked with hand sanitizer and antibacterial wipes will become the norm, and workers may seek out spaces for focused work, such as privacy booths. Capron stops short of saying cubicles will make a comeback.

Agile workspaces with unassigned seating will decline in popularity. Workers will want the security and control of having a personal space they come to every day or every few days and can clean frequently.

In shared spaces, expect more touchless fixtures, such as door sensors, automatic sinks and soap dispensers and voice-activated elevator banks.

Architects may also design spaces with durable building materials, furniture, flooring and other surfaces that can stand up to frequent deep-cleaning, which is expected to be a lasting necessity of the future workplace for years to come.

Mandatory on-the-job medical screening could become the norm

Health and legal experts predict that on-the-job medical screening, such as temperature checks and antibody tests, will be a reality for those who return to work in the months ahead.

And in many cases it's already happening: To combat the spread of coronavirus among essential workers, some of the biggest employers in the country, including Amazon, Walmart, Home Depot and Starbucks have begun taking the temperatures of their employees before they are allowed to work.

According to labor and employment attorney David Barron, not only are employers legally permitted to check employees' temperatures, they are also currently being encouraged to do so by the Centers for Disease Control and Prevention.

"As long as employers don't discriminate — they can't pick and choose who is tested — it's absolutely legal."

It's also possible U.S. workers may be asked to show some form of "immunity certificate," verifying that they have immunity to Covid-19, before they return to work, Barron says.

This approach, in which workers take an antibody test to confirm that they have immunity, is being embraced in countries such as the United Kingdom, which is attempting to roll out an "immunity passport" program.

However, some scientists have warned that it is yet to be scientifically proven that having antibodies for coronavirus gives a person immunity.

Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases and a member of the White House coronavirus task force, has indicated that an "immunity certificate" program is "being discussed."

"It might actually have some merit under certain circumstances," he told CNN.

Coworkers could become even closer

If there's one bright spot to how the pandemic will impact the future of work, it's that it could strengthen the personal relationships we form with colleagues.

"For a long time, we've probably taken for granted the ability to see our coworkers every day and maybe didn't realize how valuable that was," says Lakshmi Rengarajan, a workplace connection consultant formerly of WeWork and Match.com. "I think teams will be a lot closer when they're able to move back into the workplace."

Organizational psychologist, Wharton professor and "Originals" author Adam Grant agrees. He predicts that, as coworkers return to the office, they'll ditch previous messaging habits and actually get up, walk around and visit with each other in person.

"There will probably be fewer sad desk lunches," he says. Workplace friendships could flourish among colleagues who relied on each other during the pandemic and got to know one another on a more personal level.

But despite more in-person interaction among colleagues, handshakes are on their way out. Fauci recently advised that handshaking needs to stop even when the pandemic ends, and other health experts agree.

Rengarajan says gestures that can convey friendliness and respect from a distance, such as a nod or smile, could become the social norm.

"Maybe it's the rise of eye contact or listening," Rengarajan says.

Read more: The pandemic has probably made you more vulnerable with coworkers —here's why that could be a good thing

Fashion-ready face masks could become a wardrobe staple

Though business casual will likely remain the norm in offices, two new types of apparel could also spring from the pandemic: The rise of work-from-home office wear, and face masks as a socially mandated accessory.

Workers who video conference frequently may retool their wardrobe to be camera-friendly — more bold colors, large-scale patterns and clean lines; fewer neutrals, small prints and frills.

"If we are going to be mediating our professional lives on screens more, I think people will think more about how they appear on screen," says Natalie Nudell, a fashion and textiles historian faculty member at the Fashion Institute of Technology in New York City.

Wearing a face mask around the office may become commonplace, especially in bigger companies with more workers sharing tight quarters. This could be an opportunity for the textile industry to innovate how to make masks more protective, comfortable and stylish.

Standard 9-to-5 office hours could become a thing of the past

As professionals juggle the demands of work life and home life all in the same place, many employers have relaxed rules about workers starting and ending their days at a set time.

"I think you'll see a new norm around trust and respect" in the ways employers manage their staff moving forward, says career coach Julie Kratz. With many employees successfully working from home now, it will be a lot harder for employers to deny flexibility around work hours and work settings, she explains.

"For most office-type work, you can absolutely do your work remotely, and with technology, you can build it around your schedule," adds Kratz, who says that many of her clients at tech companies such as Salesforce were already working flexible hours before the Covid-19 outbreak.

To maintain a sense of structure, Kratz says employers will have to set expectations for when they need everyone in the office or online for staff meetings and other team activities. Additionally, she says, in order to create a balance between work time and personal time, employees and managers will have to work closely together to ensure that no one is feeling pressured to respond to emails and messages at all hours of the day.

"By all means, it's not about throwing out all the rules," she emphasizes, "but it's about letting people co-create them."

Home office stipends could become a common perk

When Twitter and e-commerce company Shopify issued mandatory work-from-home orders for employees in March, both employers provided staff with additional resources to help smooth the transition to remote work.

At Shopify, workers were given a $1,000 stipend to purchase necessary supplies for their home office spaces. Meanwhile at Twitter, all employees, including hourly

workers, received reimbursement for home office equipment including desks, chairs and ergonomic cushions.

If working remotely becomes the norm, then home office stipends could become a common workplace perk, says bestselling author and futurist Jacob Morgan.

In order for remote work to be effective, employers will have to provide employees with the resources needed to be productive, he explains. This includes a small stipend that will allow workers to "customize their space in a way they think is sufficient."

This remote flexibility will also allow companies to "save money on the overhead cost of running these massive facilities," career coach Julie Kratz adds.

On average, employers that allow employees to work from home part-time save about $11,000 per year for each employee working remotely, according to research-based consulting firm Global Workplace Analytics. Using some of this money to invest in remote office setups "will buy loyalty from your employees because it shows you care about them, you care about the ergonomics of their situation at home and you want them to be happy and productive," Kratz says.

The workplace could become more equitable for women

With many workplaces now being forced to operate remotely, long-term flexibility could be here to stay, allowing more women to remain in the workforce while balancing home and work life, says Elise Gould, senior economist at the Economic Policy Institute.

This change in workplace structure could have a huge impact on women, as they are more likely than men to adjust their careers for family. In fact, roughly 31% of women who took a career break after having kids said they didn't want to but had to because of a lack of employer flexibility, according to a 2019 FlexJobs survey of more than 2,000 women with children under 18.

This break, according to PayScale, can easily cost women tens of thousands of dollars when lost wages, future wage growth and lost retirement and Social Security contributions are added up.

A more flexible work culture could also create more equity at home as both men and women are able to spend quality time with their families.

"You're going to see more men starting to want these [flexible options] too, assuming they enjoyed the time at home with their kids," Kratz says.

Though a wider variety of work options won't solve all of our equity issues, other countries show it is possible to create a more gender-balanced culture.

"You can see this in Scandinavian countries, for example; they offer this flexibility," Kratz says. "You see gender equality is much higher in those countries as a result."

Read more: Why long-term flexible work options could be a game changer for women

Middle management positions could be cut forever

In the months and years ahead, we could continue to see a hollowing out of middle management.

"One of the big things that happened during the 2008 global financial crisis is that organizations pulled out all sorts of layers of middle management, which actually makes it harder to get promoted," says Brian Kropp, vice president at research firm Gartner. That's one reason wage growth was sluggish, he says, even as the economy reached new heights: Workers were not promoted to middle-management roles as frequently, since so many were eliminated during the recession.

It's possible we may see a similar dynamic post-pandemic, says John Sculley, who served as Apple's CEO from 1983 to 1993.

"A lot of organizations are going to say, 'Wait a minute, we don't really need all these layers of middle management that we had in the past,'" Sculley, currently chairman of pharmacy benefit management company RxAdvance, tells CNBC Make It.

Others are more optimistic that the demand for top-tier managers will rebound once the pandemic subsides because organizations will want to emphasize productivity. One fear of a flattening management structure is that fewer managers will be required to oversee a higher volume of direct reports, creating room for error, lack of oversight and mismanagement.

"I personally think good managers are always going to be in demand," says Oates. "You can't have a good workforce unless you have good managers."

Automation could be accelerated

While futurists have long warned of "job-stealing robots," the coronavirus pandemic has heightened fears that automation will replace the jobs of workers. Because of social distancing measures, many organizations — from restaurants to retailers — have been forced to find ways to operate with as few employees physically present as possible. An added bonus: Robots and algorithms can't get sick.

Coronavirus "has caused an acceleration of some labor trends like automation," says Karen Fichuk, CEO of Randstad North America, adding that out-of-work Americans may need to develop new skills in order to find new jobs. "What we're seeing is this significant need for massive up-skilling and retraining, especially for workers who have been laid off."

Jake Schwartz, co-founder and CEO of General Assembly, agrees that coronavirus will accelerate automation. "It's pulling the future forward," he says.

For years, companies have been working toward automating repetitive jobs through algorithms that can complete administrative tasks, robots that can streamline manufacturing and drones that can deliver goods. And researchers have found that this kind of automation is more quickly adopted during economic downturns.

"Companies are going to be going digital much faster, they're going to be automating much faster. And in that context, are we looking at mass unemployment? We don't know," says Schwartz.

There could be an increased demand to close the digital divide

Roughly 21 million Americans lack access to the internet, according to the Federal Communications Commission, with some reports estimating this number to be even higher. This means millions of workers, regardless of industry, are simply unable to work remotely.

Though conversations about the digital divide have taken place for years now, the coronavirus pandemic has put an even greater spotlight on this gap, says Kathryn de Wit, manager of broadband research initiative at The Pew Charitable Trusts.

With schools and offices remaining closed, de Wit says, she hopes one silver lining in this situation is that more government officials will see the need to increase broadband infrastructure, especially if remote work becomes a more common option for employees.

"We're seeing local, federal and state leaders step up with these temporary solutions like putting Wi-Fi on buses and [giving] out hotspots," she says. "Those are good temporary solutions and absolutely needed, but broadband is infrastructure. It takes time and resources to build. If we want to make sure that every American can work, socialize and learn from home, then we need to start having a discussion about what a long-term solution actually looks like."

For each state, de Wit says, that solution could look different as "they [each] have different geographies, different resources available and different political and policy environments." But with the right programs and funding in place, she says, every state could provide their residents with equal access to work remotely in the future.

Illustrations by Euralis Weekes.

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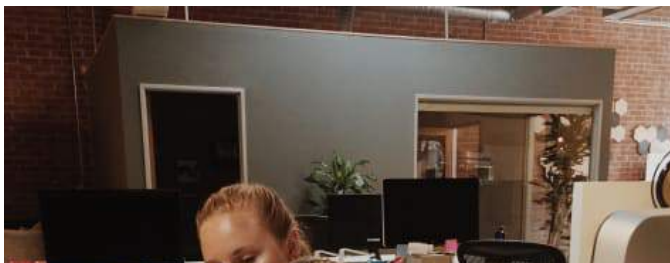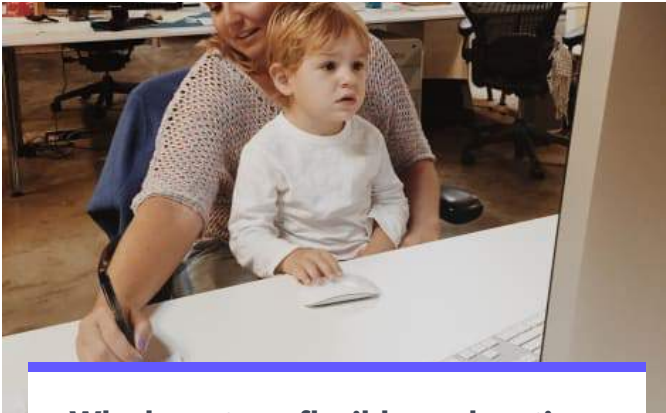
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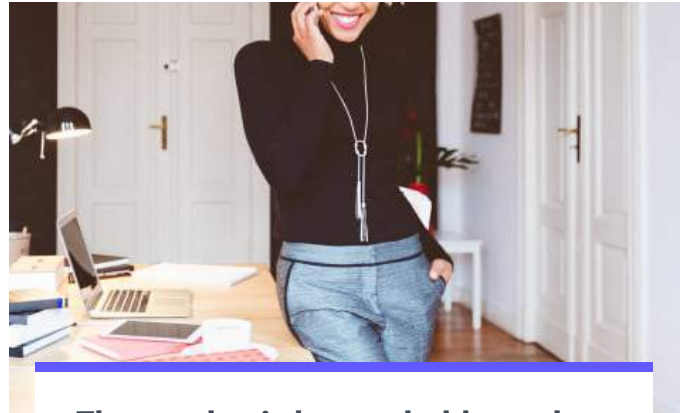
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Insurance Premiums Could Rise By Up To 40% In 2021

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COVID-19 Could Cost Insurers Up To $237.6B

The government-run health insurance marketplace in its report said that the premiums for 2020 were decided months before the COVID-19 outbreak became known, and the insurance companies will take an unexpected loss due to the increased number of hospitalizations.

The companies will expectedly increase premiums for about 170 million commercially insured individuals in 2021 to recoup the losses, according to the report.

Covered California described three scenarios for the number of COVID-19 cases in the United States, including "low," with about 4 million cases, "medium," with 8 million cases or "high," with 15 million cases.

The report estimated that about 400,000 people could require hospitalization due to the virus if the spread is low, 1.2 million

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services. According to Covered California, the total costs incurred as a result, including those borne by the insurers and the individuals, would be $31 billion, $94.6 billion, and $227.6 billion in the three respective scenarios.

These costs could result in a premium increase of anywhere between 4% to 40%, the report noted.

Report Calls On Federal Govt. For Action

"Covered California's analysis shows the impact of COVID-19 will be significant, and that absent federal action, consumers, employers and our entire health care system may be facing unforeseen costs that could exceed $251 billion," Covered California Executive Director Peter Lee said in a statement.

"Consumers will feel these costs through higher out-of-pocket expenses and premiums, as well as the potential of employers dropping coverage or shifting more costs to employees." At least 55,222 COVID-19 cases have been confirmed in the U.S. at press time, including 797 deaths, according to the data from Johns Hopkins University.

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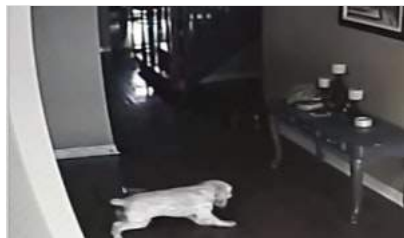
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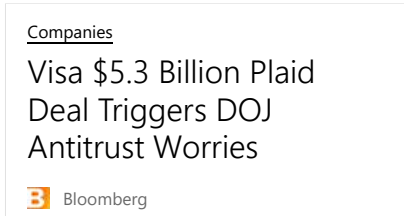
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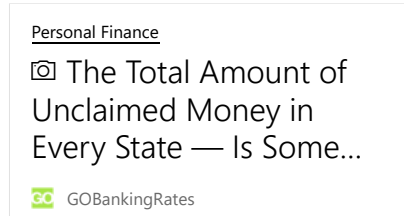
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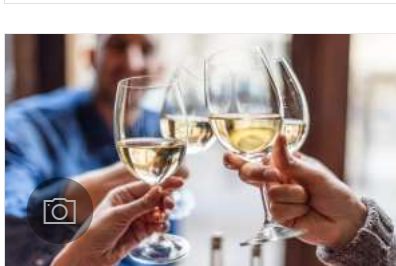
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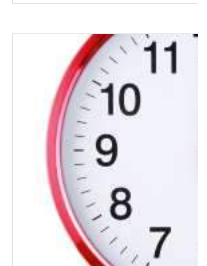
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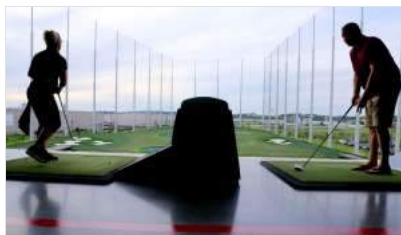
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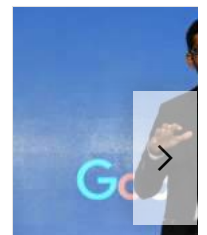
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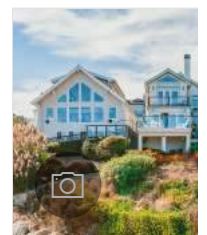
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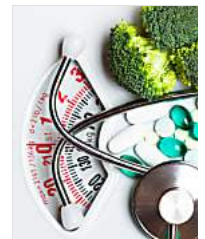
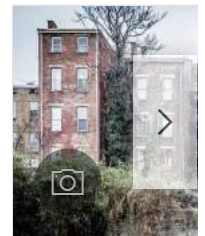'I'm going under trying to find a job': What it's like looking for work during the pandemic

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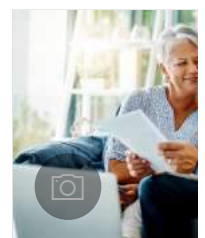
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PRESS RELEASE

MoFo's Latest COVID-19 Impact Survey Reveals General Counsel's Increased Optimism as Business Gradually Reopens

Morrison & Foerster's second global survey of over 100 in-house GCs gives an updated look at the impact and perceived challenges of the pandemic on business as stay-at-home orders ease.

15 Jun 2020

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NEW YORK (June 15, 2020) – Morrison & Foerster, a leading global law firm, today announced the results of its COVID-19 and Easing Stay-at-Home Orders Impact Survey, in which over 100 in-house general counsel from global corporations describe how the pandemic and the easing of stay-at-home orders are impacting their businesses now and what they expect the long-term impact to be. The survey is a follow up to the firm's earlier Coronavirus (COVID-19) Business Impact Survey that was released in early April 2020 and revealed in-house general counsel's anticipated business impacts of the pandemic shortly after stay-at-home orders were enforced globally.

While many of the issues that were top of mind in Morrison & Foerster's first survey still remain, the firm's new findings indicate increased optimism with respect to how businesses are navigating the impact of the pandemic, as well as a shift in priorities in the current environment now that businesses have had a few months to adapt to the new business landscape. The legal issues companies were originally focused on are now being reprioritized as legal departments are having to "make do" with the resources that they currently have, and as new issues have come forward as a result of the evolving work environment, with some companies preparing to bring people back into their offices.

"The survey underscores that the pandemic continues to have a dramatic and disruptive impact on companies and legal departments—and that significant disruption is expected to remain the norm for at least the next two years," said David A. Newman, Morrison & Foerster partner and head of the firm's Coronavirus (COVID-19) Taskforce. "While the overall assessment of disruption is largely unchanged from the previous survey conducted two months ago, we are seeing cautious indications of optimism. In addition, the survey suggests an increased focus on privacy and data security as companies of all sizes appreciate the risks of operating in remote work environments and study the feasibility of measures to mitigate the spread of infection as stay-at-home orders are lifted."

As expected, COVID-19 is continuing to have a significant impact on businesses. The overall severity of the impact decreased only slightly within two months, averaging 6.7 on a 10-point scale—10 representing the most severe impact—versus 7.2 previously, and it continues near that same level (6.0) for the next six months, compared to 7.1 previously. Per the earlier survey, legal counsel expect the impact level to decrease over the next 12 (5 vs. 5.7) to 24 (3.2 vs. 4) months, but do not see it completely dissipating.

Although there was little change in average impact levels over the past two months, there is greater optimism among in-house general counsel today than there was in April. The number of companies rating the impact as severe today versus two months ago dropped by 10 percentage points, from 52% of companies to 42%.

Further, the survey looked again at the impact on legal departments' workload and the types of legal risks respondents identify as the most significant for their business. Little has changed with workload, with approximately three out of five of respondents (69%) reporting that their current workload has increased as an immediate result of COVID-19 and that a majority expect it to continue to increase for the next six months (51%).

Employment/human resources (87%) and contracts (64%) continue to be the top two legal risks posed by COVID-19 regardless of company size or industry.

"Many companies have established new practices for their employees and resolved issues arising from shelter in place orders. The challenge now is to navigate the complex and sometimes conflicting guidance from authorities in having their employees return safely to the office," said Morrison & Foerster Employment and Labor partner Janie F. Schulman.

In contrast to the firm's earlier findings, issues related to privacy and data security have more than doubled, with privacy now considered the number three risk to the company. Privacy stands at 59% today, versus 18% just two short months ago, while data security has moved up as the fourth risk with 50% today, versus just 18% previously.

"With the vast majority of large company employees working remotely during the COVID-19 pandemic, we've seen a significant increase in cyberattacks, phishing attempts, and scams that have occurred. Hackers and bad actors are capitalizing on the fear of the moment and the widespread use of unsecured wireless networks by unassuming employees," said Miriam H. Wugmeister, partner and co-chair of Morrison and Foerster's Privacy and Data Security practice.

In terms of litigation actions respondents expect their business to face with the easing of stay-at-home orders, two out of three companies (67%) expect employment/human resource litigation to be the top action they face, followed by contract disputes (47%), directly aligning with the top two reported business risks. These risks were top of mind regardless of company size or industry.

When asked about business transactions that companies are considering taking in the next nine months, approximately one-third (31%) of respondents reported that acquiring assets or making an acquisition offer was part of their immediate plan. "There seems to be a clear divide between companies that have weathered the crisis well and those who haven't," said Morrison & Foerster Corporate Department co-chair Eric McCrath. "On one hand, there are those companies that are opportunistically using the market opportunity and their liquidity to seek out and purchase discounted assets. And on the other, those that are cash constrained and raising capital to ensure that they have enough cash on hand to withstand a prolonged slump or resurgence of COVID restrictions in the fall and are perhaps selling off assets and/or the company in its entirety."

Of immediate concern is the threat of subsequent lockdowns, with nearly two-thirds of respondents citing it as a moderate to extreme concern by business leadership, followed by conflicting government guidance (62%). Over half are also moderately to extremely concerned with the threat of new COVID-19-related regulations/restrictions (56%), as well as anticipating post COVID-19 market trends (56%).

"These findings are consistent with what we're hearing in our conversations with our clients," said Mr. Newman. "The challenge now will be understanding what the next phase of the pandemic will look like. But having just lived through the first stage of the virus, companies now have some insight into the challenges and issues involved in operating at a time of stay-at-home orders and with a persistent risk of infection."

For the full results and analysis, including in-house general counsel's insights into other key areas of business, additional challenges they face, and strategies they're employing, read the survey report.

Methodology

Morrison & Foerster surveyed over 100 in-house legal professionals around the globe with revenues up to more than $20 billion. The survey was conducted between May 20 and 28, 2020. The top three industries represented in the study include: technology (22%) followed by finance and insurance (20%) and manufacturing (9%).

About MoFo's Coronavirus (COVID-19) Task Force & Resource Center

Morrison & Foerster launched its Coronavirus (COVID-19) Task Force and Resource Center on March 2, 2020 to help address immediate questions and concerns from clients about planning and responding to the risks associated with the pandemic as it continues to evolve. Since its launch, the Task Force has advised dozens of clients – including leading U.S. companies in the retail, technology, finance, real estate, manufacturing, and pharmaceutical sectors – on their COVID-19 response efforts.

Our Task Force is led by Washington D.C.-based partner David Newman, the co-founder of the Firm's Global Risk + Crisis Management Practice. Prior to joining Morrison & Foerster, David served in the White House Counsel's Office

response to the Ebola outbreak in 2014-2015. The Task Force is interdisciplinary in its approach and global in its scope, comprising of almost 50 attorneys (including almost 40 partners) from across the U.S., Europe, and Asia and spanning 17 practice groups.

David A. Newman
Partner

Janie F. Schulman
Partner

Miriam H. Wugmeister
Partner

Eric T. McCrath
Partner

MoFo's Coronavirus (COVID-19) Resource Center

PRACTICES

Global Risk + Crisis Management

REGIONS

United States

Guidance on Preparing Workplaces for COVID-19

Occupational Safety and Health Act of 1970

"To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health."

Guidance on Preparing Workplaces for COVID-19

U.S. Department of Labor
Occupational Safety and Health Administration

OSHA 3990-03 2020

U.S. Department of Labor

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Introduction

Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the SARS-CoV-2 virus. It has spread from China to many other countries around the world, including the United States. Depending on the severity of COVID-19's international impacts, outbreak conditions—including those rising to the level of a pandemic—can affect all aspects of daily life, including travel, trade, tourism, food supplies, and financial markets.

To reduce the impact of COVID-19 outbreak conditions on businesses, workers, customers, and the public, it is important for all employers to plan now for COVID-19. For employers who have already planned for influenza pandemics, planning for COVID-19 may involve updating plans to address the specific exposure risks, sources of exposure, routes of transmission, and other unique characteristics of SARS-CoV-2 (i.e., compared to pandemic influenza viruses). Employers who have not prepared for pandemic events should prepare themselves and their workers as far in advance as possible of potentially worsening outbreak conditions. Lack of continuity planning can result in a cascade of failures as employers attempt to address challenges of COVID-19 with insufficient resources and workers who might not be adequately trained for jobs they may have to perform under pandemic conditions.

The Occupational Safety and Health Administration (OSHA) developed this COVID-19 planning guidance based on traditional infection prevention and industrial hygiene practices. It focuses on the need for employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so.

This guidance is intended for planning purposes. Employers and workers should use this planning guidance to help identify risk levels in workplace settings and to determine any appropriate control measures to implement. Additional guidance may be needed as COVID-19 outbreak conditions change, including as new information about the virus, its transmission, and impacts, becomes available.

The U.S. Department of Health and Human Services' Centers for Disease Control and Prevention (CDC) provides the latest information about COVID-19 and the global outbreak: www.cdc.gov/coronavirus/2019-ncov.

The OSHA COVID-19 webpage offers information specifically for workers and employers: www.osha.gov/covid-19.

This guidance is advisory in nature and informational in content. It is not a standard or a regulation, and it neither creates new legal obligations nor alters existing obligations created by OSHA standards or the *Occupational Safety and Health Act* (OSH Act). Pursuant to the OSH Act, employers must comply with safety and health standards and regulations issued and enforced either by OSHA or by an OSHA-approved State Plan. In addition, the OSH Act's General Duty Clause, Section 5(a)(1), requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm. OSHA-approved State Plans may have standards, regulations and enforcement policies that are different from, but at least as effective as, OSHA's. Check with your State Plan, as applicable, for more information.

About COVID-19

Symptoms of COVID-19

Infection with SARS-CoV-2, the virus that causes COVID-19, can cause illness ranging from mild to severe and, in some cases, can be fatal. Symptoms typically include fever, cough, and shortness of breath. Some people infected with the virus have reported experiencing other non-respiratory symptoms. Other people, referred to as *asymptomatic cases*, have experienced no symptoms at all.

According to the CDC, symptoms of COVID-19 may appear in as few as 2 days or as long as 14 days after exposure.

How COVID-19 Spreads

Although the first human cases of COVID-19 likely resulted from exposure to infected animals, infected people can spread SARS-CoV-2 to other people.

The virus is thought to spread mainly from person-to-person, including:

- Between people who are in close contact with one another (within about 6 feet).

Medium exposure risk jobs include those that require frequent and/or close contact with (i.e., within 6 feet of) other people who may be infected with SARS-CoV-2.

- Through respiratory droplets produced when an infected person coughs or sneezes. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.

It may be possible that a person can get COVID-19 by touching a surface or object that has SARS-CoV-2 on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the primary way the virus spreads.

People are thought to be most contagious when they are most symptomatic (i.e., experiencing fever, cough, and/or shortness of breath). Some spread might be possible before people show symptoms; there have been reports of this type of asymptomatic transmission with this new coronavirus, but this is also not thought to be the main way the virus spreads.

Although the United States has implemented public health measures to limit the spread of the virus, it is likely that some person-to-person transmission will continue to occur.

The CDC website provides the latest information about COVID-19 transmission: www.cdc.gov/coronavirus/2019-ncov/about/transmission.html.

How a COVID-19 Outbreak Could Affect Workplaces

Similar to influenza viruses, SARS-CoV-2, the virus that causes COVID-19, has the potential to cause extensive outbreaks. Under conditions associated with widespread person-to-person spread, multiple areas of the United States and other countries may see impacts at the same time. In the absence of a vaccine, an outbreak may also be an extended event. As a result, workplaces may experience:

- **Absenteeism.** Workers could be absent because they are sick; are caregivers for sick family members; are caregivers for children if schools or day care centers are closed; have at-risk people at home, such as immunocompromised family members; or are afraid to come to work because of fear of possible exposure.

- **Change in patterns of commerce.** Consumer demand for items related to infection prevention (e.g., respirators) is likely to increase significantly, while consumer interest in other goods may decline. Consumers may also change shopping patterns because of a COVID-19 outbreak. Consumers may try to shop at off-peak hours to reduce contact with other people, show increased interest in home delivery services, or prefer other options, such as drive-through service, to reduce person-to-person contact.

- **Interrupted supply/delivery.** Shipments of items from geographic areas severely affected by COVID-19 may be delayed or cancelled with or without notification.
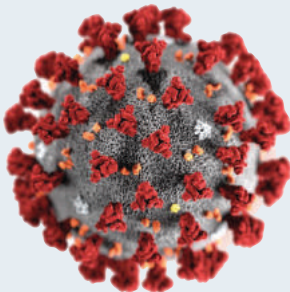
This illustration, created at the Centers for Disease Control and Prevention (CDC), reveals ultrastructural morphology exhibited by the 2019 Novel Coronavirus (2019-nCoV). Note the spikes that adorn the outer surface of the virus, which impart the look of a corona surrounding the virion, when viewed electron microscopically. This virus was identified as the cause of an outbreak of respiratory illness first detected in Wuhan, China.

Photo: CDC / Alissa Eckert & Dan Higgins

Steps All Employers Can Take to Reduce Workers' Risk of Exposure to SARS-CoV-2

This section describes basic steps that every employer can take to reduce the risk of worker exposure to SARS-CoV-2, the virus that causes COVID-19, in their workplace. Later sections of this guidance—including those focusing on jobs classified as having low, medium, high, and very high exposure risks—provide specific recommendations for employers and workers within specific risk categories.

Develop an Infectious Disease Preparedness and Response Plan

If one does not already exist, develop an infectious disease preparedness and response plan that can help guide protective actions against COVID-19.

Stay abreast of guidance from federal, state, local, tribal, and/or territorial health agencies, and consider how to incorporate those recommendations and resources into workplace-specific plans.

Plans should consider and address the level(s) of risk associated with various worksites and job tasks workers perform at those sites. Such considerations may include:

- Where, how, and to what sources of SARS-CoV-2 might workers be exposed, including:
  - The general public, customers, and coworkers; and
  - Sick individuals or those at particularly high risk of infection (e.g., international travelers who have visited locations with widespread sustained (ongoing) COVID-19 transmission, healthcare workers who have had unprotected exposures to people known to have, or suspected of having, COVID-19).
- Non-occupational risk factors at home and in community settings.

- Workers' individual risk factors (e.g., older age; presence of chronic medical conditions, including immunocompromising conditions; pregnancy).
- Controls necessary to address those risks.

Follow federal and state, local, tribal, and/or territorial (SLTT) recommendations regarding development of contingency plans for situations that may arise as a result of outbreaks, such as:

- Increased rates of worker absenteeism.
- The need for social distancing, staggered work shifts, downsizing operations, delivering services remotely, and other exposure-reducing measures.
- Options for conducting essential operations with a reduced workforce, including cross-training workers across different jobs in order to continue operations or deliver surge services.
- Interrupted supply chains or delayed deliveries.

Plans should also consider and address the other steps that employers can take to reduce the risk of worker exposure to SARS-CoV-2 in their workplace, described in the sections below.

Prepare to Implement Basic Infection Prevention Measures

For most employers, protecting workers will depend on emphasizing basic infection prevention measures. As appropriate, all employers should implement good hygiene and infection control practices, including:

- Promote frequent and thorough hand washing, including by providing workers, customers, and worksite visitors with a place to wash their hands. If soap and running water are not immediately available, provide alcohol-based hand rubs containing at least 60% alcohol.
- Encourage workers to stay home if they are sick.
- Encourage respiratory etiquette, including covering coughs and sneezes.

- Provide customers and the public with tissues and trash receptacles.
- Employers should explore whether they can establish policies and practices, such as flexible worksites (e.g., telecommuting) and flexible work hours (e.g., staggered shifts), 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.
- Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
- Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces, equipment, and other elements of the work environment. 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 harder to kill viruses. Follow the manufacturer's instructions for use of all cleaning and disinfection products (e.g., concentration, application method and contact time, PPE).

Develop Policies and Procedures for Prompt Identification and Isolation of Sick People, if Appropriate

- Prompt identification and isolation of potentially infectious individuals is a critical step in protecting workers, customers, visitors, and others at a worksite.
- Employers should inform and encourage employees to self-monitor for signs and symptoms of COVID-19 if they suspect possible exposure.
- Employers should develop policies and procedures for employees to report when they are sick or experiencing symptoms of COVID-19.

- Where appropriate, employers should develop policies and procedures for immediately isolating people who have signs and/or symptoms of COVID-19, and train workers to implement them. Move potentially infectious people to a location away from workers, customers, and other visitors. Although most worksites do not have specific isolation rooms, designated areas with closable doors may serve as isolation rooms until potentially sick people can be removed from the worksite.

- Take steps to limit spread of the respiratory secretions of a person who may have COVID-19. Provide a face mask, if feasible and available, and ask the person to wear it, if tolerated. Note: A face mask (also called a surgical mask, procedure mask, or other similar terms) on a patient or other sick person should not be confused with PPE for a worker; the mask acts to contain potentially infectious respiratory secretions at the source (i.e., the person's nose and mouth).

- If possible, isolate people suspected of having COVID-19 separately from those with confirmed cases of the virus to prevent further transmission—particularly in worksites where medical screening, triage, or healthcare activities occur, using either permanent (e.g., wall/different room) or temporary barrier (e.g., plastic sheeting).

- Restrict the number of personnel entering isolation areas.

- Protect workers in close contact with (i.e., within 6 feet of) a sick person or who have prolonged/repeated contact with such persons by using additional engineering and administrative controls, safe work practices, and PPE. Workers whose activities involve close or prolonged/repeated contact with sick people are addressed further in later sections covering workplaces classified at medium and very high or high exposure risk.

Develop, Implement, and Communicate about Workplace Flexibilities and Protections

- Actively encourage sick employees to stay home.
- Ensure that sick leave policies are flexible and consistent with public health guidance and that employees are aware of these policies.
- Talk with companies that provide your business with contract or temporary employees about the importance of sick employees staying home and encourage them to develop non-punitive leave policies.
- Do not require 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 not able to provide such documentation in a timely way.
- Maintain flexible policies that permit employees to stay home to care for a sick family member. Employers should be aware that more employees may need to stay at home to care for sick children or other sick family members than is usual.
- Recognize that workers with ill family members may need to stay home to care for them. See CDC's Interim Guidance for Preventing the Spread of COVID-19 in Homes and Residential Communities: www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-prevent-spread.html.
- Be aware of workers' concerns about pay, leave, safety, health, and other issues that may arise during infectious disease outbreaks. Provide adequate, usable, and appropriate training, education, and informational material about business-essential job functions and worker health and safety, including proper hygiene practices and the use of any workplace controls (including PPE). Informed workers who feel safe at work are less likely to be unnecessarily absent.

- Work with insurance companies (e.g., those providing employee health benefits) and state and local health agencies to provide information to workers and customers about medical care in the event of a COVID-19 outbreak.

Implement Workplace Controls

Occupational safety and health professionals use a framework called the "hierarchy of controls" to select ways of controlling workplace hazards. In other words, the best way to control a hazard is to systematically remove it from the workplace, rather than relying on workers to reduce their exposure. During a COVID-19 outbreak, when it may not be possible to eliminate the hazard, the most effective protection measures are (listed from most effective to least effective): engineering controls, administrative controls, safe work practices (a type of administrative control), and PPE. There are advantages and disadvantages to each type of control measure when considering the ease of implementation, effectiveness, and cost. In most cases, a combination of control measures will be necessary to protect workers from exposure to SARS-CoV-2.

In addition to the types of workplace controls discussed below, CDC guidance for businesses provides employers and workers with recommended SARS-CoV-2 infection prevention strategies to implement in workplaces: www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html.

Engineering Controls

Engineering controls involve isolating employees from work-related hazards. In workplaces where they are appropriate, these types of controls reduce exposure to hazards without relying on worker behavior and can be the most cost-effective solution to implement. Engineering controls for SARS-CoV-2 include:

- Installing high-efficiency air filters.
- Increasing ventilation rates in the work environment.
- Installing physical barriers, such as clear plastic sneeze guards.

- Installing a drive-through window for customer service.
- Specialized negative pressure ventilation in some settings, such as for aerosol generating procedures (e.g., airborne infection isolation rooms in healthcare settings and specialized autopsy suites in mortuary settings).

Administrative Controls

Administrative controls require action by the worker or employer. Typically, administrative controls are changes in work policy or procedures to reduce or minimize exposure to a hazard. Examples of administrative controls for SARS-CoV-2 include:

- Encouraging sick workers to stay at home.
- Minimizing contact among workers, clients, and customers by replacing face-to-face meetings with virtual communications and implementing telework if feasible.
- Establishing alternating days or extra shifts that reduce the total number of employees in a facility at a given time, allowing them to maintain distance from one another while maintaining a full onsite work week.
- Discontinuing nonessential travel to locations with ongoing COVID-19 outbreaks. Regularly check CDC travel warning levels at: www.cdc.gov/coronavirus/2019-ncov/travelers.
- Developing emergency communications plans, including a forum for answering workers' concerns and internet-based communications, if feasible.
- Providing workers with up-to-date education and training on COVID-19 risk factors and protective behaviors (e.g., cough etiquette and care of PPE).
- Training workers who need to use protecting clothing and equipment how to put it on, use/wear it, and take it off correctly, including in the context of their current and potential duties. Training material should be easy to understand and available in the appropriate language and literacy level for all workers.

Safe Work Practices

Safe work practices are types of administrative controls that include procedures for safe and proper work used to reduce the duration, frequency, or intensity of exposure to a hazard. Examples of safe work practices for SARS-CoV-2 include:

- Providing resources and a work environment that promotes personal hygiene. For example, provide tissues, no-touch trash cans, hand soap, alcohol-based hand rubs containing at least 60 percent alcohol, disinfectants, and disposable towels for workers to clean their work surfaces.
- Requiring regular hand washing or using of alcohol-based hand rubs. Workers should always wash hands when they are visibly soiled and after removing any PPE.
- Post handwashing signs in restrooms.

Personal Protective Equipment (PPE)

While engineering and administrative controls are considered more effective in minimizing exposure to SARS-CoV-2, PPE may also be needed to prevent certain exposures. While correctly using PPE can help prevent some exposures, it should not take the place of other prevention strategies.

Examples of PPE include: gloves, goggles, face shields, face masks, and respiratory protection, when appropriate. During an outbreak of an infectious disease, such as COVID-19, recommendations for PPE specific to occupations or job tasks may change depending on geographic location, updated risk assessments for workers, and information on PPE effectiveness in preventing the spread of COVID-19. Employers should check the OSHA and CDC websites regularly for updates about recommended PPE.

All types of PPE must be:

- Selected based upon the hazard to the worker.
- Properly fitted and periodically refitted, as applicable (e.g., respirators).

- Consistently and properly worn when required.
- Regularly inspected, maintained, and replaced, as necessary.
- Properly removed, cleaned, and stored or disposed of, as applicable, to avoid contamination of self, others, or the environment.

Employers are obligated to provide their workers with PPE needed to keep them safe while performing their jobs. The types of PPE required during a COVID-19 outbreak will be based on the risk of being infected with SARS-CoV-2 while working and job tasks that may lead to exposure.

Workers, including those who work within 6 feet of patients known to be, or suspected of being, infected with SARS-CoV-2 and those performing aerosol-generating procedures, need to use respirators:

- National Institute for Occupational Safety and Health (NIOSH)-approved, N95 filtering facepiece respirators or better must be used in the context of a comprehensive, written respiratory protection program that includes fit-testing, training, and medical exams. See OSHA's Respiratory Protection standard, 29 CFR 1910.134 at www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134.
- When disposable N95 filtering facepiece respirators are not available, consider using other respirators that provide greater protection and improve worker comfort. Other types of acceptable respirators include: a R/P95, N/R/P99, or N/R/P100 filtering facepiece respirator; an air-purifying elastomeric (e.g., half-face or full-face) respirator with appropriate filters or cartridges; powered air purifying respirator (PAPR) with high-efficiency particulate arrestance (HEPA) filter; or supplied air respirator (SAR). See CDC/NIOSH guidance for optimizing respirator supplies at: www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy.

- Consider using PAPRs or SARs, which are more protective than filtering facepiece respirators, for any work operations or procedures likely to generate aerosols (e.g., cough induction procedures, some dental procedures, invasive specimen collection, blowing out pipettes, shaking or vortexing tubes, filling a syringe, centrifugation).

- Use a surgical N95 respirator when both respiratory protection and resistance to blood and body fluids is needed.

- Face shields may also be worn on top of a respirator to prevent bulk contamination of the respirator. Certain respirator designs with forward protrusions (duckbill style) may be difficult to properly wear under a face shield. Ensure that the face shield does not prevent airflow through the respirator.

- Consider factors such as function, fit, ability to decontaminate, disposal, and cost. OSHA's Respiratory Protection eTool provides basic information on respirators such as medical requirements, maintenance and care, fit testing, written respiratory protection programs, and voluntary use of respirators, which employers may also find beneficial in training workers at: www.osha.gov/SLTC/etools/respiratory. Also see NIOSH respirator guidance at: www.cdc.gov/niosh/topics/respirators.

- Respirator training should address selection, use (including donning and doffing), proper disposal or disinfection, inspection for damage, maintenance, and the limitations of respiratory protection equipment. Learn more at: www.osha.gov/SLTC/respiratoryprotection.

- The appropriate form of respirator will depend on the type of exposure and on the transmission pattern of COVID-19. See the NIOSH "Respirator Selection Logic" at: www.cdc.gov/niosh/docs/2005-100/default.html or the OSHA "Respiratory Protection eTool" at www.osha.gov/SLTC/etools/respiratory.

Follow Existing OSHA Standards

Existing OSHA standards may apply to protecting workers from exposure to and infection with SARS-CoV-2.

While there is no specific OSHA standard covering SARS-CoV-2 exposure, some OSHA requirements may apply to preventing occupational exposure to SARS-CoV-2. Among the most relevant are:

- OSHA's Personal Protective Equipment (PPE) standards (in general industry, 29 CFR 1910 Subpart I), which require using gloves, eye and face protection, and respiratory protection. See: www.osha.gov/laws-regs/regulations/standardnumber/1910#1910_Subpart_I.
  - When respirators are necessary to protect workers or where employers require respirator use, employers must implement a comprehensive respiratory protection program in accordance with the Respiratory Protection standard (29 CFR 1910.134). See: www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134.
- The General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970, 29 USC 654(a)(1), which requires employers to furnish to each worker "employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." See: www.osha.gov/laws-regs/oshact/completeoshact.

OSHA's Bloodborne Pathogens standard (29 CFR 1910.1030) applies to occupational exposure to human blood and other potentially infectious materials that typically do not include respiratory secretions that may transmit SARS-CoV-2. However, the provisions of the standard offer a framework that may help control some sources of the virus, including exposures to body fluids (e.g., respiratory secretions) not covered by the standard. See: www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1030.

The OSHA COVID-19 webpage provides additional information about OSHA standards and requirements, including requirements in states that operate their own OSHA-approved State Plans, recordkeeping requirements and injury/illness recording criteria, and applications of standards related to sanitation and communication of risks related to hazardous chemicals that may be in common sanitizers and sterilizers. See: www.osha.gov/SLTC/covid-19/standards.html.

Classifying Worker Exposure to SARS-CoV-2

Worker risk of occupational exposure to SARS-CoV-2, the virus that causes COVID-19, during an outbreak may vary from very high to high, medium, or lower (caution) risk. The level of risk depends in part on the industry type, need for contact within 6 feet of people known to be, or suspected of being, infected with SARS-CoV-2, or requirement for repeated or extended contact with persons known to be, or suspected of being, infected with SARS-CoV-2. To help employers determine appropriate precautions, OSHA has divided job tasks into four risk exposure levels: very high, high, medium, and lower risk. The Occupational Risk Pyramid shows the four exposure risk levels in the shape of a pyramid to represent probable distribution of risk. Most American workers will likely fall in the lower exposure risk (caution) or medium exposure risk levels.

**Occupational Risk Pyramid
for COVID-19**
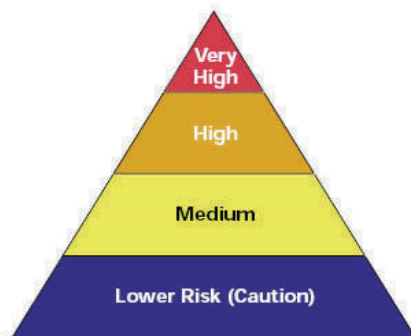
Very High Exposure Risk

Very high exposure risk jobs are those with high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures. Workers in this category include:

- Healthcare workers (e.g., doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
- Healthcare or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g., manipulating cultures from known or suspected COVID-19 patients).
- Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have, or suspected of having, COVID-19 at the time of their death.

High Exposure Risk

High exposure risk jobs are those with high potential for exposure to known or suspected sources of COVID-19. Workers in this category include:

- Healthcare delivery and support staff (e.g., doctors, nurses, and other hospital staff who must enter patients' rooms) exposed to known or suspected COVID-19 patients. (Note: when such workers perform aerosol-generating procedures, their exposure risk level becomes *very high.*)
- Medical transport workers (e.g., ambulance vehicle operators) moving known or suspected COVID-19 patients in enclosed vehicles.
- Mortuary workers involved in preparing (e.g., for burial or cremation) the bodies of people who are known to have, or suspected of having, COVID-19 at the time of their death.

Medium Exposure Risk

Medium exposure risk jobs include those that require frequent and/or close contact with (i.e., within 6 feet of) people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients. In areas without ongoing community transmission, workers in this risk group may have frequent contact with travelers who may return from international locations with widespread COVID-19 transmission. In areas where there *is* ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, some high-volume retail settings).

Lower Exposure Risk (Caution)

Lower exposure risk (caution) jobs are those that do not require contact with people known to be, or suspected of being, infected with SARS-CoV-2 nor frequent close contact with (i.e., within 6 feet of) the general public. Workers in this category have minimal occupational contact with the public and other coworkers.

Jobs Classified at Lower Exposure Risk (Caution): What to Do to Protect Workers

For workers who do not have frequent contact with the general public, employers should follow the guidance for "Steps All Employers Can Take to Reduce Workers' Risk of Exposure to SARS-CoV-2," on page 7 of this booklet and implement control measures described in this section.

Engineering Controls

Additional engineering controls are not recommended for workers in the lower exposure risk group. Employers should ensure that engineering controls, if any, used to protect workers from other job hazards continue to function as intended.

Administrative Controls

- Monitor public health communications about COVID-19 recommendations and ensure that workers have access to that information. Frequently check the CDC COVID-19 website: www.cdc.gov/coronavirus/2019-ncov.
- Collaborate with workers to designate effective means of communicating important COVID-19 information.

Personal Protective Equipment

Additional PPE is not recommended for workers in the lower exposure risk group. Workers should continue to use the PPE, if any, that they would ordinarily use for other job tasks.

Jobs Classified at Medium Exposure Risk: What to Do to Protect Workers

In workplaces where workers have medium exposure risk, employers should follow the guidance for "Steps All Employers Can Take to Reduce Workers' Risk of Exposure to SARS-CoV-2," on page 7 of this booklet and implement control measures described in this section.

Engineering Controls

- Install physical barriers, such as clear plastic sneeze guards, where feasible.

Administrative Controls

- Consider offering face masks to ill employees and customers to contain respiratory secretions until they are able leave the workplace (i.e., for medical evaluation/care or to return home). In the event of a shortage of masks, a reusable face shield that can be decontaminated may be an acceptable method of protecting against droplet transmission. See CDC/NIOSH guidance for optimizing respirator supplies, which discusses the use of surgical masks, at: www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy.

- Keep customers informed about symptoms of COVID-19 and ask sick customers to minimize contact with workers until healthy again, such as by posting signs about COVID-19 in stores where sick customers may visit (e.g., pharmacies) or including COVID-19 information in automated messages sent when prescriptions are ready for pick up.
- Where appropriate, limit customers' and the public's access to the worksite, or restrict access to only certain workplace areas.
- Consider strategies to minimize face-to-face contact (e.g., drive-through windows, phone-based communication, telework).
- Communicate the availability of medical screening or other worker health resources (e.g., on-site nurse; telemedicine services).

Personal Protective Equipment (PPE)

When selecting PPE, consider factors such as function, fit, decontamination ability, disposal, and cost. Sometimes, when PPE will have to be used repeatedly for a long period of time, a more expensive and durable type of PPE may be less expensive overall than disposable PPE. Each employer should select the combination of PPE that protects workers specific to their workplace.

Workers with medium exposure risk may need to wear some combination of gloves, a gown, a face mask, and/or a face shield or goggles. PPE ensembles for workers in the medium exposure risk category will vary by work task, the results of the employer's hazard assessment, and the types of exposures workers have on the job.

High exposure risk jobs are those with high potential for exposure to known or suspected sources of COVID-19.

Very high exposure risk jobs are those with high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures that involve aerosol generation or specimen collection/handling.

In rare situations that would require workers in this risk category to use respirators, see the PPE section beginning on page 14 of this booklet, which provides more details about respirators. For the most up-to-date information, visit OSHA's COVID-19 webpage: www.osha.gov/covid-19.

Jobs Classified at High or Very High Exposure Risk: What to Do to Protect Workers

In workplaces where workers have high or very high exposure risk, employers should follow the guidance for "Steps All Employers Can Take to Reduce Workers' Risk of Exposure to SARS-CoV-2," on page 7 of this booklet and implement control measures described in this section.

Engineering Controls

- Ensure appropriate air-handling systems are installed and maintained in healthcare facilities. See "Guidelines for Environmental Infection Control in Healthcare Facilities" for more recommendations on air handling systems at: www.cdc.gov/mmwr/preview/mmwrhtml/rr5210a1.htm.

- CDC recommends that patients with known or suspected COVID-19 (i.e., person under investigation) should be placed in an airborne infection isolation room (AIIR), if available.

- Use isolation rooms when available for performing aerosol-generating procedures on patients with known or suspected COVID-19. For postmortem activities, use autopsy suites or other similar isolation facilities when performing aerosol-generating procedures on the bodies of people who are known to have, or suspected of having, COVID-19 at the time of their death. See the CDC postmortem guidance at: www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-postmortem-specimens.html. OSHA also provides guidance for postmortem activities on its COVID-19 webpage: www.osha.gov/covid-19.

- Use special precautions associated with Biosafety Level 3 when handling specimens from known or suspected COVID-19 patients. For more information about biosafety levels, consult the U.S. Department of Health and Human Services (HHS) "Biosafety in Microbiological and Biomedical Laboratories" at www.cdc.gov/biosafety/publications/bmbl5.

Administrative Controls

If working in a healthcare facility, follow existing guidelines and facility standards of practice for identifying and isolating infected individuals and for protecting workers.

- Develop and implement policies that reduce exposure, such as cohorting (i.e., grouping) COVID-19 patients when single rooms are not available.
- Post signs requesting patients and family members to immediately report symptoms of respiratory illness on arrival at the healthcare facility and use disposable face masks.
- Consider offering enhanced medical monitoring of workers during COVID-19 outbreaks.
- Provide all workers with job-specific education and training on preventing transmission of COVID-19, including initial and routine/refresher training.
- Ensure that psychological and behavioral support is available to address employee stress.

Safe Work Practices

- Provide emergency responders and other essential personnel who may be exposed while working away from fixed facilities with alcohol-based hand rubs containing at least 60% alcohol for decontamination in the field.

Personal Protective Equipment (PPE)

Most workers at high or very high exposure risk likely need to wear gloves, a gown, a face shield or goggles, and either a face mask or a respirator, depending on their job tasks and exposure risks.

Those who work closely with (either in contact with or within 6 feet of) patients known to be, or suspected of being, infected with SARS-CoV-2, the virus that causes COVID-19, should wear respirators. In these instances, see the PPE section beginning on page 14 of this booklet, which provides more details about respirators. For the most up-to-date information, also visit OSHA's COVID-19 webpage: www.osha.gov/covid-19.

PPE ensembles may vary, especially for workers in laboratories or morgue/mortuary facilities who may need additional protection against blood, body fluids, chemicals, and other materials to which they may be exposed. Additional PPE may include medical/surgical gowns, fluid-resistant coveralls, aprons, or other disposable or reusable protective clothing. Gowns should be large enough to cover the areas requiring protection. OSHA may also provide updated guidance for PPE use on its website: www.osha.gov/covid-19.

NOTE: Workers who dispose of PPE and other infectious waste must also be trained and provided with appropriate PPE.

The CDC webpage "Healthcare-associated Infections" (www.cdc.gov/hai) provides additional information on infection control in healthcare facilities.

Workers Living Abroad or Travelling Internationally

Employers with workers living abroad or traveling on international business should consult the "Business Travelers" section of the OSHA COVID-19 webpage (www.osha.gov/covid-19), which also provides links to the latest:

- CDC travel warnings: www.cdc.gov/coronavirus/2019-ncov/travelers
- U.S. Department of State (DOS) travel advisories: travel.state.gov

Employers should communicate to workers that the DOS cannot provide Americans traveling or living abroad with medications or supplies, even in the event of a COVID-19 outbreak.

As COVID-19 outbreak conditions change, travel into or out of a country may not be possible, safe, or medically advisable. It is also likely that governments will respond to a COVID-19 outbreak by imposing public health measures that restrict domestic and international movement, further limiting the U.S. government's ability to assist Americans in these countries. It is important that employers and workers plan appropriately, as it is possible that these measures will be implemented very quickly in the event of worsening outbreak conditions in certain areas.

More information on COVID-19 planning for workers living and traveling abroad can be found at: www.cdc.gov/travel.

For More Information

Federal, state, and local government agencies are the best source of information in the event of an infectious disease outbreak, such as COVID-19. Staying informed about the latest developments and recommendations is critical, since specific guidance may change based upon evolving outbreak situations.

Below are several recommended websites to access the most current and accurate information:

- Occupational Safety and Health Administration website: www.osha.gov
- Centers for Disease Control and Prevention website: www.cdc.gov
- National Institute for Occupational Safety and Health website: www.cdc.gov/niosh

OSHA Assistance, Services, and Programs

OSHA has a great deal of information to assist employers in complying with their responsibilities under OSHA law. Several OSHA programs and services can help employers identify and correct job hazards, as well as improve their safety and health program.

Establishing a Safety and Health Program

Safety and health programs are systems that can substantially reduce the number and severity of workplace injuries and illnesses, while reducing costs to employers.

Visit www.osha.gov/safetymanagement for more information.

Compliance Assistance Specialists

OSHA compliance assistance specialists can provide information to employers and workers about OSHA standards, short educational programs on specific hazards or OSHA rights and responsibilities, and information on additional compliance assistance resources.

Visit www.osha.gov/complianceassistance/cas or call 1-800-321-OSHA (6742) to contact your local OSHA office.

No-Cost On-Site Safety and Health Consultation Services for Small Business

OSHA's On-Site Consultation Program offers no-cost and confidential advice to small and medium-sized businesses in all states, with priority given to high-hazard worksites. On-Site consultation services are separate from enforcement and do not result in penalties or citations.

For more information or to find the local On-Site Consultation office in your state, visit www.osha.gov/consultation, or call 1-800-321-OSHA (6742).

Under the consultation program, certain exemplary employers may request participation in OSHA's **Safety and Health Achievement Recognition Program (SHARP)**. Worksites that receive SHARP recognition are exempt from programmed inspections during the period that the SHARP certification is valid.

Cooperative Programs

OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA. To find out more about any of the following programs, visit www.osha.gov/cooperativeprograms.

Strategic Partnerships and Alliances

The OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional or trade associations, labor organizations, and/or other interested stakeholders. Through the Alliance Program, OSHA works with groups to develop compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

Voluntary Protection Programs (VPP)

The VPP recognize employers and workers in the private sector and federal agencies who have implemented effective safety and health programs and maintain injury and illness rates below the national average for their respective industries.

Occupational Safety and Health Training

OSHA partners with 26 OSHA Training Institute Education Centers at 37 locations throughout the United States to deliver courses on OSHA standards and occupational safety and health topics to thousands of students a year. For more information on training courses, visit www.osha.gov/otiec.

OSHA Educational Materials

OSHA has many types of educational materials to assist employers and workers in finding and preventing workplace hazards.

All OSHA publications are free at www.osha.gov/publications and www.osha.gov/ebooks. You can also call 1-800-321-OSHA (6742) to order publications.

Employers and safety and health professionals can sign-up for *QuickTakes*, OSHA's free, twice-monthly online newsletter with the latest news about OSHA initiatives and products to assist in finding and preventing workplace hazards. To sign up, visit www.osha.gov/quicktakes.

OSHA Regional Offices

Region 1
Boston Regional Office
(CT*, ME*, MA, NH, RI, VT*)
JFK Federal Building
25 New Sudbury Street, Room E340
Boston, MA 02203
(617) 565-9860 (617) 565-9827 Fax

Region 2
New York Regional Office
(NJ*, NY*, PR*, VI*)
Federal Building
201 Varick Street, Room 670
New York, NY 10014
(212) 337-2378 (212) 337-2371 Fax

Region 3
Philadelphia Regional Office
(DE, DC, MD*, PA, VA*, WV)
The Curtis Center
170 S. Independence Mall West, Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900 (215) 861-4904 Fax

Region 4

Atlanta Regional Office
(AL, FL, GA, KY*, MS, NC*, SC*, TN*)
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW, Room 6T50
Atlanta, GA 30303
(678) 237-0400 (678) 237-0447 Fax

Region 5

Chicago Regional Office
(IL*, IN*, MI*, MN*, OH, WI)
John C. Kluczynski Federal Building
230 South Dearborn Street, Room 3244
Chicago, IL 60604
(312) 353-2220 (312) 353-7774 Fax

Region 6

Dallas Regional Office
(AR, LA, NM*, OK, TX)
A. Maceo Smith Federal Building
525 Griffin Street, Room 602
Dallas, TX 75202
(972) 850-4145 (972) 850-4149 Fax

Region 7

Kansas City Regional Office
(IA*, KS, MO, NE)
Two Pershing Square Building
2300 Main Street, Suite 1010
Kansas City, MO 64108-2416
(816) 283-8745 (816) 283-0547 Fax

Region 8

Denver Regional Office
(CO, MT, ND, SD, UT*, WY*)
Cesar Chavez Memorial Building
1244 Speer Boulevard, Suite 551
Denver, CO 80204
(720) 264-6550 (720) 264-6585 Fax

Region 9

San Francisco Regional Office
(AZ*, CA*, HI*, NV*, and American Samoa,
Guam and the Northern Mariana Islands)
San Francisco Federal Building
90 7th Street, Suite 2650
San Francisco, CA 94103
(415) 625-2547 (415) 625-2534 Fax

Region 10

Seattle Regional Office
(AK*, ID, OR*, WA*)
Fifth & Yesler Tower
300 Fifth Avenue, Suite 1280
Seattle, WA 98104
(206) 757-6700 (206) 757-6705 Fax

*These states and territories operate their own OSHA-approved job safety
and health plans and cover state and local government employees as well as
private sector employees. The Connecticut, Illinois, Maine, New Jersey, New
York and Virgin Islands programs cover public employees only. (Private sector
workers in these states are covered by Federal OSHA). States with approved
programs must have standards that are identical to, or at least as effective as,
the Federal OSHA standards.

Note: To get contact information for OSHA area offices, OSHA-approved state
plans and OSHA consultation projects, please visit us online at www.osha.gov
or call us at 1-800-321-OSHA (6742).

How to Contact OSHA

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

For assistance, contact us.
We are OSHA. We can help.

www.osha.gov
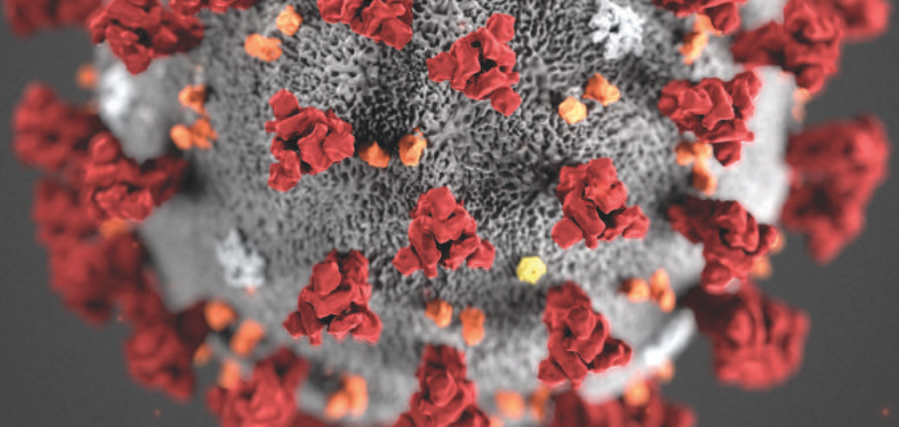
Ten Steps All Workplaces Can Take to Reduce Risk of Exposure to Coronavirus

All workplaces can take the following infection prevention measures to protect workers:

1 Encourage workers to stay home if sick.

2 Encourage respiratory etiquette, including covering coughs and sneezes.

3 Provide a place to wash hands or alcohol-based hand rubs containing at least 60% alcohol.

4 Limit worksite access to only essential workers, if possible.

5 Establish flexible worksites (e.g., telecommuting) and flexible work hours (e.g., staggered shifts), if feasible.

6 Discourage workers from using other workers' phones, desks, or other work tools and equipment.

7 Regularly clean and disinfect surfaces, equipment, and other elements of the work environment.

8 Use Environmental Protection Agency (EPA)-approved cleaning chemicals with label claims against the coronavirus.

9 Follow the manufacturer's instructions for use of all cleaning and disinfection products.

10 Encourage workers to report any safety and health concerns.

For more information, visit www.osha.gov/coronavirus or call 1-800-321-OSHA (6742).

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Occupational Safety and Health Administration

Guidance on Returning to Work

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Guidance on Returning to Work

U.S. Department of Labor
Occupational Safety and Health Administration

OSHA 4045-06 2020

Contents

Overview

The Occupational Safety and Health Administration (OSHA) has developed the following guidance to assist employers and workers in safely returning to work and reopening businesses deemed by local authorities as "non-essential businesses" during the evolving Coronavirus Disease 2019 (COVID-19) pandemic. Employers can use this guidance to develop policies and procedures to ensure the safety and health of their employees.

This guidance is intended to supplement the U.S. Department of Labor and U.S. Department of Health and Human Services' previously developed Guidance on Preparing Workplaces for COVID-19 and the White House's Guidelines for Opening up America Again. It focuses on the need for employers to develop and implement strategies for basic hygiene (e.g., hand hygiene, cleaning and disinfection), social distancing, identification and isolation of sick employees, workplace controls and flexibilities, and employee training. This guidance is based on the application of traditional infection prevention and industrial hygiene practices to a phased approach for reopening, as the White House guidelines describe.

Reopening should align with the lifting of stay-at-home or shelter-in-place orders and other specific requirements of the Federal Government and state, local, tribal, and/or territorial (SLTT) governments across the United States, as well as with public health recommendations from the Centers for Disease Control and Prevention (CDC) and other federal requirements or guidelines. Employers should continually monitor federal, State, territorial, tribal, and local government guidelines for updated information about ongoing community transmission and mitigation measures, as well as for evolving guidance on disinfection and other best practices for worker protection. Where applicable, these guidelines may supplement state- or locality-specific information and re-opening requirements.

The CDC provides the latest information about the COVID-19 pandemic at: www.cdc.gov/coronavirus/2019-ncov.

OSHA provides specific information for workers and employers about the COVID-19 pandemic at: www.osha.gov/coronavirus.

The National Governors Association provides a state-by-state summary of public health criteria in reopening plans at: www.nga.org/coronavirus-reopening-plans.

Planning for Reopening

All employers should monitor SLTT health department communications to understand how the communities in which their workplaces are located are progressing through the reopening phases identified in the Guidelines for Opening up America Again. The guidelines provide general principles for relaxing restrictions that were put in place to slow the spread of COVID-19. Employers should continue to consider ways to utilize workplace flexibilities, such as remote work (i.e., telework), and alternative business operations to provide goods (e.g., curbside pickup) and services to customers.

During all phases of reopening, employers should implement strategies for basic hygiene (e.g., hand hygiene; cleaning and disinfection), social distancing, identification and isolation of sick employees, workplace controls and flexibilities, and employee training that are appropriate for the particular phase.

In general, during:

■ **Phase 1:** Businesses should consider making telework available, when possible and feasible with business operations. For employees who return to the workplace, consider limiting the number of people in the workplace in order to maintain strict social distancing practices. Where feasible, accommodations (i.e., flexibilities based on individual needs) should be considered for workers at higher risk of severe illness, including elderly individuals

and those with serious underlying health conditions. Businesses should also consider extending special accommodations to workers with household members at higher risk of severe illness. Non-essential business travel should be limited.

- **Phase 2:** Businesses continue to make telework available where possible, but non-essential business travel can resume. Limitations on the number of people in the workplace can be eased, but continue to maintain moderate to strict social distancing practices, depending on the type of business. Continue to accommodate vulnerable workers as identified above in Phase 1.

- **Phase 3:** Businesses resume unrestricted staffing of work sites.

Changing outbreak conditions in each community will directly affect workers' exposure risks to SARS-CoV-2, the virus that causes COVID-19. For all phases of reopening, employers should develop and implement policies and procedures that address preventing, monitoring for, and responding to any emergence or resurgence of COVID-19 in the workplace or community. Employers should continue these practices to the extent possible to help prevent COVID-19 from emerging or resurging in their workplace. Such a resurgence could lead to increases in infected and sick employees, the increased need for contact tracing of individuals who visited a workplace, enhanced cleaning and disinfection practices, or even a temporary closure of the business.

Based on evolving conditions, employers' reopening plans should address:

Guiding Principle	Examples of How to Implement
Hazard assessment, including practices to determine when, where, how, and to what sources of SARS-CoV-2 workers are likely to be exposed in the course of their job duties.	▪ Assess all job tasks performed by or job categories held by employees to determine which job tasks or job categories involve occupational exposure. This can be a desktop assessment to maintain social distancing practices. ▪ Consider, among other things, exposures from members of the public (e.g., customers, visitors) with whom workers interact, as well as exposures from close contact with coworkers in the workplace. ▪ Consider current outbreak conditions in the community.
Hygiene, including practices for hand hygiene, respiratory etiquette, and cleaning and disinfection.	▪ Provide soap, water, and paper towels for workers, customers, and visitors to wash their hands, and encourage frequent and proper (for at least 20 seconds) handwashing. ▪ Provide hand sanitizer with at least 60% alcohol and encourage workers to use it frequently when they cannot readily wash their hands. ▪ Identify high-traffic areas, as well as surfaces or items that are shared or frequently touched, that could become contaminated. Target them for enhanced cleaning and disinfection using EPA-registered disinfectants and adherence to CDC guidance for controlling the spread of COVID-19.

Guiding Principle	Examples of How to Implement
Social distancing, including practices for maximizing to the extent feasible and maintaining distance between all people, including workers, customers, and visitors. Six feet of distance is a general rule of thumb, though social distancing practices may change as changes in community transmission of SARS-CoV-2 and other criteria prompt communities to move through the reopening phases.	▪ Limit business occupancy to a number of workers/customers that can safely be accommodated to allow for social distancing. ▪ Demarcate flooring in six-feet zones in key areas where workers, customers, or visitors would ordinarily congregate (i.e., restrooms, check-out lines, areas with time clocks) to encourage people to keep appropriate social distance between themselves and others. ▪ Post signage reminding workers, customers, and visitors to maintain at least six feet between one another. ▪ Post directional signs in hallways/corridors where the width restricts movement and limits social distancing.
Identification and isolation of sick employees, including practices for worker self-monitoring or screening, and isolating and excluding from the workplace any employees with signs or symptoms of COVID-19.	▪ Ask employees to evaluate themselves for signs/symptoms of COVID-19 before coming to work, and to stay home if they are not well. (See the "Employer Frequently Asked Questions" on page 11.) ▪ Establish a protocol for managing people who become ill in the workplace, including details about how and where a sick person will be isolated (in the event they are unable to leave immediately) while awaiting transportation from the workplace, to their home or to a health care facility, and cleaning and disinfecting spaces the ill person has occupied to prevent exposure to other workers, customers, or visitors. Employers may need to collaborate with SLTT health officials to facilitate contact tracing and notification related to COVID-19 cases or possible exposures.

Guiding Principle	Examples of How to Implement
Return to work after illness or exposure, including after workers recover from COVID-19 or complete recommended self-quarantine after exposure to a person with COVID-19.	- Follow CDC guidance for discontinuing self-isolation and returning to work after illness, or discontinuing self-quarantine and monitoring after exposure, as appropriate for the workplace. - Ensure workers who have been exposed to someone with COVID-19 routinely monitor themselves or receive monitoring, including for signs and/or symptoms of potential illness, at work, in accordance with CDC guidance.
Controls, including engineering and administrative controls, safe work practices, and personal protective equipment (PPE) selected as a result of an employer's hazard assessment.	Select and implement appropriate engineering controls (e.g., physical barriers/shields to separate workers, enhanced ventilation), and administrative controls (e.g., staggering work shifts, limiting breakroom capacity, practicing social distancing, replacing in-person meetings with video-conference calls, ensuring workers wear appropriate face coverings, such as cloth face masks, to contain respiratory secretions), and providing and ensuring workers use appropriate PPE, identified through hazard assessments and in accordance with OSHA's standards at 29 CFR 1910, Subpart I, and OSHA and CDC guidance on use of PPE. (Note: cloth face coverings are not PPE, because they protect other people from the wearer's respiratory secretions, rather than protecting the wearer).

Guiding Principle	Examples of How to Implement
Workplace flexibilities, including those concerning remote work (i.e., telework) and sick leave.	- Evaluate existing policies and, if needed, consider new ones that facilitate appropriate use of telework, sick or other types of leave, and other options that help minimize workers' exposure risks. - Communicate about workplace flexibilities, and ensure workers understand how to make use of available options (e.g., fatigue management).
Training, including practices for ensuring employees receive training on the signs, symptoms, and risk factors associated with COVID-19; where, how, and to what sources of SARS-CoV-2 employees might be exposed in the workplace; and how to prevent the spread of SARS-CoV-2 at work.	- Train workers in the appropriate language and literacy level about their risks of exposure to SARS-CoV-2, what the employer is doing to protect them, including site-specific measures, and how they can protect themselves. - Train workers about wearing cloth face coverings in the workplace, including any employer policies related to their use and considerations for when cloth face coverings could cause or contribute to a workplace safety and health hazard. - As required by OSHA standards for PPE, including respiratory protection, and consistent with OSHA and CDC guidance, train workers how to put on, use, and take off PPE; how to clean, maintain, store, and dispose of PPE; and what the limitations of the PPE are. (Note: As described above, cloth face coverings are not PPE, because they protect other people from the wearer's respiratory secretions, rather than protecting the wearer).

Guiding Principle	Examples of How to Implement
Anti-retaliation, including practices for ensuring that no adverse or retaliatory action is taken against an employee who adheres to these guidelines or raises workplace safety and health concerns.	- Ensure workers understand their rights to a safe and healthful work environment, who to contact with questions or concerns about workplace safety and health, and prohibitions against retaliation for raising workplace safety and health concerns. - Ensure workers understand their right to raise workplace safety and health concerns and seek an OSHA inspection under the Occupational Safety and Health Act. - Ensure supervisors are familiar with workplace flexibilities and other human resources policies and procedures, as well as with workers' rights in general.

The examples presented in the table are intended to help employers understand each of the guiding principles that should go into their plans for resuming operations and reopening facilities. However, these examples are not an exhaustive list of controls that may be appropriate, necessary, or feasible, nor do all examples apply to every employer. The interagency Guidance on Preparing Workplaces for COVID-19 and the OSHA COVID-19 webpage provide additional recommendations for addressing and implementing these guiding principles within the workplace, including how the implementation of the principles varies by workers' exposure risk levels. Regardless of the types of infection prevention and control measures employers incorporate into their reopening plans, they should consider ways to communicate about those measures to workers, including through training (as described above) and providing a point of contact for any worker questions or concerns.

Applicable OSHA Standards and Required Protections in the Workplace

All of OSHA's standards that apply to protecting workers from infection remain in place as employers and workers return to work.

While covered employers are always responsible for complying with all applicable OSHA requirements, the agency's standards for PPE (29 CFR 1910.132), respiratory protection (29 CFR 1910.134), and sanitation (29 CFR 1910.141) may be especially relevant for preventing the spread of COVID-19. Where there is no OSHA standard specific to SARS-CoV-2, employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970.

Appendix A of this booklet outlines some of OSHA's general industry rules for hazard and exposure assessment, implementation programs, workplace controls, training, and recordkeeping, as well as prohibitions on retaliation, applicable to protecting workers from occupational exposure to SARS-CoV-2. Consult OSHA resources for other sectors not covered by the appendix, including construction, shipyard employment, and longshoring and marine terminals.

Employer Frequently Asked Questions[1]

Can employers conduct work site SARS-CoV-2 testing?

Yes. Employers may consider implementing strategies to reduce risks to the safety and health of workers and workplaces from COVID-19 that include conducting SARS-CoV-2 testing. Neither the OSH Act nor OSHA standards prohibit employer testing for SARS-CoV-2, if applied in a transparent manner applicable to all employees (i.e., non-retaliatory).

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1. Note that these FAQs speak to Federal OSHA standards. Other federal and SLTT laws may apply.

Because of the limitations of current testing capabilities, employers should act cautiously on negative SARS-CoV-2 test results. Employers should not presume that individuals who test negative for SARS-CoV-2 infection (i.e., the virus that causes COVID-19) present no hazard to others in the workplace. Employers should continue to implement the basic hygiene, social distancing, workplace controls and flexibilities, and employee training described in this guidance in ways that reduce the risk of workplace spread of SARS-CoV-2, including by asymptomatic and pre-symptomatic individuals.

Can employers conduct work site temperature checks or other health screening?

Yes. Neither the OSH Act nor OSHA standards prohibits employer screening for COVID-19, if applied in a transparent manner applicable to all employees (i.e., non-retaliatory). Employers may consider implementing strategies to reduce risks to the safety and health of workers and workplaces from COVID-19 that include conducting daily in-person or virtual health checks (e.g., symptom and/or temperature screening, questionnaires, self-checks and self-questionnaires). Any such screening should consider ways to maintain confidentiality, as required by the Americans with Disabilities Act.

Because people infected with SARS-CoV-2 can spread the virus even if they do not have signs or symptoms of infection, temperature screening may play a part in a comprehensive program to monitor worker health during the pandemic, but may have limited utility on its own. In many workplaces, temperature screening efforts are likely to be most beneficial when conducted at home by individual workers, with employers' temperature screening plans relying on workers' self-monitoring and staying home if they have a fever or other signs or symptoms of illness, rather than employers directly measuring temperatures after workers arrive at the work site. Consider implementing such programs in conjunction with sick leave policies that encourage sick workers, including those whose self-monitoring efforts reveal a fever or other signs or symptoms of illness, to stay at home.

Regardless of whether or how employers ultimately decide to implement temperature checks or other health screening measures, they should act cautiously on results. Employers should not presume that individuals who do not have a fever or report experiencing other symptoms of COVID-19 do not have SARS-CoV-2, the virus that causes COVID-19. Employers should continue to implement the basic hygiene, social distancing, workplace controls and flexibilities, and employee training described in this guidance in ways that reflect the risk of community spread of COVID-19, including from asymptomatic and pre-symptomatic individuals, in the geographical area where the workplace is located.

What OSHA requirements must an employer follow when conducting health screening, temperature checking, or COVID-19 testing?

If an employer implements health screening or temperature checks and chooses to create records of this information, those records might qualify as medical records under the Access to Employee Exposure and Medical Records standard (29 CFR 1910.1020). The employer would then be required to retain these records for the duration of each worker's employment plus 30 years and follow confidentiality requirements. As explained above, employers need not make a record of temperatures when they screen workers, but instead may acknowledge a temperature reading in real-time. In addition, temperature records do not qualify as medical records under the Access to Employee Exposure and Medical Records standard unless they are made or maintained by a physician, nurse, or other health care personnel, or technician.

Additionally, personnel administering COVID-19 tests, in-person temperature checks, or other in-person health screening must be protected from exposure to sources of SARS-CoV-2, including asymptomatic and pre-symptomatic workers who might be infected but not know it. Protection of screening and testing workers should incorporate standard and appropriate transmission-based precautions and should follow the hierarchy of controls, including appropriate

engineering and administrative controls, safe work practices, and PPE. See the CDC's General Business Frequently Asked Questions for more information about protecting screening workers. While diagnostic testing that involves saliva or nasal/oral cavity swabbing would not typically fall under the scope of the Bloodborne Pathogens standard (29 CFR 1910.1030), any testing that involves drawing blood would.

Is there guidance on how to address the various health screening and medical issues associated with COVID-19 to avoid violating other labor, disability, and employment laws?

The U.S. Equal Employment Opportunity Commission (EEOC) has established guidance regarding What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws. Employers are encouraged to review this guidance as they develop the health screening, workplace policies, return to work plans, and consider other issues that may arise as they reopen their workplaces and plan to continue operations during the COVID 19 public health emergency. Additional information about labor, disability, and employment laws is available on the Summary of the Major Laws of the Department of Labor webpage.

When can employees who have had COVID-19, or illness consistent with COVID-19, return to work?

The CDC provides guidance about the discontinuation of isolation for people with COVID-19 who are not in healthcare settings. This guidance may be adapted by state and local health departments to respond to rapidly changing local circumstances.

How do I know if employees need personal protective equipment (PPE)?

Employers must conduct a hazard assessment in accordance with OSHA's PPE standard (29 CFR 1910.132), if applicable, to determine the PPE requirements for their unique work site. Employers subject to this standard must determine if PPE (such as gloves, surgical masks, and face shields) is necessary for employees to work safely after considering whether engineering and administrative controls and safe work practices (such as social distancing or the use of cloth face coverings) can effectively mitigate identified hazards.

Employers should consider modifying worker interaction— both among coworkers and with customers, visitors, or other members of the general public—in order to reduce the need for PPE, especially in light of potential equipment shortages. If PPE is necessary to protect workers from exposure to SARS-CoV-2 during particular work tasks when other controls are insufficient or infeasible, or in the process of being implemented, employers should either consider delaying those work tasks until the risk of SARS-CoV-2 exposure subsides or utilize alternative means to accomplish business needs and provide goods and services to customers. If PPE is needed, but not available, and employers cannot identify alternative means to accomplish business needs safely, the work tasks must be discontinued. Consider CDC guidance for conserving and extending filtering facepiece respirator supplies in non-healthcare sectors.

Cloth face coverings are not PPE. However, they can be worn to reduce the spread of potentially infectious respiratory droplets from the wearer to others, including when the wearer has the virus but does not know it. This is known as source control. Employers may consider requiring cloth face coverings to be worn in the workplace as an administrative control. More information about cloth face coverings is available from OSHA's COVID-19 Frequently Asked Questions webpage.

OSHA's PPE Safety and Health Topics page provides additional information about PPE selection, provision, use, and other related topics: www.osha.gov/SLTC/personalprotectiveequipment.

For More Information

Federal, State, territorial, tribal, and local government agencies are the best source of information in the event of an infectious disease outbreak, such as COVID-19. Staying informed about the latest developments and recommendations is critical, since specific guidance may change based upon evolving outbreak conditions in the geographic area where the business is located.

Below are several recommended websites to access the most current and accurate information:

- OSHA website: www.osha.gov
- Whistleblower Protection Program website: www.whistleblowers.gov
- U.S. Department of Labor COVID-19 webpage: www.dol.gov/coronavirus
- CDC website: www.cdc.gov/coronavirus
- National Institute for Occupational Safety and Health website: www.cdc.gov/niosh

OSHA Assistance, Services, and Programs

OSHA has a great deal of information to assist employers in complying with their responsibilities under OSHA law. Several OSHA programs and services can help employers identify and correct job hazards, as well as improve their safety and health program.

Establishing a Safety and Health Program

Safety and health programs are systems that can substantially reduce the number and severity of workplace injuries and illnesses, while reducing costs to employers.

Visit www.osha.gov/safetymanagement for more information.

Compliance Assistance Specialists

OSHA compliance assistance specialists can provide information to employers and workers about OSHA standards, short educational programs on specific hazards or OSHA rights and responsibilities, and information on additional compliance assistance resources.

Visit www.osha.gov/complianceassistance/cas or call 1-800-321-OSHA (6742) to contact your local OSHA office.

No-Cost On-Site Safety and Health Consultation Services for Small Business

OSHA's On-Site Consultation Program offers no-cost and confidential advice to small and medium-sized businesses in all states, with priority given to high-hazard worksites. On-Site consultation services are separate from enforcement and do not result in penalties or citations.

For more information or to find the local On-Site Consultation office in your state, visit www.osha.gov/consultation, or call 1-800-321-OSHA (6742).

Under the consultation program, certain exemplary employers may request participation in OSHA's **Safety and Health Achievement Recognition Program (SHARP)**. Worksites that receive SHARP recognition are exempt from programmed inspections during the period that the SHARP certification is valid.

Cooperative Programs

OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA. To find out more about any of the following programs, visit www.osha.gov/cooperativeprograms.

Strategic Partnerships and Alliances

The OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional or trade associations, labor organizations, and/or other interested

stakeholders. Through the Alliance Program, OSHA works with groups to develop compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

Voluntary Protection Programs (VPP)

The VPP recognize employers and workers in the private sector and federal agencies who have implemented effective safety and health programs and maintain injury and illness rates below the national average for their respective industries.

Occupational Safety and Health Training

OSHA partners with 26 OSHA Training Institute Education Centers at 37 locations throughout the United States to deliver courses on OSHA standards and occupational safety and health topics to thousands of students a year. For more information on training courses, visit www.osha.gov/otiec.

OSHA Educational Materials

OSHA has many types of educational materials to assist employers and workers in finding and preventing workplace hazards.

All OSHA publications are free at www.osha.gov/publications and www.osha.gov/ebooks. You can also call 1-800-321-OSHA (6742) to order publications.

Employers and safety and health professionals can sign-up for *QuickTakes*, OSHA's free, twice-monthly online newsletter with the latest news about OSHA initiatives and products to assist in finding and preventing workplace hazards. To sign up, visit www.osha.gov/quicktakes.

OSHA Regional Offices

Region 1
Boston Regional Office
(CT*, ME*, MA, NH, RI, VT*)
JFK Federal Building
25 New Sudbury Street, Room E340
Boston, MA 02203
(617) 565-9860 (617) 565-9827 Fax

Region 2
New York Regional Office
(NJ*, NY*, PR*, VI*)
Federal Building
201 Varick Street, Room 670
New York, NY 10014
(212) 337-2378 (212) 337-2371 Fax

Region 3
Philadelphia Regional Office
(DE, DC, MD*, PA, VA*, WV)
The Curtis Center
170 S. Independence Mall West, Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900 (215) 861-4904 Fax

Region 4
Atlanta Regional Office
(AL, FL, GA, KY*, MS, NC*, SC*, TN*)
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW, Room 6T50
Atlanta, GA 30303
(678) 237-0400 (678) 237-0447 Fax

Region 5
Chicago Regional Office
(IL*, IN*, MI*, MN*, OH, WI)
John C. Kluczynski Federal Building
230 South Dearborn Street, Room 3244
Chicago, IL 60604
(312) 353-2220 (312) 353-7774 Fax

Region 6

Dallas Regional Office
(AR, LA, NM*, OK, TX)
A. Maceo Smith Federal Building
525 Griffin Street, Room 602
Dallas, TX 75202
(972) 850-4145 (972) 850-4149 Fax

Region 7

Kansas City Regional Office
(IA*, KS, MO, NE)
Two Pershing Square Building
2300 Main Street, Suite 1010
Kansas City, MO 64108-2416
(816) 283-8745 (816) 283-0547 Fax

Region 8

Denver Regional Office
(CO, MT, ND, SD, UT*, WY*)
Cesar Chavez Memorial Building
1244 Speer Boulevard, Suite 551
Denver, CO 80204
(720) 264-6550 (720) 264-6585 Fax

Region 9

San Francisco Regional Office
(AZ*, CA*, HI*, NV*, and American Samoa,
Guam and the Northern Mariana Islands)
San Francisco Federal Building
90 7th Street, Suite 2650
San Francisco, CA 94103
(415) 625-2547 (415) 625-2534 Fax

Region 10

Seattle Regional Office
(AK*, ID, OR*, WA*)
Fifth & Yesler Tower
300 Fifth Avenue, Suite 1280
Seattle, WA 98104
(206) 757-6700 (206) 757-6705 Fax

*These states and territories operate their own OSHA-approved job safety and health plans and cover state and local government employees as well as private sector employees. The Connecticut, Illinois, Maine, New Jersey, New York and Virgin Islands programs cover public employees only. (Private sector workers in these states are covered by Federal OSHA). States with approved programs must have standards that are identical to, or at least as effective as, the Federal OSHA standards.

Note: To get contact information for OSHA area offices, OSHA-approved state plans and OSHA consultation projects, please visit us online at www.osha.gov or call us at 1-800-321-OSHA (6742).

How to Contact OSHA

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

For assistance, contact us.
We are OSHA. We can help.

Appendix A — Applicable OSHA Standards and Requirements

Note: Specific paragraphs referenced in the table refer to the main provisions of the listed OSHA standards with which employers should be familiar. Other parts of these standards and additional standards not mentioned in the table may apply.

		Personal Protective Equipment General Requirements, 29 CFR 1910.132	Respiratory Protection 29 CFR 1910.134	Sanitation, 29 CFR 1910.141	Hazard Communication 29 CFR 1910.1200	Access to Employee Exposure & Medical Records 29 CFR 1910.1020	Recording and Reporting Occupational Injuries & Illnesses, 29 CFR Part 1904
Applies generally to potential and actual exposure(s) to	SARS-CoV-2 virus	(a)	(a)			(b), (c)(13)	29 CFR 1904.4(a)-(b)
	Chemical hazards (e.g., cleaning and disinfection)	(a)	(a)		(b)	(b), (c)(13)	29 CFR 1904.4(a)-(b)
Hazard/exposure assessment	Required, generally	(d)(1)	(d)(1)(i), (iii)		(d)		
	Written requirements	(d)(2)			(e)		
Implementation program	Required, generally	(d)(1), (2)	(c)		(e)		
	Written requirements	(d)(2)	(c)		(e)		
	Worker involvement		(l)				29 CFR 1904.35
Controls	Engineering controls		(a)(1)				

Note: Specific paragraphs referenced in the table refer to the main provisions of the listed OSHA standards with which employers should be familiar. Other parts of these standards and additional standards not mentioned in the table may apply.

		Personal Protective Equipment General Requirements, 29 CFR 1910.132	Respiratory Protection 29 CFR 1910.134	Sanitation, 29 CFR 1910.141	Hazard Communication 29 CFR 1910.1200	Access to Employee Exposure & Medical Records 29 CFR 1910.1020	Recording and Reporting Occupational Injuries & Illnesses, 29 CFR Part 1904
Controls	Administrative controls and safe work practices				(f)		
	PPE	(a)	(a), (d), (f), (g)				
Housekeeping	General cleaning			(a)(3)			
	Handwashing facilities with soap and running water			(d)			
Training	Required, generally	(f)(1)	(c), (k)		(h)		
	Initial training	(f)(1)	(k)(3)		(h)(1)		
	Periodic training	(f)(3)	(k)(5)		(h)(1)		
	In a language and format worker(s) can understand		(k)(2)				
	Covers use of PPE (e.g., donning and doffing)	(f)(1)(iii)	(c)		(h)(3)(iii)		

Note: Specific paragraphs referenced in the table refer to the main provisions of the listed OSHA standards with which employers should be familiar. Other parts of these standards and additional standards not mentioned in the table may apply.		Personal Protective Equipment General Requirements, 29 CFR 1910.132	Respiratory Protection 29 CFR 1910.134	Sanitation, 29 CFR 1910.141	Hazard Communication 29 CFR 1910.1200	Access to Employee Exposure & Medical Records 29 CFR 1910.1020	Recording and Reporting Occupational Injuries & Illnesses, 29 CFR Part 1904
Training	Training must be effective (e.g., workers must demonstrate competency)	(f)(2)	(k)		(h)(1)		
Recordkeeping	Maintenance of medical records		(m)			(b), (d)*	
	Respirator fit testing		(m)				
	Access by OSHA and/or NIOSH					(e)(3)	
Retaliation**	Prohibitions against employer retaliation						29 CFR 1904.36

* Note that 29 CFR 1910.1020 may apply to temperature records. Employers should evaluate the burdens and benefits of maintaining temperature records or asking workers to complete written questionnaires, as both will qualify as medical records if made or maintained by a physician, nurse, or other health care personnel, or technician. If employers do not record workers' temperatures, or if workers' temperatures are recorded but not made or maintained by a physician, nurse, or other health care personnel or technician, the mere taking of a temperature would not amount to a record that must be retained.

** Section 11(c) of the OSH Act states:

(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

 (3) Within 90 days of the receipt of a complaint filed under this subsection the Secretary shall notify the complainant of his determination under paragraph 2 of this subsection.

U.S. Equal Employment Opportunity Commission

Pandemic Preparedness in the Workplace and the Americans with Disabilities Act

This guidance document was issued upon approval of the Chair of the U.S. Equal Employment Opportunity Commission.

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Pandemic Preparedness in the Workplace and the Americans with Disabilities Act

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Health Care Providers, Employees, Employers, Applicants, HR Practitioners

Previous Revision:

No

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

**UPDATED IN RESPONSE TO COVID-19 PANDEMIC – March 21, 2020*

***NOTE ABOUT 2020 UPDATES: The EEOC is updating this 2009 publication to address its application to coronavirus disease 2019 (COVID-19). Employers and employees should follow guidance from the Centers for Disease Control and Prevention (CDC) as well as state/local public health authorities on how best to slow the spread of this disease and protect workers, customers, clients, and the general public. The ADA and the Rehabilitation Act do not interfere with employers following advice from the CDC and other public health authorities on appropriate steps to take relating to the workplace. This update retains the principles from the 2009 document but incorporates new information to respond to current employer questions. For readers' ease the COVID-19 updates are all in bold and marked by an asterisk.**

I. INTRODUCTORY INFORMATION

A. PURPOSE

This technical assistance document provides information about Titles I and V of the [Americans with Disabilities Act](#) (ADA) and Section 501 of the Rehabilitation Act and pandemic planning in the workplace.[1] ***This document was originally issued in 2009, during the spread of H1N1 virus, and has been re-issued on March 19, 2020, to incorporate updates regarding the COVID-19 pandemic.** It identifies established ADA principles that are relevant to questions frequently asked about workplace pandemic planning such as:

- How much information may an employer request from an employee who calls in sick, in order to protect the rest of its workforce when an influenza pandemic appears imminent?
- When may an ADA-covered employer take the body temperature of employees during a pandemic?
- Does the ADA allow employers to require employees to stay home if they have symptoms of the pandemic influenza virus?
- When employees return to work, does the ADA allow employers to require doctors' notes certifying their fitness for duty?

In one instance, to provide a complete answer, this document provides information about religious accommodation and Title VII of the Civil Rights Act of 1964.

B. BACKGROUND INFORMATION ABOUT PANDEMIC INFLUENZA AND OTHER

PANDEMICS

A "pandemic" is a global "epidemic."[(2)] The world has seen **four** influenza pandemics in the last century. The deadly "Spanish Flu" of 1918 was followed by the milder "Asian" and "Hong Kong" flus of the 1950s and 1960s. While the SARS outbreak in 2003 was considered a pandemic "scare," [(3)] the H1N1 outbreak in 2009 rose to the level of a pandemic.[(4)]

*On March 11, 2020, the coronavirus disease (COVID-19) was also declared a pandemic.

The U.S. Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), and the World Health Organization (WHO) are the definitive sources of information about pandemics. The WHO decides when to declare a pandemic.[(5)] Pandemic planning and pandemic preparedness include everything from global and national public health strategies to an individual employer's plan about how to continue operations.[(6)]

*The new information added to this EEOC technical assistance document in 2020 about COVID-19 focuses on implementing these strategies in a manner that is consistent with the ADA and with current CDC and state/local guidance for keeping workplaces safe during the COVID-19 pandemic. This document recognizes that guidance from public health authorities will change as the COVID-19 situation evolves.

II. RELEVANT ADA REQUIREMENTS AND STANDARDS

The ADA, which protects applicants and employees from disability discrimination, is relevant to pandemic preparation in at least three major ways. First, the ADA regulates employers' disability-related inquiries and medical examinations for all applicants and employees, including those who do not have ADA disabilities.[(7)] Second, the ADA prohibits covered employers from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a "direct threat" (i.e. a significant risk of substantial harm even with reasonable accommodation).[(8)] Third, the ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during a pandemic.[(9)]

This section summarizes these ADA provisions. The subsequent sections answer frequently asked questions about how they apply during an influenza pandemic. The answers are based on existing EEOC guidance regarding disability-related inquiries and medical examinations, direct threat, and reasonable accommodation.[(10)]

A. DISABILITY-RELATED INQUIRIES AND MEDICAL EXAMINATIONS

The ADA prohibits an employer from making **disability-related inquiries** and requiring **medical examinations** of employees, except under limited circumstances, as set forth below.[(11)]

1. Definitions: Disability-Related Inquiries and Medical Examinations

An inquiry is **"disability-related"** if it is likely to elicit information about a disability.[(12)] For

example, asking an individual if his immune system is compromised is a disability-related inquiry because a weak or compromised immune system can be closely associated with conditions such as cancer or HIV/AIDS.[(13)] By contrast, an inquiry is not disability-related if it is not likely to elicit information about a disability. For example, asking an individual about symptoms of a cold or the seasonal flu is not likely to elicit information about a disability.

A **"medical examination"** is a procedure or test that seeks information about an individual's physical or mental impairments or health.[(14)] Whether a procedure is a medical examination under the ADA is determined by considering factors such as whether the test involves the use of medical equipment; whether it is invasive; whether it is designed to reveal the existence of a physical or mental impairment; and whether it is given or interpreted by a medical professional.

2. ADA Standards for Disability-Related Inquiries and Medical Examinations

The ADA regulates disability-related inquiries and medical examinations in the following ways:

- **Before a conditional offer of employment:** The ADA prohibits employers from making disability-related inquiries and conducting medical examinations of applicants before a conditional offer of employment is made.[(15)]

- **After a conditional offer of employment, but before an individual begins working:** The ADA permits employers to make disability-related inquiries and conduct medical examinations if all entering employees in the same job category are subject to the same inquiries and examinations.[(16)]

- ***NOTE: New questions 16-19 below address specific questions about hiring during the COVID-19 pandemic.***

- **During employment:** The ADA prohibits employee disability-related inquiries or medical examinations unless they are job-related and consistent with business necessity. Generally, a disability-related inquiry or medical examination of an employee is job-related and consistent with business necessity when an employer has a reasonable belief, based on objective evidence, that:

    An employee's ability to perform essential job functions will be impaired by a medical condition; or
    An employee will pose a direct threat due to a medical condition.[(17)]

This reasonable belief "must be based on objective evidence obtained, or reasonably available to the employer, prior to making a disability-related inquiry or requiring a medical examination."[(18)]

All information about applicants or employees obtained through disability-related inquiries or medical examinations must be kept **confidential**.[(19)] Information regarding the medical condition or history of an employee must be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record.

B. DIRECT THREAT

A **"direct threat"** is "a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation."[20] If an individual with a disability poses a direct threat despite reasonable accommodation, he or she is not protected by the nondiscrimination provisions of the ADA.

Assessments of whether an employee poses a direct threat in the workplace must be based on objective, factual information, "not on subjective perceptions . . . [or] irrational fears" about a specific disability or disabilities.[21] The EEOC's regulations identify four factors to consider when determining whether an employee poses a direct threat: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that potential harm will occur; and (4) the imminence of the potential harm.[22]

DIRECT THREAT AND PANDEMIC INFLUENZA, COVID-19, AND OTHER PUBLIC HEALTH EMERGENCIES

Direct threat is an important ADA concept during an influenza pandemic.

Whether pandemic influenza rises to the level of a direct threat depends on the severity of the illness. If the CDC or state or local public health authorities determine that the illness is like seasonal influenza or the 2009 spring/summer H1N1 influenza, it would not pose a direct threat or justify disability-related inquiries and medical examinations. By contrast, if the CDC or state or local health authorities determine that pandemic influenza is significantly more severe, it could pose a direct threat. The assessment by the CDC or public health authorities would provide the objective evidence needed for a disability-related inquiry or medical examination.

During a pandemic, employers should rely on the latest CDC and state or local public health assessments. While the EEOC recognizes that public health recommendations may change during a crisis and differ between states, employers are expected to make their best efforts to obtain public health advice that is contemporaneous and appropriate for their location, and to make reasonable assessments of conditions in their workplace based on this information.

*Based on guidance of the CDC and public health authorities as of March 2020, the COVID-19 pandemic meets the direct threat standard. The CDC and public health authorities have acknowledged community spread of COVID-19 in the United States and have issued precautions to slow the spread, such as significant restrictions on public gatherings. In addition, numerous state and local authorities have issued closure orders for businesses, entertainment and sport venues, and schools in order to avoid bringing people together in close quarters due to the risk of contagion. These facts manifestly support a finding that a significant risk of substantial harm would be posed by having someone with COVID-19, or symptoms of it, present in the workplace at the current time. At such time as the CDC and state/local public health authorities revise their

assessment of the spread and severity of COVID-19, that could affect whether a direct

threat still exists.

C. REASONABLE ACCOMMODATION

A **"reasonable accommodation"** is a change in the work environment that allows an individual with a disability to have an equal opportunity to apply for a job, perform a job's essential functions, or enjoy equal benefits and privileges of employment.[(23)]

An accommodation poses an **"undue hardship"** if it results in significant difficulty or expense for the employer, taking into account the nature and cost of the accommodation, the resources available to the employer, and the operation of the employer's business.[(24)] If a particular accommodation would result in an undue hardship, an employer is not required to provide it but still must consider other accommodations that do not pose an undue hardship.[(25)]

Generally, the ADA requires employers to provide reasonable accommodations for known limitations of applicants and employees with disabilities.[(26)]

III. ADA-COMPLIANT EMPLOYER PRACTICES FOR PANDEMIC PREPAREDNESS

The following Questions and Answers are designed to help employers plan how to manage their workforce in an ADA-compliant manner before and during a pandemic.

A. BEFORE A PANDEMIC

HHS advises employers to begin their pandemic planning by identifying a "pandemic coordinator and/or team with defined roles and responsibilities for preparedness and response planning." [(27)] This team should include staff with expertise in all equal employment opportunity laws. [(28)] Employees with disabilities should be included in planning discussions, and employer communications concerning pandemic preparedness should be accessible to employees with disabilities.

When employers begin their pandemic planning, a common ADA-related question is whether they may survey the workforce to identify employees who may be more susceptible to complications from pandemic influenza than most people.

1. Before an influenza pandemic occurs, may an ADA-covered employer ask an employee to disclose if he or she has a compromised immune system or chronic health condition that the CDC says could make him or her more susceptible to complications of influenza?

No. An inquiry asking an employee to disclose a compromised immune system or a chronic health condition is disability-related because the response is likely to disclose the existence of a disability.[(29)] The ADA does not permit such an inquiry in the absence of objective

evidence that pandemic symptoms will cause a direct threat. Such evidence is completely absent before a pandemic occurs.

2. Are there ADA-compliant ways for employers to identify which employees are more likely to be unavailable for work in the event of a pandemic?

Yes. Employers may make inquiries that are not disability-related. An inquiry is not disability-related if it is designed to identify potential non-medical reasons for absence during a pandemic (e.g., curtailed public transportation) on an equal footing with medical reasons (e.g., chronic illnesses that increase the risk of complications). The inquiry should be structured so that the employee gives one answer of "yes" or "no" to the whole question without specifying the factor(s) that apply to him. The answer need not be given anonymously.

Below is a sample ADA-compliant survey that can be given to employees to anticipate absenteeism.

ADA-COMPLIANT PRE-PANDEMIC EMPLOYEE SURVEY

Directions: Answer "yes" to the whole question *without specifying the factor that applies to you*. Simply check "yes" or "no" at the **bottom of the page**.

In the event of a pandemic, would you be unable to come to work because of any one of the following reasons:

- If schools or day-care centers were closed, you would need to care for a child;
- If other services were unavailable, you would need to care for other dependents;
- If public transport were sporadic or unavailable, you would be unable to travel to work; and/or;
- If you or a member of your household fall into one of the categories identified by the CDC as being at high risk for serious complications from the pandemic influenza virus, you would be advised by public health authorities not to come to work (e.g., pregnant women; persons with compromised immune systems due to cancer, HIV, history of organ transplant or other medical conditions; persons less than 65 years of age with underlying chronic conditions; or persons over 65).

Answer: YES_____ , NO_____

3. May an employer require *new entering employees* to have a post-offer medical examination to determine their general health status?

Yes, if all entering employees in the same job category are required to undergo the medical

examination[30] and if the information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record.

Example A: An employer in the international shipping industry implements its pandemic plan when the WHO and the CDC confirm that a pandemic may be imminent because a new influenza virus is infecting people in multiple regions, but not yet in North America. Much of the employer's international business is in the affected regions. The employer announces that, effective immediately, its post-offer medical examinations for all entering international pilots and flight crew will include procedures to identify medical conditions that the CDC associates with an increased risk of complications from influenza. Because the employer gives these medical examinations post-offer to all entering employees in the same job categories, the examinations are ADA-compliant.

4. **May an employer rescind a job offer made to an applicant based on the results of a post-offer medical examination if it reveals that the applicant has a medical condition that puts her at increased risk of complications from influenza?**

No, unless the applicant would pose a direct threat within the meaning of the ADA. A finding of "direct threat" must be based on reasonable medical judgment that relies on the most current medical knowledge and/or the best available evidence such as objective information from the CDC or state or local health authorities. The finding must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job, after considering, among other things, the imminence of the risk; the severity of the harm; and the availability of reasonable accommodations to reduce the risk. Before concluding that an individual poses a direct threat, the employer must determine whether a reasonable accommodation could reduce the risk below the direct threat level.

Example B: The same international shipping employer offers a financial position at its U.S. headquarters to Steve. This position does not involve regular contact with flight crew or travel to the affected WHO region. Steve's post-offer medical examination (which is the same examination given to all U.S. headquarters employees) reveals that Steve has a compromised immune system due to recent cancer treatments. Given the fact that the position does not involve regular contact with flight crew or travel, and that the influenza virus has not spread to North America, Steve would not face a significant risk of contracting the virus at work and does not pose a "direct threat" to himself or others in this position. Under the ADA, it would be discriminatory to rescind Steve's job offer based on the possibility of an influenza pandemic.

B. DURING AN INFLUENZA PANDEMIC

The following questions and answers discuss employer actions when the WHO and the CDC report an influenza pandemic.

5. **May an ADA-covered employer send employees home if they display influenza-like**

symptoms during a pandemic?

Yes. The CDC states that employees who become ill with symptoms of influenza-like illness at work during a pandemic should leave the workplace. Advising such workers to go home is not a disability-related action if the illness is akin to seasonal influenza or the 2009 spring/summer H1N1 virus. Additionally, the action would be permitted under the ADA if the illness were serious enough to pose a direct threat. **Applying this principle to current CDC guidance on COVID-19, this means an employer can send home an employee with COVID-19 or symptoms associated with it.*

6. During a pandemic, how much information may an ADA-covered employer request from employees who report feeling ill at work or who call in sick?

ADA-covered employers may ask such employees if they are experiencing influenza-like symptoms, such as fever or chills <u>and</u> a cough or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.

If pandemic influenza is like seasonal influenza or spring/summer 2009 H1N1, these inquiries are not disability-related. If pandemic influenza becomes severe, the inquiries, even if disability-related, are justified by a reasonable belief based on objective evidence that the severe form of pandemic influenza poses a direct threat.

*Applying this principle to current CDC guidance on COVID-19, employers may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine if they have or may have COVID-19. Currently these symptoms include, for example, fever, chills, cough, shortness of breath, or sore throat.

7. During a pandemic, may an ADA-covered employer take its employees' temperatures to determine whether they have a fever?

Generally, measuring an employee's body temperature is a medical examination. If pandemic influenza symptoms become more severe than the seasonal flu or the H1N1 virus in the spring/summer of 2009, or if pandemic influenza becomes widespread in the community as assessed by state or local health authorities or the CDC, then employers may measure employees' body temperature.

However, employers should be aware that some people with influenza, including the 2009 H1N1 virus **or COVID-19*, do not have a fever.

*Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions as of March 2020, employers may measure employees' body temperature. As with all medical information, the fact that an employee had a fever or other symptoms would be subject to ADA confidentiality requirements.

8. When an employee returns from travel during a pandemic, must an employer wait until

the employee develops influenza symptoms to ask questions about exposure to pandemic influenza during the trip?

No. These would not be disability-related inquiries. If the CDC or state or local public health officials recommend that people who visit specified locations remain at home for several days until it is clear they do not have pandemic influenza symptoms, an employer may ask whether employees are returning from these locations, even if the travel was personal.[(31)]

*Similarly, with respect to the current COVID-19 pandemic, employers may follow the advice of the CDC and state/local public health authorities regarding information needed to permit an employee's return to the workplace after visiting a specified location, whether for business or personal reasons.

9. During a pandemic, may an ADA-covered employer ask employees _who do not have influenza symptoms_ to disclose whether they have a medical condition that the CDC says could make them especially vulnerable to influenza complications?

No. If pandemic influenza is like seasonal influenza or the H1N1 virus in the spring/summer of 2009, making disability-related inquiries or requiring medical examinations of employees _without_ symptoms is prohibited by the ADA.[(32)] However, under these conditions, employers should allow employees who experience flu-like symptoms to stay at home, which will benefit all employees including those who may be at increased risk of developing complications.[(33)]

If an employee voluntarily discloses (without a disability-related inquiry) that he has a specific medical condition or disability that puts him or her at increased risk of influenza complications, the employer must keep this information confidential. The employer may ask him to describe the type of assistance he thinks will be needed (e.g. telework or leave for a medical appointment). Employers should not assume that all disabilities increase the risk of influenza complications. Many disabilities do not increase this risk _(e.g._ vision or mobility disabilities).

If an influenza pandemic becomes more severe or serious according to the assessment of local, state or federal public health officials, ADA-covered employers may have sufficient objective information from public health advisories to reasonably conclude that employees will face a direct threat if they contract pandemic influenza.[(34)] Only in this circumstance may ADA-covered employers make disability-related inquiries or require medical examinations of asymptomatic employees to identify those at higher risk of influenza complications.

10. May an employer encourage employees to telework (i.e., work from an alternative location such as home) as an infection-control strategy during a pandemic?

Yes. Telework is an effective infection-control strategy that is also familiar to ADA-covered employers as a reasonable accommodation.[(35)]

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.

11. During a pandemic, may an employer require its employees to adopt infection-control practices, such as regular hand washing, at the workplace?

Yes. Requiring infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal, does not implicate the ADA.

12. During a pandemic, may an employer require its employees to wear personal protective equipment (e.g., face masks, gloves, or gowns) designed to reduce the transmission of pandemic infection?

Yes. An employer may require employees to wear personal protective equipment during a pandemic. However, where an employee with a disability needs a related reasonable accommodation under the ADA (e.g., non-latex gloves, or gowns designed for individuals who use wheelchairs), the employer should provide these, absent undue hardship.

13. May an employer covered by the ADA and Title VII of the Civil Rights Act of 1964 compel all of its employees to take the influenza vaccine regardless of their medical conditions or their religious beliefs during a pandemic?

No. An employee may be entitled to an exemption from a mandatory vaccination requirement based on an ADA disability that prevents him from taking the influenza vaccine. This would be a reasonable accommodation barring undue hardship (significant difficulty or expense). Similarly, under Title VII of the Civil Rights Act of 1964, once an employer receives notice that an employee's sincerely held religious belief, practice, or observance prevents him from taking the influenza vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship as defined by Title VII ("more than de minimis cost" to the operation of the employer's business, which is a lower standard than under the ADA).[36]

Generally, ADA-covered employers should consider simply encouraging employees to get the influenza vaccine rather than requiring them to take it. *__As of the date this document is being issued, there is no vaccine available for COVID-19.__

14. During a pandemic, must an employer continue to provide reasonable accommodations for employees with known disabilities that are unrelated to the pandemic, barring undue hardship?

Yes. An employer's ADA responsibilities to individuals with disabilities continue during an influenza pandemic. Only when an employer can demonstrate that a person with a disability poses a direct threat, even after reasonable accommodation, can it lawfully exclude him from employment or employment-related activities.

If an employee with a disability needs the same reasonable accommodation at a telework site

that he had at the workplace, the employer should provide that accommodation, absent undue hardship. In the event of undue hardship, the employer and employee should cooperate to identify an alternative reasonable accommodation.

Example C: An accountant with low vision has a screen-reader on her office computer as a reasonable accommodation. In preparation for telework during a pandemic or other emergency event, the employer issues notebook computers to all accountants. In accordance with the ADA, the employer provides the accountant with a notebook computer that has a screen-reader installed.

All employees with disabilities whose responsibilities include management during a pandemic must receive reasonable accommodations necessitated by pandemic conditions, unless undue hardship is established.

Example D: A manager in a marketing firm has a hearing disability. A sign language interpreter facilitates her communication with other employees at the office during meetings and trainings. Before the pandemic, the employer decided to provide video phone equipment and video relay software for her at home to use for emergency business consultations. (Video relay services allow deaf and hearing impaired individuals to communicate by telephone through a sign language interpreter by placing a video relay call.[(37)]) During an influenza pandemic, this manager also is part of the employer's emergency response team. When she works from home during the pandemic, she uses the video relay services to participate in daily management and staff conference calls necessary to keep the firm operational.

*The rapid spread of COVID-19 has disrupted normal work routines and may have resulted in unexpected or increased requests for reasonable accommodation. Although employers and employees should address these requests as soon as possible, the extraordinary circumstances of the COVID-19 pandemic may result in delay in discussing requests and in providing accommodation where warranted. Employers and employees are encouraged to use interim solutions to enable employees to keep working as much as possible.

15. During a pandemic, may an employer ask an employee why he or she has been absent from work if the employer suspects it is for a medical reason?

Yes. Asking why an individual did not report to work is not a disability-related inquiry. An employer is always entitled to know why an employee has not reported for work.

Example E: During an influenza pandemic, an employer directs a supervisor to contact an employee who has not reported to work for five business days without explanation. The supervisor asks this employee why he is absent and when he will return to work. The supervisor's inquiry is not a disability-related inquiry under the ADA.

*HIRING DURING THE COVID-19 PANDEMIC

*16. If an employer is hiring, may it screen applicants for symptoms of COVID-19?

*Yes. An employer may screen job applicants for symptoms of COVID-19 after making a conditional job offer, as long as it does so for all entering employees in the same type of job. This ADA rule allowing post-offer (but not pre-offer) medical inquiries and exams applies to all applicants, whether or not the applicant has a disability.

*17. May an employer take an applicant's temperature as part of a post-offer, pre-employment medical exam?

*Yes. Any medical exams are permitted after an employer has made a conditional offer of employment. However, employers should be aware that some people with COVID-19 do not have a fever.

*18. May an employer delay the start date of an applicant who has COVID-19 or symptoms associated with it?

*Yes. According to current CDC guidance, an individual who has COVID-19 or symptoms associated with it should not be in the workplace.

*CDC has issued guidance applicable to all workplaces generally, but also has issued more specific guidance for particular types of workplaces (e.g. health care employees). Guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, employers should continue to follow the most current information on maintaining workplace safety. To repeat: the ADA does not interfere with employers following recommendations of the CDC or public health authorities, and employers should feel free to do so.

*19. May an employer withdraw a job offer when it needs the applicant to start immediately but the individual has COVID-19 or symptoms of it?

*Based on current CDC guidance, this individual cannot safely enter the workplace, and therefore the employer may withdraw the job offer.

C. AFTER A PANDEMIC

20. May an ADA-covered employer require employees who have been away from the workplace during a pandemic to provide a doctor's note certifying fitness to return to work?

Yes. Such inquiries are permitted under the ADA either because they would not be disability-related or, if the pandemic influenza 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 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.

IV. EEOC AND RELATED RESOURCES

Employers are encouraged to consult the following EEOC publications for further information about the Americans with Disabilities Act, as well as other agency materials regarding COVID-19.

- **Disability-Related Inquiries and Medical Examinations**:
  - *Disability-Related Inquiries & Medical Examinations of Employees Under the ADA* (2000) at https://www.eeoc.gov/policy/docs/guidance-inquiries.html;
  - *Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures* (2001) at https://www.eeoc.gov/facts/evacuation.html;
  - Enforcement Guidance: *Preemployment Disability-Related Questions & Medical Examinations* (1995) at https://www.eeoc.gov/policy/docs/preemp.html.
- **Reasonable Accommodation and Undue Hardship**: Enforcement Guidance: *Reasonable Accommodation and Undue Hardship under the ADA* (as revised 2002) at https://www.eeoc.gov/policy/docs/accommodation.html.
- **Telework as a Reasonable Accommodation**: *Work at Home/Telework as a Reasonable Accommodation* (2003) at https://www.eeoc.gov/facts/telework.html.
- **Centers for Disease Prevention and Control:** **www.cdc.gov**
  - **CDC Guidance for Employers and Workplaces on COVID-19:** **https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html**
- **U.S. Department of Labor**
  - **Occupational Safety and Health Administration https://www.osha.gov/**

    "Preparing Workplaces for COVID-19," https://www.osha.gov/Publications/OSHA3990.pdf
  - **Wage and Hour Division**

    "COVID-19 or Other Public Health Emergencies and the Family and Medical Leave Act" https://www.dol.gov/agencies/whd/fmla/pandemic

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Endnotes

1. 42 U.S.C. §§ 12111–12117, 12201–12213. EEOC is revising its ADA regulations to comply with the ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, which was effective on January 1, 2009. 74 Fed.Reg. 48,431 (Sept. 23, 2009). While the Amendments expand ADA coverage, they do not change the ADA requirements concerning disability-related inquiries and medical examinations; the requirement of reasonable accommodation barring undue hardship; or the analysis of direct threat.

2. An "epidemic" is an outbreak of disease that occurs suddenly in numbers significantly greater than normal,

but which spreads only within communities, states, or a limited number of countries. http://www.flu.gov/glossary/#E. Such an outbreak usually occurs when a pathogen mutates, allowing it to evade the human immune system. http://www.flu.gov/individualfamily/about/index.html.

3. U.S. Dep't of Health & Human Servs., Pandemics and Pandemic Scares of the 20th Century, http://www.hhs.gov/nvpo/pandemics/flu3.htm (last visited Sept. 22, 2009). The most severe influenza pandemic in the last century was the Spanish Flu Pandemic of 1918-1919, which killed 675,000 people in the United States and 50 million people worldwide at the end of World War I. The Spanish Flu targeted young, healthy adults and was often fatal within a few days. This virus caused the immune system to attack the respiratory system, which explains why young adults with vigorous immune systems were especially vulnerable. David M. Morens & Jeffery K. Taubenberger, *1918 Influenza: The Mother of all Pandemics*, 12 Emerging Infections Diseases 15 (2006), http://www.cdc.gov/ncidod/EID/vol12no01/05-0979.htm.

4. *World facing global A(H1N1) flu pandemic, announces UN health agency*, UN News Service, June 11, 2009, http://www.un.org/apps/news/story.asp?NewsID=31106&Cr=h1n1&Cr1 (also noting that H1N1 tends to infect people under 25 years old, with approximately two percent of cases resulting in severe or life-threatening symptoms).

5. The WHO defines the following specific pandemic phases worldwide:

- **Phase 1**: No new influenza virus subtypes have been detected in humans. An influenza virus subtype that has caused human infection may be present in animals. If present in animals, the risk of human disease is considered to be low.
- **Phase 2**. No new influenza virus subtypes have been detected in humans. However, a circulating animal influenza virus subtype poses a substantial risk of human disease.
- **Phase 3**. Human infection with a new subtype, but no human-to-human spread, or at most rare instances of spread to a close contact.
- **Phase 4**. Small cluster(s) with limited human-to-human transmission but spread is highly localized, suggesting that the virus is not well adapted to humans.
- **Phase 5**. Larger cluster(s) but human-to-human spread of the virus still localized, suggesting that the virus is becoming increasingly better adapted to humans, but may not yet be fully transmissible (substantial pandemic risk).
- **Phase 6**. Pandemic phase: increased and sustained transmission in general population.

6. *See* Ctrs. for Disease Control & Prevention, Guidance for Businesses and Employers to Plan and Respond to the 2009-2010 Influenza Season (2009), http://www.pandemicflu.gov/professional/business/guidance.pdf; Ctrs. for Disease Control & Prevention, Resources for Businesses and Employers – COVID-19, https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html.

7. 42 U.S.C. § 12112(d)(4)(A); *Conroy v. New York State Dep't of Corr. Servs*., 333 F.3d 88, 94-95 (2d Cir. 2003); *Fredenburg v. Contra Costa County Dep't of Health Servs*., 172 F. 3d 1176, 1182 (9th Cir. 1999); *Roe v. Cheyenne Mountain Conference Resort, Inc*., 124 F.3d 1221, 1229 (10th Cir. 1997)*; see also* Equal Employment Opportunity Comm'n, Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations § B.1 (1995), https://www.eeoc.gov/policy/docs/preemp.html.

8. 42 U.S.C. §§ 12111(3), (8); 29 C.F.R. §§ 1630.2(r), 1630.15(b)(2).

9. 42 U.S.C. § 12112(b)(5); *see also* § 12111(3); 29 C.F.R. § 1630.2(r).

10. These ADA standards apply to federal sector complaints of non-affirmative action employment discrimination arising under section 501 of the Rehabilitation Act of 1973. 29 U.S.C. § 791(g) (1994). It also applies to complaints of non-affirmative action employment discrimination arising under section 503 and employment discrimination under section 504 of the Rehabilitation Act. 29 U.S.C. §§ 793(d), 794(d) (1994).

11. 42 U.S.C. § 12112(d). Equal Employment Opportunity Comm'n, Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, § B of "General Principles" (2000), https://www.eeoc.gov/policy/docs/guidance-inquiries.html#4 [hereinafter Inquiries and Exams].

12. Inquiries and Exams, *supra* note 11, at § B.1 of "General Principles." *See also Conroy*, 333 F.3d at 95-96 (citing ADA and relevant EEOC guidance and holding that an employer's request for a "general diagnosis" from employees returning from sick leave absence is a disability-related inquiry regulated by the ADA because it "tend[ed] to reveal a disability").

13. *See* Am. Cancer Soc'y, Should Cancer Patients Get a Flu Shot? (Oct. 17, 2008), http://www.cancer.org/docroot/ETO/content/ETO_1_2x_Should_Cancer_Patients_Get_A_Flu_Shot.asp (noting that "[i]t is common for people during cancer treatment to have weakened immune systems"); *see also* Ctrs. for Disease Control & Prevention, Basic AIDS/HIV Information (Sept. 3, 2008), http://www.cdc.gov/hiv/topics/basic/ (reporting that "HIV . . . attacks the immune system . . .[and] [h]aving AIDS means that the virus has weakened the immune system").

14. Inquiries and Exams, *supra* note 11, at § B.2 of "General Principles."

15. 42 U.S.C. § 12112(d)(2)(A).

16. 42 U.S.C. § 12112(d)(3)(A); *see also* 29 C.F.R. § 1630.14(b).

17. Inquiries and Exams, *supra* note 11, at § A.5 of "Job-Related and Consistent with Business Necessity;" *see also Conroy*,333 F.3d at 97.

18. *See* Inquiries and Exams, *supra* note 11, at § A.5 of "Job-Related and Consistent with Business Necessity."

19. Medical information on employees or applicants is confidential with the following exceptions: (1)supervisor[s] and managers may be told about necessary restrictions on work duties and about necessary accommodations; (2) first aid and safety personnel may be told if the disability might require emergency treatment; (3) government officials may access the information when investigating compliance with the ADA; (4) employers may give information to state workers' compensation offices, state second injury funds, or workers' compensation insurance carriers in accordance with state workers' compensation laws; and (5) employers may use the information for insurance purposes. 29 C.F.R. §§ 1630.14(b)(1)(i)–(iii), (c)(1)(i)–(iii); 29 C.F.R. pt. 1630 app. § 1630.14(b).

20. 29 C.F.R. § 1630.2(r).

21. *Id.*; 29 C.F.R. pt. 1630 app. § 1630.2(r).

22. *Id.*

23. 29 C.F.R. pt. 1630 app. § 1630.2(o); *see also U.S. Airways, Inc. v. Barnett*, 535 U.S. 391, 416 (2002) (citing the Appendix).

24. 42 U.S.C. § 12111(10); *see also* 29 C.F.R. § 1630.2(p) (including factors to consider when determining undue hardship); 29 C.F.R. pt. 1630 app. § 1630.2(p) (providing a more detailed analysis and examples of where a requested reasonable accommodation would pose an undue hardship).

25. 42 U.S.C. § 12112(b)(5)(A); *see also* Equal Employment Opportunity Comm'n, Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act (2002), https://www.eeoc.gov/policy/docs/accommodation.html#undue [hereinafter Reasonable Accommodation Guidance].

26. 42 U.S.C. § 12112(b)(5)(A).

27. *See* U.S. Dep't of Health and Human Servs., Business Pandemic Influenza Planning Checklist: Item 1.1, http://www.pandemicflu.gov/professional/business/businesschecklist.html (last visited Sept. 22, 2009).

28. *See* Job Accommodation Network,Considering the Needs of Employees with Disabilities During a Pandemic Flu Outbreak (2009), http://www.jan.wvu.edu/media/employmentpandemicflufact.doc (the Job Accommodation Network is a service of the U.S Department of Labor's Office of Disability Employment Policy).

29. Inquiries and Exams, *supra* note 11, at § B.1, "General Principles."

30. 42 U.S.C. § 12112(d)(3).

31. *See infra* Q & A 16 for a discussion of when an employer may require a medical release as a condition of returning to work.

32. Asking employees if they are immuno-compromised or have a chronic condition is a disability-related inquiry subject to the ADA's restrictions. When pandemic influenza symptoms only resemble those of seasonal influenza, they do not provide an objective basis for a "reasonable belief" that employees will face a direct threat if they become ill. Therefore, they do not justify disability-related inquiries or medical examinations.

33. *See also* Ctrs. for Disease Control, *supra* note 5, at 7. ADA-covered employers may receive requests for reasonable accommodation from individuals with disabilities that place them at risk of influenza complications.

34. *Id.* at 10–11.

35. Telework (i.e., working from an alternative location) is an example of "social distancing," which public health authorities may require in the event of a pandemic. "Social distancing" reduces physical contact between people to minimize disease transmission by, for example, avoiding hand-shakes and keeping a distance from others in public places. Other social distancing practices that may be implemented during a pandemic include: "closing schools; canceling public gatherings; planning for liberal work leave policies; . . . voluntary isolation of [pandemic infection] cases; and voluntary quarantine of household contacts." Ctrs. for

Disease Control & Prevention, Pandemic Influenza Mitigation, http://flu.gov/professional/community/mitigation.html (last visited Sept. 22, 2009). Employees with disabilities may request telework as a reasonable accommodation, even if the employer does not have a policy allowing it. *See* Equal Employment Opportunity Comm'n, Work at Home/Telework as a Reasonable Accommodation (Oct 27, 2005), https://www.eeoc.gov/facts/telework.html.

36. Equal Employment Opportunity Comm'n, EEOC Compliance Manual Section 12: Religious Discrimination 56-65 (2008), https://www.eeoc.gov/policy/docs/religion.pdf.

37. For general information about video relay service, see Fed. Commc'ns Comm'n, Video Relay Services (Oct. 21, 2008), http://www.fcc.gov/cgb/consumerfacts/videorelay.html.

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TRENDS AND INNOVATION

Small Business Return to Work Checklist for when COVID-19 Restrictions Ease

SPARK   **by Spark Team**

In addition to consulting this checklist, business owners and managers should follow the guidance of local authorites in preparation for safe and compliant business operations.

Some states have announced plans to ease restrictions that were placed on businesses and individuals as a result of the COVID-19 global health crisis. Regardless of whether your business is located in one of these states, you're probably starting to wonder what steps you will need to take in order to safely reintroduce employees back into the workplace.

Here are some key factors to consider:

Review official guidance.

Read and make sure you understand applicable federal, state, and local orders, directives, and guidelines, including information from **OSHA** and the **CDC**. These may include specific steps that businesses must take before resuming operations, and some may be industry and location-specific. The return to work process will likely occur in phases with certain types of businesses permitted to resume limited operations before others are allowed to do so. If conflicts exist among directives and guidelines, consider consulting legal counsel.

Independently assess your situation.

Even where employers are permitted to allow employees back into the workplace, employers should independently assess whether it is safe to do so, including whether social distancing can be maintained. Employers may also want

COVID-19 testing will also need to evaluate which type of test to use, who will perform it, how it will be administered, and the implications of various testing protocols, consulting local health officials when assessing the different options. Employers should also ensure consistency in applying their screening procedures to applicants and employees. In addition, make sure to treat screening results as confidential medical records.

Determine whether screening is subject to ADA rules.

Many screening practices would be considered medical examinations and therefore subject to certain rules under the Americans with Disabilities Act (ADA) and similar state laws. Generally, medical examinations must be job-related and consistent with business necessity, meaning an employer would need to conduct a medical exam because they have a reasonable belief that: an employee's ability to perform essential job functions will be impaired by a medical condition; or an employee will pose a direct threat due to a medical condition.

Note: As of March 2020, the COVID-19 pandemic has met the direct-threat standard referred to above, according to the **U.S. Equal Employment Opportunity Commission** (EEOC). If the CDC and state/local public health officials revise their assessment of the spread and severity of COVID-19, that could affect whether a direct threat still exists and whether screening would be permissible. This means that guidance may shift as the crisis recedes, so employers should consider consulting legal counsel before implementing screening protocols.

Maintain social distancing.

Consider steps to maintain at least six-feet between individuals in the workplace, adjusting the work environment and office norms if necessary. Options include but aren't limited to:

- Allowing employees to telework whenever possible;

- Offering flexible work hours and staggered start-times and shifts;

- Increasing physical space between employees at the worksite (for example, opening every other cash register);

- Putting up partitions between employees;

- Increasing physical space between employees and customers through physical barriers and/or demarcating six-foot intervals;

- Postponing non-essential meetings or events;

- Discouraging sharing tools and equipment and food and drinks; and

- Restricting visitors in the workplace.

Designate a safety lead.

Consider designating a point person responsible for workplace safety during the COVID-19 pandemic and ensure compliance with federal and state occupational safety and health requirements. Make sure employees feel safe about returning to work. Tell them what steps you have taken to protect them and whom they can contact if they have concerns.

Train employees to practice good hygiene.

Train employees on safety protocols and widely communicate ways to practice good hygiene, including the following:

- Wash hands often with soap and warm water for at least 20 seconds.

- Avoid touching your eyes, nose, and mouth.

- Clean frequently touched surfaces (like doorknobs and countertops) with household cleaning spray or wipes.

- Cover coughs and sneezes with a tissue or the inside of the elbow.

- Stay home when feeling sick.

Thoroughly sanitize the workplace.

Consider more frequent cleaning and implement sanitary practices, including the following:

- Disinfect and clean the workplace regularly.

- Maintain and adjust HVAC systems and increase ventilation.

- Provide tissues and no-touch disposal receptacles.

- Provide soap and water in the workplace.

shields, respirators, or other protective equipment. Employers should ensure employees comply in the workplace, if applicable. Also consider training employees on how to properly use protective equipment.

Note: Depending on the job and the circumstances, employers may also be required to provide protective equipment under existing federal and state occupational safety and health regulations.

Require notice of potential exposure.

Employers may ask employees to notify them if they've been in contact with someone who has COVID-19. Also, at this time, the CDC is recommending that people who are close to someone with COVID-19, and develop symptoms of the virus, self-quarantine for at least 14 days. Spell out any notification rules or guidelines in a written policy and continue to monitor guidelines for any changes in notification protocols.

Prepare for potential employee concerns.

Employees may have concerns about returning to work during the pandemic. Employees who refuse to report to work may have protections from adverse action. For example, under the Occupational Safety and Health Act, employees may have the right to refuse to work if **all** of the following conditions are met:

- Where possible, they have asked the employer to eliminate the danger, and the employer failed to do so;

- They genuinely believe that an imminent danger exists;

- A reasonable person would agree that there is a real danger of death or serious injury; and

- There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

Section 7 of the National Labor Relations Act (NLRA), which grants employees the right to act together to improve wages and working conditions, may also come into play in this situation.

Comply with rehire requirements.

Make sure all decisions related to hiring employees are neutral and job-related, and not based on protected characteristics, such as age, race, pregnancy or other factors unrelated to the job. If applicable, send "rehire" letters, provide wage payment notices, and furnish other onboarding paperwork to employees who were previously furloughed or laid off. Also evaluate implications on employee benefit plans and whether notices or contribution

even when the crisis begins to recede. For instance, if an employee works for an employer with fewer than 500 employees and is unable to work because their child's school is still closed, they would be entitled to paid leave under the federal **Families First Coronavirus Response Act**. Review policies, procedures, and supervisor training to ensure compliance with applicable federal, state, and local rules on leave.

Provide reasonable accommodations.

The ADA and similar state laws require employers to provide reasonable accommodations to individuals with disabilities, unless doing so would impose an undue hardship on the employer. An employee with a disability that puts them at high risk for complications from COVID-19 may request a reasonable accommodation to reduce their chances of infection, such as asking to telework, for personal protective equipment, or for paid or unpaid leave if their job isn't conducive to telework. Additionally, if the employer requires employees to wear protective equipment, an employee with a disability may ask for an accommodation if they are unable to comply because of their disability. Prepare to respond to such requests in compliance with applicable laws.

Develop protocols for symptomatic employees.

Develop procedures for situations in which an employee is showing symptoms of COVID-19 in the workplace. If an employee shows symptoms, separate them from other employees, send them home immediately, and direct them to speak with their doctor. Additionally, notify other employees of possible exposure. When informing other employees, maintain confidentiality and don't reveal who had the symptoms. In addition, establish and communicate protocols for returning to work after being symptomatic, following CDC guidelines and applicable laws.

Conclusion & Resources

Each workplace is different, so develop a plan for returning to work that is tailored to your particular circumstances, follows applicable guidelines, and ensures safety for your employees, customers, and clients. Guidelines for returning to work continue to evolve; continue to monitor our **Small Business COVID-19 Resource Center** for updates.

Get customizable email templates and in-depth information on direct deposit, recent legislation and other valuable topics in the **COVID-19 Employee Communications Toolkit**.

This article was originally published as an "ADP HR Tip of the Week" which is a communication created for ADP's **small business** clients.

Tags: **Trends and Innovation**   **Workplace Safety and Security**   **Risk and Compliance**   **Small Business Articles**

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THE

Marketing Manager Playbook

Resources For Data-driven Marketers

Table of Contents

The importance of data-driven decisions

Marketing has evolved. Gone are the days of gut decisions and hoping for the best. Now, we have a new weapon in our arsenal—data. Today, we have the information to make powerful data-driven decisions, target campaigns to segmented audiences, and create content based on what we know consumers love.

We created this marketing manager playbook to help you put information at the heart of your marketing strategy. Below, you'll find tips, templates, cheat sheets, and downloads to help you manage your day-to-day information more efficiently. Let's get started!

> " Data will define the future of marketing—arming us all with powerful, actionable insights. With every marketer being an analyst in their own right. The skill will be balancing that with creativity. So that the analytics don't outweigh the idea, but amplify it into something more effective. It'll be a fine line to walk, but the truly imaginative, data-driven professionals, will be the master marketers of tomorrow."

Dan Seavers
Content Marketing Manager
Talkwalker

HubSpot | Talkwalker

Evaluate

Before you can plan for the future, you have to take a look at the past. This means taking stock of your existing data by integrating it into one solution. One of the biggest issues facing marketers today are data silos—segmented information across your company. 47 percent of marketers suffer from siloed and difficult to access data. With so many potential customer touchpoints available, managed across several tools, teams end up divided as they rely on different sources of information.

WHAT DOES THIS MEAN?

A complete solution enables all your users to work off the same playsheet, helping you align business KPIs and follow a united company vision.

Once you identify the solution, analyze your marketing materials to start gathering relevant information. The types of sources you need to include are:

- Social media
- Owned data (CRM, sales, customer service)
- Business impact metrics
- Website analytics
- Broadcast and print mentions
- Online mentions
- Product reviews
- Consumer analysis
- Marketing KPIs

This list goes on, including that which is relevant for your specific company or industry. Your audit should evaluate all the channels you use, the association information, and the processes you have in place to track it.

TALKWALKER'S CONSUMER BEHAVIOR AUDIT

A consumer behavior audit is an effective analytical tool that will demonstrate how consumers interact with your brand. With this behavioral data you'll be equipped to identify consumer insights and create a personalized purchasing experience for your customers. Insights will give you answers to the following questions...

- Is your marketing strategy addressing their pain-points?

- Are your competitors engaging consumers more efficiently?

- How is your brand perceived in your marketplace?

An ongoing analysis of consumer purchasing behavior will enable marketing teams to target strategies and increase revenue.

This consumer behavior analysis template includes SWOT and PEST analysis. How to examine factors that occur outside your organization with the potential to impact your business. It will reveal challenges and opportunities to improve your marketing strategy. With this data, you'll be able to answer the all important question, "What is the current marketing situation?"

HUBSPOT'S MAKE MY PERSONA TEMPLATE

When building your marketing strategy, it's important to know your customer—their pain points, what makes them nervous, what relieves them, and what helps them do their work or overcome problems. You want to know who they are, what they're dealing with, where they are in their career. That's where buyer personas come in.

Making personas for your customers is critical to your marketing strategy. It's important to know who you're talking to before you put your marketing efforts out into the world. Targeted marketing starts with personas, and having your personas in mind during campaign creation will put you on the path to success. What does the ideal buyer look like for your product or service? What do they care about? What are their goals? Answering these questions means putting in some customer research and making some data driven decisions. The Make My Persona template is a perfect place to start.

HUBSPOT'S CUSTOMER JOURNEY MAP TEMPLATE

Customer journey maps are an outline of a customer's experience and how your product incorporates into their lives. These templates will help you track how your brand is converting consumers into satisfied customers, highlighting the missing content that you need to improve your nurturing process, to maximize sales and ROI.

If you don't know your customer's journey, it's possible you're out of touch with the demographics and psychographics of your customers. Creating a customer journey map is the next step after getting your buyer personas set up. This will help you set up targeted ad campaigns, understand where people are in their buyer's journey, and what their goals are. It will also make sure that you're on the same page with your marketing channel owners, and your sales team. You'll be able to outline each touchpoint and see where you're delivering value, and where you can be more helpful to a prospect.

Analyze

Next step, analyze. Once you've amassed your data, you need to turn it into insights—valuable information that you can turn into action. These insights could be minimal, maybe there's a social channel that your competitors are using effectively that you're not. It could also be strategy changing—you may identify an issue driving conversations across all media that you're not tackling. This leads to new content and new direction.

The key is taking advantage of the insights that you've gathered. 80% of customer data is untouched. Whether that's because of silos, or the inability to handle big data effectively, that still means that marketers are making decisions based on only 20% of their brand picture.

Data-driven marketers are not just collecting data. They're analyzing it, interpreting it, and ultimately, using it for the benefit of their customers and their brand.

TALKWALKER'S GUIDE TO THE 9 BIGGEST SOCIAL MEDIA STRATEGY PROBLEMS (AND HOW TO FIX THEM)

Sometimes, it's easy to identify a problem. Finding the solution, however, is not as easy. That's why Talkwalker has defined the 9 biggest problems Marketing Managers face that can sink a brand's social media strategy, plus inspiration on how to stay afloat. Lacking engagement, struggling to convert, being unable to measure content ROI are the issues that plague the industry. Jump into this guide to find out whether you're seeing these issues, and how to get past them.

This guide starts with the obvious - but, often ignored - exercise of analyzing your marketing activities for the previous year. Highlighting your successes, and more importantly, your failures. Surely we want to move on from our failures? Yes, you do. But, you can learn so much from them, and use this knowledge to improve future campaigns.

- Solutions to the following issues, and more, are included in this guide...

- My content isn't engaging my audience

- I'm publishing content regularly, but it isn't bringing conversions

- Our share of voice in the industry is less than our competitors

- I don't know how to prove the ROI of my campaigns to the board

HUBSPOT'S DATA DRIVEN MARKETER'S GUIDE AND TEMPLATES FOR ANALYTICS AND REPORTING AUTOMATION

Analytics are the core of data driven marketing, but it can be difficult to figure out what you should be tracking, what these numbers mean, and how to iterate on them and grow your marketing audience. This guide helps you decide which metrics to monitor for your brand, which ones will help illuminate what you can improve on, and the metrics that your managers are going to want to check in on.

In this guide, we'll talk about the difference between reporting and analysis, and hook you up with the tools you need to do your best work. You'll get two templates that focus on sales funnel reporting and email performance reporting that you can put to use right away. You'll also get introduced to several data visualization tools that will help you get your reporting set up squared away.

Strategize

Businesses with data-driven strategies drive up to eight times more ROI. More data leads to more action, which leads to more revenue. Now that you've analyzed and understood your customers and their needs through analytics, you can move forward in building your strategy.

Your marketing strategy is going to influence all of your campaign performance. Setting SMART goals, making sure you're targeting the right people, and finding out the content your audience values, will get you off the ground running. Use the templates and guides below to plan out your strategy, find your goals, and start growing your audience.

TALKWALKER'S CONTENT STRATEGY TEMPLATE

Your content strategy should be at the heart of your marketing—especially once you're designing it with data in mind. Each piece must have identifiable target markets and goals, solving a specific problem for your audience members, to drive that additional revenue.

Maximize the impact of your content with the following content strategy templates. They will fuel your team with the time, data, and creativity to build a successful content strategy…

- Marketing team KPIs - identify the goal of your content

- Buyer persona template - find your ideal customer

- Project brief template - set strategy goals, identify audience, allocate roles, determine budget

- Content strategy worksheet - examine customers, competitors, and current content

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HUBSPOT'S GUIDE TO DETERMINING YOUR SMART MARKETING GOALS

When planning your strategy, how will you know it's working? It all comes down to your goals. Goals have to be set, monitored, and reported on to measure the success of your marketing campaigns. SMART goals are concrete targets that you strive to achieve over a certain period of time. These goals should be carefully drafted by a manager and their direct report to set them up for success. "SMART" is an acronym that describes the most important characteristics of each goal. S.M.A.R.T. stands for:

S Specific

M Measurable

A Attainable

R Relevant

T Time-bound

This worksheet template defines, calculates, and evaluates the SMART goals for your business.

Monitor

Next, it's all about measurement. A data-driven strategy often relies on well-informed metrics to measure success. That can even mean different metrics used at different levels of the business.

Instead of measuring only engagement, for example, social media managers need to think about measuring how many questions they answered, how many tickets they moved away from their support team's queue, and how many interactions they've had that have developed into a successful sales call, or a sale. This type of monitoring allows marketers to see the whole picture, and how it ties into overall business goals.

Below, we'll talk about finding which metrics you should measure, and how to do that easily and effectively.

TALKWALKER'S REPORT ON THE METRICS THAT MATTER

Which are the metrics that you should be monitoring to quantify the success of your marketing campaigns? Talkwalker interviewed some of the world's leading analytics experts to identify the key metrics that leading marketers should measure. This 12-step guide will help you track your strategy effectively, while providing real results that you can present to your C-suite. Experts include:

Dr Jillian Ney

The Social Intelligence Lab

Moving away from vanity metrics, towards behavioral insights from social data

Mireille Ryan

Social Media Marketing Institute

Measuring conversion rate provides intelligence on content performance

Jesper Andersen

Quantum PR Measurement

Stop measuring video in terms of views, and start looking at number of minutes watched

HUBSPOT'S ESSENTIAL KPI TRACKING SPREADSHEET

Determining the right key performance indicators (KPIs) for your organization is an important step toward measuring a campaign's success. These KPIs may change over time—keep going through your strategy quarterly to make sure that you're tracking the right numbers. This template will help you track the metrics you've identified, so you can focus on your S.M.A.R.T. goals.

This template comes with an instructional Excel page, so you can feel empowered and ready to jump into Excel and track how you are doing against your goals. Everything's in one place, so you'll never feel numbers fatigue.

Report

Finally, you need to report your results effectively. Keep your report succinct and to the point, remembering to provide insights and analysis to the numbers.

TALKWALKER'S SAMPLE MARKETING REPORT

What should go into a marketing report? Talkwalker created a simulated report to show you just what you can include in your monthly marketing. This template includes:

- The types of visualizations you can use to present results effectively.

- The insights you should include for easy interpretation.

- The takeaways that will help grow your strategy month to month.

HUBSPOT'S MONTHLY MARKETING REPORT TEMPLATES

Reporting can be one of the most tedious parts of a marketer's job, but it's also one of the most critical. To make your reporting easier, we've created a template complete with an Excel spreadsheet and PowerPoint deck, so you don't have to start from scratch. Using this template should make your monthly reporting much faster, so you can get back to driving results. Simply fill out the form on this page to start using these templates.

Marketing Specialties

Data-driven decisions are also made in marketing specialities. We've included some resources for the more specialized roles in the industry:

Content Marketing

TALKWALKER'S DIGITAL CONTENT AUDIT

With all the potential streams of content you and your team could be monitoring, it can be hard to track them effectively. Are you missing a vital channel? Talkwalker's digital content audit helps you identify all the channels you could be using, from social, to web, to image recognition and more, with hints on the metrics you should be monitoring for each.

HUBSPOT'S FREE BLOG POST TEMPLATES

Struggling to come up with content ideas? HubSpot's blog post templates can turn a white page into inspired content in no time. This set includes templates for:

The "How-To" Post	The List-Based Post
The "What Is" Post	The Pillar Page Post
The Newsjacking Post	The Infographic Post

Social Media Management

TALKWALKER'S SOCIAL MEDIA MESSAGING CHECKLIST

Creating creative and engaging content may be easy when you have an unlimited word count to play with, but can you do it with just a handful of characters? Talkwalker's social media messaging checklist shares how to find your brand's voice, with 16 best practices to create clever social messaging that works.

HUBSPOT'S SOCIAL MEDIA TEMPLATES

With so many different social networks to manage, it can be tricky to plan which content to share at what time, and on which platform. That's why HubSpot put together a customizable social media content calendar that will allow you to organize your social media activities far in advance–making your social marketing more manageable, and more effective.

In this template pack, you'll find templates to manage your posts and inspiration for every social channel. We've also provided reporting and analysis templates for both organic and paid. Plus, we've included additional templates such as our yearly hashtag calendar, request for proposal template, and social media client proposal template.

Influencer Marketing

TALKWALKER'S 7 DEADLY WINS OF INFLUENCER MARKETING

Influencer marketing can earn you 11 times the ROI compared to traditional digital marketing. Too many marketers are committing the 7 deadly sins of influencer marketing—costing time, money and possibly even their reputation. Before your next influencer campaign, check out Talkwalker's list of the biggest influencer marketing don'ts and how to avoid them.

HUBSPOT'S ULTIMATE GUIDE TO INFLUENCER MARKETING

Marketing tactics are constantly moving forward, and influencer marketing is no longer a fringe tactic, only for specific industries. In fact, it's a well adopted strategy that puts your company in front of a new audience, and helps build trust for your brand. Searches for influencer marketing have grown by 1500% in the past four years—the growth is clear!

Working with influencers is part relationship management, part financial assessment, and part stringent organization and targeting. That's why we worked with the team at Sprout Social to bring you a guide that includes everything you'll need to know to get started on your first influencer campaign.

This guide is for those starting their first influencer campaigns, as well as for those who want to tighten up their strategy, and reach out into other influencer tactics. We'll talk about finding and paying influencers, setting up campaigns, considering affiliate programs, and some common challenges marketers run into during the process, as well as how to mitigate them. You'll get email templates for influencer outreach you can use right away to start your first campaigns, as well as tracking URL templates you can use to measure success. Influencer marketing can be a huge support system for your marketing strategy. Let's get to it!

Further Reading

Looking for more resources for marketing success? Here's a list of guides, templates, and blog posts to maximize your position as a data-driven marketer.

Your Quick Crisis Communication Plan

Consumer Behavior In Marketing

The Complete Social Media Analytics Guide

The Ideal Marketing Stack For Every State of Your Business

15 Blog KPIs You Should Already Be Tracking

How To Prove The Impact of Social Media on Business

6 Social Media Calendars, Tools, and Templates to Plan Your Content

4 Ways To Enrich Customer Intelligence With Integrated Data

HubSpot

Have a plan in place but not the correct tools to help? We've got you covered. HubSpot has free marketing tools to help you execute your digital marketing strategy.

Get started for free

Talkwalker

Conversations are happening everywhere, in text, video and images. On social media, online news, blogs and customer call centers. Talkwalker provides companies with an easy-to-use platform to protect, measure, and promote their brands worldwide, across all communication channels.

Get a demo free

THE FUTURE OF HOME OFFICE COST SHARING

SURVEY REPORT HIGHLIGHTS

DPG — DESIGN PUBLIC GROUP

GWA Global Workplace Analytics

October 2020

WE'VE BEEN PUSHING THE REMOTE WORK ROCK UP HILL FOR OVER 15 YEARS…

Suddenly, it's chasing us all down the other side.

In turbulent times, we surveyed executives responsible for making decisions about their views on necessary work-from-home tools for their employees. Highlights of what we learned are summarized in the pages that follow so you can make more informed decisions about the future of work.

We know the pandemic has given business leaders a positive new perspective on something many once feared. They've seen for themselves that remote work not only *works* but that it offers significant advantages over a strictly bricks and mortar, butts in seats at the office, model.

Remote work pioneers—organizations that embraced a culture of flexibility long before the pandemic—did not make the change overnight. They spent months and even years developing and refining their policies and practices. They were the early adopters, but most employers were not prepared for the sudden need to support a home-based workforce when COVID-19 hit. Nevertheless, many companies made the sudden shift surprisingly well. But now, months into the pandemic with no real end in sight, the cracks in their *ad-hoc* programs are beginning to show.

According to the Kaiser Foundation, in July over 40 percent of U.S. adults reported signs of anxiety and depression, three times more than a year ago. Managers are worried about the erosion of culture, employee health, and the *esprit de corps* of office life. Employees, many of whom have been getting by with less-than-ideal work set-ups, are starting to literally feel the pain of working at the dining-room table. They're struggling to stay productive with technology borrowed from their kids. And for the 70% who work paycheck to paycheck, absorbing the extra costs of working from home is breaking their spirit and their bank.

We want to help you address these and other remote work issues. To do that we fielded a survey in September 2020 with our partner, Design Public Group, focused on the question of who employers think should pay for home office technology, furniture, and other costs. Here are the results.

Kate

Kate Lister, president of Global Workplace Analytics

2

FACTSHEET: THE ROI OF PROVIDING EMPLOYEES WITH HOME OFFICE FURNITURE

Many companies are currently debating whether to provide their employees with furniture (desks, chairs, etc.) for home offices. The hesitation is typically around cost, so we collected some research that looks at the ROI for you to consider as you make these important decisions.

- A typical employer saves $11,000/year for every full-time employee that works from home 50% of the time. That's over $1.1 million/year for every 100 half-time telecommuters. Making a one-time investment of $1,000[1] to provide an employee with home office furniture will pay for itself in a little over a month.

- You can maximize your ROI by setting up a program that ensures employees are buying commercial grade furniture with multi-year warranties.[1]

- In general, an employee injury is compensable under workers' compensation if it arises during the course of employment, regardless of the location the injury occurs.[2] Outfitting employees with high-quality, ergonomic home office furniture improves employee productivity and reduces worker's comp and health insurance costs.

- A company could pay for 350 ergonomic chairs if it prevented one annual workers' comp claim.[3]

- A sit-stand desk has been proven to increase productivity by 45%. It would pay for itself if it saved an employee 34 seconds/day. It would breakeven in 143 minutes of use.[4]
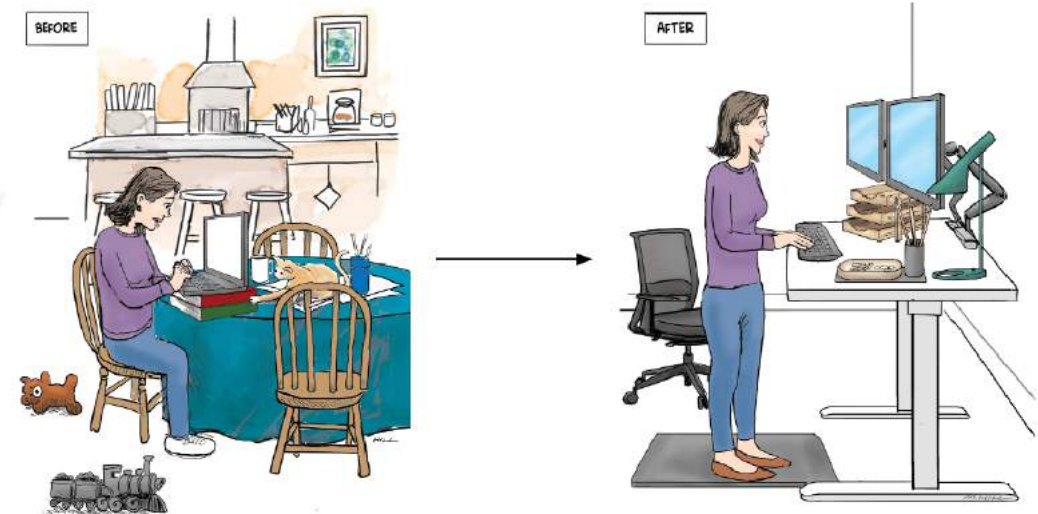
3

THE PANDEMIC WILL FOREVER CHANGE HOW AND WHERE WE WORK

- Our survey showed that only 5% of companies expect a return to normal when the pandemic is over

- Nearly half of companies have <u>already announced</u> a more permanent shift to work from home

	% of companies
COVID has temporarily changed how we work: *Employees are working from home now, but we will expect most to return to the office when the pandemic is over*	5%
COVID might permanently change how we work: *Employees are working from home now, and we have not yet decided about whether we will continue to allow it when the crisis is over*	48%
COVID will permanently change how we work: *We have announced plans to have all of part of our workforce continue to work from home on a regular basis when the crisis is over*	47%

THERE IS A HUGE CHANGE IN WORK-FROM-HOME EXPECTATIONS POST-COVID

- Nearly a quarter of companies surveyed expect over 75% of their workforce to work from home post-COVID-19

- More than two-thirds of companies expect over 25% of their workforce to work from home 3+ days/week post-COVID-19

- 22% of companies are still undecided

EMPLOYERS FEEL THEY ARE RESPONSIBLE FOR HOME OFFICE SET-UP

- 82% of leaders feel the employer should absorb the cost of a home office set-up for employees who work from home full time

- Majority feel it's their responsibility for those who work from home three or more days a week

% of employers that agree* the organization should absorb the majority or all the cost of a home office set-up for employees who work from home...

1 day/week	23%
2 days/week	34%
3 days/week	61%
4 days/week	77%
5 days/week	82%

*Top 2 box
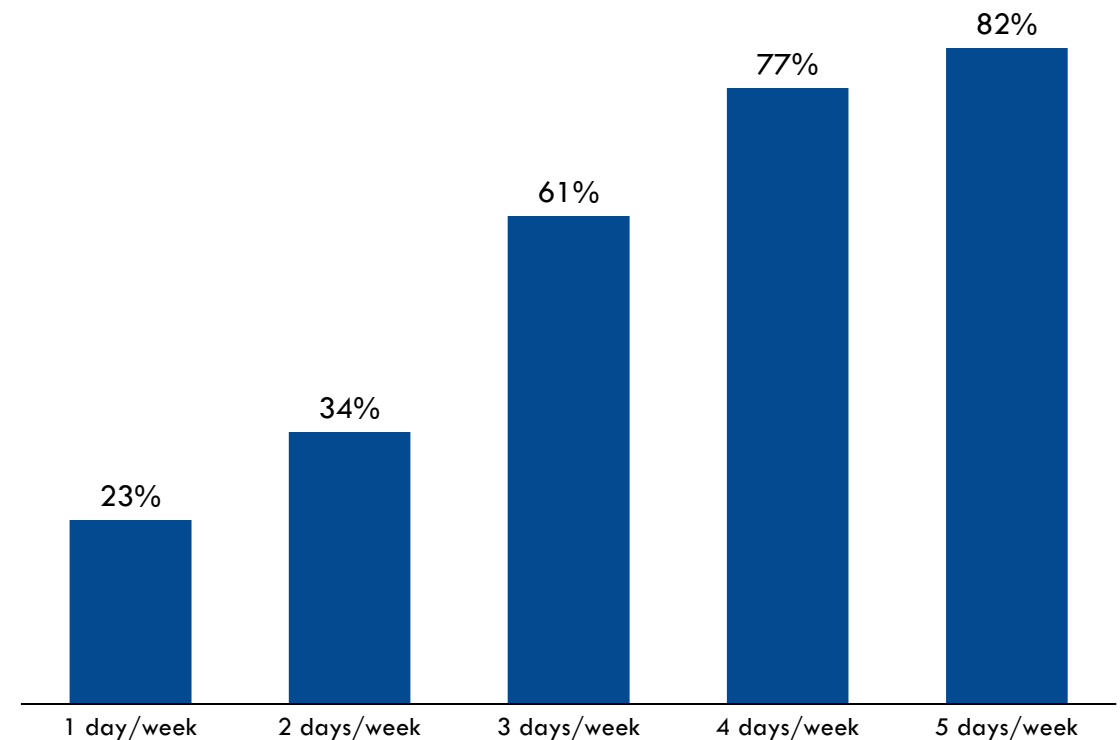
TECHNOLOGY PROVISIONING WAS FIRST. HEALTH & SAFETY ARE NEXT.

- Most organizations have already equipped their people with the technology they need to be successful. 92% of organizations have provided their work-from-home employees with a laptop, 68% with a webcam, and 54% with a 2nd monitor.

- Now, employers are considering purchases related to employee health and safety at home. 41% are considering providing a chair, and 31% a desk.

7

Even settling on temporary policies - i.e. borrowing chair and/or monitor from office, setting a stipend amount, making company discounts with office supply and furniture manufacturers available, how borrowed equipment is returned if an employee leaves the company - involved exhaustive discussions between Facilities, HR Benefits, HR Employee Relations, Legal, Tax, Risk Management.
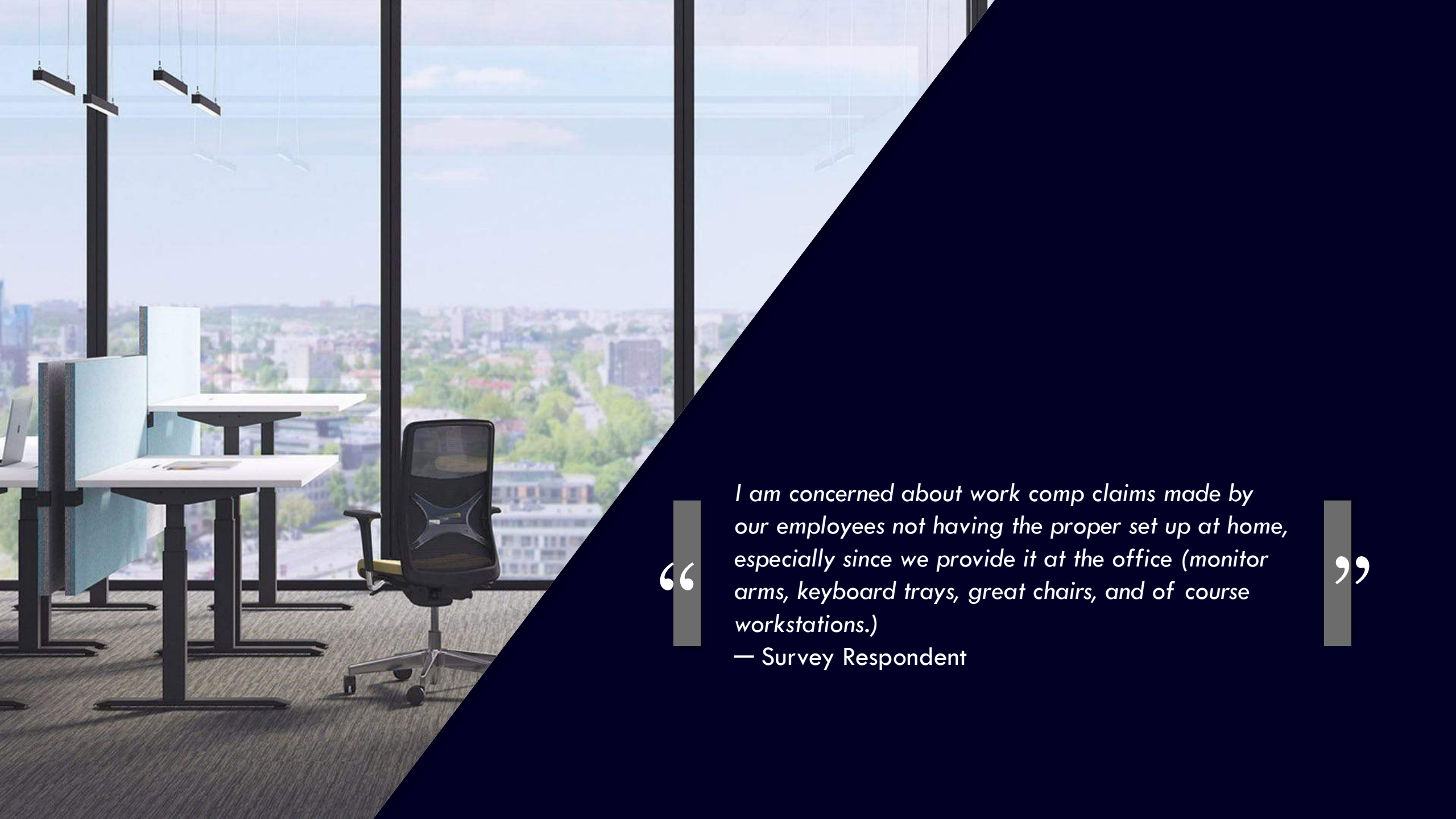— Survey Respondent

LIABILITIES/CLAIMS

- Nearly half of companies <u>do not</u> feel worker's comp and health insurance liabilities will increase if they don't provide employees with ergonomic home office set-ups. They're wrong.

% of employers that agree* that if their employees don't have an ergonomic home office setup, the organization will have increased…

Worker's Comp Liabilities
55.0%

Health Insurance Claims
56.0%
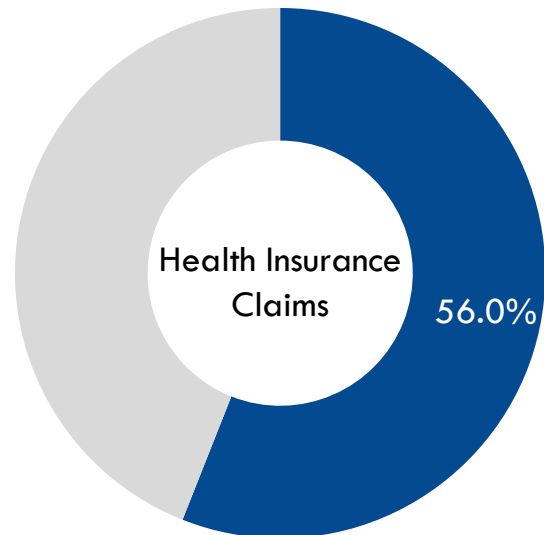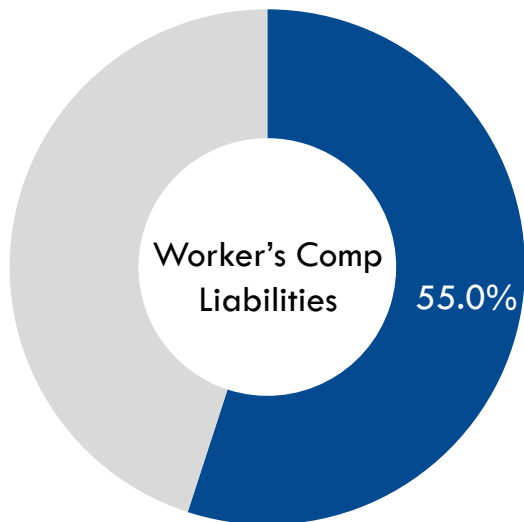
"In general, an employee injury or illness is compensable under workers' compensation if it arises out of and in the course of employment, regardless of the location the injury occurs."
— SHRM (Society for Human Resource Management)

*Top 2 box

> " *I am concerned about work comp claims made by our employees not having the proper set up at home, especially since we provide it at the office (monitor arms, keyboard trays, great chairs, and of course workstations.)* "
> — Survey Respondent

COST & VALUE

- Companies think providing remote employees with home office furniture is both expensive (61% agree) AND a good investment (59% agree)*

"Ignoring home ergonomics is false economy," says Kate Lister, respected workplace strategist and president of Global Workplace Analytics. "One workers comp claim would pay for 350 contract-grade ergonomic chairs."
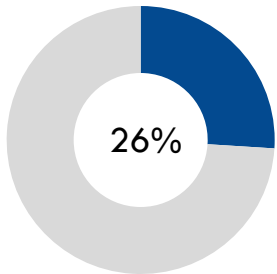

11

*Top 2 box

# COMPLEXITIES OF PROVIDING EMPLOYEES WITH FURNITURE

15%
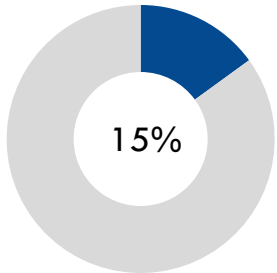
Only 15% of companies are concerned about how they will coordinate deliveries to employees' residential addresses

Companies are likely under-estimating the complexities around employees moving during the pandemic & not maintaining up-to-date address records, logistics, assembly, etc.

26%

Only 26% of companies are concerned about finding furniture pieces that meet each of their employees' unique needs

Companies are used to traditional office environments where nearly all employees can be provided with the exact same chair, desk, etc. When talking about furniture that will go in an employee's home, offering variety is important to demonstrate that the employer understands the employee's unique tastes, space, etc.

48%
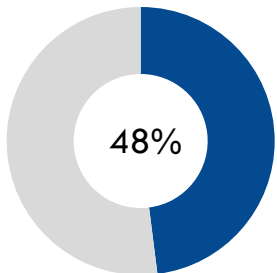
48% of companies are concerned about how they will get the furniture back when an employee leaves the company
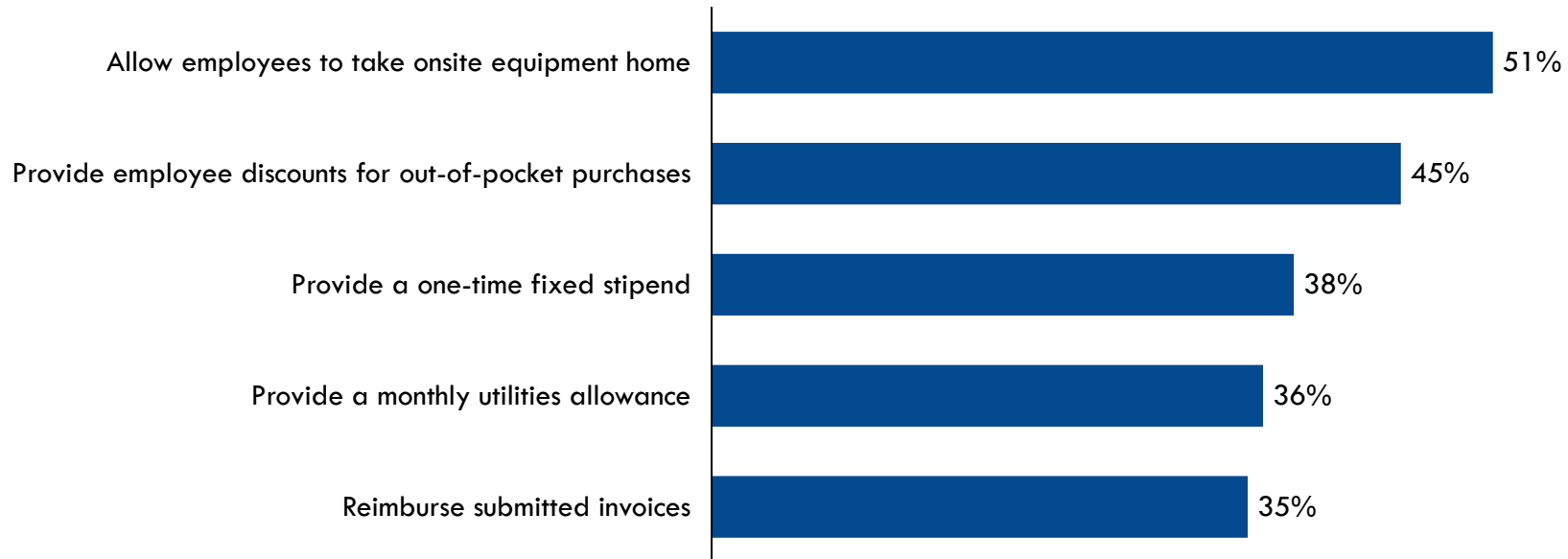
There are important tax and logistics implications. Most employers are leaning toward writing it off but picking it up when they leave the company is an option.

12

PAYMENT/REIMBURSEMENT APPROACHES

Companies are using a variety of different payment options; companies often use more than one.

Which payment options have you used, or plan to use, to provide employees
with home office items? Select all that apply.

Option	Percentage
Allow employees to take onsite equipment home	51%
Provide employee discounts for out-of-pocket purchases	45%
Provide a one-time fixed stipend	38%
Provide a monthly utilities allowance	36%
Reimburse submitted invoices	35%

13

> *The ongoing stipends/reimbursements for internet, phone, and office supplies could be much more expensive than a one-time furniture distribution.*
> — Survey Respondent

ABOUT THE SURVEY — FIELDED SEPTEMBER 2020

Respondents

Survey N=111, 28 of whom were not responsible for making decisions about employee work-from-home tools within their organization and were removed from the survey analysis. Effective N=83. Functions represented include C-Suite, Human Resources, Real Estate/Facilities, and Office Administration.

Company size

Respondents represented companies of all sizes, from less than 500 employees, to more than 10,000. In total, the survey respondents collectively oversee nearly 300,000 employees.

Industries

A wide range of industries were represented including Banking/Finance, Education, Software, Legal Services, Retail, Government & Public Administration, and others.

ABOUT KATE LISTER

Kate Lister is president of [Global Workplace Analytics](#), a research-based consulting firm that has been helping employers optimize remote work and other workplace strategies for more than a decade. Kate has written or co-authored five business books including the U.S. chapter of "Telework in the 21st Century" (Edward Elgar, 2019), a multi-country peer-reviewed study on remote work. She was one of three witnesses invited to testify before Congress in a recent hearing about remote work in government. Her perspectives on how COVID-19 will change the way people work are among the most widely quoted and have appeared in the New York Times, Washington Post, Wall Street Journal, Newsweek, and dozens of other respected news outlets around the world.

*Top 2 box

ABOUT DESIGN PUBLIC GROUP

- Design Public Group ("DPG") is a 16-year old B2B and B2C furniture distributor based in Los Angeles, and a technology and operations leader within the industry.

- DPG owns and operates three B2C Ecommerce furniture sites, and has sold to consumers around the globe

- DPG has an extensive B2B furniture business, and has provided furnishings for more than 60 Fortune 500 companies

- Earlier this year, DPG launched a first-of-its-kind work from home furniture program

- For more information, please visit: https://designpublicgroup.com/work-from-home

DPG's white-label platform makes it easy for your employees to order home office furniture directly, and for companies to manage their stipend programs:

Custom Website: built just for your company

Easy Stipend Application: Employees apply stipends directly and pay any balance out-of-pocket

Large Selection: hundreds of items, giving employees choice

Maximize ROI: all furniture is contract-grade, with multi-year warranties

Budget-Friendly: desk, chair & storage bundles starting at less than $1K total. Discounts up to 40% off.

Shipped Directly: any residential address, white glove assembly available, global reach

Administration & Reporting: Stipends are billed back to the company, along with extensive reporting, eliminating the need for expense reports.

17

*Top 2 box

THANK YOU

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Viewpoint: Tips for Conducting Open Enrollment During a Pandemic

There's an argument for passive-selection enrollment this year

By Jay P. Turner

July 30, 2020

Employee benefits are complicated. Not only is the subject matter complex, but most employees think about their benefits only once a year, during open enrollment. With a pandemic raging, employers are facing even bigger challenges related to communicating benefits information.

Here are some strategies to improve communications during open enrollment.

Electronic vs. Paper

Posting open enrollment guides and benefit notices on a company portal may be easier than distributing paper copies of these materials, but is it effective? More important, is it even legal?

The rules regarding when an employer can use electronic means to deliver benefits communications are complicated and may not allow many employers to simply e-mail open enrollment materials or post them online. The Department of Labor has provided safe harbor guidance (www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/dol-final-rule-will-shift-401k-participant-disclosures-online.aspx) that allows electronic delivery of retirement plan communications only for employees who regularly use a computer as part of their integral duties or for those employees who affirmatively consent to electronic delivery (and even then, employers have to provide a paper copy of the communications at the employee's request).

For many employers, distributing a paper copy of the open enrollment guide is still necessary.

In the past, most employers have relied on employees being in the workplace to distribute the guides. However, mailing open enrollment guides to employees' homes may be preferable. This is especially true considering that sometimes it's the employee's spouse who makes the benefit decisions.

Mailing open enrollment material is more expensive, but employers that have relied on handing out open enrollment guides in the workplace may have no better alternative during the pandemic than to mail guides to employees' homes.

Employers should review their communications to ensure the most concise delivery of information while still writing in a manner calculated to be understood by the average employee. Employers should be mindful that required notices will also need to be included with the materials, which will also increase mailing costs.

🔒 **SHRM MEMBER-EXCLUSIVE RESOURCE SPOTLIGHT**

Coronavirus and COVID-19 (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx)

Minimize the Decisions Required

Employers get to choose whether they conduct a passive or active open enrollment. Active enrollments come with the message, "You must make new elections or you will lose your benefits."

Active enrollment has its advocates (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/prepare-for-open-enrollment-challenges-this-year.aspx#active-enrollment), but at a time when employees are already worried about keeping their jobs, employers should consider whether to further burden them with negative messaging about losing their benefits.

Consider whether to further burden employees with negative messaging about losing their benefits.

Make open enrollment easy for employees by allowing evergreen elections in your cafeteria plan and conducting a passive open enrollment. The only benefit elections that would then require your employees' attention are flexible spending account elections, which must be renewed before the beginning of every new plan year.

Although health savings account (HSA) contribution limits are rising for 2021 (www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/irs-2021-hsa-contribution-limits.aspx) and 401(k) limits are likely to go up as well—the IRS announces annual retirement plan adjustments in November—plan participants can change their 401(k) and HSA elections at any time. Employers need only make employees aware of any changes in the annual election limits.

Minimizing the decisions your employees have to make will give them peace of mind and ensure a seamless transition from one plan year to the next.

Go Virtual

Many employers rely on in-person enrollment seminars, lunch-and-learns or benefit fairs to deliver information. While it is very beneficial to meet in-person with employees to deliver this complicated content and give them the opportunity to ask questions and provide feedback, many employees are teleworking, and many states have instituted restrictions on the number of people who can gather in one location. How do we give employees the personal touch they may expect from human resources?

Consider conducting virtual benefits seminars on Webex or Zoom. Employees can meet virtually to watch slideshow presentations explaining benefits changes, hear benefits professionals explain the open enrollment process and learn what they will need to do to effect benefit changes.

An employer might consider a "benefits cafe," where employees are invited to pour themselves a cup of coffee at home and listen in on a benefits seminar discussing the changes to benefits and steps required to take advantage of the changes.

Employers should also consider setting up a channel on the messaging platform Slack, or a virtual hangout to give employees the opportunity to ask questions of the benefits team. As questions are answered, the responses would be viewable by other employees who may benefit from the insights given by the team.

[SHRM members-only toolkit: Leveraging the Value of Employee Self-Service Portals (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/leveraging-value-of-employee-self-service-portals.aspx)]

Small Doses Are the Best Medicine

Do not wait until open enrollment to discuss benefits with employees. Employers spend large sums to purchase benefits, but if the employees are not efficiently using these benefits—and appreciating the benefits' value—the employer's investment is wasted.

Adopt a strategy of regularly discussing benefits with employees, whether through a benefits newsletter or regularly scheduled benefits meetings. A steady drip of benefits information keeps these offerings front of mind for employees and helps them understand and use their benefits.

One effective way of delivering small, concentrated doses of benefits information is on a YouTube or Vimeo channel. By regularly posting short videos explaining benefits or changes to benefits, employers can keep employees aware of ongoing changes or enhancements to them. A short, engaging video (www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/using-video-benefits-communication.aspx) can deliver information much more quickly and effectively than a brochure that may never make its way into the hands of the benefits decision-maker in the family.

Outsource to Enrollment Experts

Employers may consider outsourcing open enrollment communications and administration to a benefits enrollment firm, where open enrollment call centers are equipped to help employers during a pandemic.

Often, benefits enrollment firms will act as an insurance broker for the employer to offset the fees associated with providing enrollment services. With sufficient volume, the benefits enrollment firm will use commissions from the insured products sold to entirely offset the fees associated with managing open enrollment.

Plan Now for Open Enrollment

Start planning now for open enrollment. Even if the pandemic were to subside by the time open enrollment arrives, employers can still improve their employees' open enrollment experience by using some of the tactics discussed here.

Being proactive and forward-thinking will improve the employee experience and help employers realize the true value of the investment they are making in employee benefits.

Jay P. Turner, JD, is assistant city attorney for the city of Birmingham, Ala. He has 20 years of experience practicing employee benefits and executive compensation law, is nationally recognized as an expert in employee benefits, executive compensation, wellness, and HIPAA matters, and has written and spoken extensively on these topics.

[Visit SHRM's resource page on Open Enrollment (www.shrm.org/ResourcesAndTools/Pages/open-enrollment.aspx).]

Related SHRM Articles:

Spotlight Value of Benefits Package During Open Enrollment (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/spotlight-benefits-value-during-open-enrollment.aspx), *SHRM Online*, August 2020

Planning 2021 Benefits Changes for the COVID-19 Era (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/planning-2021-benefits-changes-for-the-COVID-19-Era.aspx), *SHRM Online*, July 2020

Prepare for Open Enrollment Challenges During a Difficult Year (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/prepare-for-open-enrollment-challenges-this-year.aspx), *SHRM Online*, July 2020

Virtual Benefit Fairs Draw Interest for Fall Open Enrollment (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/virtual-benefit-fairs-draw-interest-for-fall-open-enrollment.aspx), *SHRM Online*, July 2020

Related SHRM Resources:

Open Enrollment Guide & Resources (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/Open-Enrollment-Benefits-Guide.aspx)

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'We're Being Thrust Into Every Decision': CaaStle General Counsel Talks COVID-19's Impact on In-House Legal

"For GCs, right now, I think the toughest part is that we're being thrust into every decision. I think that because of the fact that so much of what we are facing we have not faced before. Most of the things happening right now have a legal aspect to them," Tim Hirsch, general counsel at CaaStle, said.

By Dan Clark | July 14, 2020

Tim Hirsch, general counsel of CaaStle.

The new coronavirus has elevated the already important role of a general counsel to be more involved as stores close down and reopen and state and local governments update safety protocols for bringing employees back to work.

Tim Hirsch, general counsel of New York-based fashion company CaaStle, said nearly every decision the company makes is now partially a legal one, whether it is best practices to opening up distribution centers to finding ways to collect and safely handling employee health information. To combat these challenges while working remotely, Hirsch said constant communication with the two other attorneys in his legal department is critical.

Hirsch, who is set to be a speaker at the General Counsel Conference (https://www.event.law.com/corpcounsel-GCC), spoke to Corporate Counsel about work beyond the legal department, challenges during the pandemic and building a resilient team. This conversation has been edited for clarity and length.

Corporate Counsel: How does your role as general counsel go beyond the legal department at CaaStle?

Tim Hirsch: I always say that I am a member of the management team first and an attorney second. I think what makes the management team really effective is people thinking outside of their area of expertise and thinking about how they can use their area of expertise to affect business success and business outcomes.

I always try to think about what is our business objective first and how can I inform that path from my very specific vantage point. That is really the mindset that I bring to all of our conversations.

CC: What have been some of your biggest challenges as a general counsel during the pandemic?

TH: I think they are pretty similar to what everyone else's has been. For GCs, right now, I think the toughest part is that we're being thrust into every decision. I think that because of the fact that so much of what we are facing we have not faced before. Most of the things happening right now have a legal aspect to them.

I think my role as a part of the management team has been front and center. It really does feel like every decision has a legal component. Trying to get my team to be efficient and effective remotely is an added challenge.

CC: What are some of the legal issues you're focusing on right now?

TH: We operate distribution centers and we're implementing temperature checks. We have to keep up with health regulations and guidelines to make sure we walk the fine line between maintaining the most stringent standards from the health perspective. But also respecting the privacy and rights of our employees is also extremely crucial.

We went through a number of terminations and contract negotiations. The sheer volume of trying to renegotiate all of our agreements whether it is with our suppliers or our own customers has been really critical.

CC: What are the strategies you have put in place to ensure your legal team collaborates and there is a consensus of culture?

TH: I am all about informal communication channels. Slack (https://www.law.com/corpcounsel/2020/07/09/ibm-counsel-and-others-weigh-slacks-impact-on-corporate-investigations/), text, phone calls. I don't feel like as a team we get much out of big, long, formal meetings. We speak a lot, throughout the day and the week. The most important aspect of this is to create a culture where collaboration is valued, encouraged and rewarded. I try to make all successes team successes, and even more than that, business successes. When we all share the same goal and objective, collaboration becomes a natural way to operate, which furthers your overall strategic objectives.

CC: How do you build a resilient team? What do you see as your key responsibilities as a leader in cultivating resilience in your team?

TH: To me, the key to building a resilient team and organization is transparency and trust. I find that when times get tough, transparency is one of the best tools a manager has at his disposal to keep a team together. Being willing to confront difficulties and speak about them is the first and most important step to overcoming them in my opinion. So I am a big believer in over-communicating. As a leader, I push my team to share but also trust.

CC: How do you measure diversity, equity and inclusion at your company? What are some ways you as a leader can help drive those efforts?

TH: This is obviously a very crucial topic right now, and one that I take very seriously. We as a country need to wake and do much more to fight racism against the Black community, and bring not only diversity but equality to our society, and the same is true for our company. Diversity and equality are two very different things. I think we're a really diverse company, but that doesn't translate into equality, particularly as it comes to representation of minorities at the most senior level. As a management team, we're actively looking at what we need to do to bring change to our organization. I think the first step is to accept and recognize we have a problem and commit to fixing it. Specifically, this means committing to actively guiding and developing the careers of our Black employees and making sure we reward proactive inclusion and improved diversity outcomes that increase Black professional career progression and retention rates.

Join hundreds of your in-house counsel peers at the premier forum to network, learn and evolve in your legal role. Secure your place today at the **General Counsel Conference** *(https://www.event.law.com/corpcounsel-GCC), taking place Sept. 15-16, 2020.* **Register today!** *(https://www.event.law.com/corpcounsel-gcc/begin)*

![NIH logo] **National Institute of
Environmental Health Sciences**
Worker Training Program

WTP NIEHS COVID-19 Response

Technology Tips for Virtual Meetings and Interactive Online Sessions

Meeting logistics

- Have a moderator to troubleshoot and monitor the chat box
- Practice the technology beforehand
- Ensure security settings of your platform and have a plan of what to do if there is a security breach
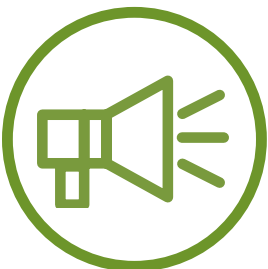
Beginning the meeting/training

- Start with a quick check-in or ice breaker. Use these suggestions, or find more in the references below.
  - What was your first job? And name one hazard that you faced.
  - What is the story of your name?
  - Have you seen anything lately that made you smile?
- Create a space for announcements and celebrations

Be an engaging presenter/facilitator

- Ask a question
- Be spontaneous to keep the audience stimulated
- Make frequent changes to keep the audience engaged
- Use two speakers or engage with an attendee
- Do a health and safety critique or hazard analysis of a photo or video
- Ask the audience to complete an assignment and send it to you
- Answer questions – ask for them before the event and during
- Use storytelling
- Use humor
- Consider use of videos for engagement, but remember that they can be troublesome over a virtual platform. Here are some tips:
  - Test the tech ahead of time
  - See if your platform has options that make video sharing more successful. For example, Zoom has options to "Share computer sound" and "Optimize for full-screen video clip" while sharing a video.
  - Remember to sign out of YouTube or present in incognito mode
  - Send a link to participants to view the video on their own. It gives the participants some independence and offers a break and change of pace.

Use interactive software

- Conduct a survey or poll (available in most online meeting software packages, or companies such as Kahoot! or Slido)
- Use the software to do knowledge checks during the training and share the results
- Use breakout rooms for small group discussions (available in Zoom and GoToTraining)
- Encourage the chat function – some people prefer this, and it can lead to an engaging discussion that you can save
- Do an online brainstorming or sticky note activity using platforms such as Ideaflip, Padlet, or Google Docs.
- Use a whiteboard for brainstorming (available on Zoom)

After the meeting/training

- Do a "temperature check" – especially if it's recurring or continuing another day
- Send a follow-up email

REFERENCES

Tips + Resources for Virtual Gatherings, from the American Evaluation Association
7 Ideas for Making Your Webinar More Interactive, from ClickMeeting
5 ways to make your webinar interactive, from Medium
How to Make Webinars More Interactive, from MyOwnConference
Icebreakers for virtual teams, from Lucid
Top 25 most popular icebreaker questions, from Medium
35 Tools for Online Brainstorming and Decision Making in Meetings (2020 update), from Lucid

NOTE: *Inclusion on this fact sheet does not constitute an endorsement by NIEHS.*