

UPDATE:
May 14, 2021



Covid-19

Coronavirus / COVID-19
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**Returning Employees to Work:
What You Need to Know**

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Today's Topics

- “MI Vacc to Normal” v. MIOSHA Rules- Current status
- Required workplace protocols
- Required office workplace protocols
- Does anybody's vaccination status matter?
- What if my employee does not want to return to work?

Current Status

- April 29: “MI Vacc to Normal”
 - 55% + 2 weeks allows in-person work
 - for all sectors of business
- May 10:
 - Announced that Michigan has reached 55% milestone, and in-person work is set to resume on May 24
 - **BUT**
 - MIOSHA Emergency Rule 5(8): The employer shall create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.



Current Status (Cont.)

Michigan.gov

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INSIDE LEO

COVID-19 WORKPLACE SAFETY

LABOR AND ECONOMIC OPPORTUNITY / COVID-19 WORKPLACE SAFETY

I heard the Governor is withdrawing the requirements for working remotely. Does that mean I am required to go back to work in person?

The requirement in the MIOSHA Emergency Rules for COVID-19 for employers to have a remote work policy is still in place. Once the requirement is rescinded, your employer can require you to resume in-person work. However, employers will still be required to follow the remaining mitigation strategies contained in the Emergency Rules. If you have concerns, you should communicate them to your employer.

Required Workplace Protocols

- 11 MIOSHA Rules: **Effective until October 14, 2021**
 - Exposure determination for all employers
 - COVID-19 Preparedness and Response Plan for all employers
 - Basic infection prevention measures for all employers
 - Health surveillance for all employers
 - Workplace controls for all employers
 - PPE requirements for all employers
 - Industry-specific requirements
 - Training requirements for all employers
 - Recordkeeping requirements for all employers



Required Office Workplace Protocols (Cont.)

- Daily entry screening protocols
 - Isolation/quarantine requirements
 - Positive case protocol notifications
- Workplace controls
 - Social distancing
 - Masks
 - Shared spaces: Meeting rooms, break rooms, cafeterias, check-in areas, waiting areas, routes of entry and exit

Required Office Workplace Protocols (Cont.)

- Training
 - Workplace infection-control practices
 - Proper use of PPE
 - Steps the employee must take to notify the business of any symptoms of COVID-19 or suspected or confirmed diagnosis
- **Could there be others before May 24?**
 - Return to Office Workgroup?

Vaccination Status (Cont.)

- Does it impact any COVID-19 rule employers have to follow?
 - **Right now in Michigan:** ONLY impacts quarantine requirements
 - CDC: “Refrain from quarantine and testing following a known exposure if asymptomatic”
 - COVID-19 ERA: Close contact “quarantine period” = CDC
- Can I ask? **Yes**
 - EEOC: Asking an employee and/or requesting proof of receipt of a COVID-19 vaccination is not a disability-related inquiry
 - Maintain record in a confidential employee file

Vaccination Status

- Can I require my employees get a vaccine? **Yes**
 - EEOC: Vaccine is not a medical exam
 - BUT:
 - Screening questions
 - ADA and Title VII considerations

Refusals To Return

- Communication:
 - Recall letters
 - Why is the employee being called back?
 - Assurances on safety, screening protocols, cleaning/mitigation efforts
 - What workplace changes impact the employee
 - Provide resources for questions

Refusals To Return (Cont.)

- Legal risks:
 - What is the reason the employee is refusing to return to work?
 - COVID-19 Employment Rights Act
 - Currently have COVID-19, COVID-19 symptoms, close contact?
 - ADA/FMLA/Michigan Paid Medical Leave Act
 - Some non-COVID condition that impacts an employee's ability to return
 - MIOSHA: Safety concerns?
 - Employer policy
- Practical risks:
 - Leave or discipline/discharge



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