

# COVID WEBINAR #8

**Expert Panelist: Dan Gilmore, Squire Strategies**

## Questions & Answers

**How do the social distancing guidelines apply if you're in a business that can't maintain 6 feet of space between employees and customers - like restaurant servers, nail techs, hair salons, etc?**

The ideal distance of 6 feet will not be possible in all working environments. If that's the case, close interaction should be minimized to the extent possible. In addition, safety measures should certainly include consistent use of appropriate PPE, like masks and gloves, and increased physical protection, like the plexiglass seen in checkout lines.

**Dan, what are your thoughts on employers taking temperatures when employees return to work? How often (e.g., daily, weekly)?**

For maximum protection of employees and customers, and since the financial cost of such a test is minimal, as well as the time required to obtain results, there is no reason it should not take place on a daily basis.

## **Where's the line between following safety guidelines to make a safe workplace and employees saying they don't feel safe? Can they go back to drawing unemployment just by saying they don't feel safe?**

Although the answer may vary depending on which state is involved, an individual typically should only be able to resume eligibility for unemployment benefits if they have a specific fact-based concern about the safety of their workplace that their employer has failed to adequately address through the use of appropriate safety measures.

## **What if an employee was exposed outside the workplace - like a spouse tested positive - can they go back on unemployment then?**

Depending upon the state involved, only if the employer chooses to separate (lay off) the employee or significantly reduce their hours while they are required to remain away from work due to the exposure.

## **Who should take temperatures if that's considered medical information? Can any employee do it or does that need to be someone in management or HR?**

An employer should minimize the number of employees involved in this process to better protect the confidentiality of the results. Documentation of any indication of a fever should be maintained separately from the rest of the employee's personnel file but does not need to be maintained separately from other confidential medical information involving the employee.

## **What guidance do you have for companies who employ knowledge workers who can effectively perform their role remotely, but the leadership team would like to reintroduce the team to the office as quickly as possible?**

If you don't have a Telework Policy in place, it would be a good time to create or update your policy. Provide guidelines to employees on what type of work/positions are eligible to work remotely, how often, and expectations while working remotely. If they are working effectively from home, be open-minded, and focus on the performance and outcomes, rather than the need to be in the office. If there is a valid business need to have them in the office, explain that need. May try a combination of remote work with a physical presence in the office one or two days/week.

## **If we mandate that employees take certain precautions such as wearing masks or taking temperatures daily, and the employee refuses to comply, what recourse can an employer take? This puts a small business with few employees between a rock and a hard place.**

First, talk with the employee to see if there is a specific, valid reason that they have issues with the requirements. Be sure you have a clear business reason for the requirements and communicate in detail to all employees. If you are requiring masks or other protective equipment, employees should be required to follow the same as any other protective equipment, such as safety glasses. If after clearly communicating the requirement and finding no valid reason the employee isn't complying, you can certainly take corrective action, as in any other case employees are not following rules or policies.

## **Any special considerations to multi-tenant facilities with common areas?**

Efforts should be taken to minimize opportunities for physical interaction with the employees of other tenants since an employer will typically have less ability to influence the safety measures taken by other employers. Ideally, time spent in such areas should be limited to what is necessary to access the employer's own space while emphasizing the need to maintain proper social distancing while passing through such areas.

**This is my 1st of your sessions. Would love access to prior ones if possible?**

The Bench Builders Website will have links to prior webinars in place in the near future.

**Since I missed prior ones, I'm not sure if school re-openings have been covered. Would love to hear your thoughts. I'm an employee relations attorney in Chattanooga (after 30 years of consulting). I serve on the board for a small private elementary school & we just developed our COVID Committee as we plan for the New Normal. Successful teaching is ALL relational, especially with young children...children learn through touch.**

**I'm over Childcare & Kids Ministry for a 300-member church. Not offering yet, but hope to in June if COVID stays under control. Both are on Signal Mtn, which has had few COVID cases.**

Guidelines are being developed and issued by government agencies at different

levels to establish best practices for the reopening of organizations such as churches and schools. The appropriate guidelines should be followed as closely as possible and potentially erring on the side of enhanced safety, by screening those you describe, for example, would likely be advisable. Governmental enforcement agencies are appearing to be more lenient than before in terms of allowing screening as long as it is conducted consistently and not in a discriminatory manner.

## **PANELIST - DAN GILMORE - SQUIRE STRATEGIES WEBSITE**

<https://www.squirestrategies.com/>

### **ADDITIONAL RESOURCES FROM DAN GILMORE:**

#### **OSHA'S Guidance on Preparing Workplaces for COVID-19**

<https://www.osha.gov/Publications/OSHA3990.pdf>

#### **Centers for Disease Control and Prevention's COVID-19 Resources for Employers**

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

#### **Equal Employment Opportunity Commission's What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws**

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

#### **Department of Homeland Security's I-9 Central**

<https://www.uscis.gov/i-9-central>