

Environmental and Workplace Health & Safety

# White House Reopening Guidelines: How Will Workplaces Open Up Again?



By: [Gabrielle Sigel](#)

On April 16, 2020, the White House issued “Guidelines: Opening Up America Again” ([Guidelines](#)), with criteria for how state and local officials, employers and individuals should approach reopening segments of their communities after various stay-at-home orders, essential-business regimens and other social distancing measures that Federal, State and local governments have issued in response to the coronavirus and COVID-19.

The Guidelines recommend a three-phased approach to reopening, with “Gating Criteria” before States can begin Phase One. An important component to the Guidelines are the directions to all employers and to industry-specific employers. In general, until a state or locality is in Phase Two, when schools are allowed to reopen, burdens on employers and employees will not significantly diminish. It is only in Phase Three that the workplace will begin to resemble “pre-COVID-19” conditions.

The “Gating Criteria” for States, before Phase One can begin, include 14-day downward trajectories in symptoms and cases, having non-crisis care treatment of all patients and having a “robust program” for testing “at-risk” healthcare workers. In addition, the Guidelines describe “Core State Preparedness Responsibilities” regarding testing, contact tracing, healthcare system capacity and other safety and health plans for the community, before Phase One can begin. One of the “Core State Preparedness Responsibilities” is to “protect the health and safety of workers in critical industries.”

The Guidelines include specific recommendations for employers in all phases of the reopening process, as follows:

Develop and implement appropriate policies, in accordance with Federal, State and local regulations and guidance, and informed by industry best practices, regarding:

- Social distancing and protective equipment
- Temperature checks
- Testing, isolation and contact tracing
- Sanitation
- Use and disinfection of common and high-traffic areas
- Business travel

Monitor workforce for indicative symptoms.

Do not allow symptomatic people to physically return to work until cleared by a medical provider.

Develop and implement policies and procedures for workforce contact tracing following employee COVID+ test.

Compliance with these Guidelines can impose on employers significant costs, business interruptions and other burdens. For example, due to personnel and supply chain shortages, many employers will have limited ability to conduct temperature and symptom checks or to provide protective equipment. In addition, effective contact tracing within the workplace can be procedurally difficult, time-consuming and require additional, trained personnel.

The Guidelines also have more specific directions impacting employers for each phase of reopening.

### **Phase One**

In Phase One, the Guidelines discourage gatherings of more than 10 people, such as trade shows, minimize non-essential travel and recommend that “vulnerable individuals” continue to shelter in place. “Vulnerable individuals” are those who are “elderly” (an undefined term) or who have “serious underlying health conditions.” The Guidelines remind individuals that if someone has a vulnerable individual in the household “by returning to work or other environments where distancing is not practical, they could carry the virus back home.”

These precautions can make certain workers reluctant to return to work and may require additional flexibility or hiring criteria by employers. In addition, in Phase One, schools and organized youth activities are to remain closed, which will place burdens and challenges on all businesses, whether they seek to remain open or to reopen anew.

Under the Guidelines, all employers are to do the following in Phase One:

- Continue to **ENCOURAGE TELEWORK** whenever possible and feasible with business operations.
- If possible, **RETURN TO WORK IN PHASES.**
- Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce strict social distancing protocols.
- Minimize **NON-ESSENTIAL TRAVEL** and adhere to CDC guidelines regarding isolation following travel.
- Strongly consider **SPECIAL ACCOMODATIONS** for personnel who are members of a **VULNERABLE POPULATION.**

Reopening of restaurants is not generally addressed in the Guidelines, except in the context of “large venues,” which in Phase One “can operate under strict physical distance protocols.” Examples of “large venues” are “sit-down dining, movie theaters, sporting venues and places of worship.” Bars are recommended to remain closed, but gyms may re-open, with protections. Senior Living facilities and hospital should remain on shut-down to outside visitors, but elective surgeries can resume with precautions.

### **Phase Two**

Most importantly for employers, schools and youth activities can reopen in Phase Two. However, precautions about protecting vulnerable individuals continue, including the concern about workers in the same household potentially affecting those individuals.

The concern about public gatherings and social settings is targeted to groups of more than 50 people, unless “precautionary measures are observed.” Examples or a definition of “precautionary measures” are not provided. In this phase, non-essential travel can be resumed for individuals and in the workplace.

For all employers, the Phase Two Guidelines recommend:

- Continue to **ENCOURAGE TELEWORK** whenever possible and feasible with business operations.
- Close **COMMON AREAS** where personnel are likely to congregate and interact, or enforce moderate social distancing protocols.
- **NON-ESSENTIAL TRAVEL** can resume.
- Strongly consider **SPECIAL ACCOMODATIONS** for personnel who are members of a **VULNERABLE POPULATION**.

“Large venues” can operate under “moderate physical distancing protocols,” another term which is undefined. Bars can reopen “with diminished standing-room occupancy, where applicable and appropriate.”

### **Phase Three**

Phase Three has limited directions or restrictions on the workplace. “Vulnerable individuals can resume public interactions” but should practice physical distancing and undefined “precautionary measures.” All other populations “should consider minimizing time spent in crowded environments.” Employers, however, can “resume unrestricted staffing.” Large venues are recommended to “operate under limited physical distancing protocols” and bars can increase standing room occupancy.

Some level of physical distancing and undefined “precautionary measures” are to be maintained throughout all three phases described in the Guidelines. The Guidelines do not provide a marker for when the protections described in the last, Third Phase, can be lifted.

Please feel free to contact the author with questions or for further information. For regular updates about the impact of COVID-19 in the workplace and on business generally, please visit Jenner & Block’s [Corporate Environmental Lawyer blog](#) and Jenner & Block’s [COVID-19 Resource Center](#).

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*For additional information and materials, please visit our [COVID-19 / Coronavirus Resource Center](#).*

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