

Response + Recovery

The Allegheny Conference
COVID-19 Webinar Series

TODAY:

“Developing Your B2B
(Back-to-Business)
Playbook”



UPMC HEALTH PLAN

Program

- Welcome
- Presentation
- Q&A Session
- Wrap-Up

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Rooney** PC

Developing Your Back-2-Business Plan

Erin McLaughlin, Esq. and Christian Antkowiak, Esq.

May 8, 2020

Its Finally Time to Get Back to Work

- Businesses have worked through suspected and confirmed COVID-19 exposures, closing offices, transitioning to remote work, complying with new leave laws, assisting employees with child and family member care, effectuating layoffs, pursuing stimulus opportunities, implementing furloughs and hour reductions, and developing and implementing steps to improve workplace safety as it relates to the spread of infectious diseases, such as COVID-19.
- We now face our most challenging endeavor yet – **getting back to work with the coronavirus ever so present.**
- Where do we currently stand in terms of reopening Pennsylvania?

Governor Wolf's Color-Coded Plan By County

COVID-19 PHASED REOPENING IN PA

RED

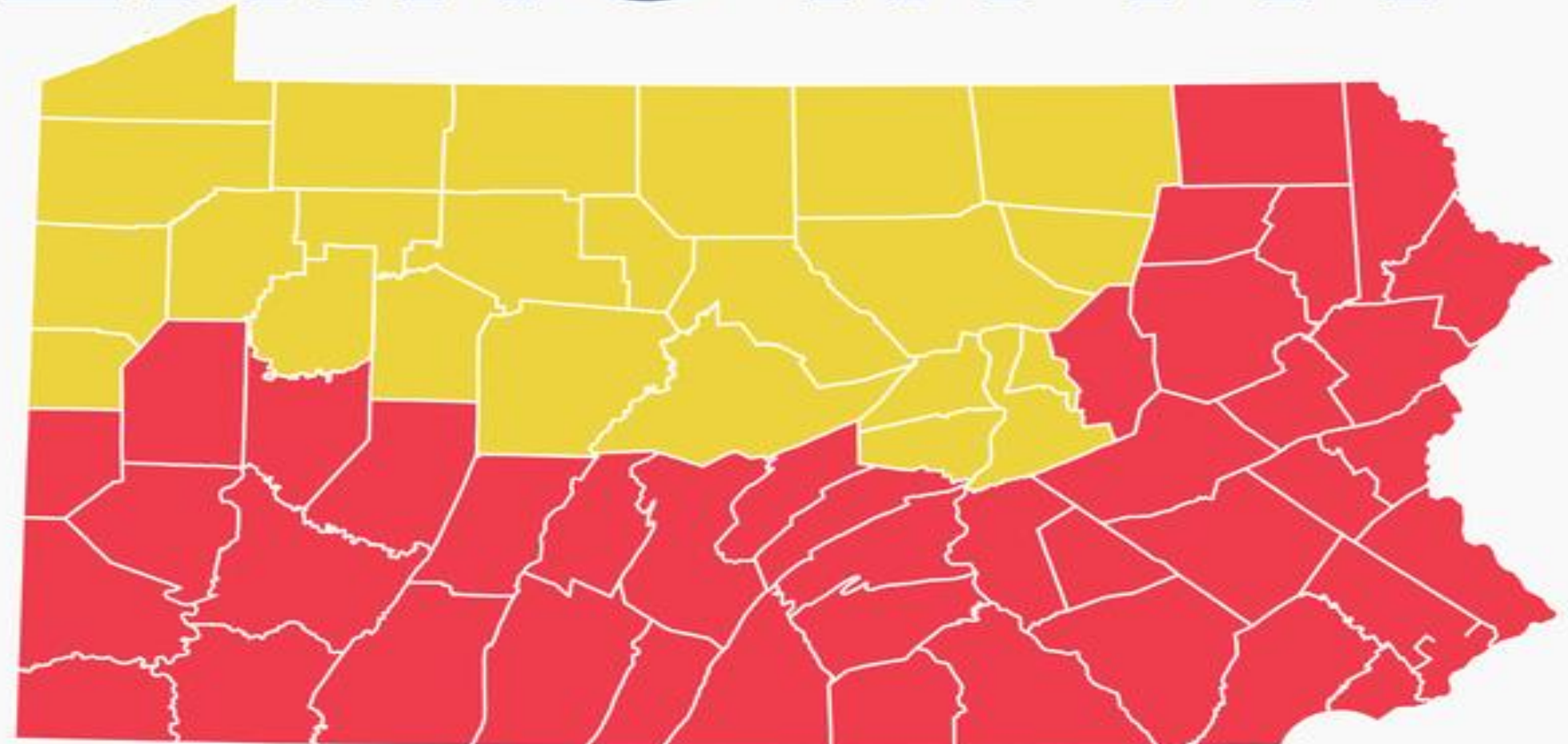
*Stay at Home
Order*

YELLOW

*Aggressive
Mitigation*

GREEN

*Aggressive
Mitigation Lifted*



— IN EFFECT MAY 8 —

Governor Wolf's Color-Coded Plan – The Red Phase

Red Phase

Work & Congregate Setting Restrictions

- Life Sustaining Businesses Only
- Congregate Care and Prison Restrictions in Place
- Schools (for in-person instruction) and Most Child Care Facilities Closed

Social Restrictions

- Stay at Home Orders in Place
- Large Gatherings Prohibited
- Restaurants and Bars Limited to Carry-Out and Delivery Only
- Only Travel for Life-Sustaining Purposes Encouraged

The Yellow Phase: What Does This Mean For Business?

Yellow Phase

Work & Congregate Setting Restrictions

- Telework Must Continue Where Feasible
- Businesses with In-Person Operations Must Follow Business and Building Safety Orders
- Child Care Open Complying with Guidance
- Congregate Care and Prison Restrictions in Place
- Schools Remain Closed for In-Person Instruction

Social Restrictions

- Stay at Home Order Lifted for Aggressive Mitigation
- Large Gatherings of More Than 25 Prohibited
- In-Person Retail Allowable, Curbside and Delivery Preferable
- Indoor Recreation, Health and Wellness Facilities and Personal Care Services (such as gyms, spas, hair salons, nail salons and other entities that provide massage therapy), and all Entertainment (such as casinos, theaters) Remain Closed
- Restaurants and Bars Limited to Carry-Out and Delivery Only

- All businesses must follow CDC and DOH guidance for social distancing and cleaning
- Monitor public health indicators, adjust orders and restrictions as necessary

Governor Wolf's Color-Coded Plan – The Green Phase

Green Phase

Work & Congregate Setting Restrictions

- All Businesses Must Follow CDC and PA Department of Health Guidelines

Social Restrictions

- Aggressive Mitigation Lifted
- All Individuals Must Follow CDC and PA Department of Health Guidelines

- Monitor public health indicators, adjust orders and restrictions as necessary

Today's Topics

1. Building Your Back-2-Business Team
2. Preparing your workplace
3. Returning your workforce
4. Updating your policies and procedures
5. Reviewing and analyzing business and legal obligations

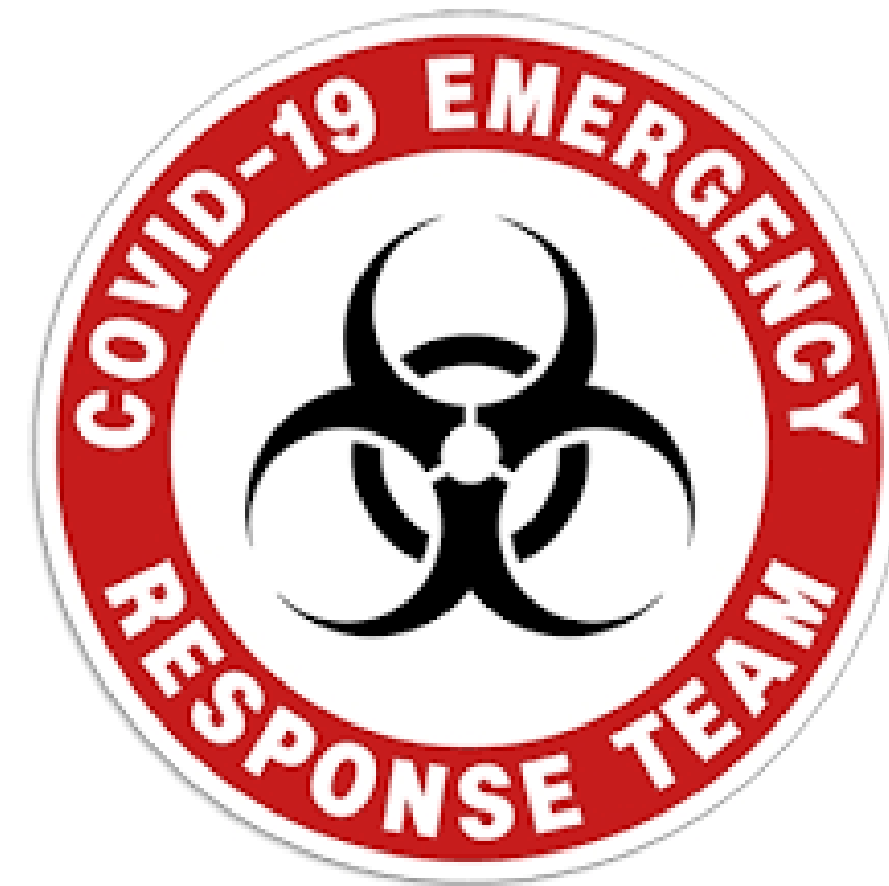


Developing your Back-2- Business Plan

Establish a Pandemic Response Team

The Pandemic Response Team will guide the business as it returns to in-person operations and develop the B2B Plan. Key roles on a Pandemic Response Team include:

- Business Leader
- Team Leader
- Operations
- Facilities
- Human Resources
- Marketing and Communications
- Safety/Infectious Disease Advisor



The Business Plan Approach: Identify Action Items By Team Member

Preparation for Reopening

Owner: Facilities

| | |
|--|---------------|
| Coordination with Building Management in Each Location | |
| <i>Action Item</i> | <i>Status</i> |
| | |
| | |
| | |
| | |

| | |
|-------------------------------|---------------|
| Personal Protective Equipment | |
| <i>Action Item</i> | <i>Status</i> |
| | |
| | |

The Business Plan Approach: Develop a Timeline By Location

| Office | Government Restriction Lifted – Return to Work Date | Location Specific Restrictions as of Return to Work Date | Phase 1 begins | Phase 2 begins | Phase 3 begins | Phase 4 begins |
|--------|---|--|----------------|--------------------|---------------------|---------------------|
| | | | <i>Y</i> | <i>Y + 6 weeks</i> | <i>Y + 3 months</i> | <i>Y + 6 months</i> |
| | | | | | | |
| | | | | | | |

Preparing Your Workplace

Develop and Implement Workplace Health/Safety Protocols

- Develop a plan for daily temperature checks and other screening protocols
- Consider Employer-provided COVID-19 testing (when available and consistent with applicable law)
- Implement enhanced cleaning and sanitization measures
- Improve air quality and purification
 - Develop a response plan for managing actual and potential COVID-19 exposures in the workplace
 - Require personal protective equipment and other safety equipment
 - Mandate increased handwashing and hygiene measures
 - Revise food policies

Develop and Implement Social Distancing Protocols

- Implement social distancing measures within your physical space
- Mandate use of personal protective equipment, such as face masks, gloves, etc., for use by employees and visitors
- Install barriers to separate employees, visitors and/or customers
- Review alternative payment and communication methods to reduce close personal contact
- Consider modifying open floor plans and communal space configurations
- Modify schedules/shifts to limit the number of employees in the workplace

Develop and Implement Social Distancing Protocols (Cont'd)

- Impose limitations on the number of individuals occupying confined spaces at any given time
- Eliminate waiting rooms, instead requiring patients or clients to wait outside or in their cars until it is time to be seen
- Limit visitors to the workplace to those who are essential
- Place appropriate notices and signage to notify employees, visitors and customers of required safety, personal hygiene and social distancing requirements

Returning Your Workforce

Develop a Recall Plan

- Prioritize employee returns based on job function, location, ability to perform tasks remotely, seniority, collective bargaining obligations, etc.
- Consider PPP forgiveness requirements, in terms of maintaining head count and compensation levels
- Assess (continue) remote work arrangements
- Analyze a phased return plan and alternative scheduling arrangements, such as staggered hours, alternating days in the office, etc.
- Review for compliance with applicable anti-discrimination laws
- Determine whether exempt employees continue to meet the requirements to maintain their salary exempt status

Develop a Recall Plan (Cont'd)

- Develop a strategy and procedure for responding to employees who cannot or refuse to return to work because:
 - they have underlying conditions that make them more susceptible to COVID-19 or at higher risk for complications
 - they fear exposure to COVID-19
 - they refuse to travel
 - they have childcare obligations
 - they are making more money on unemployment than they did while employed
- Determine which employees, if any, will be permanently separated and whether severance will be offered and, if so, under what terms
- Review plan to continue furloughs for compliance with applicable laws and benefit plans

Implement Recall Plan (Cont'd)

- Develop communications to employees regarding their return to work (including issues and consequences associated with refusing to return to work)
- Work with insurers and employees on enrollment obligations and waiting periods associated with your employee benefit plans (including retirement and pension plans)
- Address any unpaid insurance benefit premiums owed by employees due to furloughs
- Remain vigilant regarding efforts to unionize the workforce/train managers to be prepared for the same

Updating Employee Policies and Procedures

Updating Your Employee Policies and Procedures

- Develop and/or revise policies to require employees who are sick to stay home, including flexible time-off policies and, if so desired, telecommuting policies
- Develop policies and procedures to comply with state and local government orders on social distancing, required PPP, medical testing and notifications
- Develop and/or update policies on employee leave entitlements, including paid sick leave and paid family leave obligations under the Families First Coronavirus Response Act (FFCRA) and additional COVID-19-related paid sick leave under applicable state and local laws

Updating Your Employee Policies and Procedures (Cont'd)

- Implement procedures to obtain and maintain documentation necessary to support forgiveness of your Paycheck Protection Program loan, Employee Retention Tax Credit or tax credits due under the FFCRA
- Assess essential job functions (including mandatory attendance in the workplace) and accommodation obligations under the Americans with Disabilities Act (ADA) and similar state laws as they relate to COVID-19 in the workplace
- Review medical check procedures and inquiries to confirm compliance with the ADA and similar state laws, as well as EEOC guidance
- Consider a work from home/telecommuting policy or agreement to address time keeping, maintaining and enhancing a safe work environment, expense reimbursement, confidentiality and cybersecurity, etc.
- Review compensation plans, agreements and provisions to determine whether modification is necessary due to business interruption caused by COVID-19

Updating Your Employee Policies and Procedures (Cont'd)

- Review the definition of “cause” in your employment agreements and consider revising to account for pandemics, such as COVID-19
- Consider policies encouraging meetings by phone or videoconference rather than in person and, when in person, limiting the number of people in attendance at in-person meetings, and limiting non-essential visitors in the workplace
- Revise travel policies to limit employee travel to essential travel only and consider establishing self-isolation guidelines upon return (depending on the destination)

Updating Your Employee Policies and Procedures (Cont'd)

- Review immigration policies and procedures to avoid lapses in status and compliance issues in visa and immigration processes for foreign national employees
- Update workplace safety policies to address OSHA and CDC guidance
- Promptly address possible issues around discrimination/harassment based on disability, or race/national origin perceived to be affiliated with an affected area
- Develop supervisor and employee training programs on new policies, procedures and expectations in terms of employee hygiene and conduct
- Develop a communication strategy for providing information and resources to employees related to COVID-19 and its impact on the workplace

Reviewing and Analyzing Business and Legal Obligations

Engage Counsel to Advise on Legal Compliance and Anticipate Risk

- Monitor state and local governmental orders permitting, limiting or prohibiting your business's reopening
- Analyze applicable guidance provided by the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL) to determine their impact on your decision to reopen
- If applicable, determine obligations and procedures under CARES Act stimulus provisions to maximize forgiveness under the Paycheck Protection Program, take advantage of available tax credits, and defer payroll taxes

Engaging Counsel, contd.

- Assess and revise your annual business plans and budgets to account for the business interruption caused by COVID-19
- Review insurance policies to determine whether your business has coverage for the business interruption caused by COVID-19 and whether to add or increase such coverage
- Coordinate with your workers' compensation carrier to respond to claims of work-related exposure to COVID-19
- Monitor solvency of creditors to determine threat of insolvency
- Develop or revise your emergency response plan in order to respond to another COVID-19 or other pandemic outbreak
- Review contracts to assess the consequences of nonperformance, nonpayment, etc. applicability of force majeure provisions
- Prepare for anticipated litigation

Questions?

Thank you.

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Q & A

Moderated by:

Becky Thatcher Baer

Director of Community Development,
Allegheny Conference on Community
Development

A wide-angle photograph of the Pittsburgh skyline at dusk. The city's skyscrapers, including the PPG Place and the US Steel Tower, are illuminated and their lights reflect in the calm water of the Allegheny River. The iconic yellow suspension bridge, the Roberto Clementi Bridge, spans the river on the right side of the frame. The sky is a mix of soft pinks, oranges, and blues, indicating the time is either early morning or late evening. Overlaid on the center of the image is the title text in a large, white, bold, sans-serif font.

PITTSBURGH REGION RESPONSE TO COVID-19

AlleghenyConference.org/COVID-19

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and find an archive of our webinars and related materials at the region's COVID-19 Response site:

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