

PARTICIPANT QUESTIONS AND ANSWERS FROM ROBERT NOONAN & ASSOC.

Webinar

“Bringing Employees Back: Problems, Issues and the Return to Work”

Conducted on May 12, 2020.

1. Is there a minimum time that you should give employees a “back to work” document before actually calling them back?

There isn't a minimum time. The timing is a matter of what's practical. You may want to give employees some time to rearrange their affairs, however.

2. I am planning on opening office June 1 –do I just self-certify any time before that. Not ready to now.

Yes, you are certifying that your organization is in a state of readiness for reopening, so you can self-certify at any point prior to opening. The self-certification page is now active and available [here](#).

3. If our employees have been working remotely and we require return to office, do we need to issue a return to work offer letter?

A Return to Work (RTW) letter is not required, but if you are changing from having employees work from home to returning to work at the workplace, it wouldn't be a bad idea to notify them in writing so the instruction is clear and informs employees of workplace practices and safety measures that are to be enacted and expected to be followed.

The RTW letter is useful for your contesting unemployment compensation claims, claims of an employee refusing work on the basis of it being unsafe, and needed for your workforce count for forgiveness under the SBA 7(a) PPP Loans.

4. Does the certification of a returning employee (acknowledging no symptoms, exposure etc.) need to be done daily?

No, but it's smart to do it at the very least on the day of return. Be sure that you are including instructions on what an employee should do if the employee develops symptoms at work and outside of work.

Note that some employers, particularly those that are taking employee temperatures at the start of the workday, also ask that their employees complete a daily certification concerning symptoms, exposure, etc.

5. Q: What do you think about the PPP and the understanding of the slow ramp up of businesses in Connecticut and the ramifications of the PPP loan where

most small businesses will not be prepared to maintain the payroll following the 8 week time period of 75% of the funds paying the employees for their Pre-COVID wages.

A: **Ramifications.** If you cannot use most of the loan for payroll, it could be a disadvantage. The loan does require that at least 75% of the loan be used for payroll. The SBA says eligible payroll costs can include salary, wages and tips, up to \$100,000 of annual pay per employee (for eight weeks, a maximum of \$15,385 per individual); and covered benefits for employees (but not owners), including health care expenses, retirement contributions and state taxes on employee payroll paid by the employer (including unemployment insurance premiums.)

If you use less than 75% of your funds for qualified payroll expenses, then the difference will be subject to loan repayment terms. In other words, if you use 70% of your loan for payroll, 25% for rent and 5% to order supplies, you'll have to pay back that 5% at an interest rate of 1%.

Is the PPP a Good Deal if we can't have the loan forgiven entirely? This of course depends on your financial circumstances, but even if not forgiven, it has been pointed out that the PPP loans have advantages including the waiving of the usual SBA application fees and personal assurances, an interest rate of 1%, and a 2-year term with principal and interest deferred for 6 months.

Should we send the funds back? For some employers, the answer is yes, but not based on the circumstances you described. As you likely saw reported in the media, some major brands applied for, and received, PPP loans. These brands included the LA Lakers, Shake Shack, Sweetgreen, and even Harvard University. They, as with every other applicant had to certify in good faith that "current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant. Borrowers must make this certification in good faith taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business." Many businesses signed the certification in their loan applications but then, particularly amid the adverse publicity, had to rethink the accuracy of their statements.

Your question, however, appears to be a matter of economics. Presumably, you will be able to have some of the loan money forgiven. Your benefits costs, for example are a payroll expense which you will incur with or without the loan. With it, those expenses can be forgiven.

Of course, that which is not forgiven must be repaid.

You will have to consider the amount of money you will be able to have forgiven versus the cost of the remaining loan balance. You may find that the low interest rate and the 6 month deferral on repayment may give you a financial cushion, and without knowing

what business will be like for the rest of 2020, having money available may be worth the cost of borrowing.

6. If we have not laid off anyone since we closed our operations, and we have continued to pay everyone, do we still need to issue them a Return-to-Work Offer? We have not furloughed anyone, and have not laid anyone off. So, they are still working for our company. By the way, we are in Massachusetts, and not in Connecticut.

A Return to Work letter is not required, but if you are changing from having employees work from home to returning to work at the workplace it wouldn't be a bad idea to notify them in writing. This way, the instruction is clear and provides an opportunity to inform employees of workplace practices and safety measures that you are enacting and expect to be followed. Massachusetts has [Mandatory Safety Standards](#) that will apply universally to all workplaces. It will also be releasing Sector Specific Safety Standards and Best Practices that will detail how particular industries should operate upon reopening.

7. As a school we understand the governor's decree is that school will not be in live session for the rest of the 2019-2020 school year. That said, how does that affect us as an employer if we wish to have administrative staff "return to campus" as it were? Everyone is being paid their full salary and is expected to work from home. I was thinking there is a lot of work to be done in advance of the return of teachers and students to school, perhaps even for our summer program which starts the last week of July, so we may need staff members to be on site, welcoming them back to a safe, secure workspace. Can we proceed with such a plan since "school" will not officially be open and might we have employees who are thinking "school is closed" which means they don't have to report.

This should not pose a problem for two reasons. First, the Governor's Executive Order pertained to suspending children returning to the classrooms. It does not prohibit your staff returning. In that sense, your organization is like any other workplace. Second, the Executive Order does not pertain to private schools such as yours, although it is recommended in the order that private schools should consider that it does.

Here is the Executive Order.7II (May 5, 2020) with the pertinent elements in bold:

Extension of School Class Cancellations for Remainder of School Year. To promote and secure the safety and protection of children in schools related to the risks of COVID-19, **cancellation of public-school classes** as ordered in Section 1 of Executive Order No. 7C, and as modified by Section 1 of Executive Order No. 7L and Section 2 of Executive Order No. 7X, is continued through the remainder of the 2019-2020 school year. **Private schools and other non-public schools are encouraged to follow the same schedule.** Connecticut Unified School District 1, established pursuant to Section 18-99a

of the Connecticut General Statutes, Unified School District 2, established pursuant to Section 17a-37, and Connecticut Department of Mental Health and Addiction Services inpatient facilities providing school classes or programs are exempt from this section, but shall take such measures as are necessary to protect the health and safety of students and staff.

8. A great amount are working from home including teachers. He spent a great deal of time talking about providing a written bona fide offer letter to employees. Is he suggesting that we provide this for employees when we want them to return to the office? Or is this a best practice for employers whose employees are on furlough or have been laid off?

A Return to Work letter is not required, but if you are changing from having employees work from home to returning to work at the workplace it wouldn't be a bad idea to notify them in writing so the instruction is clear and provides an opportunity to inform employees of workplace practices and safety measures that are to be enacted and expected to be followed.

We do have 2 employees right now who have told us they are not comfortable coming back to work. I understand about documenting these conversations but wanted to make sure I didn't need to provide them with this letter he discussed.

A Return to Work letter is not required, but if you are changing from having employees work from home to returning to work at the workplace it wouldn't be a bad idea to notify them in writing so the instruction is clear and provides an opportunity to inform employees of workplace practices and safety measures that are to be enacted and expected to be followed.

9. PPE supplies – any word on where to get hand sanitizer, disinfectant wipes?

This has been a problem, and many of our clients have undertaken internet searches, particularly for bulk vendors of PPE supplies. The following are examples:

[Bulk Apothecary](#)

[Wrist Band](#)

[Jasper Industrial Supply](#)

[MSC Direct](#)

10. We never “closed”. We did have all Engineers work from home, we had to layoff electricians – since they could not travel out of state. Admin staff – some worked from home, so worked at the office. So if we never “closed”, do we still need to self-certify?

Businesses deemed essential by the state under [Executive Order 7H](#) and the Department of Economic and Community Development's [guidelines](#), do not need to self-certify. Instead, they are required to continue following [Connecticut Safe Workplace Rules for Essential Employers](#).

Non-essential businesses that are permitted to reopen on May 20th are required to self-certify that they meet the sector-specific guidelines before reopening.

11. What if you have furloughed a worker, however there isn't enough work for the employee to come back by the furloughed date? What if there doesn't appear to be enough work for a significant period of time for a furloughed employee?

Furlough discontinues at the point you have work available for the employee to return to. They'd remain on furlough until work is available or you conclude there will be no work available for the foreseeable future. Rather than keeping an employee on furlough indefinitely, if it is likely that they'll be no work in the future, you would probably want to convert the furlough into a layoff.