1. Planning and Communication

- [ ] **Decide the right time to reopen**
  - [ ] Monitor federal, state, and local closure orders, re-opening guidelines, industry practices, and geographic considerations (federal guidance)
  - [ ] If enrolled in the SBA Paycheck Protection Program, remember employers have until June 30, 2020 to restore full-time employment and salary levels for changes made between February 15 and April 16, 2020

- [ ] **Determine who should return to work first**
  - [ ] Identify essential business functions and essential employees
  - [ ] In determining essential employees, consider the nature of the job, the functions of the position and ability to return to work safely
  - [ ] Consider profitability of certain position to manage cash flow in the near term
  - [ ] Consider structuring a phased ramp-up to limit the spread of the coronavirus
  - [ ] Determine minimum staff necessary to sustain operations in the event of increased absenteeism
  - [ ] Evaluate whether seniority or recall rights are implicated, including furloughs
  - [ ] Remind all decision-makers in these decisions of nondiscrimination policies

- [ ] **Prepare communication to employees regarding return to work**
  - [ ] Establish a return to work timeline
  - [ ] Establish a plan for employees maintain communication with management
  - [ ] Identify and explain to employees steps taken to ensure safety
  - [ ] Review any applicable collective bargaining obligations to make changes to the workplace upon re-opening

- [ ] **Develop a written protocol for confirmed or suspected COVID cases**
  - [ ] Protocol should include at minimum:
    - [ ] Employees should not come into work if sick
    - [ ] Identify necessary notification procedure if symptomatic
    - [ ] Designate point(s) of contact for reporting and questions
    - [ ] Communicate with employees impacted by potential exposure
    - [ ] Identify remedial sanitization measures for impacted employee(s)
    - [ ] Identify triggering events for quarantine procedure
    - [ ] Establish the duration of quarantine and conditions for return
  - [ ] Assess reporting obligations under OSHA and state workers' comp. laws

- [ ] **Anticipate employee anxiety, rumors, misinformation, and plan accordingly**
  - [ ] Leaders should be visible
  - [ ] Communicate frequently with employees (low cost options may include anonymous surveys).
  - [ ] Respond to questions with the information currently available, even if the answer is "we do not know right now" in order to dispel myths and rumors
  - [ ] Remind employees of any existing Employee Assistance Programs
  - [ ] Consider providing additional alternative resources (*e.g.* counseling, working parent discussion groups, etc.) to help employees manage stress and anxiety
  - [ ] Prepare employer's response for possibility workers may refuse to work, simultaneously call in sick, strike or walkouts.
    - [ ] Train key management on protected concerted activity in a union and non-union setting

2. Workplace Safety

- [ ] **Review applicable OSHA and CDC standards**
  - [ ] Monitor local and federal guidance for best practices and requirements for employers (OSHA guidance, CDC guidance)

- [ ] **Take steps to make the workplace more safe**
  - [ ] To the extent possible, implement social distancing requirements, such as staggered shifts, breaks, spacing between desks and community areas
  - [ ] Limit in-person meetings in favor of virtual meetings where possible
  - [ ] Minimize physical contact (i.e. handshakes, cough etiquette, etc.)
  - [ ] Limit or close off gatherings in common areas (*e.g.* breakrooms or kitchens)
  - [ ] Intensify janitorial sanitation
  - [ ] Make efforts to increase air exchange in the building, if possible
  - [ ] Educate employees regarding best hygiene practices
  - [ ] Promptly respond to any safety related concerns

- [ ] **Consider whether face masks, gloves, or other protective equipment are mandatory or optional**
  - [ ] *If mandatory* - company must provide or reimburse employees for masks, gloves, and other protective equipment
  - [ ] *If optional* - determine whether employer will place any limitations or restrictions on employee created protective equipment or the type of masks, gloves, or protective equipment permitted
  - [ ] Ensure protective equipment does not otherwise pose a safety concern

- [ ] **Consider temperature checks and COVID testing for employees and/or visitors**
  - [ ] Results of temperature checks are a medical record and (if recorded) must be treated with appropriate confidentiality and recordkeeping
  - [ ] Consider whether screening time is compensable
  - [ ] Assess the feasibility and advisability of conducting employer paid Covid-19 testing for employees

- ☐ **Create a policy restricting non-essential employee travel**
  - ☐ Minimize non-essential travel for work
  - ☐ Consider how essential travel is defined
  - ☐ Consider mandatory notification of personal travel
  - ☐ Implement additional documentation requirements for employee movement to make contact tracing more effective and accurate
- ☐ **Assess changes to hiring and training processes required by social distancing obligations**
  - ☐ Train managers regarding "do's" and "don'ts" of pre-employment inquiries concerning medical conditions

3. Leaves of Absence and Workplace Accommodations

- ☐ **Teleworking issues**
  - ☐ Consider whether remote work is a necessary reasonable accommodation under the ADA or if a special accommodation is necessary for members of a vulnerable population.
    - ☐ For example, is there anything unique or special about the employee's concern for returning to the workplace?
    - ☐ Is the employee in a protected class or high-risk population because of age or underlying health condition?
    - ☐ Is the employee caring for an individual in a high-risk population?
  - ☐ Prepare a response to requests for continued remote work based upon the essential functions of the job
  - ☐ Protect data from cybersecurity breaches with a teleworking workforce
- ☐ **Train management team to ensure understanding of new leave options, eligibility and retaliation concerns**
  - ☐ Assess unused leave benefits available under the Families First Coronavirus Response Act (FFCRA)
  - ☐ Consider eligibility for additional leave available, including leave under the FMLA
  - ☐ Review applicable state or local paid sick leave laws and company vacation and sick leave policies
  - ☐ Ensure management understands any negative comments about use of FFCRA leave may support claims of retaliation
- ☐ **Flexibility in leave policies**
  - ☐ Consider new COVID policies relaxing preexisting leave policies that are explicitly intended to be temporary in duration
- ☐ **Openly communicate the company's policies and position on leaves of absence**
  - ☐ Create a clear process for requesting leave and identifying the amount of leave, if any, available

4. Employee Benefits and Compensation

- ☐ **Review whether any changes need to be made to health and welfare plans**
  - ☐ Determine whether employees returning to work will need to re-enroll or update prior plan elections

- ☐ For cafeteria plans which may have offered individual spending accounts for a year, determine whether unused portions during an interim absence will be restored upon rehire
- ☐ Determine whether any probationary periods apply during which a rehired employee will not be covered (for instance, Union benefit programs)

- ☐ **Evaluate whether returning employees owe any portion of health care premiums while furloughed**
  - ☐ Develop a reasonable plan for employee to pay back health care premiums, if necessary
  - ☐ Consider state and local laws regarding wage deductions
- ☐ **Consider potential issues relating to retirement / pension plans**
  - ☐ Determine whether employees returning to work will need to re-enroll or update prior plan pre-tax deferral elections
  - ☐ Review retirement plans and consider whether there has been a break in service and, if so, what the implications might be (vesting, for instance)
  - ☐ Evaluate the potential need for plan amendments to modify conditions for annual benefit allocations (*e.g.* minimum hours requirements)
  - ☐ Manage administration of plan loan program for returning workers (*e.g.* restart wage deductions for loan repayments)
- ☐ **Review employee compensation and bonus programs**
  - ☐ Determine if any changes to compensation must be made, and review applicable laws relating to notice of wage changes
  - ☐ Calculate the effect of closure on existing bonus or incentive plans

5. Employee Morale

- ☐ **Communicate Regularly**
  - ☐ Communicate the steps the company is taking to ensure safety
  - ☐ Remind employees of benefits offered
  - ☐ Request feedback and internalize it. Consider anonymous surveys as a low cost and effective mechanism to gauge what is working.
- ☐ **Address any health and safety concerns brought by employees promptly**
  - ☐ Aim to respond to specific employee concerns promptly
  - ☐ Establish a communication channels for employees to address concerns
- ☐ **Remind employees that discrimination and retaliation is strictly prohibited**
  - ☐ Review non-discrimination policies and recirculate, as needed
  - ☐ Train managers on how to respond to offensive or discriminatory comments regarding the coronavirus and certain groups of individuals