



OMG The Office Is Open!!!

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Goal of This Webinar

**To assist employers
in navigating the legal
requirements to return your
employees to in-person work**

(without lawsuits, headaches and drama)

Presentation Roadmap

- 1) **Preparing to Re-Open IRL (!!!) - communications, work location contract review, IDEL layoff recalls**
- 2) **Back to the Office - policies, safety plans, screening**
- 3) **Dealing with Resistance - location preferences and constructive dismissal claims**
- 4) **Hot Issue  - mandatory vaccinations & accommodations**

1) Preparing to Re-Open



**RE-GRAND
OPENING**

Prepare to Re-Open

- A quick recap on the IDEL and when it ends.
- Where are your employees now?
- Do they need to be recalled from layoff?

Recalling Employees from Layoff

- The IDEL ends September 25th, 2021
- Employees laid off or furloughed during COVID are on a deemed IDEL until Sept. 25
- Beginning Sept 26, employees either need to be recalled or they will be eligible for the regular employee entitlements provided for in the *ESA*
- All pre-covid rules will apply to constructive dismissal/entitlements and claims to the MOL will resume

Notify Employees of Their Return to the Office

- Consider your communication strategy with your employees
- Provide written notice - the more the better
- Give lead time for employees to make arrangements to return to the office
- Are there new COVID related safety policies to be followed?

Contractual Right to Work from Home??

- Review contracts for any work location terms or conditions
- At some point, employees will have a legitimate expectation to be able to work from home - when is that moment?
- Time to refresh contracts? Maybe, maybe not - watch out for adverse terms

2) Back to the Office



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WATER
IS
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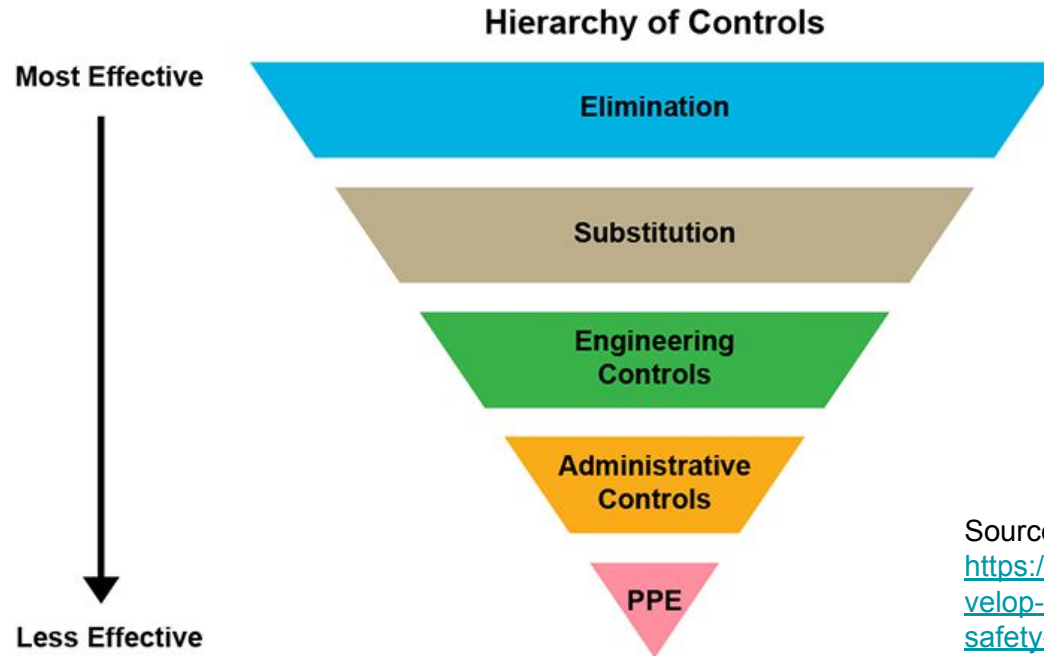


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Do You Have a Safety Plan for Returning Employees to the Office?

- Resources are available online to develop a safety plan
- A safety plan is a written plan to return employees to work in a manner that will reduce the risk of the spread of COVID-19 and ensure employee/customer safety as required by Health and Safety Legislation (*OHSA*)
- Everyone needs to be aware of the plan
- Educate all employees on the safety plan and have employees return an acknowledgement of receipt and compliance

Do You Have a Safety Plan for Returning Employees to the Office?



Source: Government of Ontario
<https://www.ontario.ca/page/develop-your-covid-19-workplace-safety-plan>

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How Will You Screen Employees and Customers (if you are client-facing)?

- How to screen employees and customers - some practical solutions:
 - Ont Gov't website screening tool - employees or customers can email their results
 - Employees and customers should screen daily in advance of in-person attendance.
 - Start a separate email: one for employees, one for clients where you can securely retain the screening results

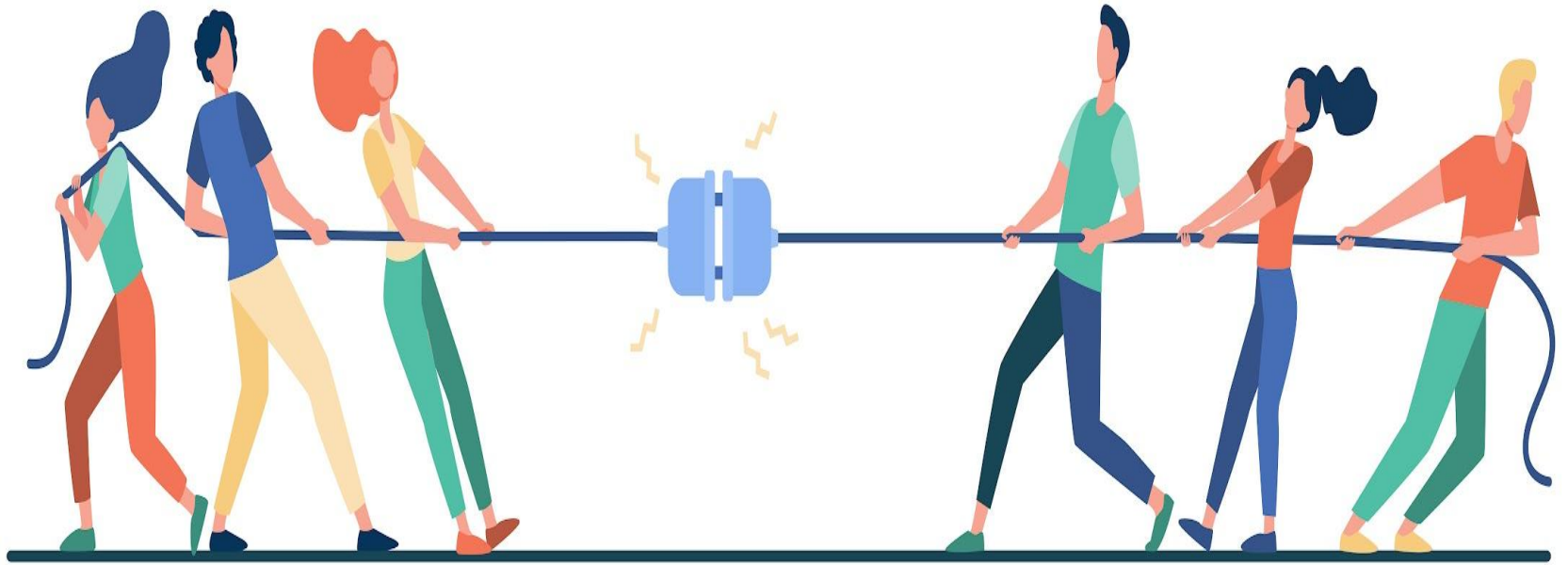
What Are Your Public-Facing Steps?

- From initial contact with the public, through the process
- Have clients pre-screen, answer the key questions before they enter
- Signage and awareness
- How to assist customers who refuse to wear a mask
 - Have a script and protocol for employees to follow
 - Have a manager who is a point of contact to assist with these potential situations

Communication and Education

- Consider this an opportunity to update all of your key policies and implement a new Employee Handbook
 - Why are policies so important?
 - Reduce ER liability
 - Have EEs acknowledge receipt, review and compliance
 - Keep that in the EE file
- Be proactive. Develop an education and communication plan and document all steps to educate your workforce and keep employees safe.

3) Dealing with Resistance



What if Employees Do Not Want to Return to the Office?

- What are your options?
 - Is it a constructive dismissal?
 - How can you try to negotiate this?
 - Securing employee buy-in in advance
 - Engagement survey
 - Giving employees the option (hybrid model for a certain period of time)

4) Mandatory Vaccines & Accommodations



What About Mandatory Vaccine Policies?

- Are they allowed?
 - Yes but...Is the policy required to keep employees and/or customers safe?
 - This analysis must be based on:
 - (1) evidence demonstrating a serious risk of infection in the workplace;
 - (2) that the vaccine or PPE will be effective in stopping the spread; and
 - (3) the policy must achieve a balance between workplace safety, employee privacy, and human rights laws.

Mandatory Vaccine Policies? (Continued)

- How to implement this policy when the employer has determined it is appropriate?
- How to manage employees who decline the vaccine
 - Document these discussions and efforts
 - How to manage Vaccine Exemption Requests

Mandatory Masking - Can Employers Require This?

- When is this appropriate?
- Pros and Cons
- How to implement? Best Practices
- How to manage employees who decline to use PPE
- Managing business v legal risks

Prepare for Accommodation Requests

- Overview: Intersection between the *ESA* and *OHRC*
- What is an accommodation request?
 - How to document these requests?
 - Ensure all requests, discussions and efforts to accommodate are documented.
- What is undue hardship?
 - How does an employer assess what situations would lead to undue hardship?

How Do Employers Deal with Accommodation Requests?

- **What can Employers do to accommodate?**
 - How to handle them?
 - How to document?
- **Key information to collect? Think about what you need**
- **Vaccine Exemption Requests, do you have a form?**



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Takeaways

- Be proactive, not reactive
- Assess the needs of your workplace including whether a mandatory vaccine policy is warranted
- Develop policies and roll out with clear communication and education
- Engage in the required balancing of safety vs employees health and privacy rights (human rights)
- Engage with legal counsel for strategic advice

OMG

THE OFFICE IS OPEN!!!



<https://springlaw.ca/product/the-office-is-open/>

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10 Templates

- Bringing People Back to the Office Checklist
- Mandatory Covid-19 Vaccine Policy & Vaccine Exemption Form
- Workplace Policies Checklist
- Workplace Compliance Checklist
- Should I Hire Checklist
- IDEL Update Letter to Employees
- Remote Working Policy Checklist
- Layoff Notice Template
- Layoff Recall Notice Template
- Exit Interview Checklist

6 Workplace Guides

- The Office is Reopening FAQs
- Hiring
- Employment Contracts
- Layoffs
- Firing
- Termination Letters & Releases

4 Core Legal Docs

- Employment Contract
- Employee Handbook
- Termination Letter
- Release for Employees Upon an Exit



Questions?

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