



Armstrong
Teasdale

Returning to Campus in Light of COVID-19

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Overview

- **Decision Making**
- **Reopening Plan**
- **Campus Health & Safety**
- **Academic Experience**
- **Student Life Experience**
- **Student Visa & International Program Support**
- **Financial Considerations**
- **Legal Issues to Watch**

Making the Decision to Reopen

Making a Decision to Reopen Campus



- **Are you prepared to effectively implement appropriate health and safety protocols for your student and staff population?**
- **Do you have the resources to reopen?**
 - To make physical changes to work spaces, classrooms, housing facilities, health care facilities and other spaces to facilitate social distancing.
 - To ensure adequate staffing is retained to meet the needs of students and staff in the changed environment.
- **Are you prepared to make adjustments to enrollment processes and courses to meet the academic needs of your students and staff making the transition back to campus this fall?**
- **Do you have a good understanding of federal, state and local guidelines and laws that have impact on your reopening? Do your local laws set limitations on your reopening?**
- **Have you engaged with local health officials for input specific to your jurisdiction and campus population?**

CDC Guidance-Categories of Risk

General Settings

- **Lowest Risk:** Faculty and students engage in virtual-only learning options, activities and events.
- **More Risk:** Small in-person classes, activities and events. Individuals remain spaced at least 6 feet apart and do not share objects (e.g., hybrid virtual and in-person class structures or staggered/rotated scheduling to accommodate smaller class sizes).
- **Highest Risk:** full-sized in-person classes, activities and events. Students are not spaced apart, share classroom materials or supplies, and mix between classes and activities.



Source: CDC Considerations for Institutes of Higher Education, as updated May 30, 2020

CDC Guidance-Categories of Risk

On-Campus Housing Settings

- **Lowest Risk:** Residence halls are closed, where feasible.
- **More Risk:** Residence halls are open at lower capacity and shared spaces are closed (e.g., kitchens, common areas)
- **Highest Risk:** Residence halls are open at full capacity including shared spaces (e.g., kitchens, common areas)



Source: CDC Considerations for Institutes of Higher Education, as updated May 30, 2020

Developing a Reopening Plan

Developing Your Reopening Plan



- Establish a task force for reopening your campus.
- Identify a cross functional team of stakeholders to serve on the task force.
- Educate the task force on CDC guidance, DOE guidance as well as state and local guidance for reopening.
- Designate a COVID-19 point of contact for the campus.
- Solicit input and perspectives from faculty and staff in each campus department.
- Identify common and special concerns to student and staff safety by department and function areas on campus.
- Establish deliverables for the task force along with a timeline for completion to ensure that you are ready to reopen.

Establish a Framework

- Promoting Behaviors That Reduce the Spread
- Maintaining Healthy Operations
- Preparing for When Someone Gets Sick

Promoting Safe Behaviors

- Encourage employees and students to stay at home when they are sick.
- Encourage employees and students to self isolate if they have COVID-19 or have been exposed to someone else exposed.
- Educate students and employees on COVID-19.
- Encourage frequent handwashing with soap and water for at least 20 seconds.
- Encourage students and employees to cover coughs and sneezes with a tissue or to use the inside of their elbow.
- Encourage and reinforce the use of cloth face coverings.
- Ensure that you have adequate supplies to maintain the hygiene of the campus.
- Post signs in highly trafficked, visible locations to reinforce the behaviors expected to stop the spread of COVID-19.

Maintaining Healthy Operations

- **Conduct a risk assessment of employee and student work and study areas, as well as other areas of use, such as dining facilities and dorms; evaluate areas that require changes in operations to maintain health and safety.**
- **Provide for protection of employees and students at higher risk for severe illness from COVID-19.**
 - Consider offering options for faculty and staff at higher risk for severe illness to limit their exposure risk. (i.e., remote work and virtual learning options).
 - Establish or expand upon existing policies to protect the privacy of individual employees and students with underlying medical conditions.
- **Implement social distancing measures.**
 - If employee work stations and student study areas are less than 6 feet apart, consider installing Plexiglas barriers.
 - Prepare employee and student work spaces to be used on staggered schedules where possible.
 - Consider staggering classes and offering a hybrid of classes on campus and online.
 - Place posters in prominent areas where employees and students may congregate to remind and encourage social distancing. Use stickers to mark the expected spacing.
 - Maintain awareness of state or local regulatory policies limiting group gatherings.

Maintaining Healthy Operations

▪ Gatherings

- Limit in-person group gatherings where feasible.
- Limit non-essential visitors to the campus.
 - Public universities may consider limiting the time, place and manner of allowing visitors to campus.
 - Private universities may want to consider a more general restriction on visitors.
- Consider virtual orientation programs to welcome new students.

▪ Telework and virtual meetings

- Update policies and course descriptions to identify that courses held in person may at any time transition to online to set student expectations.
- Encourage conference calls and video meetings over in-person meetings where feasible.
- Encourage employee and student telework and virtual learning where feasible.
- Provide student support services virtually, as feasible.
- Develop a plan to provide and identify hot spots and places commuter students can access wifi as needed.
- Consider implementing student equipment loaner programs to facilitate online learning.

Maintaining Healthy Operations

■ Travel and Transit

- Limit non-essential travel consistent with the restrictions in your state and local regulations and guidance.
- Encourage employees and students to use forms of transportation that minimize close contact with others (e.g., biking, walking, driving in alone or with a household member).

Maintaining Healthy Operations

- **Cleaning efforts:**
 - Disinfect spaces and surfaces that employees and students regularly make contact with.
 - Use EPA's published list of disinfectants.
 - Conduct regular cleanings – develop a regular schedule for cleaning common touch points like door handles, touch screens, desks, etc.
- **Prepare your buildings. Check water systems and air filters.**

Maintaining Healthy Operations

▪ Communication Systems

- Establish process and cadence for communicating with employees, students, families and the public on the institution's restrictions in place to limit COVID-19 exposure (i.e., limiting hours of operation of dining halls, libraries, etc.)
- Establish protocols for notifying the campus community of the institution's closure.

▪ Policies

- Revise attendance policies as necessary for both employees and students.
- Implement flexible sick leave policies to encourage employees and students to stay home when they are sick.
- Determine if your institution is covered by the new leave entitlements under the Families First Coronavirus Response Act (FFCRA), which provides for emergency paid sick leave and emergency expanded family medical leave through Dec. 31, 2020, for eligible employees of employers with 500 or less employees. Certain health care providers and emergency responders are not eligible for leave under FFCRA.
- Develop policies for returning to classes and campus facilities after a COVID-19 illness.
- Put the policies in writing and conduct video training on the policies.
- Do not just rely on the written policies to ensure that employees and students understand the policies.

Maintaining Healthy Operations

- **Backup Staffing Plan**
 - Monitor absenteeism
 - Cross-train staff
 - Recruit
- **Conduct Staff Training**
- **Recognize Signs and Symptoms**
 - Require daily self checks by employees and students or consider implementing daily checks on campus.
- **Provide Support for Coping and Resilience**

Signs & Symptoms

The published signs and symptoms of COVID-19 continue to evolve and be updated by the CDC. Symptoms may appear **2-14 days after exposure to the virus**. Currently, the recognized signs and symptoms of COVID-19 include the following:

- **Fever or chills**
- **Cough**
- **Shortness of breath or difficulty breathing**
- **Fatigue**
- **Muscle or body aches**
- **Headache**
- **New loss of taste or smell**
- **Sore throat**
- **Congestion or runny nose**
- **Nausea or vomiting**
- **Diarrhea**

Preparing for When Someone Gets Sick

- Develop policies for handling employee and student illness on campus.
- Encourage employees and students to take their temperature at home and stay home and seek medical attention when running a fever or are otherwise sick.
- Determine whether your institution will take the temperature of employees and staff entering campus buildings.
- Isolate and transport employees and students who become ill on campus.
- Consider setting up separate on-campus housing facilities for sick students.
- Close areas used by sick person.
- Follow CDC guidance for cleaning after a suspected or confirmed sick individual has left the area before disinfecting. Wait 24 hours before cleaning and disinfecting.
- Notify local health officials of confirmed COVID-19 cases.
- Conduct contact tracing.
- Establish criteria consistent with CDC guidance for the return of employees and students after illness.
- Identify the circumstances that might trigger a decision by your institution to shut down.

Policies for Returning Employees and Students to Campus after Illness

- Following CDC guidance, continue isolation of employees and students following COVID-19 illness until:
 - three days have passed with no fever; and
 - symptoms have improved; and
 - 10 days have passed since symptoms first appeared.
- Encourage retesting if consistent with the employee's or student's health care provider's advice. If retested, CDC encourages waiting for two negative test results in a row and at least 24 hours apart.
- Require that employees and students follow local guidance and law for returning from isolation after a COVID-19 illness if more requiring than CDC guidance.

Privacy Considerations

GINA

The Genetic Information Nondiscrimination Act (GINA) protects individuals against discrimination based on their genetic information in health coverage and in employment. GINA prohibits discrimination based on genetic information in employment. Based on this law, employers may be restricted from requesting or requiring genetic information of an individual or family member of the individual.

HIPAA Privacy & Security Rule

The Health Insurance Portability and Accountability Act (HIPAA) is a federal rule that requires appropriate safeguards to protect the privacy and security of an individual's personal health information. The rule sets limits and conditions on the uses and disclosures of an individual's protected health information without proper authorization.

FERPA

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records, including student health records. FERPA applies to any public or private elementary, secondary or **post-secondary school** and any state in the U.S. or any local education agency that receives funds under an applicable program of the U.S. Department of Education. The consent of the parent or eligible student is required for certain disclosures.

Opening Your Doors

Academic Experience

Align your institution's teaching and learning missions to adapt to a flexible academic experience. Prepare your institution to offer one or more of the following modes for learning and describe these variations in the enrollment catalog. Provide for flexibility.

- **In-person learning**

- Small class sizes consistent with local guidance minimal gathering sizes.
- Staggered classes to limit gathering in between classes.
- Prioritize classes that require clinical or laboratory work on campus.
- Develop specialized plans for students who are at risk in the occupational work conducted as a part of their studies. Provide personal protective equipment to employees and students as may be required in those learning environments.
- Develop a specialized plan for courses and instruction that do not make it practical to social distance.
- Consider implementing a later start date for in-person learning (i.e., September or October).
- Consider ending the semester early, before Thanksgiving, to eliminate concerns of reentering students after holiday travel.
- Consider dividing the semester into two halves and assess academic progress at both intervals to allow greater opportunity for at least partial credit if a student falls ill or if the classroom is disrupted by the illness of a professor.
- Consider flexibility to move from in-person to virtual learning as quickly as necessary.

Academic Experience

▪ Virtual learning

- Ensure the availability of student resources to effectively engage in online learning. Help students understand the equipment and specifications required to utilize your institution's online learning platforms.
- Consider the course offerings that will be available and appropriate enrollment size for effective engagement.
- Ensure virtual learning platforms and materials are accessible for persons with disabilities.
- Consider making technical troubleshooting resources available to employees and students.
- Provide professional development resources to your staff to help them different ways to effectively engage students in online learning.

▪ Hybrid learning

- In-person and virtual learning.
- Stagger student access to in-person learning.
- Provide support for professional development for faculty in online teaching best practices for engagement.

Student Life Considerations

▪ Housing

- Consider requiring the testing of incoming students living in the residence hall immediately before arrival and at appropriate intervals throughout the academic semester.
- Consider requiring the testing of student-facing staff and faculty.
- Consider limiting dorms to a single resident per room.
- Establish cleaning frequency of high-touch areas.
- Encourage students to wear face coverings while in common areas.
- Consider restricting building access by outside visitors.
- Train the housing staff on public health concerns to spot issues and facilitate quick resolution.
- Encourage frequent handwashing for 20 seconds and use of sanitizer.
- Consider pausing traditional back-to-school gatherings until later.
- Identify housing that can be utilized for student isolation in the event a student contracts COVID-19.
- Isolate residents who show signs of COVID-19 symptoms separate from residents with a confirmed case of COVID-19.
- Consider implementing peer-to-peer campaigns to keep the campus community safe.
- Consider implementing conditions to promote health and safety for off-campus housing providers to advertise available housing on campus..

Student Life Considerations

▪ Greek life

- Work with sororities and fraternities to encourage members of Greek lettered organizations to follow public health guidelines.
- Engage assistance of Greek lettered organizations to help set the norm for abiding by health and safety guidelines on and off campus.
- Engage National Panhellenics Council representatives for your campus to understand the actions they are taking related to COVID-19 in their houses.
- Encourage Greek lettered organizations to engage in virtual recruitment instead of in-person.

Student Life Considerations

▪ Dining

- Require dining staff to stay home if ill.
- Implement temperature checks prior to shift.
- Require dining staff to wear face masks and gloves.
- Require diners to wear masks while moving about in the dining facility.
- Stagger student access to dining services .
- Set up access controls to limit the number of diners at one time.
- Encourage “to go” meals rather than dining in.
- Consider eliminating self-serve food and beverage options.
- Consider limiting options for payment to avoid contact (i.e., use swipe dining cards).
- Space out tables and chairs to facilitate social distancing .
- Plan menus with sufficient meal options to support immune health.
- Arrange for food delivery to students under isolation.
- Focus on disinfecting the dining hall space regularly and in between rotations of students.

Student Life Considerations

- **Athletics**

- Train the staff on COVID-19.
- Encourage personal hygiene behaviors to reduce the spread of COVID-19.
- Provide sanitizer.
- Consider conducting pre-participation screening and evaluation of all student athletes for presence of illness.
- Stagger use of workout facilities to allow for cleaning in between sessions.
- Employ physical distancing measures in locker rooms and workout facilities.
- Supply PPE to training staff and custodial staff working in the workout facility.
- Provide for regular disinfecting of common surfaces and equipment in use.
- Adjust workout and practice hours to limit interactions with other students and staff.
- Implement a communication plan that connects your institution with the athletics program and with local and state facilities used by your student athletes.

Student Life Considerations

- **Athletics (cont'd)**
 - Implement virtual alternatives to practice sessions as necessary and appropriate.
 - Convene an Athletics COVID-19 team to coordinate with the school's task force which includes a broad representation of Athletics functions.
 - Monitor for updates to CDC guidance for reengaging in sports, as well as state and local guidance. Monitor changes to NCAA guidance for the resocialization of collegiate sports as well.
 - Identify considerations for team travel within your state, to other states and to foreign jurisdictions. Consider CDC guidance for travel restrictions.
 - Consider isolation protocols following team travel.
 - Consider delaying the start of intermural and other recreational sports programs.
 - Communicate the steps being taken to limit exposure to COVID-19 in the sports programs.

Foreign Students

Foreign Students

■ Class of 2020

- Students completing spring semester in U.S.
- OPT – STEM OPT
 - Physically present in U.S.
 - 90 / 120 Days unemployment (laid off / furloughed)
- Travel
- 60-day grace period

■ Class of 2021

- Travel
- Housing

Foreign Students

- **Visa issuance**
- **Travel restrictions**
 - China, Brazil, Iran, Europe
- **Self-quarantine upon admission**
- **Returning students – five-month rule**

Foreign Students

- **Distance learning**
 - Normal forward progress
 - Full-time course of study
 - Internet access / limited course offerings
- **On-campus COVID-19 diagnosis**
 - Quarantine
 - Reduced course load – documented medical reasons
- **Leave of absence – terminate SEVIS record**

Financial Considerations

Financial Considerations

▪ Governance around use of funds

- Allocation of budget resources among competing demands.
- Use of funds may be dictated by statute for public colleges and universities.
- Bylaws may dictate the use of funds at private colleges and universities.

▪ Tuition and fees

- Decisions on raising tuition and fees to cover COVID-19 related operational changes that must be made.
- Balance of increases in tuition and fees with academic programs.
- Be clear in what students are paying for when they enroll this fall. Update enrollment materials and catalogues to be clear that academic programs may be virtual at any point in the semester if that decision applies to your school.
- Public universities, tuition and fees may be governed by statute. Institutions may not have the ability to make changes without legislative action.
- Assess the financial risk to your institution if enrollment is down this fall and tuition and fees collections are substantially reduced.
- Schools heavily funded by tuition should consider other avenues like seeking to increase their endowments.

Financial Considerations

▪ CARES Act Funding

- A number of colleges received CARES Act funds, the majority of which were designated for providing emergency relief to support students and higher education institutions with expenses and financial needs related to the COVID-19 pandemic.
- The formula for allocation of the funds is based on the institution's share of all Pell Grant students nationally and non-Pell Grant recipients nationally.
- Schools receiving the funds must establish a nondiscriminatory process for determining the amount of each individual emergency financial aid grant extended to students with the CARES Act funding. Schools receiving the funds are required to sign a certification and agreement with terms for use of the funding.

▪ Higher Education Emergency Relief Fund – Historically Black Colleges and Universities, Tribally Controlled Colleges & Universities, and Other Minority Serving Institutions

- Eligible historically minority serving institutions received an allocation of emergency funds provided for under the CARES ACT to provide emergency relief to students and to help these institutions meet the financial challenges from COVID-19 that threatened their continued existence.

Legal Issues to Watch

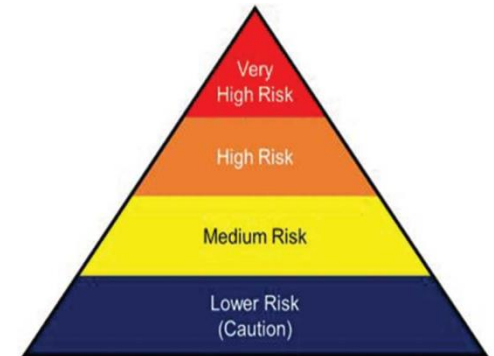
Legal Issues to Watch

▪ Workers' Compensation

- Workers' compensation laws provide for compensation for occupational diseases that arise out of and in the course of employment.
 - Ordinary diseases like the common cold or the flu are generally excluded.
 - Workers' compensation is generally the exclusive remedy for employees' compensable injuries and bars tort remedies for negligence claims, with the exception for claims based on gross negligence.
- Some states have passed laws providing that certain health care and other essential workers who contract COVID-19 are presumed to have contracted it at work, shifting the burden to the employer to prove that the employee contracted it outside of work.

Legal Issues to Watch

OSHA Levels of Risk for COVID-19



- **Very High Exposure Risk** – Health care and morgue workers performing aerosol-generating procedures on or collecting/handling specimens from potentially infectious patients or bodies of individuals known to have or suspected of having COVID-19 at the time of death.
- **High Exposure Risk** – jobs with a high potential exposure to known or suspected sources of COVID-19. Workers in this category include health care delivery, health care support, medical transport, and mortuary workers exposed to known or suspected COVID-19 patients or bodies of people known to have or suspected of having COVID-19 at the time of death.

Legal Issues to Watch

OSHA Levels of Risk for COVID-19

- **Medium Exposure Risk** – Jobs that require frequent and/or close contact (within 6 feet) with people who may be infected but who are not known or suspected to be COVID-19 patients. In areas with ongoing community transmission, workers may have contact with the general public (e.g., in schools, high-population-density work environments, and some high-volume retail settings), including individuals returning from locations with widespread COVID-19 transmission.
- **Low exposure risk** – Jobs that do not require contact with people known to be, or suspected of being, infected with COVID-19 nor frequent close contact with the general public. Minimal occupational contact with the public or other co-workers.

If you get an OSHA complaint, it is important to respond and describe in detail what you are doing to protect employees.

Retaliation Prohibited

Making a safety complaint to the employer may be protected activity. If an employee is retaliated against for exercising that right, the employee may have a retaliation claim against the employer under Section 11(c) of the OSH Act.

Legal Issues to Watch

▪ **Lawsuits for Change in Operations**

- Several lawsuits have been filed against institutions of higher learning seeking class action status for claims based on claims of contractual breach, unjust enrichment and conversion. These lawsuits claim that these causes of action arose when students did not receive a tuition refund when their institutions moved classes from being in-person to virtual learning online in response to the pandemic. These lawsuits seek damages for unrefunded tuition, fees and other expenses incurred.

▪ **Limitation of Liability for Reopening**

The Governor's Association has presented arguments to Congress to bar COVID-19 claims for damages against a public entity, a religious institution or a corporation exempt from federal income taxation under Section 501 of the Internal Revenue Code of 1986, which complies with its state's executive order, applicable statutes and guidance. The arguments are developing and this will be an area to watch.

Next Steps:

- Evaluate whether your institution can safely reopen campus this fall.
- Establish a COVID-19 Task Force to coordinate the logistics for staff and student return.
- Seek stakeholder feedback to address areas of risk on campus (i.e., housing, athletics, etc.).
- Engage with local health officials.
- Develop a comprehensive reopening plan.
- Ensure proper controls are implemented to facilitate social distancing and comply with other provisions of your institution's state and local orders as well as federal guidelines.
- Secure testing equipment and cleaning supplies, as necessary.
- Secure facial covering for staff .
- Train employees on COVID-19 and prevention measures.
- Communicate and listen to your employees and students and timely address concerns.
- Update your policies and procedures as necessary and as additional guidance evolves.
- Plan ahead to address any visa concerns which may impact student enrollment.
- Consult with legal counsel to understand and address risk management.

Questions

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