

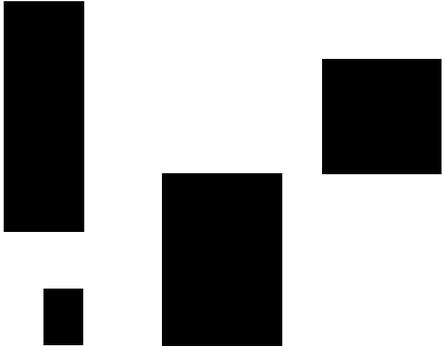
# COVID-19 Testing and Screening Guidance for Employers



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# COVID-19 Testing and Screening Guidance for Employers



## Introduction

Many organizations are preparing plans to restart business operations after either operating in a diminished capacity or ceasing operations during COVID-19 stay at home orders. Employers are focused on how they can best protect their workers, families, and the community, and many are considering what role testing and screening can play. This testing and screening overview will help to answer many common questions. This is a rapidly changing field, and there are likely to be substantial advances in testing and screening in coming months.



## Employee Testing vs Employee Screening

Companies are considering whether and when to screen or test those who enter the workplace. There are currently no laws requiring testing, although there are some states that require screening of those who enter the workplace or a place of business. There is no screening or testing strategy that will guarantee that no one who is contagious will enter the workplace. The chance of workplace spread of the coronavirus which causes COVID-19 is minimized by having fewer workers at the workplace, by opening the workplace at a point where the level of transmission in the local community is low, and by changing workplace design, policy, and processes to allow physical/ social distancing.

## Employee Testing

The Occupational Safety and Health Administration (OSHA) requires employers provide employees with a safe work environment free from recognized hazards under the General Duty Clause (Section 5 of the OSH Act-5(a)(1)). Some employers are considering or are implementing testing a regimen designed to identify COVID-19 cases.

There are currently tests available to diagnose current COVID-19 infection and to assess whether a person had COVID-19 in the past. Tests for acute infection could identify those who should be excluded from the workplace. Tests for past COVID infection do not necessarily show immunity from future infection, and so cannot guide employer or employee decision-making. All tests have false negatives and false positives, and we will review why this is important for employers as they consider and design a testing program. Tests must be ordered by a licensed health professional, and companies must have clear policies and procedures about how they will address both positive and negative test results.

Two kinds of tests are available for COVID-19: [tests for current infections](#) and [tests for previous infections](#).

Note that the Food and Drug Administration (FDA) has offered emergency use authorizations for some tests, but has not as of mid-May formally approved any COVID-19 test. The FDA initially allowed test vendors to market antibody tests with no oversight, although it has begun to require makers to provide information on test accuracy and has required some manufacturers to stop selling tests in the U.S.

Public health authorities can require that employers provide information about COVID-19 diagnoses among employees. Employers cannot, however, discriminate against those with positive tests or share information with other employees about a positive test without the employee's express permission.

## 1. Tests for current infection:

- a. CR (Polymerase Chain Reaction) tests.** These tests detect genetic material from the coronavirus, and require a sample that is usually collected from the very back of the nose. There are a few “point of care” tests, which can be developed in an on-site machine. Positive results come in as little as five minutes; negative results take 13 minutes. Most tests are performed at a laboratory, which requires turnaround of one or more days.

 Advantages: Rapid results from the point of care test.

 Disadvantages: Hard to scale at the office. Low sensitivity, leading to false negatives.

- b. Antibody tests.** These are blood tests for two antibodies, IgM (representing current infection) and IgG (representing past infection). These are often both present simultaneously. It takes the body a number of days to develop even the IgM antibodies. There are well over 100 companies which market antibody tests, and some of them have very poor accuracy rates.

 Advantages: Many test vendors; no need to take respiratory samples.

 Disadvantages: Not appropriate for acute infection as the false negative rate for early infections is far too high.

- c. Antigen tests.** Tests of respiratory material (generally a nasal swab) for portions of the virus, which were first approved by the FDA at the beginning of May, 2020. These tests are not yet widely available. They are easier to scale and should be less expensive than other tests, although their sensitivity is likely lower than PCR tests.

 Advantages: Likely to be less expensive and easier to deploy widely.

 Disadvantages: Low sensitivity, and not yet widely available.

## 2. Tests for Past Infections:

- a. Antibody (Ab) tests:** IgG antibody suggests past infection. However, some people with current infections will also have IgG Ab, and there are reports of high false positive rates, perhaps due to past exposure to related coronaviruses, which are a frequent cause of the common cold.

 Advantages: No need for respiratory samples.

 Disadvantages: Low specificity (too many false positives) for some tests, and **no clear evidence that those with antibodies are genuinely protected from future infection.**

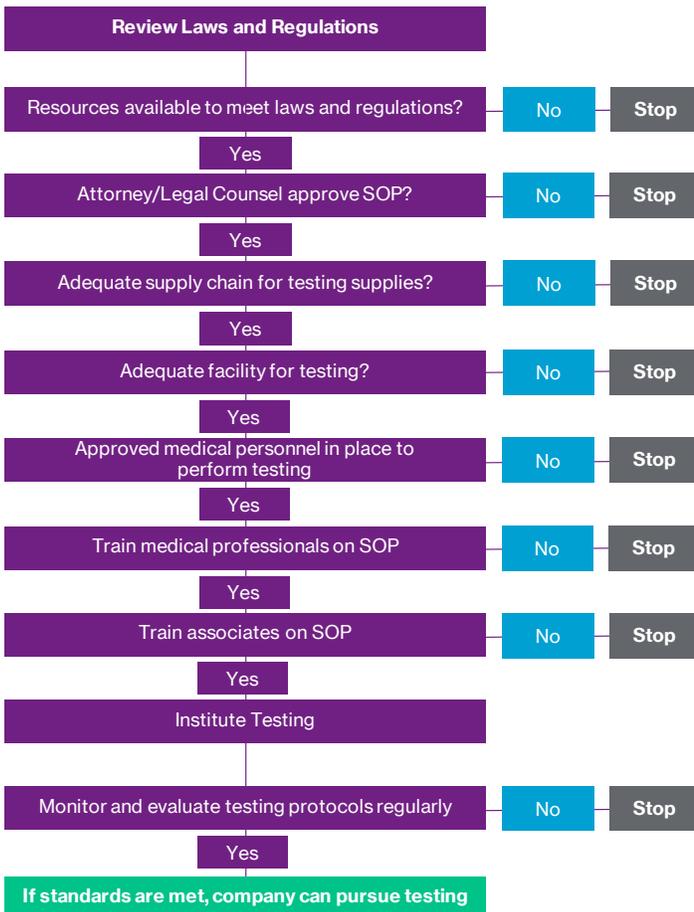
There are now multiple home tests for current COVID-19 infection available, although they might not be available everywhere due to state regulations. Home tests could be valuable to employers seeking to have employees tested off-site a number of days before returning to the workplace.

Testing raises a myriad of concerns depending on the type of test, the reliability of the results and when and how these tests are administered. Companies contemplating or implementing testing should address compliance issues, including employee data privacy issues, confidentiality, collective bargaining, as well as established company requirements. Tests designed to identify whether an individual has or had COVID-19 testing can lead to litigation, penalties, or fines if not administered correctly under close medical direction.

Medical testing is highly regulated, and employers must be fully aware of important disability and anti-discrimination laws. If testing is required under a governing authority to control virus spread, ensure comprehensive standard operating procedures are defined within the scope of the law. Legal counsel should review procedures prior to implementation any testing protocols or procedures.

Below outlines a conceptual process for implementing such testing.

1. Review all applicable laws and regulations including those associated with the Americans with Disabilities Act (ADA) and Equal Employment Opportunity Commission (EEOC).
2. Create a standard operating procedure (SOP) for testing and make sure to:
  - Clearly define how to respond if an employee refuses to take a test.
  - Clearly define what you plan to do if the employee tests positive.
  - Have an attorney/legal counsel review the procedure to ensure you are not violating any medical testing protocols, disability and/or anti-discrimination laws.
  - Obtain and ensure that you have an adequate supply chain to keep the required supplies available to conduct testing including test kits and personal protective equipment (PPE).
3. Establish the appropriate facility or area that meets all legal requirements for testing.
4. Obtain the correct medical expertise for those people that are performing the testing.
5. Train your internal medical professionals on your standard operating procedures.
6. Educate associates on the testing protocols and medical referral process.
7. Execute testing when directed by medical professionals or within re-entry protocols.
8. Determine the frequency for retesting, as employees will continue to have outside exposures.
9. Monitor and evaluate testing protocols routinely. If standards are not being met, stop testing until corrections are made. Document your corrective action plan.



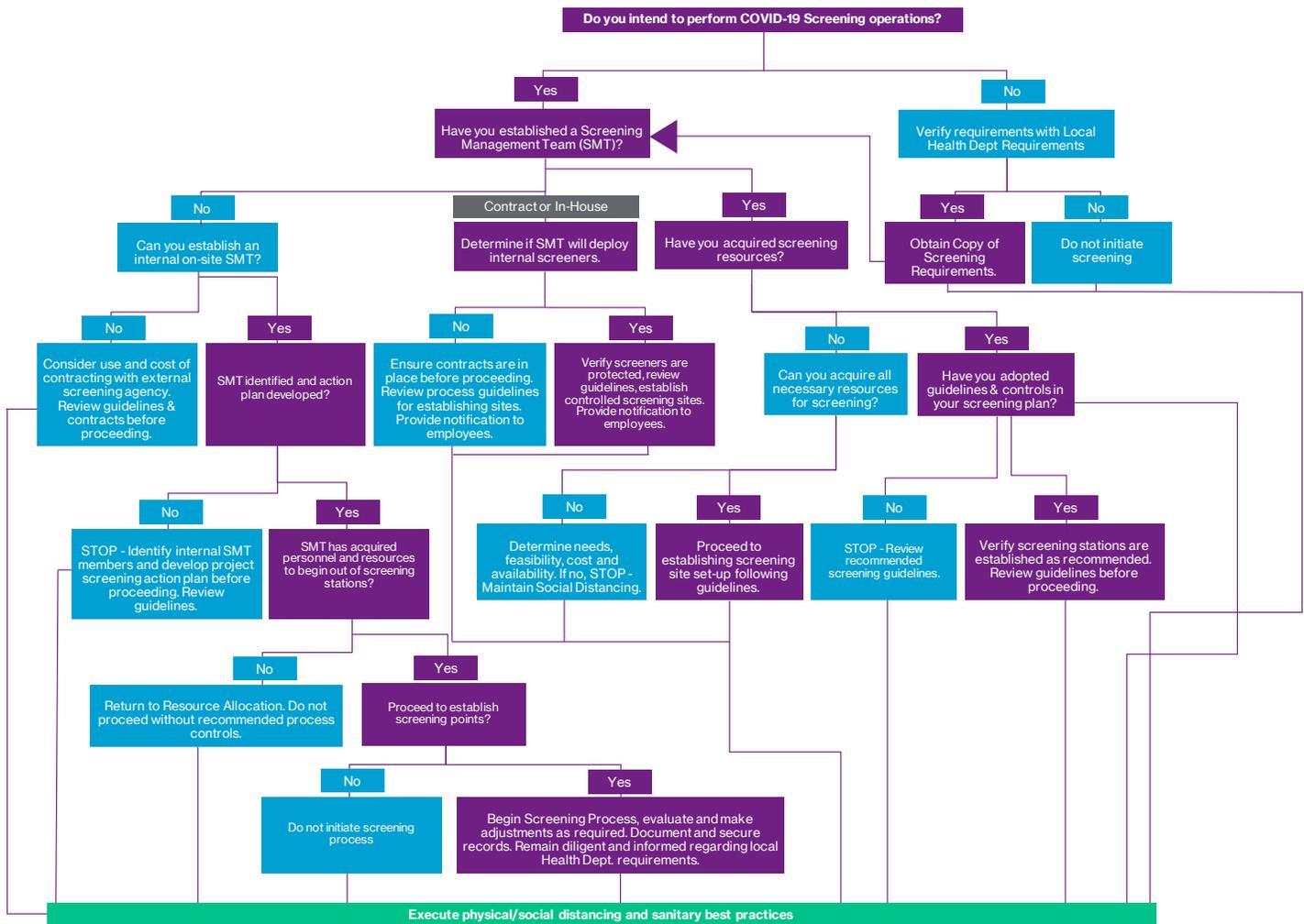
**New tests are being developed daily and our understanding of results will continue to evolve.**

## Employee Screening

Testing alone cannot offer adequate reassurance that employees who could spread COVID-19 infections will not enter the workplace, so many employers have chosen to screen those who enter the workplace. Some public health authorities have mandated temperature checks for essential employees and directed employers to send home any employees with a fever. Public health authorities have

the authority to demand information from employers related to the pandemic, including contact-tracing information if they have positively identified affected employees.

Some states or local jurisdictions restrict entry into particular locations based on screening and questionnaires. Public health authorities, to date, have not been prescriptive about exact screening modalities or procedures.



This decision tree above outlines the steps that employers should consider before implementing a screening program for their employees, customers or vendors who may visit their site.



## Suggested Actions for Employee Screening

### Temperature Screening

Perhaps one of the easiest diagnostic tests to administer, temperature screening allows employers to identify possible cases of COVID-19, as fever is one of the symptoms of an active COVID-19 infection. Unfortunately, many early cases have no fever, so lack of temperature alone does not mean that an employee is not infectious. Since other types of diseases, such as influenza and the common cold, also commonly present with a fever, a temperature screening protocol may also reduce the spread of other diseases in the workplace.

- On-site screening stations should be set up to practice social distancing separation of 6 feet or more. Perform outside before entry into the building (preferred) or in an isolated and well-ventilated area near the building entrance.
- Temperature checks are generally via thermal camera or touch-free thermometer, and such screenings that do not involve any physical contact have been determined by the EEOC not to be “medical examinations.” Self-administered temperature checks overseen by screeners, should be taken using a FDA approved thermometer or temperature screening device (i.e. non-contact thermal imaging, forehead thermal scanning devices, traditional thermometers with protective sleeves, disposable forehead temperature strips, etc.) following manufacturer’s instructions. All reusable temperature screening devices must be properly sanitized after each use to prevent contact spread.
- If temperature is over 100.40 F/38°C, refer them to consult with their personal physician for further diagnostic testing and treatment for possible COVID-19. Inform person to self-quarantine and seek medical care and evaluation; they can return to work when they have had 2 negative tests 24 hours apart, if tests are available, or 10 days later if they have had no respiratory symptoms and no fever off medication for 36 hours. Source: [CDC](#).
- Some employers might utilize Bluetooth thermometers allowing employees to register their temperatures before they leave their homes.

Note that the majority of those with early COVID-19, who might be contagious, do not have a temperature of over 100.4F/38C, so temperature screening should be coupled with questionnaires to be sure the entrant does not have symptoms or known exposures.

## Questionnaires

Another simple screening method is to have employees complete a questionnaire about recent symptoms (i.e., within the prior two weeks) that could indicate infection, exposure to known cases and activities that increase risk, such as travel to areas with higher numbers of cases. This could be completed through an app, a web form, or questions asked at the worksite. Some employers use a sign to convey reasons an employee should not proceed into the workplace.



Known signs and symptoms for COVID-19 range from mild to severe and can include: The most commonly reported symptoms which have been related to COVID-19 infections.

- 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

## Suggested Screening Logistics, Resources and Tools

- Non-contact infrared thermometer(s), with power sources, chargers, batteries etc.
- Trained personnel w/PPE to screen persons wishing to enter your facility (may be internal or third party staff).
- Checkpoint/Screening Tents, Dividers, Pedestrian barriers etc.
- Screening tables, with power sources, sanitation materials, PPE.

- Checkpoint notification signs, English, Spanish, legible prior to entry area.
- Personnel to advise, monitor and manage the flow of employees.
- A visible, durable means to indicate separation distances, restraining lines while designated traffic lanes funnelling to the screening site/area.
- Barrier tape to create process flow, directional control.
- Adequate lighting, safe temporary wind screens, portable heaters if applicable.
- Recording means, if applicable, to record temperature and verbal screening results.
- Security personnel, to manage flow of personnel entering the facility, create a secure presence.
- Private consultation areas for managing employee cases which exceed screening thresholds.

## Positive Test

If an employee tests positive or has symptoms, you may tell the employee's supervisor that the individual is unable to work or will be working from home, but you should not disclose the employee's symptoms, test results, or health status to co-workers or other colleagues absent the employee's consent. Any such consent must be given in a truly voluntary manner and should be documented in writing. If others in your workplace have been exposed to the employee and should begin following the [CDC's recommendations for self-isolation](#), you should inform them that they may have been exposed at a particular time and location or during a particular event and ask them to begin self-isolation.

**The employer should not identify the colleague or co-worker who tested positive without that person's voluntary consent to do so.**

There may be further limits on what you can and cannot do with employee information, depending on applicable state law. California, for example, limits the use of employee medical information under its Confidentiality of Medical Information Act.

## Vendor/Supplier/Visitor Screening

All individuals entering the facility should be properly screened for entry (e.g., employees, management, contractors, essential vendors). Consider establishing multiple screening sites, externally if possible, or at main entrances designated for entry. Provide enough access points to account for occupant numbers, and consider reducing entry points for off-peak (2nd/3rd shift for example).

Adjust the orientation of the screening station exits so that employees exiting the screening area do not cross the path of employees who are leaving the facility. Establish one-way direction flow of the screening process. Include diversion lanes to access secondary screening areas to ensure social distancing from others.

Provide secondary staging for any person who may screen positive for COVID-19 symptoms, or have been potentially exposed prior to entry, especially in situations where the individual did not self-isolate from others.

Ask vendors/visitors about recent history of fever in addition to the symptoms (e.g., cough and shortness of breath) and the objective measurement of temperature. Temperatures should be measured individually using a non-contact (preferred), temporal, thermometer. If using thermal imaging systems, procure FDA-approved system(s) and use in accordance with the manufacturer specifications. If such a system cannot be procured, use the existing thermal imaging system in accordance with all manufacturer specifications and FDA guidance. Some employers are restricting access for visitors and contractors.

Establish thermal screening areas in such a way to accommodate for ambient temperature changes, direct sunlight, portable heating systems and height variation of all individuals being screened. Use non-contact large pictograms in the screening process to increase non-verbal communication and to account for any language barriers.

Require employees, vendors or visitors to report to site management if they feel sick or present with any symptoms during a work shift.

Send ill employees home immediately if they develop symptoms during the day. Employees who are ill should not come to work or be allowed in the workplace. Workers leaving the workplace due to symptoms should not use public transportation. Surfaces in their workspace should be cleaned and disinfected. Work with state and local public health authorities to use CDC guidance for contact tracing and identification of contacts and or potentially ill persons.

## Additional Controls

Employers should decrease the risk of COVID-19 infection transfer and spreading among personnel. Below are the essential rules that should be respected and enforced at all times, as long as the COVID-19 virus is present. **Any protocol, process or solution you introduce on your worksite should strictly comply with each of the below directives.**



1. Social/physical distancing: maintain at least 6 feet distance between co-workers.
2. Individuals showing COVID-19 symptoms should be promptly removed from the workplace in a way that limits more exposure. They should be sent home to self-quarantine for 14 days before returning.
3. Wash hands regularly for at least 20 seconds with water & soap or alcohol-based sanitizer (min. 60% alcohol content).
4. Avoid touching your face. Exercise good personal hygiene.
5. Cover your cough or sneeze with a tissue, then throw the tissue away.
6. Gloves, safety glasses and face screens create extra protection.
7. Wear surgery masks or self-made cloth masks (bandana, scarf) to cover mouth. N95 facemasks (national shortage) should be prioritized for health workers.
8. Avoid sharing devices, pens, paper forms and other equipment.
9. Clean and disinfect frequently touched objects, surfaces, devices, equipment and tools with wipes, cleaning spray, soap or diluted bleach.

This document draws from recommendations from the [Centers for Disease Control and Prevention \(CDC\)](#) and [World Health Organization \(WHO\)](#).

## Legal Aspects

Since a worker with the COVID-19 illness constitutes a “direct threat” to others, the Equal Employment Opportunity Commission (EEOC) says COVID-19 testing is allowed under the Americans With Disabilities Act (ADA) in the context of this public health emergency. The need to perform testing for possible COVID-19 infection meets the ADA requirements that mandatory medical tests be “job related and consistent with business necessity.”

The Americans with Disabilities Act requires results of employee medical exams be kept confidential. Taking an employee’s temperature, testing for COVID-19 or related antibodies, or even asking an employee about any history of symptoms would normally all be considered types of medical exams. If you chose to record information from your employee screening process (not required) you should keep these records in a secure location, separate from your other employee files.

The employer may only disclose related medical testing or screening information to a third party on a strict need-to-know basis. Employee consent is required to release testing or screening information, which should be considered private and confidential. If there are questions regarding what information can be obtained from the daily screening of an employee, customer or vendor, legal advice should be sought from a qualified attorney.

## Resources:

### Centers for Disease Control and Prevention:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

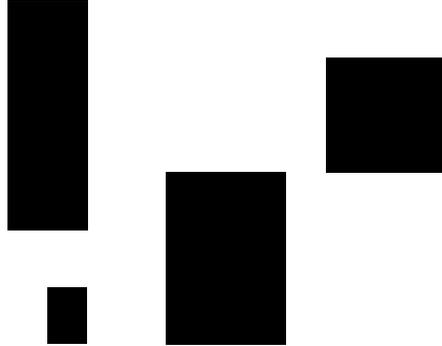
### World Health Organization:

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

### Willis Towers Watson:

<https://www.willistowerswatson.com/en-us/insights/trending-topics/covid-19-coronavirus>





**Disclaimer:** Each applicable policy of insurance must be reviewed to determine the extent, if any, of coverage for COVID-19. Coverage may vary depending on the jurisdiction and circumstances. For global client programs it is critical to consider all local operations and how policies may or may not include COVID-19 coverage.

The information contained herein is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal and/or other professional advisors. Some of the information in this publication may be compiled by third party sources we consider to be reliable, however we do not guarantee and are not responsible for the accuracy of such information. We assume no duty in contract, tort, or otherwise in connection with this publication and expressly disclaim, to the fullest extent permitted by law, any liability in connection with this publication.

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COVID-19 is a rapidly evolving situation and changes are occurring frequently. Willis Towers Watson has made best efforts to provide accurate information as of the date written, but some content may have changed since the date of this publication. Please reach out your Willis Towers Watson contact for more information.

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