Reopening Your Law Office Safely

Written by Damien Riehl

During the pandemic, many states considered law firms to be essential services when issuing stay-at home orders.

Even with that designation, law firms operated with telecommuting or distancing as their default day-to-day operations. Now, with widespread vaccination, many states are rescinding business closure orders. Law offices can reopen fully and operate in a manner closer to their pre-pandemic methods. Many firms should be asking themselves how to reopen a law firm with the effects of the pandemic being far from over.

Should you reopen your law office?

There's no need to rush to reopen if you're working remotely. If you do reopen, take extra measures to prioritize the safety of your staff and clients.

When looking at this question on how to reopen offices, law firms likely have several options.

Do you have to open your office just because your area has lifted restrictions? No. Law firms can absolutely be open to the public without their physical offices remaining open. If your firm is fine operating remotely or with strong social distancing, there is no rush to go back to a storefront operation.

The second option is, of course, to reopen your law office. Does this mean going back to the status quo? Also no. You'll need to reopen your law office with new safety plans in place for yourself, your staff, and your clients.

Here are some planning resources and considerations that can help you reopen your law office.

State and federal guidance on reopening

There is plenty of information from both state and federal agencies to help guide businesses—including law firms—reopen their offices.

OHSA Guidance

The first resource that law firms should review before reopening is guidance from both health and worker safety government agencies on operating an office environment safely. Occupational Safety and Health Administration (OSHA) has provided guidance on how to structure workplaces to operate safely when the economy is open.

The guidance in part states:

- Encourage workers to stay home if they are sick.
- Isolate any worker who begins to exhibit symptoms until they can either go home or leave to seek medical care.
- Establish flexible worksites (e.g., telecommuting) and flexible work hours (e.g., staggered shifts), if feasible.
- In workplaces where customers are present, mark six-foot distances with floor tape in areas where lines form, use drive-through windows or curbside pickup, and limit the number of customers allowed at one time.
- Stagger breaks and rearrange seating in common break areas to maintain physical distance between workers.
- Move or reposition workstations to create more distance, and install plexiglass partitions.
- Encourage workers to bring any safety and health concerns to the employers' attention

These make sense, but how many law firms have space to carve out a six-foot distance from visiting clients in their office? Read this guidance carefully, combine with any state guidelines, and do what you can given your own office space and circumstances. If you can't meet many of these guidelines, this may be a sign that you need to hold off on reopening your law office a little longer. Or, you need to get creative with how you keep clients and staff safe.

Guidance from state health agencies

In addition to reviewing the OHSA's guidance, you'll also want to check guidance on reopening from your state, as this may provide more specific, in-depth advice.

Here is an overview of California's office precautions, with more detail in the guidance linked above:

- Physical distancing to the maximum extent possible;
- Use of face coverings by employees (where respiratory protection is not required) and customers/clients;
- Frequent handwashing and regular cleaning and disinfection;
- Training employees on these and other elements of the COVID-19 prevention plan.

How to reopen your law office safely

1. Provide training

Since training factors heavily in preparing your law firm to reopen, you'll want to ensure that everyone in your office is on the same page about best health practices. You also need to make sure you have a plan to address any concerns.

2. Have clear policies

You'll need a united front when it comes to enforcing hand washing, social distancing, and mask-wearing with both firm members and the public. Each member of the firm should be able to explain to clients the health precautions in place and how clients are expected to contribute when visiting. You'll also want everyone to understand if there will be disciplinary actions when someone disregards a firm health policy.

A. Vaccinations and your law firm employees

Now that COVID vaccines are commonly accessible throughout the United States, your law firm should update your policies regarding vaccinations.

Law firms can require mandatory vaccination of employees if there is a job-related and consistent with business necessity, such as safety-related precautions. Remember that many law firms deal with clients who may have continuing increased risks from COVID-19. Such clients may have families with children too young to be vaccinated or suffering medical conditions that make vaccines dangerous. Because of this, requiring mandatory vaccination of lawyers and staff is a sound safety policy.

Law firm employers will still need to comply with the reasonable accommodation provisions of Title VII of the Civil Rights Act, the Americans with Disability Act and other Equal Employment Opportunity legal considerations discussed by the Equal Employment Opportunity Commission' guidance. Law firms with mandatory vaccination policies will need to keep records of employees' vaccination status confidential. Law firms must also provide reasonable accommodation for those vaccine-ineligible employees if it does not impose an undue hardship on the firm.

Reasonable accommodation may include continuing telework for at-risk employees. Other policies, like office mask policies, could also be considered a reasonable accommodation.

If you are not enforcing a mandatory vaccination rule at your law firm, know that you can consider vaccination incentives as legal. Vaccination incentives may be another way to heighten the safety of your law firm's staff and clients if you do not want a mandatory vaccine policy.

B. Mask policies in law firms

A majority of states have dropped their mask mandates—this does not mean that your law firm cannot require masks. Private businesses may still require wearing masks from both employees and clients. It's similar to the "no shirt, no shoes, no service" policy posted on many restaurant and shop entries. Even states that were aggressively fast to rescind mask mandates still recognize that private businesses like law firms may still require protective gear.

C. Implement additional safety policies for high-traffic, communal areas

High-traffic, communal areas include elevators, break rooms, washrooms, print rooms, meetings rooms, etc. Consider using a combination of physical signs and tape marks to ensure your law firm's staff, clients, and the public remembers to observe safety measures. Add this to your staff's ongoing safety training as well.

3. Rearrange office furniture and workstations

Even with the increasing vaccination rates, it is still a good idea to rearrange office furniture and workstations. By increasing the distance between workstations, you can increase safety levels for your law firm's associates, paralegals, and firm administration team. If you're worried about a lack of space because of the increased distance between office furniture, consider providing flexibility for your staff, as explained in the next paragraph. This way, with some employees continuing to work from home as needed, you may not need as many workstations as before.

4. Provide flexibility as needed

Recognize that the need for flexibility is still ongoing as the pandemic continues. An employee with an underlying condition or at-risk family member may need a different work plan than the rest of the office. Firms should recognize and support the individual needs of employees when they voice health concerns.

5. Create times and zones of responsibility

Borrowing from health care professionals' strategies, create times and zones of responsibility. Do not let there be overlap between those times and zones. Develop these zones based on the following questions:

- Who has to be in the office? (Can/should anyone continue to work remotely?)
- Do they have to be in the office at the same time?
- Who has to interact with others outside the office?

For example, attorneys attending public hearings should not be in the office simultaneously as paralegals, IT staff, and office administrators whose duties are not public-facing. Designate rooms in the office as public facing versus staff-only and strictly enforce their separation. Having designated rooms will minimize risk for both staff and clients.

6. Look at all aspects of sanitation when reopening your law office.

The most complex issue to overcome in reopening may be adequate sanitation, social distancing, and allowance for air circulation.

Soap and water or hand sanitizer that is 60% alcohol may be relatively easy to provide. Controlling your office's ventilation to reduce infection due to recirculated air may not be something every office can handle. Also, the CDC's recommendations of air circulation and central air filtration may be difficult to implement.

7. Keep considering creative solutions

Firms determined to reopen may need to embrace the creativity exhibited in previous pandemics. For example, during the 1918 Spanish Flu epidemic, San Francisco held open-air court hearings in an attempt to minimize chances of infection. If your firm has created outdoor space for working and meetings, there is no need to abandon it now.

Can every office operate outside? No, but the patio may be neutral ground where public-facing and non-public facing employees can briefly meet from a safe distance.

Your staff and clients' safety is the top priority

These were trying times. As restrictions lift in your area, there's no need to rush back to the office—especially if your firm has been operating remotely. If you do go back to the office, ensure employees can keep their distance, enforce strict sanitization of shared surfaces. Above all, make sure that everyone coming into the office feels safe. Your clients will appreciate your commitment to protecting their health and safety.

About Clio

Clio is the global leader in legal AI, powering legal work across the profession, from law firms of every size to corporate legal teams, government agencies, and courts. Its Intelligent Legal Work Platform unites the business and practice of law, connecting the people, information, and processes behind legal work. Clio's AI brings the context together with legal sources drawn from Clio Library, a growing collection of more than one billion legal documents. Over 400,000 legal professionals in more than 130 countries rely on Clio to run their legal world. Learn more at www.clio.com.