

MICHAEL JOHNSON CEO
CLEAR LAW INSTITUTE

COVID-19 EMPLOYEE TRAINING REQUIREMENTS

CLEAR LAW INSTITUTE

COMPLIANCE WEEK

ABOUT THE PRESENTER

CLEAR LAW INSITUTE

Michael Johnson, CEO of Clear Law Institute, is a former U.S. Department of Justice attorney.

He has provided training and consulting to organizations around the world, such as the EEOC, the United Nations, and Google.

He is a graduate of Duke University and Harvard Law School.

ABOUT CLEAR LAW INSTITUTE

CLEAR LAW INSTITUTE

- More than 2,000 online continuing education courses on legal, HR, & compliance topics
- Online compliance training for more than 1,000 employers and more than 1 million users
 - Sexual Harassment Training
 - Code of Conduct and Ethics Topics
 - COVID-19 Safe Workplace Training

WEBINAR AGENDA



- States that **Require** Covid-19 Safe Workplace Training
- States that **Recommend** Covid-19 Safe Workplace Training
- CDC and OSHA Guidance **Recommend** Covid-19 Safe Workplace Training Nationwide
- How Training Can Mitigate Liability Issues
- Considerations in Providing Covid-19 Safe Workplace Training

COVID-19 SAFE WORKPLACE TRAINING REQUIRED

California

Connecticut

Illinois*

Kentucky

Massachusetts

Maine

Michigan

Minnesota

New
Hampshire

New Mexico

New York

Oregon

Rhode Island

Vermont

Virginia*

Washington

CALIFORNIA

TRAINING REQUIRED

- ✓ Cal/OSHA issued **Interim General Guidelines on Protecting Workers from COVID-19**
- ✓ California employers have always been required to implement **Injury and Illness Prevention Program (IIPP)** to protect from workplace hazards, including infectious diseases
- ✓ Employers required to determine if **Covid-19 is a hazard** in their workplace
 - ***“For most California workplaces, adopting changes to their IIPP is mandatory since COVID-19 is widespread in the community.”***
- ✓ Guidelines detail numerous “infection prevention measures” employers **must** take -- including employee **Covid-19 Safety Training**
 - ✓ Employers must train employees, independent contractors, temporary, and contract workers and ensure they have necessary PPE

CALIFORNIA CONTINUED

TRAINING CONTENT REQUIRED

Cal/OSHA Guidelines outline the required **training content**, including:

- ✓ Description of COVID-19 symptoms
- ✓ When to seek medical attention
- ✓ How to prevent its spread
- ✓ Employer's procedures for preventing spread at workplace
- ✓ How an infected person can spread COVID-19 to others even if they are not sick

CALIFORNIA CONTINUED

FACE COVERING

TRAINING CONTENT REQUIREMENTS

CLEAR LAW IN

- ✓ How to prevent the spread of Covid-19 by using **cloth face coverings**, including:
 - CDC guidelines that everyone use face coverings around others
 - Face coverings help protect persons around user when *combined* with physical distancing and frequent handwashing
 - Face coverings are not protective equipment and do not protect person wearing face covering from COVID-19
 - Washing and sanitizing hands before and after using face coverings
 - Face coverings should be washed after each shift

CALIFORNIA
CONTINUED

HYGIENE
PRACTICES

TRAINING
CONTENT
REQUIREMENTS

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✓ Hygiene Practices

- Cough and sneeze etiquette
- Washing hands per CDC guidelines
- Avoid touching eyes, nose, and mouth with unwashed hands
- Avoid sharing personal items with co-workers (i.e., dishes, cups, utensils, towels)
- Providing tissues, no-touch disposal trash cans and hand sanitizer for employee use
- Safely using cleaners and disinfectants

CONNECTICUT TRAINING REQUIRED



- ✓ Governor's Order on plan for safe reopening:
 - “rules issued by the Department of Economic and Community Development (DECD) for each various business sector . . . shall constitute **legally binding guidance**.”
- ✓ Training varies by industry, but DECD rules require employers to:
 - “institute a **training program** and ensure employee participation **prior to reopening**.”

CONNECTICUT CONTINUED

TRAINING CONTENT REQUIREMENTS

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Training for several industries, including offices and retail, **must** include:

- **Face coverings**, touchless appliances, **handwashing and sanitizer**, **social distancing**, **PPE**
 - Proper **cleaning procedures and protocols** to ensure safe and correct application of cleaning products, including disinfectants
- ✓ If any on-site duties are **subcontracted**, employer must ensure subcontractors are trained

CONNECTICUT *CONTINUED*

TRAINING REQUIREMENTS

- ✓ “The training shall be provided at no cost to the employee and during working hours.”
- ✓ “There shall also be weekly refreshers on policies.”

KENTUCKY

TRAINING REQUIRED

Governor's Executive Order:

“All entities...**shall comply** with the minimum requirements” of the **Kentucky Healthy at Work** requirements before reopening”

KENTUCKY CONTINUED

TRAINING CONTENT REQUIREMENTS

- ✓ **Employee training** on how to isolate individuals with suspected/confirmed Covid-19, and how to report possible cases
- ✓ **Training for all individuals**, including employees, temporary employees, contractors, vendors, and customers about **Kentucky Healthy at Work protocols**
 - Entities that never closed must also meet the training requirements
 - Retail businesses also must train employees on how to use PPE
 - Training must be offered during scheduled work times at no cost to the employee.

MAINE

TRAINING
REQUIRED

Maine Department of Economic Development Checklist Compliance Form:

“In order to open, businesses **must commit to complying with the requirements of these checklists** by filling out [an] online form.”

MAINE

TRAINING CONTENT REQUIRED

- ✓ Checklist **requires employee training** – which can vary by industry
- ✓ **Training generally must include:**
 - Hand hygiene
 - Social distancing
 - Monitoring personal health and temp
 - PPE
 - Laundering of face coverings and uniforms
 - Cleaning protocols
- ✓ Some industries: **“Consider employee training in safe de-escalation techniques.”**
- ✓ Businesses can post compliance badges on doors and website to instill consumer confidence

MASSACHUSETTS TRAINING REQUIRED

As part of phased reopening, Massachusetts issued **Mandatory Safety Standards for Workplaces**

- ✓ “These new standards will apply universally to all reopening workplaces and are designed to reduce the risk of Covid-19 transmission to employees and customers.”
- ✓ All workplaces **must** establish a “return-to-work” plan
- ✓ All workplaces **must** “provide **training for employees** on social distancing and hygiene protocols”
- ✓ Supplemented by industry sector-specific safety protocols, which specify the **content requirements** for mandatory training
- ✓ Training content varies by industry

MASSACHUSETTS

TRAINING CONTENT REQUIREMENTS FOR OFFICES

As an example, the training content for Offices must include **up-to-date** safety information, including:

- ✓ **hygiene** and other measures to reduce disease transmission
- ✓ **social distancing, hand-washing, and proper use of face coverings**
- ✓ **self-screening at home**, including temperature or symptom checks
- ✓ importance of **not coming to work ill**
- ✓ when to seek **medical attention** if symptoms become severe
- ✓ which **underlying health conditions** may make individuals more susceptible to contracting and suffering from severe case of virus

MICHIGAN

TRAINING REQUIRED

Governor's Executive Order states:

“all businesses that require their employees to leave homes or residences for work **must** . . . provide **Covid-19 training to employees that covers**, at a minimum:”

- ✓ workplace infection control practices
- ✓ proper use of PPE
- ✓ protection provided by face coverings
- ✓ proper wear, use, and maintenance of face coverings
- ✓ steps employee must take to notify the employer of any Covid-19 symptoms or suspected/confirmed Covid-19 case
- ✓ how to report unsafe working conditions

MINNESOTA TRAINING REQUIRED

As part of phased reopening under Minnesota's Stay Safe Plan, the state issued **Industry Guidance for Safely Reopening**, which provides:

- ✓ Employers must develop Covid-19 **Business Preparedness Plan**
- ✓ As part of the Plan, "all workers and members of management **must be trained** regarding Covid-19 exposure, as well as applicable policies, procedures, practices, and protocols."
- ✓ "The training must be provided by and paid for by the business."

NEW HAMPSHIRE

TRAINING REQUIRED

Governor's EO states:

“All businesses **shall comply** with the Universal Business Guidelines and any other industry-specific guidelines issued by the State of New Hampshire.”

- ✓ The **Universal Guidelines** for All New Hampshire Employers state:
 - ✓ “employers **must** develop policies for worker protection and provide **training** to all staff prior to assigning cleaning tasks.”
- ✓ **Retailers must also:**
 - train employees on the use of cloth face coverings per CDC guidelines, and
 - provide **regular updates and training** for employees about personal COVID-19 mitigation and store safeguards based on CDC guidelines.

NEW MEXICO

TRAINING
REQUIRED

The Governor of New Mexico has issued **Covid Safe Practices for All Employers** which provides:

- ✓ Employer “requirements” include “train all employees” on
 - daily cleaning and disinfecting protocol
 - hygiene support
 - respiratory etiquette (e.g., covering coughs)

NEW YORK

TRAINING REQUIRED

As part of phased reopening, New York State issued **industry-specific guidelines** for businesses allowed to reopen

- ✓ Guidelines for several industries – including offices and retail - direct employers to “**train all personnel** on the new protocols and frequently communicate safety guidelines”
- ✓ Many of the guidelines outline required **training content**, such as:
 - Social distancing
 - Face coverings
 - Use of PPE

OREGON

TRAINING
REQUIRED

Governor's Executive Order:

- ✓ “businesses **must** comply with any applicable Oregon Health Authority (OHA) guidance, including, but not limited to **employer guidance and face covering guidance**”
- ✓ Order further stated that “businesses and organizations that do not comply with the Order **will be closed** unless compliance can be demonstrated.”

OREGON
CONTINUED

TRAINING
CONTENT
REQUIRED

OHA issued **General Guidance for Employers:**

"train all employees in safety requirements and expectations at physical worksites"

RHODE ISLAND

TRAINING REQUIRED

As part of state's phased reopening Plan, Rhode Island Department of Health issued **emergency rules** stating:

“all employees **shall be trained** to follow the standards and requirements of these regulations and new employees shall be trained as they are hired.”

**Emergency regulations remain in effect until September 5, 2020, unless renewed for a period not to exceed 60 days

RHODE ISLAND *CONTINUED*

TRAINING CONTENT REQUIRED

- ✓ Training must include:
 - **Social distancing** including additional measures to be taken in high-traffic, communal, or other areas where social distancing is not feasible
 - Use of **face coverings**
 - **Cleaning** and decontamination procedures
- ✓ Employers should also encourage employees to come forward and “discuss with and/or distribute information to employees about how the business or organization will address employee concerns.”

VERMONT

TRAINING
REQUIRED

Governor's Executive Order:

“All employees . . . must complete, and employers must document, a mandatory training on health and safety requirements as provided by VOSHA, or another training program that meets or exceeds the VOSHA-provided standard.”

VERMONT *CONTINUED*

TRAINING CONTENT REQUIRED

Training must be provided **before returning to work** and include:

- **signs and symptoms of COVID-19**
- **explanation on how disease is spread**
- **information on appropriate social distancing and personal hygiene practices**
- **the types, proper use, limitations, location, handling, decontamination, removal, and disposal of any PPE being used**

VIRGINIA

TRAINING REQUIRED

Virginia adopted **Emergency Temporary Standard** that requires **training** for:

- ✓ Employers with jobs classified as medium, high, and very high risk must provide training to **all employees**, regardless of risk classification, by August 26, 2020
- ✓ Lower risk places of employment must provide employees with basic written or oral information on Covid-19

VIRGINIA CONTINUED

TRAINING CONTENT REQUIRED

Training must include:

- ✓ Methods of Covid-19 transmission
- ✓ Signs and symptoms of disease
- ✓ Risk factors of severe illness with underlying health conditions
- ✓ The ability of pre-symptomatic and asymptomatic persons to transmit virus
- ✓ Safe and healthy work practices
- ✓ PPE
- ✓ Anti-discrimination provisions of new rules

WASHINGTON

TRAINING REQUIRED

Guidance issued by **Washington Dept of Labor & Industries** instructs that all employers:

“must provide **basic workplace hazard education** about coronavirus and how to prevent transmission in languages best understood by employees.”

- **signs, symptoms, and risk factors** associated with Covid-19
- how to **prevent spread at work**
- how to **effectively wash hands**
- importance of **covering coughs/sneezes**, and not touching face with unwashed hands

As part of state's phased reopening, the Illinois Department of Commerce and Economic Opportunity (DCEO) issued **Return to Work toolkits**:

“all workers **must** complete **health and safety training** related to Covid-19 when initially returning to work”

ILLINOIS

**TRAINING
REQUIRED***

- ✓ Governor's **Executive Order** attempted to enforce DCEO's Return to Work toolkits:
 - "businesses **must** follow guidance provided or published by the Illinois Department of Commerce and Economic Opportunity regarding safety measures ..."
- ✓ An argument was made that the cited sections of law in the Order **do not place any affirmative liability or penalties of non-compliance on businesses or employers**

ILLINOIS
CONTINUED

**TRAINING
REQUIRED***

What is the current Status of Governor's Executive Order?

- ✓ Several lawsuits filed challenging Governor's authority to issue Executive Order
- ✓ Two lower county circuit court cases recently nullified Governor's Order
- ✓ Federal court decision recently upheld Governor's Order
- ✓ Appeals currently pending

ILLINOIS
CONTINUED

TRAINING
REQUIRED*

Are there other liability issues for not providing employees safety training in Illinois?

- ✓ In recent weeks, some employers have received requests for information from AG's Office to show compliance with Order
 - Employees may complain to AG's Office, Worker Protection Unit, about unsafe working conditions
 - AG Office has authority to investigate and prosecute complaints about unsafe working conditions
 - AG Office has provided specific email address to report Covid-19 workplace complaints
- ✓ Other liability issues for non-compliance with Order and DCEO guidelines include workers' comp and tort claims, e.g., McDonald's court decision ordering compliance with Governor's Order

ILLINOIS
CONTINUED

TRAINING
REQUIRED*

STATES
ENCOURAGING

EMPLOYEE
SAFE
WORKPLACE
TRAINING

Arizona

D.C.

Hawaii

Idaho

Indiana

Maryland

North Dakota

Texas

Utah

West Virginia

Recommends employee training on:

- ✓ Policies to reduce spread of Covid-19
- ✓ General hygiene
- ✓ Symptoms and what to do if sick
- ✓ Cleaning and disinfecting
- ✓ Cloth face covers
- ✓ Social distancing
- ✓ Safe workplace practices

CDC INTERIM GUIDANCE FOR EMPLOYERS RESPONDING TO COVID



CDC INTERIM GUIDANCE FOR BUSINESSES AND EMPLOYERS

- ✓ Administrative workplace measures – such as employee training – **more effective** than PPE
 - use of PPE alone least effective and most difficult to implement to control hazard given shortages and training requirements
- ✓ Recommends employers:
 - obtain **accurate and timely** information about Covid-19 to inform appropriate workplace response
 - **monitor** federal and state orders and guidelines for updated information

OSHA GUIDANCE
ON PREPARING
WORKPLACE FOR
COVID-19

EMPLOYEE
SAFETY
TRAINING
RECOMMENDED



OSHA
GUIDANCE ON
PREPARING
WORKPLACES FOR
COVID-19

EMPLOYEE
TRAINING
RECOMMENDED

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- ✓ No new legal obligations
- ✓ **Training** – along with other safety measures - intended to help employers comply with “General Duty Clause”

OSHA
GUIDANCE ON
PREPARING
WORKPLACES FOR
COVID-19

RECOMMENDED
TRAINING
CONTENT

Recommendations for **training** include:

- **signs, symptoms, and risks** associated with Covid-19
- **how** employees might be exposed to Covid-19 in the workplace
- how to **prevent** the spread of Covid-19 at work
- **measures** employer taking to protect employees
- use of **face coverings** in workplace
 - including when face coverings could cause/contribute to health hazard

POTENTIAL LIABILITY ISSUES



OSHA
Workplace Safety Claims



**Personal Injury &
Tort Claims**



**Workers' Compensation
Claims**

OSHA & UNSAFE WORKPLACE COMPLAINTS

OSHA's **General Duty Clause** requires safe and healthful workplace

- ✓ OSHA can issue a **citation** for failing to keep workplace free of a **known workplace hazard** likely to **cause death or serious physical harm**
- ✓ OSHA could base citation on **failure to follow federal and/or state guidelines** to prevent employee exposure to Covid in workplace
- ✓ Some **state agencies** have similar enforcement powers
 - Oregon OSHA received **750 complaints** over 4th of July weekend alone

PERSONAL INJURY & OTHER TORT CLAIMS



- ✓ Wrongful Death
- ✓ Negligence
- ✓ Public Nuisance
- ✓ Intentional Infliction of Emotional Distress
- ✓ Negligent/Intentional Misrepresentation

- ✓ Some states have passed legislation to protect employers from certain tort claims, but only if employer acted in good faith to protect employees

MCDONALD'S FRANCHISE PUBLIC NUISANCE CASE

Employees claimed restaurants acted negligently and created a public nuisance

- ✓ Court relied on Illinois Governor's Executive Order and Agency Guidance
- ✓ Circuit Court judge issued preliminary injunction ordering McDonald's franchisees to:
 - Train employees on proper social distancing practices
 - Enforce face covering requirements

WORKERS' COMPENSATION CLAIMS

- ✓ WC generally **does not cover routine community-spread illnesses** such as cold/flu because usually cannot be directly tied to the workplace
- ✓ Several states considering legislation to make coronavirus infections **presumed work-related** for certain classes of employees (health care workers, first responders, etc.)
- ✓ **CA, NY, and WY:** legislation to amend WC laws to include Covid-related illness injury eligible for coverage

HOW TO MITIGATE RISK

- ✓ **Follow federal and state guidelines** on workplace safety during Covid-19
- ✓ **Develop** COVID-19 Preparedness Plan
- ✓ **Train employees** on workplace safety, proper hygiene, social distancing, and facial covering requirements and other required content
- ✓ **Make sure employees feel safe** and protected in the workplace



CONSIDERATIONS FOR PROVIDING COVID-19 SAFE WORKPLACE TRAINING

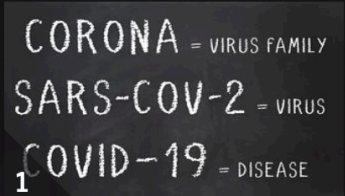
ENSURE TRAINING HAS ALL RECOMMENDED CONTENT FROM OSHA & CDC

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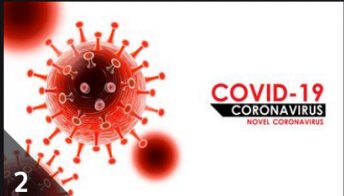
COVID-19

Safe Workplace Training




1

Introduction



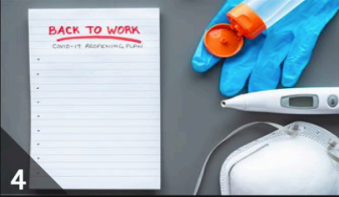
2

What is COVID-19?




3

Preventing the Spread in the Workplace



4

Industry, State, and Employer-Specific Guidance



5

Conclusion

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◀ PREV NEXT ▶

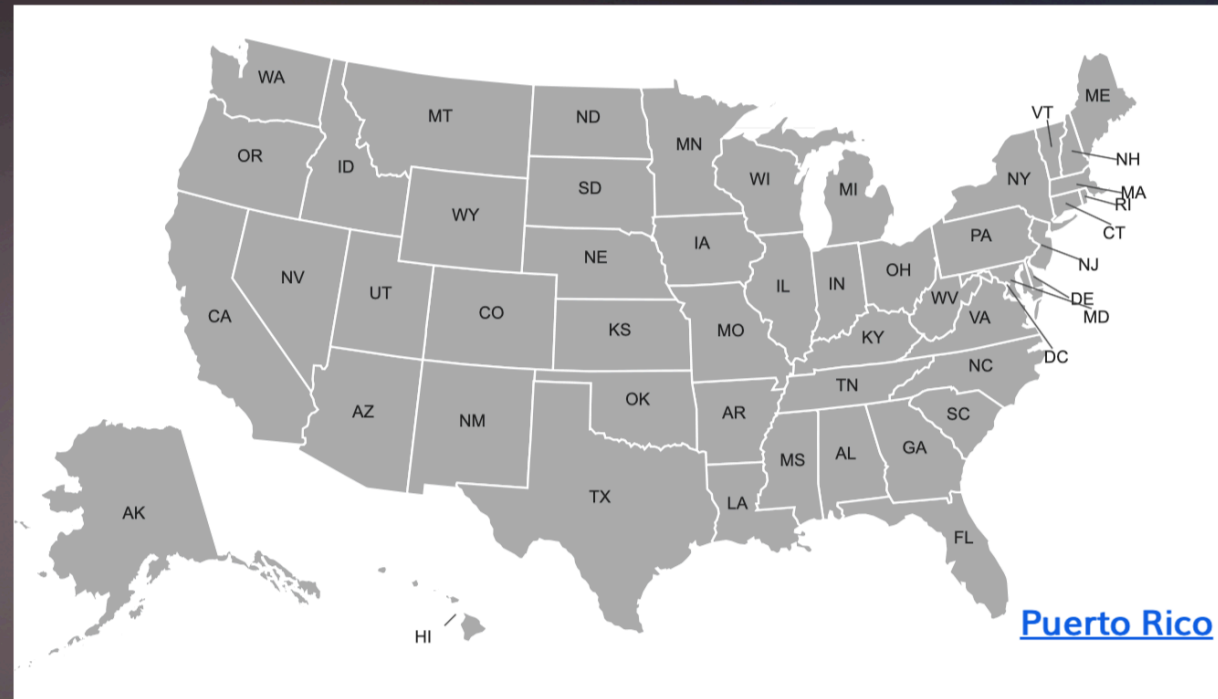
PROVIDE STATE-SPECIFIC INFORMATION IN ALL 50 STATES

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Industry, State, and Employer-Specific Guidance: 2 of 4

Please click on the state where you work.



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PREV

RETURN TO WORK GUIDANCE VARIES BY STATE

New York COVID-19 Resources

Table of Contents	▲
1. New York COVID-19 Resources	
1.1. Overview	
1.2. State Resources	
1.3. Federal Resources	

Overview

In New York, your employer must provide you with information on any **new protocols** and frequently communicate any **new safety guidelines**.

Employees must wear employer-provided **face coverings** when social distancing of six (6) feet cannot be maintained, *except* when wearing a face covering would be unsafe due to a medical condition or disability. Acceptable face coverings include, but are not limited to, cloth (e.g., homemade sewn, quick cut, bandana), surgical masks, and face shields. Face coverings must be cleaned or replaced after use and may not be shared. Employers must allow employees to use their own acceptable face coverings but cannot require employees to supply their own face coverings.

Your employer must ensure that **a distance of at least six feet** is maintained among individuals at all times, unless the safety of the core activity requires a shorter distance. Any time individuals must come within six feet of another person, acceptable face coverings must be worn. Individuals must be prepared to put on a face covering if another person unexpectedly comes within

REGULARLY REVIEW FEDERAL AND STATE ORDERS & GUIDANCE FOR UPDATED INFORMATION

State Resources

The following resources are available in New York if you have any questions or need additional support:

- New York State Covid hotline: 📞1-888-364-3065
- [New York Office of the Governor, Executive Orders](#)
- [Reopening New York State](#)
- [New York State Statewide Guidelines](#)
- [New York State Phase I Industry Guidance](#)
- [New York State Phase II Industry Guidance](#)
- [New York State Phase III Industry Guidance](#)
- [New York State Phase IV Industry Guidance](#)
- [New York State Know Your Rights](#)
- [New York State Department of Health, Covid-19](#)
- [Reopening New York City Guidelines](#)

Federal Resources

The following resources are available at the federal level if you have questions or need additional support:

- [Centers for Disease Control and Prevention \(CDC\)](#)
- [Occupational Safety and Health Administration \(OSHA\)](#)

KEEP TRAINING UP-TO-DATE IN ALL 50 STATES AS ORDERS AND GUIDELINES CHANGE

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CLEAR LAW INSTITUTE Preventing the Spread in the Workplace: 9 of 29

Are these people practicing proper social distancing?

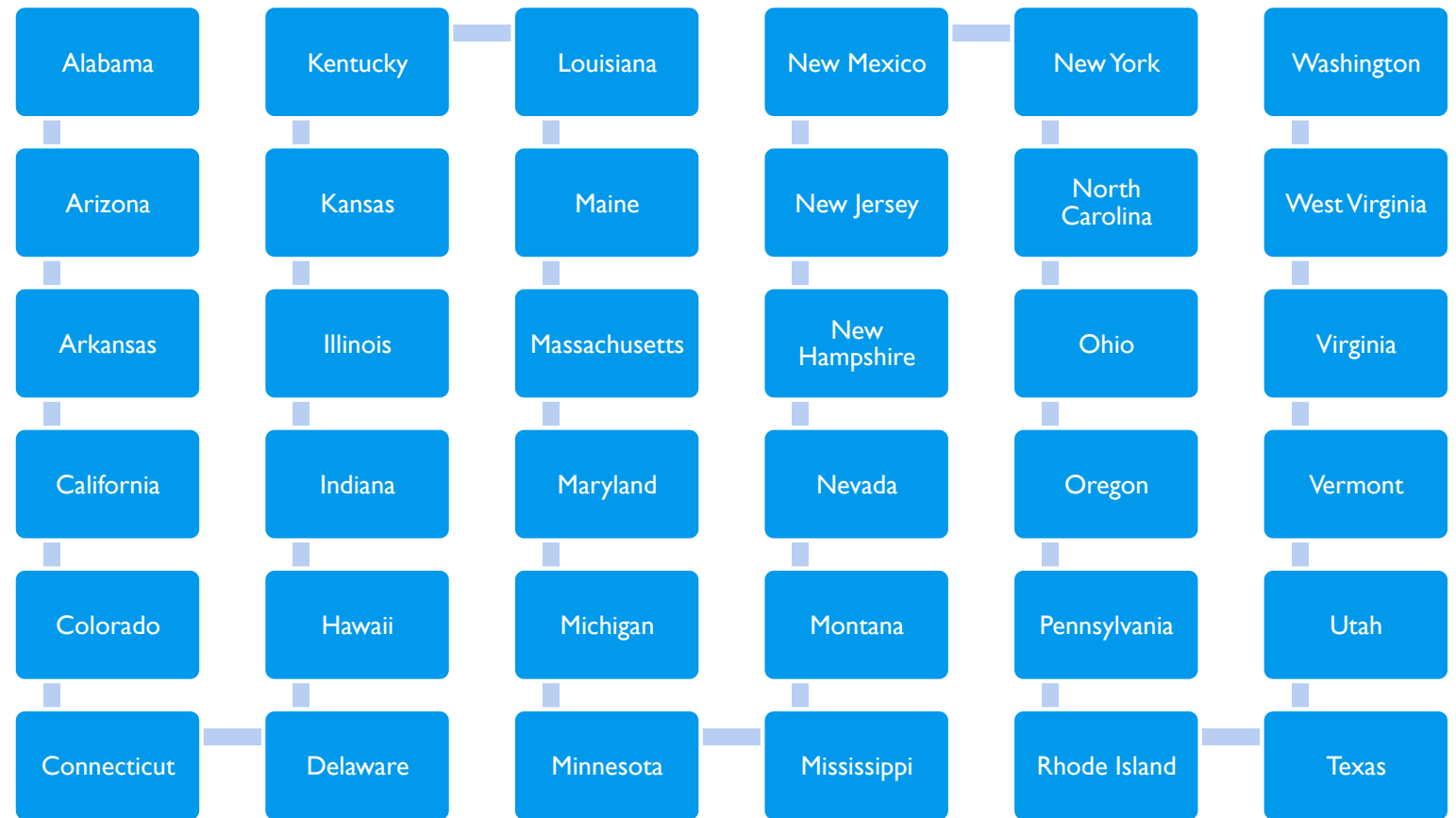


Yes

No

▶  ↺ < PREV NEXT >


**CURRENTLY, 35 STATES
REQUIRE FACE COVERINGS
IN THE WORKPLACE. CHANGES FREQUENTLY.**



PROVIDE INDUSTRY AND EMPLOYER-SPECIFIC GUIDANCE

CLEAR LAW INSTITUTE [Resources](#) | [Menu](#)

Industry, State, and Employer-Specific Guidance: 3 of 4



Click next →

▶ ↺ ◀ PREV NEXT ▶

The video player shows a woman in a red polo shirt, a light blue surgical mask, and a clear face shield. She is looking down at a device in her hands. The background is a brightly lit office or retail environment with shelves and other people. The video player interface includes a progress bar, a play button, a refresh icon, and navigation buttons for 'PREV' and 'NEXT'. A handwritten-style text 'Click next' with an arrow points to the 'NEXT' button.

MAINTAIN RECORDS OF EMPLOYEE COMPLETION


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Conclusion: 3 of 4

Please click on the button on the screen to certify that you completed the course yourself.

I certify that I completed this training myself

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OTHER TRAINING CONSIDERATIONS

- ✓ Provide employees access to other federal – CDC & OSHA - and similar state resources
- ✓ Allow employees to access the training materials even after training completed
- ✓ Consider retraining as necessary if legal or medical guidance changes

STAY UP TO DATE WITH TRAINING REQUIREMENTS

- To be notified of new Covid-19 training requirements, email info@clearlawinstitute.com.

ONLINE COVID-19 TRAINING FROM CLEAR LAW INSTITUTE

- Complies with OSHA guidelines and all state training requirements
- Kept up-to-date with changes in the law and guidance in all 50 states
- Users can take on a computer, tablet, or phone
- Available in English and Spanish
- Clear Law handles all tech support

Learn More at:

- <https://clearlawinstitute.com/covid-19-safe-workplace-training/>

POLLING QUESTION


- Would you like to learn more and receive a free trial of the online training, *Covid-19 Safe Workplace?*
 - Yes
 - No

FOR MORE INFORMATION

- **For more information on the Covid-19 Safe Workplace** online course, please contact
- **Donna O'Neill, Compliance Week**
- (978) 239-2092
- donna.oneill@complianceweek.com

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Is this person practicing proper etiquette?



Yes

No

▶ ◁ PREV NEXT ▷

COURSE DEMO IMMEDIATELY FOLLOWING THIS WEBINAR

- Join at <https://us02web.zoom.us/j/85625613472>
- To view recording of the demo, email donna.oneill@complianceweek.com.



QUESTIONS?