

Production Industry Recommends Guidelines for Returning to Work

The Bottom Line

- Entertainment production has resumed in California amid the COVID-19 pandemic after the Department of Public Health approved the “back to work” recommendations that an industry-wide Task Force had previously submitted to state governments. However, many of the thorniest issues, such as cost and potential liability, have yet to be addressed.

The entertainment industry took a major step forward amid the COVID-19 pandemic when the California Department of Public Health approved the resumption of entertainment content production beginning on June 12, 2020. The back-to-work announcement is based upon the guidelines submitted two weeks ago by a massive working group of entertainment industry interests, known as the Industry-Wide Labor-Management Safety Committee Task Force (Task Force), on how to safely return to physical production.

The Guidelines provide a roadmap to get Hollywood back to work after the COVID-19 pandemic has caused a near-complete moratorium on traditional production of entertainment content over the last three months. The state noted that additional requirements may be promulgated by state and local authorities.

The Guidelines

The Task Force consists of representatives from: major studios; streaming services such as Amazon, Apple and Netflix; the Directors Guild of America; SAG-AFTRA; the Alliance of Motion Picture and Television Producers; the International Alliance of Theatrical Stage Employees; as well as numerous other unions.

Guidelines Recommendations

The Guidelines contain a number of general recommendations regarding COVID-19-related workplace safety and anti-infection spread, as well as industry specific requirements that are unique to the entertainment industry.

The Guidelines include recommendations, such as:

- All cast and crew will submit to virus testing and daily symptom monitoring, such as temperature checks, as a requirement of employment.
- Social distancing, proper hand hygiene and the widespread use of personal protective equipment will be required on set.
- People are encouraged to continue to work from home wherever possible, including continuing the use of virtual writers’ rooms.
- The use of live audiences and visitors to set is discouraged.

Among the more notable suggestions is the recommendation that each production appoint a designated “COVID-19 Compliance Officer” to enforce safety compliance and social distancing. This person will also be in charge of establishing individual safety plans for various aspects of a production and oversight of those plans on a day-to-day basis. Hotlines to anonymously report unsafe practices will be established.

The Guidelines further recommend modifying leave policies to be “flexible and non-punitive . . . [and be] implemented to encourage compliance with infection prevention guidelines.”

Employee Safety

The Task Force acknowledges that, given the nature of certain work during production, it is not always possible for everyone to maintain social distance or wear personal protection equipment (PPE) at all times. Extra precautions must be taken by some workers, particularly make-up artists, costumers and hair stylists, and access to close-proximity work areas should be restricted.

A system of “zones” that minimize workers moving freely through a wide area and restrict cross contamination has been used in some international productions, and the Task Force recommends similar restrictions. The Guidelines also discourage the use of large crowd scenes, and suggest directors, writers and creators find ways to minimize scenes that require close personal contact between performers.

Key Additional Considerations

Even though these Guidelines provide a roadmap for the physical aspects of production, they generally do not address the legal and liability aspects of a return to work. A major point of contention during recent negotiations has been whether cast and crew will be required to sign personal liability waivers or acknowledgement of risk documents that could potentially limit the liability of a production company or studio if someone got sick on set. The Guidelines do not address this issue.

It appears that the assignment of potential liability among the parties will need to be agreed upon on a case-by-case basis in individual contracts. Depending on the nature of the production, these are discussions that will take place between studios, production companies, union leaders and talent representatives.

The cost of compliance with these Guidelines is also not addressed. By their nature, the recommendations will slow production down and require more shooting days, which could significantly increase costs. Additional hard costs, such as for testing, PPE and to pay COVID-19 compliance officers, will be incurred even on shoots that remain the same length.

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