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News & Types: Client Advisories

Opening Up Your Workplace Again

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Practices: Employment, Labor & Benefits

EXECUTIVE SUMMARY

On Thursday April 16, 2020, President Trump unveiled his "Guidelines for Opening Up America Again" (the "Guidelines"). The Guidelines are designed to help state and local officials reopen their economies, get people back to work, and provide some initial topics for employers to consider prior to reopening. The Guidelines suggest a three-phase approach that is designed to mitigate the risk of resurgence and protect the most vulnerable individuals. Because the pandemic has affected the states differently, the Guidelines recognize that state and local officials may need to tailor their approach to meet local circumstances. Although many states are likely to extend their stay-at-home orders, employers should still begin planning their reopening and ordering the necessary safety items (masks, gloves, sanitizer, etc.).

Below, we have summarized the Guidelines and will publish a series of articles that address some of the business, human and safety aspects that employers will need to consider as part of their individualized reopening plan. In these uncertain times, please reach out to your relationship attorney with any questions.

Employer Guidelines for All Phases: The Guidelines recommend that employers develop and implement policies that consider the following topics during each phase of any reopening:

- Social distancing and protective equipment
- Temperature checks
- Sanitation
- Use and disinfection of common and high-traffic areas
- Business travel
- Monitoring workforce for indicative symptoms
- Refusing to allow symptomatic employees to return to work until cleared by a medical provider
- Workforce contact tracing following employee COVID+ test

Phase One: Once a state or region has determined that it satisfies specific gating criteria, the Guidelines encourage employers to:

- Encourage telework, whenever possible and feasible with business operations
- Return employees back to work in phases
- Close common areas where employees are likely to congregate and interact

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- Enforce strict social distancing protocols
- Minimize non-essential travel and follow CDC guidelines regarding isolation following travel
- Consider special accommodations for employees who are members of a vulnerable population

Phase Two: Once a state or region has determined that there is no evidence of a rebound and specific gating criteria is met for a second time, the Guidelines encourage employers to:

- Continue to encourage telework, whenever possible and feasible with business operations
- Continue to close common areas where employees are likely to congregate and interact
- Continue to enforce strict social distancing protocols
- Continue to consider accommodations for employees who are members of a vulnerable population

Phase Three: Once a state or region has determined that there is no evidence of a rebound and specific gating criteria is met for a third time, the Guidelines permit:

- Unrestricted staffing of worksites

Although the “specific gating criteria” still must be defined, employers can begin to evaluate their workplaces and begin planning the reopening. Our next article will address implementing social distancing policies and best practices, including workplace modifications and in-person interactions.

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