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OSHA Provides Additional Guidance on Returning to Work

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EXECUTIVE SUMMARY

On June 17, 2020, the Occupational Safety and Health Administration (“OSHA”) published its latest guidance on returning to work. Although not binding, the guidance provides helpful advice for employers as they consider and develop policies and procedures to ensure the health and safety of their employees after reopening. This article identifies some major issues discussed in OSHA’s June 17 guidance.

As some states begin to reopen after COVID-19 shut down the country this past March, employers have come face to face with a unique problem: how to safely bring their employees back to work in the midst of an ongoing pandemic. On June 17, 2020, OSHA provided some helpful advice in its latest guidance, which is designed to assist employers in developing policies and procedures that ensure the safety and health of their employees when they return to work. Some highlights of the June 17 guidance are summarized below:

- **Employers May Be Responsible for Protecting Workers from Infection.** While there is no OSHA standard specific to COVID-19, employers have the responsibility to provide a safe and healthful workplace that is free from serious recognized hazards under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970. Additionally, covered employers must comply with all OSHA standards, including its standards for personal protective equipment, respiratory protection, and sanitation, which may be especially relevant for preventing the spread of COVID-19. Employers must conduct a hazard assessment in accordance with OSHA’s PPE standard, if applicable, to determine the PPE requirements for their work sites.
- **Employers May Conduct Work Site COVID-19 Testing.** OSHA states that employers may conduct COVID-19 testing at work sites, as long as such testing is applied in a transparent, non-retaliatory manner that is applicable to all employees. However, OSHA states that employers should act cautiously on negative COVID-19 test results because of current testing capabilities and should continue to implement basic hygiene, social distancing, workplace controls and flexibilities, and employee training described in the guidance. Further, personnel administering COVID-19 tests should be protected from exposure to COVID-19 through the incorporation of certain precautions and should follow the “hierarchy of controls,” including appropriate engineering and administrative controls, safe work practices, and personal protective

equipment.

- **Employers Should Consider Certain “Guiding Principles” in Their Reopening Plans.** Based on evolving conditions, employers’ reopening plans should address eight guiding principles: (1) Hazard assessment, including practices to determine when, where, how, and what sources of COVID-19 workers are likely to be exposed to during the performance of their job duties; (2) Hygiene, including practices for hand hygiene, respiratory etiquette, cleaning, and disinfection; (3) Social distancing; (4) Identification and isolation of sick employees; (5) Return to work after illness or exposure; (6) Controls, including engineering and administrative controls, safe work practices, and personal protective equipment; (7) Workplace flexibilities, including practices concerning working from home or other remote work and sick leave; and (8) Training, including practices for ensuring employees receive training on the signs, symptoms, and risks related to COVID-19, where and how they may be exposed to infection at work, and how to prevent the spread of COVID-19 at work. The June 17 OSHA guidance provides a non-exhaustive list of examples showing how each of the above-mentioned guiding principles may be implemented.

The full text of OSHA’s guidance on returning to work is available at the following link: ([link](#))