

Publication

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Client Alert: New COVID-19 Guidance for Illinois Employers

Updated OSHA Guidance

On June 10, 2021, the Occupational Safety and Health Administration (“OSHA”) issued its highly anticipated updated guidance as many states in the U.S. begin to “reopen” and lift COVID-19 restrictions. The guidance reminded all employers that they are obligated, under the OSH Act, to provide a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm.

OSHA’s updated guidance further explains that employers no longer need to take steps to protect workers from COVID-19 exposure in the workplace where **all** employees are fully vaccinated. However, employers should continue to take CDC-recommended steps to protect unvaccinated or otherwise at-risk workers, including by providing unvaccinated or otherwise at-risk workers with face masks, instructing unvaccinated workers who experience COVID-19 symptoms to stay home from work, implementing physical distancing for unvaccinated workers in communal work areas, and training employees on the company’s COVID-19 policies, among others. The OSHA guidance also reminds employers that they are obligated to continue to record any work-related cases of COVID-19 on OSHA’s Form 300 logs, as appropriate.

Illinois Enters Phase 5

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Just after OSHA's release of its updated guidance, on June 11, 2021, Illinois entered Phase 5 of the "Restore Illinois" response to the COVID-19 pandemic, meaning that all sectors of the Illinois economy are now able to resume operations without any capacity limits.

Shortly before the state entered Phase 5, the Illinois Department of Public Health ("IDPH") issued updated guidance for businesses and venues as they navigate the "new normal" under Phase 5. According to the IDPH's guidance, which largely adopts the CDC's May 28, 2021, "Interim Public Health Recommendations for Fully Vaccinated People" for Illinois, face coverings and social distancing are no longer required in either indoor or outdoor settings if everyone present is fully vaccinated. However, unvaccinated individuals should continue to wear face coverings and maintain six feet of social distance while in indoor settings and in crowded outdoor settings. Additionally, the guidance notes that there are limited circumstances in which all individuals, even those who are fully vaccinated, must continue to wear a mask in accordance with the CDC guidance, namely: (1) on public transportation; (2) in congregate facilities; and (3) in health care settings. On May 18, 2021, the Chicago Department of Public Health released a statement confirming that the City of Chicago would be following the state's guidance, including as it relates to no longer requiring masks and/or social distancing measures for vaccinated residents, with the same exceptions stated above.

While this guidance does away with masking and social distancing requirements as a state-wide requirement, it also indicates that businesses are free to implement more stringent guidelines, such as continuing mask mandates, if they choose to do so. The guidance also specifically encourages businesses and venues to continue to support social distancing to the extent



possible, especially in indoor settings, although it is no longer required.

General Considerations for Employers

As states begin to reopen, employers may choose to require employees to return to the physical workplace. Before doing so, employers should give careful consideration to their approaches as to employee vaccinations, as well as to federal, state, and local guidance governing safety precautions required for unvaccinated employees. Importantly, employers promulgating policies concerning vaccinations, return to physical workplaces, and other return-to-work considerations should ensure that such policies are clear and easy to understand by their employees, and keep in mind their legal obligations to reasonably accommodate individuals based on medical conditions or sincerely held religious beliefs.

If you have any questions regarding employer rights or obligations when it comes to return-to-office policies or COVID-19 vaccinations, please contact Sonya Rosenberg, Corey Biller, Alissa Griffin, or your Neal Gerber Eisenberg attorney.

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