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Navigating the Morass of Return-to-Work Considerations

As more and more states open their economies, employers must construct and roll out a “return-to-work” plan for its personnel – which is no easy task given the ever-changing and often conflicting guidance from the CDC, OSHA, the EEOC, the Department of Public Health and the states’ governors. The considerations of such a plan are many. The content and mechanics of an employer’s plan should be guided by several factors, including the overarching objective of keeping employees safe, the nature of the employer’s business, the location(s) and layout of the employer’s workplace(s), whether long-term work-from-home arrangements are an option, and employees’ interest in and willingness to return to the workplace. Employers should consider the following – among other considerations – when devising their return-to-work plans:

- creating a company task force to deal with COVID-19 issues;
- employee screening (e.g., self-certifications, taking temperatures, testing employees);
- implementing social distancing requirements (e.g., separating work spaces, eliminating group meetings, prohibiting the use of break rooms/cafeterias);
- requiring frequent handwashing;
- regularly cleaning high contact areas, such as door handles, surfaces, etc.

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- providing all employees hand sanitizer and disinfectant for their work stations;
- requiring employees to wear face coverings;
- barring visitors except when absolutely necessary;
- staggering employees' days in the office (e.g., Group A will be in the office M, W, F; Group B will be in the office T, TH; and they flip the next week);
- limiting the number of employees in elevators;
- limiting business travel;
- require employees to continuously monitor themselves and their co-workers for symptoms of the virus;
- encouraging employees to self-disclose conditions that make them at-risk or vulnerable;
- implementing contact tracing; and
- preparing and executing a protocol if an employee tests positive for the virus.

There is no "one size-fits-all" approach. Different employers will be best-served by implementing different plans. It is critical, however, that employers have *some* plan when employees are ready and able to return to work.

If you have any questions regarding return to work policies or other labor and employment issues, please contact Chad Moeller or your Neal Gerber Eisenberg attorney.

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