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News & Types: Client Advisories

Opening Up Your Workplace Again - Part 3

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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 Centers for Disease Control (CDC) and several state and local health authorities have issued requirements and instructions regarding when and how to implement the Guidelines to get people back to work and provide some initial topics for employers to consider prior to reopening. Masuda Funai is publishing a series of articles addressing the business, human and safety aspects that employers will need to consider as part of each company's individualized reopening plan. Please reach out to your relationship attorney with any questions.

Today's article will discuss the "Returning to Work" considerations with respect to:

- Personal Protective Equipment
- Employee Temperature and Wellness Checks
- Use and Disinfection of Common Areas

Personal Protective Equipment for Employees and Visitors: The personal protective equipment (PPE) that employees need depends on the type and location of work being performed. At a minimum, all employers should:

- Provide face masks to all employees and visitors
- Consider making use of face masks mandatory
- Make hand sanitizers and cleaning stations available near all work stations
- Provide protective gloves for employees, if requested
- Install workstation dividers and guards
- Consider upgrading HVAC and filtering capacity
- Install use/occupancy sensors to track use and overuse of specific locations

Employee Temperature and Wellness Checks: The Americans with Disabilities Act (ADA) permits medical inquiries and tests when "job-related and consistent with business necessity." The Equal Employment Opportunity Commission has stated that temperature checks and similar non-invasive checks are appropriate to prevent the spread of Covid-19, based on the recommendations of the CDC and local health departments.

- Mandatory on-site temperature and complete Covid-19 health questionnaire - every employee, every day – but consider less invasive thermal scanning
- A confidential, secure log can be kept separate from any personnel files
- Sanitize between uses!
- Consider using professional service provider for all testing
- Covid-19 testing – depends on availability of tests and professionals to administer
- Confirm wellness whenever an employee has signs/symptoms of possible infection
- Emphasize self-reporting by providing sufficient health care coverage and paid sick leave
- Follow current CDC/OSHA and local health department guidelines regarding when and what type of personal/medical information can be obtained

Use of and Changes to Common Areas: To promote physical distancing and reduce the risk of another round of shutdowns, all employers should review their physical work places, traffic flows and operations, including:

- Frequent cleaning of all common areas and private work spaces
- Make the cleaning process visible to all employees, such as during each shift, to help on-site employees feel comfortable and safe
- Remove soft and porous materials in high traffic areas, as they are harder to clean
- Reduce seating capacity in meeting rooms
- Restrict or eliminate common areas or "meet up" locations, such as kitchens, lounges, gyms, etc.
- Consider implementing one-way traffic flows
- Remove common "touch points" such as doors/handles or install foot openers or automatic doors
- Consider restricting use of desktops and other spaces to allow for frequent "deep cleaning"
- Re-design corridors and work spaces to increase distance