

Complex Legal Issues Associated with Returning to the Office Amid COVID-19

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Overview

- Telecommuting
- Rehiring previously laid off or furloughed employees
- Employee refusal or hesitancy to come back to work
- Health checks on employees and customers
- Hiring during COVID-19
- Masks in the workplace
- OSHA considerations
- Employee travel

Telecommuting Employees

Do we need a telecommuting policy even though our employees have been working from home for several months at this point?

Telecommuting Employees, cont'd

Are there tax implications if an employee is (or has been) telecommuting in another state during this time?

Bringing Back Previously Laid Off Employees

Do these employees need to fill out new hire paperwork if they are brought back?

Employee Refusal to Return

What if an employee says he or she will not come to work due to fears of COVID-19?

Employee Refusal to Return

What if an employee says he or she is not ready to come back to work because the employee is comfortable remaining off work and receiving unemployment compensation?

Probing into Employee's Health/Symptoms

What kind of questions can an employer ask its employees who are showing COVID-19 symptoms in the workplace? Who should be asking these questions?

Temperature Checks: Employees

Can we take our employees' temperatures? If so, under what circumstances?

Temperature Checks: Customers

Can we take our customers'/clients' temperatures? Can we ask them to wear masks?

Testing for COVID-19: Employees

Can we require employees to undergo testing for COVID-19? What about an antibodies test? Does this invoke HIPAA obligations?

Job Applicants

Can we screen job applicants for COVID-19 symptoms during the application process?

Job Applicants

Can we delay the start date of a job applicant who has COVID-19 or symptoms associated with it?

Job Applicants

Can we withdraw a job offer if we need the applicant to start immediately but the individual has COVID-19 or symptoms of it? What if our business needs have changed since we initially hired the individual?

Masks

Should employees be required to wear masks when in the office? *Can* we require employees to wear masks? What if an employee refuses to wear one?

OSHA

If an employee is infected by COVID-19, does an employer have an obligation to record it as a work-related injury or illness under OSHA's recordkeeping requirements?

Travel

What should we do about employee travel after we reopen the office?

Questions?