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| |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | |  | **Labor & Employment**  **Client ALERT**  **April 24, 2020** | |  |  | | --- | | **Coronavirus- Preparing to Return to Work**    **As our state and federal governments begin to formulate plans to enable business to reopen and employees to return to work in person, employers should take time now to prepare for that return, understanding that it will raise considerable employment law issues.**    **In New Jersey, Governor Murphy gradually increased restrictions to slow the spread of COVID-19, issuing twenty-six executive orders between February 3 and April 14, 2020.  Most national and regional reopening plans contemplate a similarly gradual lifting of restrictions.  Businesses should anticipate that when, and how, they are permitted to reopen for in-person work will depend on the extent to which they can practice social distancing while open.  Employers will need to consider practical considerations of workplace safety as well as many issues arising from reintegrating their workforce.**    **WORKPLACE SAFETY**    **Employers who invested in remote work capabilities prior to the COVID-19 related closures were at a significant competitive advantage.  Employers who invest now in ensuring their workspaces can safely reopen can anticipate a similar benefit.  The ability to demonstrate a responsible social distancing plan may enable a business to reopen sooner and reassure employees who might otherwise be hesitant about returning to work.**    **Employers should develop plans to reopen while maintaining social distance to the extent possible.  Those plans should consider physical distancing measures such as increasing distance between employees, installing barriers, reducing the number of in-person meetings, and limiting business travel.  They may also need to include staggered schedules to reduce the number of employees in a workspace at once.  Employers should make arrangements now for increased cleaning of workspaces.  Employers should use this time to familiarize themselves with OSHA’s standards for the use of personal protective equipment and, if necessary for their business, plan to obtain such equipment.  Similarly, the CDC has issued guidance regarding effective cleaning practices that employers should be prepared to implement.**    **RETURNING EMPLOYEES TO WORK**    **Many businesses have been able to transition employees to remote work.  Others have had to take the difficult steps of layoffs or furloughs.  In either case, returning to an in-person work environment will need to be a gradual and flexible process.**    **Accommodations**  **Employees who did not previously require accommodations may now need them, depending on their individual level of COVID-19 risk.  Employers should be prepared to engage in an interactive process to determine how to accommodate requests to not return to in-person work at this time.  Employers will also need to be prepared for the renewal of previous requests to work from home.  Employers who have denied requests for work from home as an accommodation in the past, but have permitted employees to work from home during this crisis, will need to handle such requests very carefully.**    **Leave**  **Employees now have access to expanded leave.  Employers who were not subject to the requirements of the FMLA may be covered by the expanded COVID-19 leave available under the Families First Coronavirus Relief Act, and employees who may not have been eligible for FMLA due to their length of service may also now qualify for extended leave.  Employers will need to revisit their handbooks and policies to incorporate these changes in the law.  Particularly in a scenario where many businesses are permitted to reopen, but schools and childcare facilities remain closed, employers should anticipate an increased volume in requests for leave.  Employers should plan for flexible ways to ensure sufficient staffing, and keep in mind that leave may be taken intermittently.**    **Returning Employees from Furlough**  **If your business has furloughed employees and plans to return all or some of them to work, you will need to plan ahead for their reintegration into the workforce. Decisions about who to return and when must be made without regard to an employee’s status as disabled or the likelihood that an employee will seek an accommodation, and must be made without regard to an employee’s use or likely use of leave.  Employers should pay careful attention to their benefit plans regarding any necessary repayment of benefits contributions made during a furlough.**    **Riker Danzig is here to help if you need assistance of any kind.  Please do not hesitate to contact**[**Scott Ohnegian**](mailto:sohnegian@riker.com?subject=Riker%20Danzig%20Labor%20%26%20Employment%20Alert)**,**[**Adam McInerney**](mailto:amcinerney@riker.com?subject=Riker%20Danzig%20Labor%20%26%20Employment%20Alert)**,**[**Fiona Cousland,**](mailto:fcousland@riker.com?subject=Riker%20Danzig%20Labor%20%26%20Employment%20Alert)**or any member of Riker Danzig's**[**Labor & Employment Group**](https://click.icptrack.com/icp/relay.php?r=47267407&msgid=423306&act=1026&c=1312909&destination=http%3A%2F%2Friker.com%2Fattorneys%2Flegal-services%2Flabor-employment-law&cf=2627&v=0d715507a4c8541fb2cf3b6cec73808c5347e0cf83d9b8b92c8e999988bf5b32)**regarding any specific legal issue affecting your business.**    **Please visit Riker Danzig’s**[**COVID-19 Resource Center**](https://click.icptrack.com/icp/relay.php?r=47267407&msgid=423306&act=1026&c=1312909&destination=http%3A%2F%2Friker.com%2Fpublications%2Fcovid-19-resource-center&cf=2627&v=2b6d971fcbe5c1376eaf893ea20b5f1a9e026d77adb8bb6011d7dadc54889c8d)**to stay up to date on all related legal issues.** | | **RIKER DANZIG SCHERER HYLAND & PERRETTI LLP** | | |
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