Tackling the Privacy, Data Security, and Employment Issues Related to Returning to Work

Alysa Z. Hutnik, Aaron J. Burstein, Mark A. Konkel

July 6, 2020

Coronavirus testing and screening procedures are central to many companies' return-to-work plans. Because testing and screening data is often sensitive and may help to determine whether individuals are allowed to work, companies need to be aware of the privacy and security risks of collecting this data and protect it appropriately. Failing to do so may lead to a backlash in the workplace, cause reputational damage, and invite scrutiny from regulators and plaintiffs' attorneys.

We have created checklist of general tips to help companies navigate return-to-work privacy and data security issues. In addition to designing COVID-19 testing and screening data collection programs that fit local and state reopening conditions, companies may also wish to consult key sources of federal guidance, including the following:

- **EEOC's Coronavirus and COVID-19 page**, which links to guidance on complying with disability protection and non-discrimination obligations.

- **OSHA's COVID-19 site**, which contains a broad array of enforcement guidance, general and industry-specific reopening guidelines, and other resources.

- The CDC's reopening **guidance for businesses and workplaces**.

For more information on returning to work, COVID-19, and other topics, please visit:

- Kelley Drye's COVID-19 Response Resource Center

- Advertising and Privacy Law Resource Center

- Kelley Drye's Advertising Law Practice Page

- Ad Law Access Blog

- Ad Law Access Podcast

- Ad Law News and Views Newsletter

- Upcoming webinars:

    - Product and Earnings Claims in the Time of COVID-19

    - Trade Association Antitrust 101

    - Additional webinars will be announced soon