CLIENT ALERTS & INSIGHTS

Benesch COVID-19 Resource Center: Returning to Normal Operations after COVID-19

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As of April 14, 2020, at least 42 states and the District of Columbia have issued directives to keep people at home, including employees of non-essential businesses as defined by each location's respective orders. Even many essential businesses have moved to a "work from home" environment. And businesses of all types have spent the past few weeks taking action to persevere through the COVID-19 pandemic, including the implementation of social distancing measures, remote work, and unfortunately in many circumstances, furloughs and layoffs. These actions have resulted in many businesses considerably reducing and/or ceasing their operations.

Now, however, businesses are beginning to plan for restoring operations after the state and local restrictions lift at the end of the COVID-19 pandemic. Although the timing of such easing of restrictions is uncertain, planning for business life on the other side of the pandemic now, while there is time, will enable businesses to restore operations more efficiently and effectively. We suggest that businesses include these considerations concerning their employees as they make restoration plans:

- **End of "work from home"?** Determine how and when (or if) you will move back into working from your workplace and ending remote work. To the extent that, prior to the COVID-19 pandemic, you resisted remote work as a "reasonable accommodation" under the Americans with Disabilities Act (ADA) you will need to restore the previous status quo or risk losing the ability to make that argument.
- **Restore your Benefit and Attendance Policies:** Throughout the pandemic, many businesses have relaxed and/or temporarily modified their paid time off and/or attendance policies. When employers determine that the time is appropriate, they should clearly communicate to their employees that their normal attendance and leave policies are restored and that any temporary modifications have ended.
- **Regularly Clean and Sanitize your Workplace:** For businesses who have had the flexibility to allow their workforce to work from home, it can be expected that many remote-work employees will have reticence or even anxiety about returning to the workplace. Taking measures to regularly professionally clean and sanitize the workplace, and sharing those measures with employees, can ease some of this apprehension. You should also consider identifying a person (or persons) where employees can direct these specific concerns.

- **Plan for Social Distancing Requirements:** Businesses should be prepared for the easing, but not outright elimination, of COVID-19 restrictions. Governments may still require that re-opening businesses take measures to allow for social distancing in the workplace. Business should consider continuing to use electronic methods to conduct group meetings in lieu of in-person large gatherings. Businesses should also consider how it can adapt the physical layout of the workplace to allow employees to work consistent with social distancing requirements.
- **Where Social Distancing is Not Possible, Consider PPE:** Where social distancing is not operationally possible, businesses may want to consider taking action now to obtain basic PPE for employee safety, including masks and, where appropriate, gloves.
- **Consider an Incremental Return to Normal Operations:** Given the likely continued importance of social distancing, as well as the various administrative tasks that will need to be completed by human resources when employees return from furlough and/or layoff, business should consider if incrementally returning to employees to work over the course of several days or weeks is possible. Administrative work might be overwhelming and social distancing impossible if all employees are required to return to work on the same date.
- **Maintain employee morale.** As we have listened in webinars and other group meetings during this pandemic, we have been struck -- again and again -- but how much business owners value their employees and their communities. To the extent that you have implemented certain employee morale measures, e.g., meals from local restaurants, consider how you may continue with some of these measures going forward.

For further information regarding the information above, please contact a member of the Benesch Labor & Employment Practice Group.

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Benesch stands ready to assist with any questions as we closely follow COVID-19 developments and support client's response efforts.

Please note that this information is current as of the date of this client bulletin, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by CDC and local officials.

