Employment Considerations for Reopening Your Business

by Patricia A. Frame, Management Consultant

General Preparations:

- Preparing your facilities
- Developing new policies, as needed. (i.e. telework, safety)
- Creating a physical distancing plan
- Controlling access for safety and health issues
- Increased cleanliness, reducing touch points
- Enhanced employee communications
  (Many professional and industry organizations have specific return-to-work guidelines too. Check for those in your specialty area)

GUIDELINES for ALL EMPLOYERS

1. Strategic Review of Your Organization
- Consider impact of current/planned business changes on employment and employees
- Consider changes due to states of emergency and also items 2-5 below

2. Community Preparedness Needed to Support Return to Work
- Schools/daycare open
- Public transportation normal schedules
- Medical care available
- Food services

3. Building/Office Preparations
- Increased sanitation and air-handling building wide
- Enhanced office cleaning services
- Physical distancing/barriers for employees and visitors
- Need for personal protection equipment (PPE), if any
- Common space changes (i.e. closed kitchens, conference rooms)
- Employee responsibilities and cleaning resources for desks, work area, hygiene

4. Possible Employee Concerns
- Consider a survey to determine individual employee needs and concerns
- Vacation / Paid-time-off (PTO) usage:
  - For those whose fiscal year ends June–Sep with a cap at end of FY For those who need
  - For those who need to restrict PTO usage through December 2020

5. Safety Measures
- CDC Guidelines: https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html
- The EEOC is allowing some medical checks of employees or self-reporting for coronavirus symptoms or exposure. Will you require any checks or self-certification on health each day? If so, how will you maintain required confidentiality? How implement?

6. Legal Issues
- All employers:
  - OSHA - requires provide safe workplaces
  - HIPAA - treat medical information as confidential
  - FFCRA - requires paid coronavirus-related leave
    https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave
- Employers w/ over 15 employees:
  - EEO - requires non-discrimination in treatment (e.g. retention, medical checks)
  - ADA - equal treatment of employees with disabilities or believed to be disabled

7. Added Resource: Practical Considerations for Return to Office plans
- https://www.cooley.com/news/insight/2020/2020-04-17-practical-considerations-employers-return-office-plans

ADDITIONAL CONSIDERATIONS by BUSINESS IMPACT LEVEL

All Employees Retained
Some/all Had Remote Work Invoked

1. Who Returns to Employer Facilities When
- Current work needs
- Workspace/Social Distancing considerations
- Public Transportation Availability and Employee Usage/Concerns

2. Telework
- Do you need new or amended policy for telework options?
- Will you extend telework temporarily to address vulnerable
- populations, child-care, elder-care, or other employee concerns?
- Communicating intentions

Some to Many Employees Not Working

1. Told employees they were furloughed or laid-off:
- Usually the first brought back
- Plan to bring back: all at once or smaller numbers? If smaller: by position type or specific skills or seniority or another standard?

2. Told employees they were terminated:
- No obligation to bring back but enhances morale and reduces costs of hiring/training to do so.

3. Told employees it was a reduction in force (RIF):
- Legally risky to fill such positions in less than 6-12 months.

4. If you got Payroll Protection Program (PPP) approval:
- Have eight weeks from date of loan to use
- May be for existing or replacement employees
- Information on how to ensure maximum forgiveness:

  https://www.cooley.com/news/insight/2020/2020-04-30-sba-ppp-loans-calculations-and-considerations-for-maximizing-forgiveness

Business Shutdown due to Government Mandates or Business Conditions

- What pivots were necessary?
- What external support (SBA, SBDC, SCORE, other) could you tap for help to rebuild or close?
- How did these pivots, as well as monetary losses, impact ability to rebuild staff?
- Will you use freelancers, consultants, or contractors instead of employees in some roles now?
- If you cannot rebuild, what support do you need to close the business in most effective manner?