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COVID-19

5/6/2020

Post-Pandemic Checklist: A Human Resource Guide to Normalization of Business Operations

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Whether your company has ten (10) employees or ten thousand (10,000), each will be sued the same way when employment laws are violated. Special consideration given due to the pandemic will not save your organization from being one of those. As we look at re-opening businesses and charting a path towards normalizing operations post- pandemic, how can companies accomplish driving their organizations back to profitability while at the same time minimize or eliminate the risk of violating employment laws?

There are five keys to normalizing operations that we will cover and one cautionary note regarding vaccinations. All will be reviewed from a human capital perspective. The essentials include Planning, Operational Considerations, Staging the Comeback, Communication Planning, and Daily Operations. Though we cover these topics with a focus toward the Green Industry (Horticulture, Floriculture, Agriculture, and Cannabis), much of this checklist is applicable regardless of industry, size, or even ownership type (VC/PE backed, privately held, or publicly traded).

POST-PANDEMIC CHECKLIST: A Human Resource Guide to Normalization of Business Operations (PDF)

Planning

It may have been a while since you last reviewed your original business plan, or perhaps it was before the pandemic hitting full force. Maybe you recently applied for a business loan (not the PPP or other SBA loan in the CARES Act) before the crisis. In either case, you have documents already created, which outline how you will (did) launch your business. Now, these very same documents will be an excellent guide to normalizing operations.

The documents will merely be a guide, not a point for point blueprint, as the environment has changed dramatically. We are in a new COVID-19 world, so further precautions need to be taken. Much of the ideation for your business has been completed, so you will not be starting from scratch. Many of the systems, processes, and procedures are already in place. Now it becomes about bringing back the labor force but doing so in a manner that allows for both safety and growth.

Other documents that you may have at the ready that are helpful include a **Disaster Recovery and Infectious Disease Control Plan**. Many small to medium-sized businesses are discovering that they never developed these plans, or their plans were substandard and are now learning the value of such a comprehensive plan. If you do not have such policies in place, it is a good idea to develop them promptly even before operations begin to normalize.

Connecting with a consultant may be helpful to have them develop the plan simultaneously with you as you normalize operations. The cost of the service will be offset by the speed at accomplishing both normalization and future policy development and implementation.

Operational Considerations

When normalizing post-pandemic operations, there are two parts to consider— bringing back the workforce and daily operations. Bringing back the workforce is all about handling the headcount necessary to meet and exceed demand projections when the workforce may currently be working remotely, furloughed, or even laid off. *How do you bring them back?*

Just like when you made the difficult decision to reduce salaries, to furlough, or even to lay off your workforce, you must keep cashflow and cash reserves in mind as you bring back your people. It will not be as simple as flipping a light switch on and voila— full operations again. It will need to be accomplished in stages— thoughtfully and mindfully conserving cash reserves and generating cashflow as employees are re-onboarded to meet the gradual increase in demand.

Daily operations are about how to ensure safety. OSHA requires businesses "to assure safe and healthful working conditions for working men and women." Even if your company has fewer than ten (10) employees, which ordinarily would not be subject to OSHA, following the steps outlined here may be critical to keeping your employees, your customers, and your community safe from the spread and resurgence of this silent, invisible, and deadly virus.

If you already have in place an infectious disease control plan, you may be ahead of the game, and normalizing operations may be more manageable. Either way, here are some critical steps to consider.

Staging the Comeback

Out of crisis comes opportunity. Business leaders have a chance to revise elements of their business, top-grade talent, and to bring operations back in stages that make sense and charts an appropriate direction for the company. Share that vision with leadership and inspire them. As part of that vision, it will be necessary to determine what are the first and critical departments or functions to bring back.

Within each department and function, critical players need to be brought back first. They will be instrumental at laying the foundation to bring back the next group, and then the next group until finally, you have reached a normalization level of headcount to meet or exceed your business plan. Without question, among the first functions to bring back, especially if they have not been involved to this point, is **human resources**. They will have a huge role to play in guiding the normalization of operations while protecting the company from risk, employees from exposure, and by extension, customers and the community at large. A qualified and strategic HR business partner will be indispensable throughout this process.

Timing will be necessary, so before you bring back groups, build out a timeline. It will look different for different size companies as well as for various sectors. Growers will have different timelines, departments, and functions brought back first, then nutrients, plastics, and other support manufacturers. Businesses that operate in open fields may have a different plan than those that are exclusively greenhouse. Your automation level may make one department more critical to bring back than another in the first round. The specific operations of your business will ultimately determine the order, departments, and functions, while the business plan, demand forecast, and product/service offerings will impact the timeline.

Let's not forget the importance of plants. Nature has its time constraints that will impact the crops, yield, and diversity of the product that will be able to be grown and harvested. For those businesses that support the industry— for example, containers, nutrients, lighting, equipment manufacturers, and other suppliers— this will all

trickle down through the supply chain. Maintaining close communication up to and down the supply chain, with vendors, and with clients will help to map a useful timeline and a staged resurgence of your business.

Communication Planning

The next critical step, and one of the most important, is communication. The message needs to be crafted, planned, and executed at different levels. The first critical level is to the employees you are bringing back. As you mapped out your staging plan earlier, you may have decided that not all of the remote workers need to come back immediately or even at all (or to work onsite, that is). Communications directed to those who will be required to return and work onsite should acknowledge the quality work they have remotely performed during this crisis while providing them a business case for why they are needed to come back onsite. It will be helpful to include contact hours in this communication as it will help ease the transition by setting clear expectations.

Be prepared for some flexibility. There may be much apprehension as employees may not trust or be comfortable with their safety. Concern about catching the virus or a resurgence of the pandemic is a real fear that many have and needs to be politely and respectfully acknowledged. As business leaders, this will be a time for high Emotional Intelligence to drive the success of your business and bring about normalization.

The next group will be those furloughed. Furloughed employees are those placed on a temporary but mandatory unpaid leave intended to help reduce labor costs without incurring separation costs like severance packages and outplacement services. These individuals are still on the payroll, may be flagged in your Human Resources Information System (HRIS) as either active or inactive (depending on the process, system, and vendor relationship (s) you have) and may have been provided either a defined return-to-work date or specified conditions that, when achieved, would lead to their coming back. This group is the second easiest to bring back. Like those who were working remotely, you will need to define the business case for the need to return to work onsite and the expectation for hours/shifts.

This group may have had their benefits continued by some businesses. Since furloughed employees maintain their employment relationship and the duration is generally short, medical benefits are often maintained.

If they received a reduced level of income but enough to cover the employee payroll deductions, nothing further needs to be done. If, however, the company has opted to cover the employee portion of medical benefit premiums due to the length of the furlough or significant reduction in pay for the furloughed employees, a decision as to how this will be handled will need to be made and clearly communicated to returning employees. There is no legal obligation for employers to eat this cost and employees should have been notified ahead of time if they would be required to reimburse the company for this cost. Either way, it needs to be communicated when bringing them back. Businesses do a lot that they don't have to just as a way of caring for their employees, but these are unprecedented times. Cashflow and cash reserves may dictate more about what a business can do differently from what business leaders want to do for their employees. Transparency and compassion are critical.

The third group will be those you laid off and intend to bring back. Important to note is the difference between this group and furloughed employees. A layoff is a full separation from the company, even if the intention initially was temporary. As a total separation, your business may have incurred costs such as severance packages and outplacement services. There may still be notices to comply with relating to State, and Federal WARN acts (a topic we will address in detail in a later article). Additionally, these former employees will have had their benefits terminated if they had any, at the time of separation.

To bring this group back will be exactly like any new hire or rehire. As a result, you are not obligated to rehire everyone, but you do have to be careful. There are two types of pitfalls to avoid— disparate treatment and disparate impact. Disparate treatment is the most apparent— blatant, outright, and intentional discrimination

against a protected class. Disparate impact occurs when trying as hard as you think you can, you make a good faith attempt to treat all employees equally and reasonably yet, try as you may, the effect is that one or more protected class is negatively impacted significantly over non-protected classes. To aid in avoiding these pitfalls, consult with your strategic HR professional to craft a clearly defined business case as to why one person or group of people benefitted over others.

Once the group you desire to bring back from those laid off is determined, you will need to communicate with each to gain their commitment to coming back. A phone call is the best practice to share the news and obtain a commitment. Whether you call first or not, you should also send a letter with details similar to what you shared with furloughed and remote employees outlining the business case for why they will be necessary for onsite work (if they will be working onsite), what their hours/shifts will be, and whether any remote work will be allowed. Since this process is the same as any new hire or rehire, you should already have a process and tools in place to handle this phase. The template you use for an offer letter would be very appropriate as the written notice to bring this group back.

You may have some employees you don't want to bring back and who will be banging down the doors to get their former job back. Others you hoped would come back are no longer interested or, and we genuinely hope this is not the case, have paid the ultimate price in this pandemic.

It is crucial that you and those of your team reaching out to all current and former employees remain respectful and demonstrate high levels of Emotional Intelligence during this time. Yes, there is urgency, but you are dealing with people, and many are fearful and hurting— financially, physically, medically, spiritually, and mentally. Acknowledge this and be respectful. How you bring employees back during normalization of operations will say a lot about your character as a business leader, your values, and that of the company, and will have a significant impact on retention and the future growth of the business.

Daily Operations: Is there widespread testing?

There are still many unknowns relating to widespread testing or the availability of a vaccine. Because of this, employees may be very reluctant to encroach upon social distancing or even to come back to work. *What can an employer do?*

First, designate an isolated entrance area through which all employees will enter and a different one where all employees will exit. To comply with fire safety, you may need a couple more separate entrances and exits depending on the size of your business. Be creative. It could be a tent on the front lawn area or a separate room off an entrance to the building. The goal is simply to determine the best we can if someone is infected before they contaminate the rest of the facility and then isolate that individual from those who were already cleared to work and are leaving the premises. As employees enter, standard practice would be to check their temperature. If they are not exhibiting a fever, they can then come into work.

There is a lot unknown about the availability and viability of testing kits. Since they are neither widespread in availability nor highly accurate yet, it is not recommended to pursue testing at this time but keep an eye on this issue as the situation continually evolves. Costs, reimbursements, tax implications, the confidentiality of personal health information (PHI), and the qualifications of those administering and reporting the results are just a few of the many considerations that would need to be taken into account. Regardless of if more precise testing or only the temperature testing will be conducted, be sure to adhere to existing ADAAA, GINA, HIPAA, and other employment laws that protect health information and confidentiality. These are unprecedented times, but the crisis does not take precedence over existing law.

The second consideration is Personal Protective Equipment (PPE). There is no question that the country is

severely lacking in face masks, hand protection, and other protective gear, so there is a limit to what an employer may be able to provide to employees. It is essential to make every reasonable attempt to obtain as much PPE as possible as quickly as possible, but also look at what you may allow employees to bring on their own. Some have made homemade washable masks. You have to comply with OSHA if you are ten (10) or more employees in size, so there are specific requirements you may have to enforce. Even if you are fewer than ten (10) employees, there is a concern about potential spread to colleagues, customers, and the community at large, so consider reasonable steps.

The third consideration is social distancing. Masks or no masks, adhering to the CDC's recommendation of maintaining six (6) or more feet of separation throughout the workday, will reduce the chance of spreading. The type of business, work to be performed, equipment used, ventilation, and the like all should be taken into consideration.

It may allow for some to not have to wear PPE while making it mandatory that others do. To the degree possible, if the nature of the work, exertion level, and ventilation make it less likely that employees will be able to maintain social distancing guidelines from the CDC or where there is a higher likelihood that contamination may carry farther than the recommended 6 feet, appropriate PPE would be the best solution. Where such is not the concern, PPE may not be necessary.

The fourth consideration is personal hygiene and facility sanitation. In all cases, whether using gloves or not using gloves, be sure all employees are washing hands frequently. OSHA has developed various signage that should be posted in bathroom and washroom areas but may be appropriate where your labor law posters are kept and in other places around the worksite. Employees should avoid touching each other, even the typical handshake, high five, or fist-bumps in celebration of a job well done.

While sanitation supplies such as bleach, disinfectant wipes, and other solutions are in high demand with meager supply, look at alternatives. Remember, ammonia is also a disinfectant, just like bleach. You can make bleach solutions but be sure to dilute appropriately. Never combine bleach and ammonia (fumes are deadly when mixed). Many businesses have set-up and take-down processes in place for shift changes or start and end of the day. If it's not already a part of these processes, add wiping down surfaces and equipment with sanitized wipes or disinfectant cloths. Have maintenance or janitorial teams walk greenhouses, office buildings, and other site locations wiping down door handles, light switches, and railings throughout the day.

A Note about Vaccination

When a COVID-19 vaccine does eventually become available, avoid requiring vaccination. Requiring vaccination will pit your organization against the ADAAA, GINA, and other employment laws as well as religious and personal freedoms. The best practice would be to encourage your workforce to obtain the COVID-19 vaccine in the same way that most companies encourage the current year's flu vaccine. Making this part of a wellness program and providing incentives, in the same manner, will increase the participation in the wellness program, entice more employees to get the COVID-19 vaccine, and reduce unnecessary risks for the business.

Conclusion

Planning is key to getting your business back to normal operations. It will not be like flipping a switch, and you will need to bring back employees in stages. If you strategically plan out the gradual build and communicate to each group of employees appropriately, you will have a higher chance of success re-opening the business. Be aware of cash flow and cash reserves. There may be a lot you want to do for your employees, but there may be limits until revenue generation meets or exceeds expectations. Now is a time to demonstrate a balance between high emotional intelligence and urgently normalizing operations.

Daily operations will have to look different. How employees enter and how they exit daily should be controlled to allow for temperature monitoring and isolation. Appropriate decisions around PPE, social distancing, and even employee interaction will need to be made and communicated appropriately. Cleanliness will be more critical than ever. The extra efforts around set-up and take-down, shift changes, and even daily open and close of the office will now need to be built into daily expectations. Signs, postings, and enforcement with compassion will help ease the fears many employees have. Taking these steps will reduce the chance of spreading the virus, as well as prevent a resurgence that impacts employees, customers, and your community.

May we all reach a level of business normalization soon and get this economy back on track. Until then, please, continue to keep yourselves, your families, and your employees safe and healthy. *We are all in this together.*