

Return to Work Strategy

Real-World Strategies for Returning Employees to Work During the COVID-19 Pandemic

With many federal, state, and local governments lifting restrictions related to the COVID-19 pandemic, organizations face new challenges of adhering to the government's recovery and reopening plans while making the necessary changes to protect the health of their employees, customers, and communities.

Michael Best is helping our clients re-envision how to operate in this new reality. Whether you're continuing or restarting operations, our team can help you create a "new normal" that works.

Return To Work Services

Social distancing and other infection-control measures are likely here to stay. Before employers reopen their physical workplaces, everything from employment policies and cleaning procedures to workplace layout and overall business model may need to be examined.

Michael Best's interdisciplinary team takes a comprehensive, integrated approach. Key elements are outlined below.

Workforce Protection Program

In today's suddenly altered environment, maintaining a safe workplace, operational continuity, and supply chain integrity is a crucial balance. Michael Best has partnered with the global consulting and engineering firm TRC to bring clients all the legal and technical services needed to help safely continue or restart your operations.

Our Workforce Protection Program is a one-stop shop for workplace safety and health in the COVID-19 era—from employment policies and employee screening to facility layout, incident response, workplace sanitation, and training.

Scientific models now indicate that COVID-19 or future strains may persist into 2021. Businesses and other organizations must find new ways to survive and thrive. Michael Best and TRC can help you create a "new normal" that is sustainable, restores productivity, and is consistent with organizational values.

Key points in our comprehensive, integrated approach include Policy Development, Cleaning Program Management, Medical & Epidemiology Services, Risk Management, and Government & Public Relations.

We have also developed versions of our Workforce Protection Program tailored for academic institutions and energy facilities.

Read more:

- [Workforce Protection Program Overview](#)

- Academic Institution Protection Program Overview
- Energy Facility Protection Program Overview

Employment Policies & Practices

Michael Best's nationally ranked Labor & Employment Relations group is working with clients throughout the country to develop and implement customized return-to-work strategies. We can help you develop a comprehensive action plan addressing issues such as:

- Following national, state, and local back-to-work guidelines
- Meeting new requirements for COVID-19 "work permits" for businesses to reopen
- Recalling furloughed workers
- Workforce restructuring
- Facility modification
- Remote working
- Hygiene and sanitization procedures
- Personal protective equipment (PPE), clothing, and barriers
- Revising employment policies and procedures
- Employee training
- Screening, training, and management of vendors, visitors, and contractors
- Medical monitoring of employees
- Keeping symptomatic employees out of the workplace
- Exposure investigation and communications
- Employee or team/crew quarantine

Privacy & Cybersecurity

Along with the new normal come new concerns about individual privacy. Effective pandemic control may require new protocols, such as routine medical screening of employees, customers, and visitors, that conflict with previous privacy norms. This raises many questions about what permissions are needed, whether and how to store any health data collected, and other privacy issues—questions that existing privacy regulations may not answer.

Michael Best's Privacy & Cybersecurity team is advising clients on these complex issues and how to balance privacy protection with protecting the public health. We have deep experience with the full spectrum of global privacy and cybersecurity law, including U.S. federal and state regulations and industry standards (e.g., HIPAA, CCPA, NYDFS, CAN-SPAM, COPPA, GLBA, PCI-DSS, and FTC/FCC regulation); European Union regulations, including GDPR; and Latin America and Asia-Pacific regional standards.

- Privacy Policy around limited use, disclosure, retention, and destruction of information
- Reasonable Security Controls related to secure use of Zoom and other third party remote technologies

- Training around remote workplace security controls like complex password policies and phishing campaigns
- Incident Response Plan development for data breaches during remote work conditions
- Table Top Exercise for Remote Incident Response Management
- Review of IT agreements acquired in order to facilitate contact tracing, monitoring, or other tracking in order to manage spread of COVID-19

COVID-19/CARES Act Relief Advice Program

Many businesses and other organizations are suddenly facing a struggle for survival. In the U.S., some relief is coming from the federal government, as well as state and local governments—and with each relief package comes a complicated, evolving set of rules. Michael Best is here to help clients decipher those rules, seek clarification from public officials where needed, and develop a plan of action.

We are offering clients an individualized consultation, conducted via virtual meetings with a team of Michael Best subject-matter experts who will provide holistic business advice. To provide cost certainty in uncertain times, this crucial service is available for a flat fee.

In Phase 1, we will meet with you and develop a “roadmap” of recommended actions. Our interdisciplinary team will move quickly to schedule a call with you and conduct an initial assessment of your organization’s most pressing concerns and opportunities for assistance. While the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) will be a main focus, we will consider all relevant avenues of relief.

Next, we will work through a more detailed opportunity assessment with clients. To do this efficiently, we developed an analysis template that helps us identify and prioritize opportunities for relief in key areas such as business continuation, workforce management, return to work, and financial relief.

We’ll then create a customized strategy for you, outlining:

- The relevant issues.
- Your organization’s rights and responsibilities under the CARES Act, FFCRA, and other federal and state laws and regulations.
- A recommended plan of action.

The flat fee will include the initial assessment, a conference call or online meeting with our subject-matter experts on the relevant programs, and a customized opportunity analysis and action plan.

In Phase 2, after the opportunity assessment and action plan are ready, we can help clients prioritize and implement some or all of the recommended actions. Fee structures for follow-up assistance will depend on the desired scope of work.

Read more: [COVID-19/CARES Act Relief Advice Program Overview](#)

Creditor’s Rights and Workouts

The coronavirus pandemic is creating far-reaching economic ripple effects—many businesses are under financial hardship, and companies of all sizes are filing for bankruptcy. Michael Best offers experienced guidance to help you weather the storm.

Our Creditors’ Rights, Bankruptcy, Reorganization & Workouts group can help struggling businesses and creditors act quickly and decisively to preserve value, buy time, achieve stability, seek relief, and avoid or mitigate the effects of insolvency. We can provide an immediate, strategic assessment of each client’s situation, looking at factors such as:

What is the client’s current position? Creditor, debtor, buyer, other?

How many “others” are in the same position?

Is there a dominant secured creditor? Is the client secured?

After assessing the situation from a holistic and strategic point of view, we will define the available opportunities and recommended actions so that our client can make an informed business decision. We can then work with you to implement the plan of action.

Read more: [Creditors’ Rights, Bankruptcy, Reorganization & Workouts Practice](#)

Insurance Coverage

The pandemic and its economic fallout are raising a host of insurance-related issues, including disputes over coverage for business interruption. Michael Best’s team understands the full spectrum of insurance coverage matters, having extensive experience representing both policyholders and insurance industry clients.

When disputes arise about insurance coverage, duty to indemnify claims, broker issues, employee benefits, or contracts, Michael Best aggressively protects our client’s interests and proactively looks for opportunities to mitigate risk. We counsel clients on many different insurance coverage issues, including:

<ul style="list-style-type: none"> • Property damage • Business interruptions • Toxic tort and environmental liability • Governmental/regulatory investigations • Corporate governance/directors’ and officers’ (D&O) liability • Cybersecurity risk and liability • Privacy 	<ul style="list-style-type: none"> • Professional liability • Employee theft and other crime-related loss • Employment practices liability • Liability as an ERISA fiduciary • Corporate acquisitions or divestitures • Securities litigation • Subrogation
---	--

We have experience handling insurance coverage cases before state and federal appellate courts, as well as working with state insurance commissioners. We also represent clients in resolving claims through mediation or arbitration, including arbitrations in the U.S., London, and Bermuda.

Best General Counsel: Cost-Effective Guidance During the Crisis—and Beyond

For clients whose in-house legal departments are in transition, or who lack in-house legal support, navigating through this pandemic may be an especially challenging time. Our Best General Counsel (Best GC) service is here to help.

With Best GC, you will have your own dedicated, experienced attorney who takes the time to understand your business; build relationships with key internal stakeholders; and attend shareholder, board, and senior management meetings, as desired. They also have the support of a full-service firm to provide quick answers to day-to-day legal matters.

Whether you're seeking comprehensive outside counsel or interim assistance in specific areas, Michael Best will work with you to develop a customized menu of services and a cost-effective approach. To provide cost certainty in uncertain times, we offer our Best GC service for fixed fees for services or at a monthly fixed fee, depending on scope and needs.

Read more: [Best General Counsel Overview](#)

Templates, Guides, and 50-State Surveys

We are developing numerous templates, guides, and 50-state surveys as we have helped clients navigate this pandemic.

These include:

- 50-State Legal Research Surveys
 - Mini-WARN Act
 - Wage Change Notice Requirements
 - Unemployment Benefits Issues
 - View our COVID-19 State Policy Summary, which is updated daily.
- Furlough/Layoff Guide for Employers

External Resources

- [Center for Disease Control \(CDC\)](#)
- [CDC Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)

- FDA Emergency Preparedness: Novel Coronavirus (COVID-19)
- EEOC: Pandemic Preparedness in the Workplace and the Americans with Disabilities Act