

Relevant Labor law issues (Labor Compliance)

As you may be aware, due to the Reform of the Federal Labor Law on May 1, 2019, some amendments to legal provisions have arisen, proposals for labor reforms, as well as the measures to confront the pandemic caused by the SARS-CoV-2 (COVID-19) virus, labor matters have gained great relevance, not to mention all the changes that must be implemented in collective bargaining matters in order to comply with the USMCA.

Therefore, our purpose here is to remind you of the issues that should be addressed in order to ensure labor compliance in case of future labor inspections:

1. Home Office Policies: The most important aspect of controlling the pandemic has been the instructions to remain home and/or incentivize working remotely in order to avoid contagion and safeguard the health of employees. Notwithstanding the temporary needs, many companies will implement this mode of work permanently and therefore it is important that workplaces have the necessary guidelines or standards to protect the employer and the employees. The implementation of clear policies that define the rules of this ever more common form of work and compliance with the possible reforms in this regard are extremely important.
2. Annexes changing schedules and work conditions: It is likely that the new normal will represent challenges once the on-site mode of work is resumed in businesses, and as a result some positions may need to change their schedules. In this regard it is important to consider that, since schedules are a work condition, they must be changed carefully in order not to violate the law and cause legal problems for the company.
3. Updating of safety and health measures: It is vital to adapt the guidelines of the Mixed Safety and Health Commission according to the federal and local guidelines issued by the authorities to protect the health of employees and prevent or reduce the risk of contagion of the virus SARS-CoV-2 (COVID-19).
4. Implementation of the NOM-035: The NOM-035 has been mandatory for all workplaces since October 2019, and therefore it is extremely important for companies to implement a policy with respect to the psycho-social risks present in employees, as well as the other mechanisms of identification, analysis and prevention that this Official Mexican Standard establishes.
5. Protocol established in section XXXI of article 132 of the Federal Labor Law: Since the Reform of the Federal Labor Law on May 1, 2019, employers have been required to establish a protocol to prevent discrimination on the basis of gender, to address cases of sexual violence or harassment, and to eradicate forced child labor.

In addition, the United States, Mexico and Canada Free Trade Agreement entered into force on July 1, 2020 and under it some companies may be subject to review by instructions of the signatory countries, to verify compliance with the labor norms and determine if there is a denial of workers' rights. Therefore, it is important to verify that your workplace is in compliance, in order to avoid labor and commercial sanctions, since although the deadlines for complying with certain requirements contained in the Federal Labor Law Reform of May 1, 2019 may seem far off, under the USMCA they may already be enforceable.

We know these are complicated times, but we should not forget the importance of complying with employer's obligations and designing the strategies and policies for resuming work in the workplace. It is important for us to accompany our clients in the process of adapting to the new normal and ensuring proper compliance with the new obligations and adjustments that each workplace requires according to its own operating needs.

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