Mexico Institutes Measures to Prevent the Spread of COVID-19 in the Workplace

As of March 24, 2020 and effective until April 19, 2020, the Mexican government implemented a number of measures aimed at stopping the spread of the novel coronavirus, and the illness it causes, COVID-19. The latest regulation, which the Official Gazette of the Federation (Diario Oficial de la Federación) recently published, requires employers and individuals to comply with a number of preventive and obligatory measures.

Preventive Measures: Susana Distancia

As a preventive measure, the regulation requires compliance with the Susana Distancia “Maintain a Safe Distance” campaign in order to limit the transmission of COVID-19 from individual to individual. This campaign reminds residents to keep a safe distance of two meters from each other.
Obligatory Measures

1. Public Spaces and Work Centers

The regulation prohibits individuals from attending work centers, public spaces, and other highly-crowded places. The regulation applies to:

- individuals 65 years old or older; and
- individuals at high risk of catching a serious or life threatening disease.

The regulation defines high risk individuals to include:

- pregnant women;
- women who are breastfeeding;
- children under the age of 5;
- disabled individuals; and
- individuals with chronic non-transmittable diseases (such as hypertension, renal insufficiency, lupus, cancer, diabetes, obesity, cardiac disease, or other conditions involving a suppression of the immune system)

What This Means for Employers

Companies should not permit employees who are aged 65 and older and high-risk employees to report to work. However, employers should comply with current salary and benefits obligations and continue to pay these employees for the duration of time that they are required to not report to work.

2. School closures

The regulation interrupts all scholarly activities until April 17, 2020, as instructed by the Mexican Ministry of Public Education.

3. Mass Commuter Transit

The regulation calls for the interruption of public activities involving mass transit (including employee commutes to their work centers) until April 19, 2020.

This prohibition includes an exception intended to guarantee the working rights of individuals engaged in essential functions. The regulation describes essential functions as those that mitigate and control health risks associated with COVID-19.

The businesses and organizations to which the essential functions exception applies include companies engaged in activities and services that are necessary to face the COVID-19 crisis, including but not limited to:

- Hospitals, clinics, and organizations offering medical services;
• Pharmacies;
• Laboratories;
• Financial institutions;
• Telecommunications companies and media;
• Hotels;
• Restaurants;
• Gas stations and gas distribution;
• Markets and supermarkets; and
• Transportation services.

Companies engaged in essential businesses are required to comply with the safe distance / Susana Distancia campaign.

Note that the regulation does not explain how it will guarantee employees’ working rights. For the duration of time that employees are prohibited from reporting to work, their employment relations will continue. In addition, all parties will continue to be subject to their existing employment contracts, collective bargaining agreements, and the current terms and conditions of employment subject to protection under the Mexican Federal Labor Law.

What This Means for Employers

It appears that the regulation requires companies to pay employees their full salaries and benefits during the shutdown. Given this obligations, employers have several options to consider.

• Distinguish employees who need to work at the workplace and those employees who may work remotely;

• Negotiate with employees and unions (if applicable) in writing regarding the following topics:
  ◦ whether employees can take vacation during the shutdown;
  ◦ whether salaries may be reduced by a percentage during the shutdown;
  ◦ whether employers may temporarily stop paying salaries in lieu of Social Security Quotas during the shutdown;
  ◦ whether employers may reduce employees’ benefits during the shutdown;
  ◦ whether employment suspension (or furloughs) may be appropriate in an effort to save jobs; and
  ◦ whether there are any redundancies in the workforce that may be
eliminated.

4. Limitations on Gatherings

The regulation temporarily suspends large events and meetings of greater than 100 people.

5. Compliance With Hygiene Regulations

The regulation encourages residents to participate in hygienic best practices. This includes advising individuals to wash their hands regularly; cover their mouths when they sneeze and cough with the inner side of their arms; apply distance precautions during greetings; and stay at home and secluded for at least 15 days after feeling any symptoms associated with COVID-19.
