

## Goodwin Alerts

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### The 'New Normal' for Nonprofits: Tips on Workplace Reentry and Reimagining the Industry

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Many nonprofits will soon face the prospect of re-opening their workplaces while the spread of COVID-19 remains a concern. To do so safely and effectively, nonprofits must consider how they will operate in a new and rapidly evolving landscape. This article will discuss how organizations can begin the process of determining what their “new normal” will be and how they can safely operate.

#### RE-ENTRY TO THE PHYSICAL WORKSPACE

Over the coming months, many employers will face the daunting task of how to return to their physical workspaces in a way that is safe and eases the concerns of their employees. The key will be to remain flexible, stay up to date with guidance from governmental authorities and be ready to communicate changes to employees in a manner that is clear, direct and maintains trust in the organization’s leadership.

*Establishing a Re-entry Plan.* Prior to reopening, employers should establish a re-entry plan that will take into consideration the physical workspace, the needs of employees, and the manner in which the organization operates.

*COVID-19 Task Force.* Before reopening local offices, employers should establish a dedicated, multi-disciplinary team of employees who will stay up to date with the most recent federal, state and local regulations related to COVID-19, and who will establish and communicate new policies as the situation continues to evolve. The primary goal of a task force is to maintain consistent and open communication with employees on all topics related to the physical workspace and work rules and protocols aimed at reducing transmission. The task force should include members of human resources, an individual in charge of operations, persons responsible for facilities, and interested employees.

*Risk Assessment.* The COVID-19 task force, after careful deliberation and research, should conduct a risk assessment of the physical workspace. The task force should study guidelines published by the Occupational Safety and Health Administration (“OSHA”), an administrative agency that sets forth the regulations for safe working conditions, and the Center for Disease Control (“CDC”). Using these guidelines, the task force should develop a plan to implement control measures to protect employees. OSHA guidance on control and prevention can be found [here](#).

*Physical Workplace Preparation.* Employers should prepare the workplace for reopening by taking certain measures to ensure employees are able to practice social distancing and preventative hygiene. Both OSHA and the CDC have published recommendations for employers on how to adjust an office space to (1) avoid cross-contamination of surfaces and equipment, and (2) maintain social distancing between employees. These guidelines recommend, by way of example, frequent disinfecting and cleaning procedures and reconfiguration of the workplace to keep employees at least six feet apart, which can be achieved by moving desks farther apart or constructing temporary physical barriers. Employers should consider work rules aimed at reducing transmission, such as prohibiting shared office equipment and workspaces. In addition, in order to maintain distancing between workers, employers should think about areas of the workspace where employees tend to be in close quarters and take steps to reduce crowding in those areas. For example, organizations should consider limiting in-person meetings, closing off break rooms, and designating narrow hallways as single

direction so that people are not passing each other. For more information, please review OSHA's [Guidance on Preparing the Workplaces for COVID-19](#).

*Updating Employment Policies.* In addition to the physical changes that should be made to the workplace, employers should consider updating their employment policies to address new protocols related to COVID-19. For example, policies regarding sick time may need to be re-tooled to take into account the 14-day quarantine period after an employee begins to exhibit symptoms or is exposed to the virus. Additionally, employers will need to determine whether they will require all employees to wear face coverings or respond to health questionnaires before entering the workspace. In drafting these policies, employers must be mindful of their obligations under various regulatory requirements such as the Americans with Disabilities Act. Some nonprofits may face a particular challenge in revising their domestic and international travel policies as the need to engage in programs or fundraising efforts may conflict with concerns relating to employee safety. These policy changes, however, can be temporary, and expire when the pandemic is over. For example, organizations that typically do not allow employees to work from home can allow, and even encourage, employees to do so for a limited period of time. Employers should discourage employees from coming in to work if they are not feeling well. If employees feel their jobs will be at risk or there will be some sort of retaliation for taking time off, they may try to “push through” and go into the office, thereby putting the entire workforce at risk. In that case, there would be a much larger issue for the organization than if one individual stayed home from work. The goal of adapting these policies to the circumstances is to keep employees as safe as possible.

## REIMAGINING THE NONPROFIT INDUSTRY

As employees return to work, nonprofits will need to balance employee safety and effectively continuing their operations. Nonprofit models typically depend heavily on fundraising and obtaining grants. A 2018 State of the Nonprofit Sector Survey found that half of all nonprofits had only three months or less of cash in hand to cover their expenses. However, employees and patrons alike will likely be reluctant to attend large fundraising events or other traditional in-person interactions for the foreseeable future, even as stay-at-home orders begin to ease in many places. Nonprofit employers will need to begin innovating creative ways to connect virtually with donors and perhaps prioritize grant applications that will require less travel and in-person contact. Some organizations may even find it challenging to execute some of their programs to serve the underprivileged, such as soup kitchen events and nursing home visitations.

*Grants.* In the coming months, nonprofits should stay up to date with the many changes in grant application requirements that may support their efforts to keep their workers safe. Since March 2020, several major foundations (including the Ford Foundation) have pledged to loosen restrictions and requirements on their grant process by shifting towards “trust-based” philanthropy. The pledge, “A Call to Action: Philanthropy’s Commitment During COVID-19,” makes a number of promises that include loosening or eliminating restrictions on grants, accelerating payment scheduling and postponing site visits.

*Fundraising.* While fundraising efforts are a major source of financing within the nonprofit sector, the traditional methods of doing so (e.g., through galas or other large-scale events) will likely be on hold indefinitely. Expanding the use of email marketing and methods of video conferencing, for example, will be critical for a nonprofit’s survival. Organizations that quickly begin to integrate new ways of fundraising into their business models have the best chance of navigating the new normal safely and effectively to the benefit of not only the communities they serve, but to those who have dedicated their careers to the organization.

*Service Programs.* Many nonprofits also engage in programs that provide direct assistance and support to the communities they serve, which will be significantly impacted by COVID-19. Organizations that wish to continue these programs, or simply must in order to accomplish their mission, should consider applying the same policies they will begin to develop for their physical workplaces to these programs, including requiring (if

possible) providing face coverings and developing a plan and protocol around how to handle employees or community members who exhibit symptoms or have been exposed to the virus. The goal is not to abolish these programs, but to try to achieve the mission of the organization while maintaining health and safety.

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Visit Goodwin's [Coronavirus Knowledge Center](#), where firm lawyers from across the globe are issuing new guidance and insights to help clients fully understand and assess the ramifications of COVID-19 and navigate the potential effects of the outbreak on their businesses.

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