

A Non-Exhaustive List of Workplace Considerations in 2021



Without question, the COVID experience has changed the way many do business today and will do business in the future. Whether it be conducting Zoom conference calls from your dining room table, doing temperature checks, or setting mandatory mask policies, there is a whole new dialogue in the workplace. For better or worse (albeit forced, unexpected changes can often be for the better) these changes will require careful consideration of existing workplace laws and rules as well as those coming down the pike. Staying diligent remains critical to business success. What follows are some guidelines and things to consider around the workplace as we waltz through 2021:

Do you have a COVID plan? Keep it current. Indeed, the need for these appeared out of thin air, but now it's a must. COVID plans need to be constantly evaluated and re-evaluated. Plans should be revised to incorporate any developments and generally accepted practices as they evolve. You should consider all guidance from the Centers for Disease Control and Prevention (CDC) as well as state and local agencies, local business resources, your business professionals, your franchisor and, of course, your franchisee association.

Are you prepared for minimum wage increases? Minimum wage increases are set to take effect in over two dozen states and multiple municipalities, including New York and Chicago. You need to be mindful of these increases if you are affected. Not only do you need to be aware of these increases, but you also need to ensure you have a plan to retain employees considering the cash strain this may create for some businesses. Notably, the new administration has also indicated

that it will focus efforts on increasing the federal minimum wage to as much as \$15 per hour, and some municipalities are suggesting even higher.

Have you reviewed your sick and family leave policies?

Many states and municipalities require some type of paid sick or family leave program. Several states are expanding requirements on employers and benefits to employees. There are pros and cons to each approach, so talk with your legal advisers and leave administrators to determine which path is best for your company and confirm all policies are up-to-date. Ensuring you have good resources to assist you in this area is imperative. You should be consulting with your HR professionals, lawyers, franchisor, franchisee association and other resources when necessary to safeguard against any non-compliance.

Mandatory vaccination? This debate has stormed into the discussion over the last several weeks. Can employers mandate vaccines for workers? The Equal Employment Opportunity Commission (EEOC) has indicated that employers may require that employees be vaccinated against COVID-19. There are some delineated exceptions based on, for example, personal health and religious beliefs. There are also state and local rules and laws to



by Justin M. Klein




by Andrew Bleiman

consider when determining the mandatory nature of this consideration. If this is something you are contemplating, it is important to have a plan. Critically, you should make sure the plan is in line with any directives from your franchisor as well.

Learn about PPP and Employment Tax Credits. PPP has now become a part of ordinary vernacular in 2021. Many franchised businesses took advantage of the Paycheck Protection Program (PPP) during the initial offering, and now there is a much needed second round of PPP that many employers are considering. Alongside PPP and other financial support resources, employers should be considering benefits offered by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted Dec. 27, 2020. This act modified the employee retention tax credits previously made available under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), including modifying and extending the Employee Retention Credit (ERC) for six months through June 30, 2021. In accordance with the guidelines of the ERC, eligible employers can claim a refundable tax credit against the employer share of Social Security tax equal to 70% of the qualified wages they pay to employees after Dec. 31, 2020, through June 30, 2021. Qualified wages are limited to \$10,000 per employee per calendar quarter in 2021.

Predictive scheduling considerations. The law in this area continues to evolve and several jurisdictions have implemented regulations, or such regulations are being considered in the legislature. These laws are not uniform and generally aim to help hourly employees whose work hours may change from week to week plan their schedules and budgets. While these laws are geared toward fast food restaurants and large retailers, you should be aware if you are in a jurisdiction where there are laws regarding what many call "fair workweek" or if such laws are being considered and

how they may impact your business. Another thing to consider is recent changes to the Fair Labor Standards Act (FLSA) that address paying hourly employees a weekly salary under the fluctuating workweek method. These changes seemingly permit employers to pay bonuses or other incentive-based pay in addition to an employee's fixed salary when using the fluctuating workweek method, so long as those payments are included in the calculation of the regular rate.

Be prepared. Stay diligent. With the new administration taking the reins, there will undoubtedly be a litany of regulatory changes introduced that will affect employees, employers and the workplace. Minimum wage is already declared to be at the top of the list. There will also likely be new anti-discrimination laws introduced, especially concerning diversity, inclusion and equality. Likewise, there is sure to be significant attention paid to issues such as the independent contractor and joint employer laws and analyses. Indeed, states like California and others have enacted statutes that go directly to the heart of this matter, several of which are already impacting franchise businesses. As always, being in the know will give you a leg up on these matters as they crystalize. Even more, having a handle on how to deal with regulatory changes and their evolution will best position you for success as you plan for the future of your business. 

Justin M. Klein is a franchise and business attorney and a partner with the nationally recognized franchise law firm of Marks & Klein LLP, which represents Planet Fitness® franchise operators throughout the United States. **Andrew Bleiman** is the managing attorney for Marks & Klein's Illinois offices. You can contact Klein at justin@marksklein.com or Bleiman at andrew@marksklein.com.



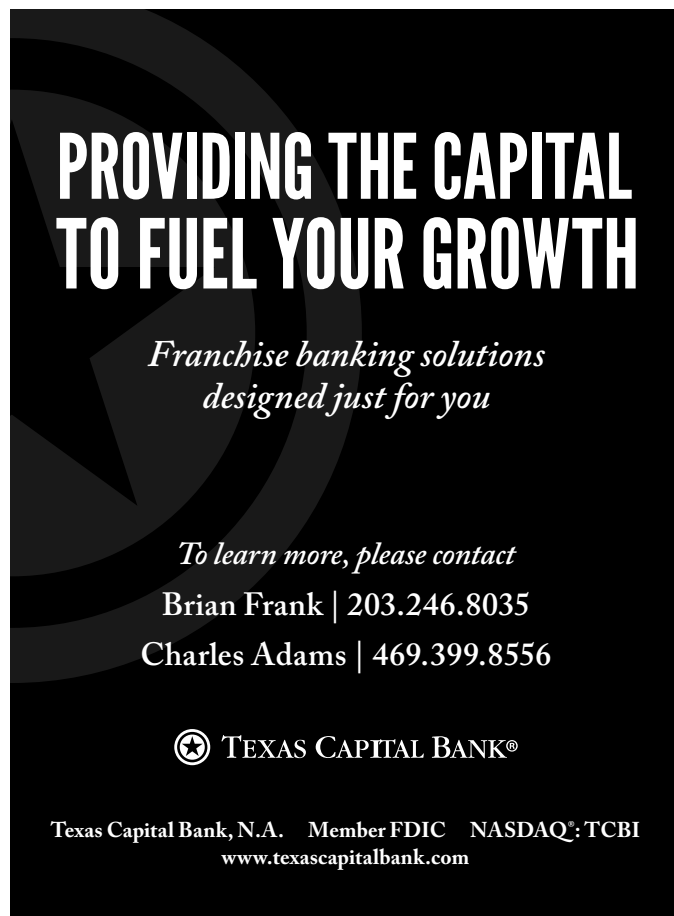
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