

# Employee Benefit ■ Plan Review

## Managing Remote Work: 7 Tips for Creating Effective Employer Policies

BY CHRISTINE E. HOWARD AND MARISOL RUIZ

The COVID-19 pandemic resulted in unprecedented change for the workplace after stay-at-home orders, isolation and quarantine requirements, and accommodation requests resulted in many employees temporarily working from home. Employers and employees alike recognized certain benefits of remote work arrangements, which led many business leaders to explore hybrid and permanent remote work policies. While remote work arrangements are not practical for every job or desired by every employer, when such arrangements are embraced and become embedded into company policy, employers need to ensure they are taking proper precautions. Below are seven tips that employers should consider when implementing remote work policies.

### 1. CREATE A WRITTEN REMOTE WORK POLICY

You should consider creating a written policy establishing the criteria and guidelines for working remotely. Will all employees and roles be eligible? Identify the roles that are critical to your business operations and determine whether those individuals can carry out their jobs while working remotely. Set performance standards and expectations from the start, and include policies on security and data protection,

safety, and expectations about equipment and materials.

### 2. REVIEW RULES ON EXPENSE REIMBURSEMENT

Be sure that your pay practices for all employees – those who work onsite and those who work remotely – comply with the applicable federal and state wage and hour laws. In some states, such as California, employers must ensure all business expenses that are “reasonable” and “necessary” to perform the job remotely are reimbursed. At least ten states – California, Illinois, Iowa, Massachusetts, Montana, New Hampshire, New York, North Dakota, Pennsylvania, and South Dakota – and the District of Columbia have enacted laws requiring employers to reimburse employees for certain remote work expenses.

Even if the applicable state does not require reimbursement, failure to reimburse could lead to allegations of federal wage and hour violations for those paid at or near the minimum wage. For example, under the Fair Labor Standards Act (FLSA),<sup>1</sup> employers generally do not have to reimburse employees for work-related expenses unless the costs would cause the employee’s earnings to fall below the minimum wage. This means you should take extra care to ensure that any additional

expenses remote employees incur for business-related items – such as office supplies, internet access, and printers – do not bring their wages below the required rates or cut into their overtime pay. Additionally, exempt employees working remotely should be paid the full salary to which they are entitled subject to lawful deductions. If allowable, any expenses they are responsible for covering should not bring their salary below the required threshold for the exemption.

Expenses can take many forms, and employers should examine the perks and amenities they typically provide to onsite employees to determine which perks they plan to provide to remote workers. For example, if traditional employees are provided with a monthly free lunch, consider whether you will reimburse remote employees for a personal meal of equal value. Travel is another important consideration for remote workers – if non-exempt employees work from home and are required to travel to their employer’s office after the start of their workday – such as for a meeting – they may also be entitled to compensation for their travel time to the office in addition to a per-mile fuel reimbursement.

Your remote work policy should include a section on reimbursements that complies with the laws of the states in which you operate. Address which expenses may or may not be reimbursable and whether you will provide a stipend that you anticipate will reasonably satisfy such costs. To ensure that reimbursements are documented correctly, consider the following tips:

- Itemize reimbursements on employees’ paystubs.
- Clearly explain whether you will require a pre-authorization before an employee submits a reimbursement request.
- Determine whether there will be a cap on the amount that an employee can request to be reimbursed.

- If you deny a reimbursement, document the reasons.

### 3. PROVIDE ACCESS TO AN EFFECTIVE TIME-TRACKING SYSTEM

An effective computer- or app-based timekeeping system can help employees accurately track their work hours and help you monitor time records for accuracy. You may want employees to sign their timesheets and verify their accuracy. Additionally, you should consider training non-exempt employees and their supervisors on timekeeping requirements and what constitutes “hours worked.” Be sure to pay non-exempt employees for all hours worked, including overtime hours worked, and let them know – just as you would onsite employees – that “off-the-clock” work is not permitted. You may discipline employees that fail to properly account for their hours or work unauthorized overtime, but you must pay them for all hours worked.

### 4. BE PREPARED FOR POTENTIAL WORKERS’ COMPENSATION CLAIMS

Work-at-home arrangements do not immunize employers from workers’ compensation claims. Work-at-home accidents may be compensable if they arise out of work conducted during the course and scope of employment. If the employer did not contribute to the risk of the accident resulting in injury, however, a state’s workers’ compensation law may not require the employer to cover the cost of the injury. State workers’ compensation laws vary, so be sure to check the applicable rules and consult with counsel.

### 5. ESTABLISH BUSINESS HOURS

Remote workers may have a more difficult time than onsite workers when it comes to turning off their computer and ending work for the day, especially if their superiors

contact them outside of general business hours. You can show respect for employee’s personal time by establishing business hours and times for breaks and meal periods. Note that some state laws require non-exempt workers to take rest and meal breaks at particular times, which would continue to apply to remote workers. Setting business hours should also reduce the potential for off-the-clock claims in the case of non-exempt workers.

### 6. SECURITY AND PRIVACY

The combination of modern technology and remote work presents unique security and privacy concerns. Your remote work policy should highlight the importance of online security measures to ensure work-from-home arrangements do not make systems vulnerable to cyberattacks and viruses. You can implement certain protocols to reduce vulnerabilities, including:

- Informing employees of your security expectations. Educate your employees on what you expect of them when working remotely.
- Requiring secure apps for work-related communication. Employers should only use a protected secure app or work email to communicate to ensure work related information stays protected.
- Requiring employees to lock their computers when not in use. Employees may feel more comfortable leaving their devices unattended while working remotely than if they were in the office, but it is important for employers to make clear how critical it is to keep company information confidential regardless of an employee’s location.
- Instructing your employees to use unique and complex passwords when signing into work accounts. Weak passwords are the main gateway to a security

breach, and this small change can make a big difference.

- Using a VPN. Virtual private networks, or VPNs, are often used to allow employees to access the same information they would at work but from a remote location.
- Requiring employees to use a monitor privacy screen. Some employers may feel more comfortable mandating employees to use privacy screens to shield others from viewing personal information.
- Providing employees with a secure work computer. Having your employees complete their work only on secure, company-provided devices offers better protection than the use of personal electronics.
- Using up-to-date, encrypted conferencing software. Many employers use platforms for meetings, such as Zoom and Microsoft Teams. Requiring all employees to use the same encrypted software adds another layer of protection for confidential company information.
- Setting clear procedures for employees to follow if a data breach occurs. No matter the

steps an employer takes to protect remote workers, accidents can still happen. Make sure employees clearly understand the steps they should take to report and mitigate a security breach if it happens to them.

### 7. GIVE REMOTE WORKERS AN OPPORTUNITY TO REVIEW POLICIES

Particularly since the COVID-19 pandemic began, many workers have been interviewed, hired, and started working from home without ever meeting anyone in person or going to a physical worksite. Ensure these workers are oriented and trained on company policies just like onsite employees and that they have online access to these policies and to federal and state posters that would commonly be posted in a break-room. For example, an employee with a qualified disability under the Americans with Disabilities Act (ADA) may be entitled to a reasonable accommodation for their home office, such as specialized equipment or technology. Be able to demonstrate that the company published its reasonable accommodation policy

to that employee as well as provided training to their virtual manager on the ADA to address that employee's need. Just because individuals are not located on-site does not mean that discrimination will not occur, so be sure that remote workers know their rights and how to make requests or report concerns internally.

### CONCLUSION

A purposefully managed remote work policy can increase employee flexibility and drive exceptional results. Taking proper precautions and carefully implementing these policies will go a long way to ensure your compliance with applicable federal and state laws. 🌟

### NOTE

1. <https://www.dol.gov/agencies/whd/flsa>.

Christine E. Howard, a partner in the Tampa and Atlanta offices of Fisher Phillips, is a member of the firm's management committee. Marisol Ruiz is an associate in the firm's office in Tampa. The authors may be contacted at [choward@fisherphillips.com](mailto:choward@fisherphillips.com) and [mruiz@fisherphillips.com](mailto:mruiz@fisherphillips.com), respectively.

Copyright © 2022 CCH Incorporated. All Rights Reserved.  
 Reprinted from *Employee Benefit Plan Review*, October 2022, Volume 76,  
 Number 8, pages 6–8, with permission from Wolters Kluwer, New York, NY,  
 1-800-638-8437, [www.WoltersKluwerLR.com](http://www.WoltersKluwerLR.com)

