Leaving The Mothership: Tips For Launching A Telecommuting Worker

Insights

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Telecommuting takes many forms, including remote workers, teleworkers, virtual employees, off-site employees, or those who are just considered "working from home"—all terms used to describe an employee whose primary work is conducted away from your mothership. No matter the form, there are many benefits for both businesses and employees.

Employees typically embrace the arrangement because of the work-life balance. It eliminates commute time, can increase an employee's overall job satisfaction, and let's not forget about the ability to work in house slippers. For businesses, it provides opportunities to recruit outside of your geographic area, makes your company more attractive in an increasingly competitive job market, increases employee morale, reduces office expenses and space, and increases operational efficiencies.

Logging On: Preparing For Telecommuting Workers

But with all of these positives, telecommuting creates unique management challenges. Launching your workers away from the home base takes thoughtful preparation, and there are simple steps you can take to minimize the legal risks created by telecommuting employees.

1. 1. **Develop Written Telecommuting Policies**

   What if, during your weekly video staff conference meeting, you look around the virtual table and there sits Robert, shirtless and with unquestionable bedhead? When you launched your telecommuting team, you probably didn't think you needed a "shirts-are-required-at-meetings" policy. And you wouldn't be alone. While many businesses have recently embraced a telecommuting workforce, many have forgotten to modify traditional employee policies to include the modern work arrangement. In the case of shirtless Robert, your first step in addressing (or preventing) such a situation is to develop a comprehensive set of written policies.

   If you currently have a virtual workforce or are considering one for the future, take a hard look at your company policies and make sure they incorporate modern considerations for the virtual employee. In addition to the basic company expectations (like wearing a shirt), review all policies contained in your employee handbook to determine whether they need to be adapted. The handbook should also outline your company's criteria for selecting employees

adopted. The handbook should also outline your company's criteria for selecting employees to participate in telecommuting and revised policies as needed to address the employment laws for workers in other states.

2. **Develop A Game Plan To Manage The Telecommuting Relationship**
   You will want to have your employees sign or acknowledge a written telecommuting agreement, which should include, at a minimum, the following:

   - an acknowledgment that the employment relationship remains at-will;

   - a reminder that they are still subject to all of the company policies, procedures, rules, and regulations;

   - your expectations of employee availability, core work hours, and expected response times to email and phone communications;

   - and a notice that you have the right to revoke the employee's right to work from home at any time and for any reason.

   You will also want to create strategies for monitoring employees' work-related activities while working remotely. This will likely require a collaboration with your IT staff to determine best protocols and a notification in your written policies about your right to monitor such activities. It would be wise to review relevant state privacy laws as related to telecommuters' right of privacy when working from their own homes. Finally, provide training for your management staff so they have the tools needed to effectively manage a remote workforce.

3. **Ensure Your Compensation Structure Is Compliant**
   There are both big-picture concerns and daily concerns when it comes to compensating your telecommuting employees. From a big-picture perspective, you will need to evaluate each position for non-exempt or exempt status, resisting the urge to change the classification based on what is most convenient for your Consult with counsel to ensure that your classifications are correct.

   From a day-to-day perspective, once you have identified the status of each position, ensure that your non-exempt employees use a timekeeping system to record their actual hours worked. This is a good time to evaluate your overtime policy; you may want to consider restricting overtime without prior approval (while you will still be required to pay all overtime worked, this gives you the option of responding to violations to the policy through disciplinary action). Finally, be proactive about addressing how you will handle pay for travel time to and from your place of business when necessary to meet your telecommuting employees in person.

4. **Consider The Safety Needs Of Your Workers**

Just because your employees are not in your physical business workspace does not mean that you can ignore their safety. Both federal and state laws may obligate you to provide a safe working environment. To that end, consider whether it's necessary to conduct a home visit to evaluate the working conditions of the employee, following up as necessary.

You should also notify your workers' compensation carrier of the working conditions of the telecommuting employee to determine how coverage is impacted (and whether they have recommendations to improve safety). Finally, take into account what kind of liability insurance coverage you have in place for your remote workforce, and whether you will require the employee to maintain homeowners or renters insurance.

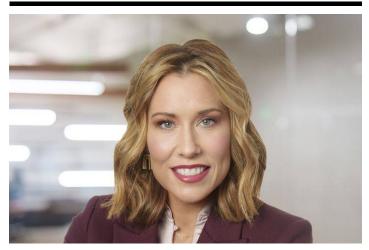5. **Consider Other Miscellaneous Business Issues**

If you give thoughtful consideration to your telecommuting program, you will probably begin to take into account a whole host of possible concerns beyond what has been covered in this article. For example, what equipment (computer, phone, internet, desk, chair, supplies, etc.) will you provide for the telecommuting employee's workspace, and what will they be required to provide on their own? Have you evaluated the tax implications and other state law requirements for a telecommuter whose home office is in another state? How will you ensure the privacy of company information available to your telecommuting employees? Will you provide secure login capabilities? Do you have protocols in place for handling and responding to potential data breaches? These are but a few of the additional questions that might arise when you take the time to consider all of the angles.

Logging Off

Like any other workplace relationship, there are employment laws to consider when developing and managing a compliant telecommuting program. Following the guidance in this article should give you a good start for a mutually beneficial and compliant program.

For more information, contact the author at LSobaski@fisherphillips.com or 816.842.8770.

Related People

Lauren M. Sobaski
Partner
816.460.1237
Email