

May 13, 2020

COVID-19 and Reimagining the Workplace: Daily Briefing Recap

The Remote Workplace:

Practical Guidance for Today and for the Future of Your Business

Please note that the following is a recap of our Daily Briefing from May 13, 2020. Due to the rapidly evolving nature of the pandemic, we recommend that you consult the most up to date materials possible. Visit Jackson Lewis P.C.'s [COVID-19 resource page](#) for updates on workplace impacts and [sign up here](#) to receive invitations to future daily COVID-19 webinar briefings and email updates on ongoing legal and workplace health challenges.

Managing Employees

- **Communication:** To ensure remote employees are engaged, productive, and properly accounting for their time, clear and frequent communication is key:
 - Managers should regularly engage with their teams to understand what is working and what is not working; develop routines for regular team video check-ins.
 - Schedule weekly one-on-one meetings to check in on job performance and ensure non-exempt employees are properly recording their time.
 - Consider providing training for supervisors with newly remote employees.
 - Encourage employees to be specific, succinct and organized in email communication, especially if something is required of the reader by a certain deadline.
- **Discipline:** Any discipline or performance counseling should be delivered first by video and memorialized in writing later. Remote employees who are struggling may need more than a weekly check-in.
- **Review policies and procedures:**
 - Do not assume that existing policies and procedures will work for an increasingly remote workforce.
 - Remind employees that during working hours they are expected to follow all company policies, include those related to drugs and alcohol.

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- Video conferences have the potential to create a sense of informality; consider establishing policies for proper dress and setting for video calls.
- **Reimbursement:** In some states, employees required to work remotely may be entitled to reimbursements for work-related cell phone and internet use.

ADA

- **Review job descriptions:**
 - Do job descriptions identify reporting to the workplace as an essential function? Consider whether they should in light of the COVID-19 crisis.
 - Employers will likely receive more requests for remote work as a reasonable accommodation; it may be difficult to claim that physical presence is an essential function if it is not included in the job description.
- **Requests for equipment accommodation:** Employers may receive requests for reasonable accommodations for remote workspaces, e.g., standing desks or ergonomic chairs; ensure that you have policies and procedures that allow you to retrieve equipment when employment ends.

Data Security and Privacy

- If you issue laptops to employees for use outside the workplace, you should have clear policies and guidelines on who can use those laptops and for what purposes.
- If remote workers use their own computers to access your systems, establish parameters regarding the blending of business and personal items, as well as required security safeguards.
- Consider auditing data security policies if they were not established with a remote workforce in mind.

Restrictive Covenants

- Review restrictive covenants and remove any antiquated language, e.g. language prohibiting employees from removing confidential information from employer's premises. Policies should reflect that most confidential information is now electronic and employees are allowed to access that information from home.
- Where allowed by state law, geographical territory in non-compete agreements should be defined not by company location but by the employee's work location.

FMLA

- While FMLA eligibility requires employees to work at a location with 50 or more employees within a 75 mile radius, remote employees are not precluded. Eligibility is based on where an employee reports into and where his or her assignments emanate from.

What if I have more questions?

As issues and concerns around COVID-19 unfold daily, employers must prepare to address the threat as it relates to the health and safety of their workforce. Keep up to date with [Jackson Lewis' latest available information and resources](#). If you have any questions, please contact the Jackson Lewis attorneys with whom you regularly work.