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Tips For Managing Your New Remote Workforce

For many employers in California, the transition of employees to work from home (“WFH”) status occurred rapidly over the last two weeks in the wake of the COVID-19 pandemic and various State and Local stay-at-home orders. As a result, employers need to quickly adapt to the new dynamics of managing a remote workforce. This article includes some tips and best practices to assist employers with this transition.

Telecommute Policies & Guidelines

For employers with existing Telecommute policies, now is a good time to review, update, and recirculate your policies to all employees in WFH status.

With the rapid transition to mandatory WFH, many employers have placed employees in WFH status without existing written telecommuting policies or guidelines. It will be important for such employers to establish such a policy, or at the very least, establish the general parameters and expectations concerning WFH in a written communication to employees.

Among other things, employees in WFH status should be aware of usual business hours, availability for calls and meetings, productivity standards, and other employer expectations. It should also be made clear that due to the COVID-19 pandemic, WFH arrangements are being offered on a temporary basis, and that arrangements may change as circumstances and business needs may dictate.

Communicating With Remote Employees

For many managers and employees new to WFH, it is important to establish and keep open regular communication. Email or telephonic check-ins at regularly scheduled intervals can help address workflow and other operational and business concerns. Staying in touch with employees and keeping up to date with ongoing projects and deadlines throughout the day will help facilitate the continuity of your operations during the WFH period.

Timekeeping & Break Periods

California’s wage and hour laws remain in effect during the statewide shutdown. Accordingly, for non-exempt hourly employees in WFH

status, employers must still track hours and enforce mandated meal and rest break periods. Even in WFH status, off-the-clock work and unauthorized overtime for hourly employees should remain prohibited. Remember, time spent reading and responding to emails is compensable time for hourly employees. Managers and supervisors should refrain from communicating with remote hourly employees outside of expected working hours.

Employers need to promptly adapt their usual time-keeping systems to accommodate new WFH arrangements. Hourly employers must still log, and employers must still track and properly compensate, all hours worked. There are multiple online and app-based timekeeping systems available to help streamline the process.

Mandated break periods must still be enforced and tracked. Employers should remind hourly employees in WFH status about break periods and instruct them not to work during their meal and rest breaks. Employers should consider requiring employees to log off of remote employer systems during break periods and utilizing certification forms for employees to verify they have taken their mandated breaks.

Reimbursing Business Expenses

Labor Code §2082 requires employers to reimburse employees for all “necessary expenditures” incurred by the employee in connection with the discharge of their duties. An employee’s personal resources, such as cell phone and home WiFi or internet, are reimbursable if they are being used by the employee to do their job. Likewise, necessary supplies, tools, or equipment purchased by the employee in order to perform their jobs are also reimbursable. Remote work expenses should be reimbursed if they are reasonable under the circumstances and the employer has at least some advance knowledge that the expense would be incurred.

There is no definitive guidance concerning the amount that must be paid to reimburse for employee fixed costs, such as home internet or WiFi. In *Cochran v. Schwan’s Home Services* (2014) 228 Cal.App.4th 1137, the Court of appeal stated that “some reasonable percentage” of the expense must be reimbursed, but it left the calculation to the trial court. Accordingly, employers should establish some reasonable method for contributing to such employee expenses, whether it is a proportional use calculation or a standard stipend offered to all employees in WFH status.

With respect to tools and equipment, in order to avoid surprises, employers should either provide remote employees with all the equipment necessary for the employee to perform their job, or establish a process for seeking approval prior to purchase.

Cybersecurity & Data Protection

Employers should work closely with their IT professionals to ensure that employees in WFH status have properly secured electronic resources necessary to perform their duties. Among other things, employees should be required to work over secure home WiFi or through a virtual private network (“VPN”). Personal electronic devices being used for work purposes should have proper security protections.

Workers’ Compensation & Safety Considerations

Under OSHA and other workplace safety statutes and regulations, employers are required to provide employees with reasonably safe workplaces – even if the employee works from home. Accordingly, employers should confirm that each employee in WFH status has a place to work that is safe and in good working order. Home workspaces should be adequately lit and ventilated, have smoke detectors and fire extinguishers, be free of obstructions and hazards, and be equipped with ergonomically proper desks and chairs. Employers can utilize safety surveys to ensure that remote employees meet safety standards and expectations. Employers should also ensure that employees working from home have up-to-date homeowner’s or renter’s insurance in place.

Employees in WFH status should be advised to promptly report any work-related injuries. In the event of such an injury, employers should investigate to determine whether the injury is work-related, and if so, the matter should be handled through the employer’s usual workers’ compensation process. Remember, in *Samberg v. JC Penney* (2011) 260 P.3d 495, an employee working from home tripped on her dog and was entitled to workers’ compensation benefits because she was engaged in work for her employer when the injury occurred.

Employers should advise their workers’ compensation insurance carriers about the transition to WFH status.

Consult With Legal Counsel

Because every workplace faces different operational and human resources issues, employers should regularly consult with legal counsel for assistance with remote workforce questions.