Considerations in Designing a Remote Work/Work-from-Home Policy

Eligibility
- Which employees are eligible for remote work arrangements?
  - Does it depend on role/duties?
  - Tenure at the organization?
  - Is there a past performance component?
- Are there certain categories of employees who are categorically ineligible for work from home arrangements?
- How can employees apply for remote work if it is not universally available?
- How much remote work is allowed? E.g., is it unlimited or capped at a certain number of days per week?
- If not available to all employees, who at the organization will be involved in the determination of employee eligibility for remote work?
- Under what circumstances will a remote work arrangement be re-evaluated and/or discontinued (e.g., performance concerns, changes in the business needs, changing public health guidance)?
  - You may want to be explicit in your policy that the organization reserves the right to terminate work from home arrangements and require employees to return to the office.

Location
- What limitations are there regarding an employee’s location in a remote work situation?
  - Note that having employees who regularly or exclusively work from another state may implicate tax and employment law requirements of such states.
- Can employees work from locations outside the home (e.g., co-working spaces or coffee shops)?
  - See considerations regarding privacy and confidentiality, below.
- Do employees need to notify the organization (or seek pre-approval) before changing a remote work location?

Work Hours: Time Tracking and Availability
- How will employees track and report their time when working remotely?
  - Note that non-exempt employees must continue to fully and accurately track all hours worked. Even exempt employees may be required to track and report time under certain funding contracts.
- What are the expectations regarding working hours and availability?
  - Are employees expected to be available and work the same schedule as if they were in the office?
  - Are employees expected to arrange for childcare during working hours?

Equipment and Expenses
- Who will supply equipment or other resources needed for an employee to be able to work from home (e.g., laptop, screens, internet)?
Note that while New York law does not require employers to reimburse employees for expenses incurred in connection with home offices or work-from-home arrangements, federal law may be implicated if the cost of items required for remote work would cause an employee’s salary to drop below minimum wage.

- How will the employee receive any employer-provided equipment?
- Are employees permitted to use the equipment for personal use outside of work?
- What is the process for reporting and repairing/replacing broken or lost equipment?
- What are the expectations for the return of equipment at the end of employment or the end of the remote work arrangement?

Privacy and Confidentiality

- How will the confidentiality of sensitive information be maintained during remote work?
- Are there files or documents that cannot be removed from the office?
- What arrangements should employees make if they are taking sensitive or confidential work calls from a shared living or working spaces?
- How will sensitive or confidential information be returned or destroyed if employment terminates?

Safety and Injuries

- What are the expectations regarding home office set-up and safety?
- How can employees report any injuries that occur while working from home?

Accommodations

- Were any employees granted accommodations during in-person work that need to be continued/adapted to a remote work environment?
- Is remote work being offered as a COVID-19-related accommodation for certain employees because of a disability or a sincerely held religious belief?

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