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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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