

The Approaching School Year Brings Renewed Focus on Workplace Policies

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While elected-officials determine the feasibility of reopening America's classrooms and workplaces, there is little certainty as to what life will look like in the fall for employers and employees alike. Will students be in classrooms? Will all or most workplaces be open? If the year begins with remote learning, how will working parents juggle personal and professional obligations? As the school year approaches, employers should be prepared to address work-from-home, employee leave, childcare, and related issues.

Issues Facing Working Parents

As COVID-19 cases currently surges in the West and South, it appears likely that some school districts and universities will implement remote learning, staggered schedules, or a hybrid of in-person and remote learning for the upcoming school year. Under any of these scenarios, working parents may need to work from home (sometimes called "telework" or "working remotely") or arrange for child care. To further complicate matters, many child care programs have been closed for safety or business reasons.

Work From Home

To ensure fair, consistent, and equal treatment for all employees, employers should develop or revise their work from home policies to reflect the current environment (depending on the scenario, a separate "COVID-19" work from home policy may be necessary). Many local and state governments have passed executive orders requiring employers to allow work from home arrangements to promote social distancing.

As such, employers should consider which job duties need to be conducted on-site and how to arrange for other duties to be conducted off-site. Additionally, the work from home policy should include information such as: wage and hour [issues](#) (scheduling, break periods, etc.), break periods, productivity standards, responsiveness, connectivity and data security issues, protection of confidential information, and other related issues. Most importantly, employers must draft and implement the policy in a way that does not discriminate against employees based on a legally protected characteristic.

Leave Requirements

Whether working from home or on-site, employees may be entitled to paid or unpaid leave to care for a child. As such, employers should be aware of the various leave laws that could be triggered. Under the [Families First Coronavirus Response Act](#), certain employers are required to provide paid sick leave (at two-thirds the employee's regular rate of pay) to an employee who cannot work because the employee has to care for a child due to school or child care provider closure. Additionally, several [cities](#) and [states](#) have passed paid leave laws which could be triggered depending on the particular circumstances of the employee's need for leave.

The Family Medical Leave Act (FMLA) entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons. If an employee's child is sick, the employee may be entitled to FMLA leave. If the child is not sick, employers are not required to provide FMLA leave to employees caring for dependents who have been dismissed from school or child care, according to the Department of Labor's guidance on COVID-19 [issues](#). Employers should check their state's FMLA laws for relevant provisions.

Other Options

Family-friendly employment practices improve recruitment, retention, diversity, and productivity. In addition to work from home arrangements and complying with leave laws, employers can implement other family-friendly practices to support the workforce and improve employee engagement, including:

- Implement staggered or split shifts to allow parents to care for children during normal working hours and complete their assignments through the remainder of the day
- Allow for "compressed weeks" (longer, four-day weeks) or "expanded weeks" (five-day weeks encompassing the weekend)
- Ensure each employee has a "back-up" to take over assignments in cases of emergency
- Provide equipment necessary to work from home or reimburse related expenses
- Provide child care onsite, contract with nearby childcare facilities for discounted childcare costs, or circulate information about child care in your community
- Allow employees to take voluntary furloughs as needed, or to work reduced hours for reduced pay.

Productivity Concerns

Employers should take steps to prevent, and if necessary address, employee abuse of remote work policies. In some industries, companies can track employee engagement – regardless of where the work is being performed – through simple metrics such as billable hours, sales figures, or quotas. Other companies may find it more difficult to determine whether their employees are actually "working" from home. Regardless, the easiest way to determine what your employees are doing is through communication, such as weekly group chats or individual check-ins. In addition to checking

the status of various projects, business leaders can hold employees accountable before major issues arise and assess employee morale in these uncertain times.

Moreover, there are a variety of technology solutions to evaluate productivity. Project management software provides visibility into when tasks are completed, who completes the task, and whether it is completed on time. There are also more “opaque” methods to analyze productivity such as checking an employee’s VPN log or use of employee software.

Employers should ensure that they not make any promises they may not be able to keep the longer the virus and school or child care closures exist. Employers may, at some point, be required to evaluate the need for involuntary furloughs or layoffs. Employers also should ensure that their telework policies include the corrective action that will follow for policy violations, and issue corrective action in a consistent, fair, and nondiscriminatory fashion.

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National Law Review, Volume X, Number 198

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