

# Employment Law Corner

## Monthly Report



FOLEY & FOLEY<sup>PC</sup>  
ATTORNEYS AT LAW

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### June Updates

1. [New Massachusetts COVID-19 Emergency Sick Pay](#)
2. [New EEOC Guidance Unpacked](#)
3. [No Mask? No Shot? What to do now.](#)
4. [Health and Safety: Revisit your Safety Policies](#)
5. [Another Change in Independent Contractor Tests](#)

### The Future of Work is Remote

Employees have had the unique opportunity to test out full and partial remote work during the COVID-19 pandemic – and many employees want it to stay. A May 2021 survey conducted by the World Economic Forum, more than 25% of employees said they would consider switching employers if required to return to the workplace full-time. Remote and hybrid work arrangements will be an important benefit to many when considering a new position.

Remote work can be beneficial in multiple ways: costing savings on office space, additional flexibility in work-life, hiring great applicants wherever they live, and additional productivity with less turnover. But there are many concerns that a lack of face time can result in less productivity, less social interaction, and a lack of boundaries between home and work. These concerns can be addressed by intentional hybrid policies and communication relating to work expectations.

The transition to a hybrid or full-remote model does not have to affect your Company's productivity or employee performance. If you are considering a transition, it is essential to have policies and documentation processes in place to outline expectation for employees to ensure your culture is not lost. Our [Hybrid Work Environment Toolkit](#) can help you craft your own hybrid model to fit the needs of your Company.

### How Can I Manage a Remote Team?

Even though the pandemic forced Companies to go remote without a plan in place – in order to create a seamless transition to hybrid work, you must have policies and expectations laid out in writing. Here are some best practices to consider when implementing a hybrid work environment:

Hire a Head of Remote Work

Create Informal Communication Opportunities

Implement Desk "Hotel" Reservations for Onsite Work

Have a Handbook with Clear Employee Expectations

Implement Virtual Meetings for All

Structure the Company as if Every Employee is Remote

### New COVID-19 Leave

Massachusetts now [requires](#) employers to provide 40 hours of COVID-19 leave to all employees through September 30, 2021. Leave can be taken for vaccination, quarantine, need for COVID-19 testing, and childcare closures due to COVID-19.

## What if My Employee Lives Out of State?

While a hybrid system is a great benefit for your employees, it can also impose certain employment law risks to keep in mind if your employee lives out of state.

- If you have a hybrid or fully remote employee who lives in a different state than the office, there can be income tax, as well as unemployment tax implications that must be determined prior to agreeing to these arrangements.
  - If an employee works remotely in another state, the employee may be eligible for those local employment laws instead of the local employment laws where the office is located.
  - You will need to ensure workers compensation coverage is in effect for the location where the employee's work is localized.
  - Some states have additional taxes to fund short term disability or paid family medical leave programs. Each state has its own eligibility requirements, so consult with an Attorney to ensure compliance.
  - Certain states also may have different requirements for overtime and on call pay.
- Having an agreement in place verifying the employee's work location can reduce risk for unintentional wage & hour and other legal problems. Human Resources needs to be aware of state law requirements prior to hybrid implementation to be compliant.

## Hybrid Work Environment Toolkit

Our fixed-fee Hybrid Work Environment Toolkit has been widely requested by our clients who are deciding how best to transition to the new normal. This toolkit will provide the basis for the transition to a hybrid model, by including the following:

### Remote Work Policy

- This policy will address the appropriateness for remote and hybrid work for each job position.

### Remote Work Agreement

- These agreements are essential in ensuring employee accountability and outlining expectations.

### Remote Work Survey

- This survey provides a roadmap to determine the suitability of a position for remote or hybrid work.

### Hybrid Arrangement Policy

- This policy will address desk "hoteling," virtual communication, and expectations for availability.

### Head of Remote Work Job Description

- Organizations that implement a remote or hybrid model often create a modified version of a Head of Remote Work.

### Performance Improvement Plan and Discipline Warning Forms

- Accountability is essential in structuring a hybrid model – having clear disciplinary forms can establish equity in work expectations.

### Reasonable Accommodation Policy

- Remote or hybrid work can be a reasonable accommodation under the ADA – and having a process in place for requests can be essential.

Figuring out your hybrid model with organized processes ensures employee engagement and increased performance. Our fixed-fee [Hybrid Work Environment Toolkit](#) will be a valuable foundation for the smooth transition to a hybrid model in the post-pandemic business world.

## Kaitlyn MacLeod

Meet our Associate Kaitlyn MacLeod who focuses her practice on protecting employers' interests by advising clients on day-to-day human resources issues and providing counsel on compliance with Federal, State, and local employment law. Kaitlyn prepares employer handbooks, settlement agreements, employment agreements, and other employer policies.



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