

HOW TO WRITE A COMPLIANT WORK-FROM-HOME POLICY



A Policy Checklist for Employers

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INTRODUCTION: THE IMPORTANCE OF YOUR WORK-FROM-HOME POLICY

Among many unique challenges in today's work environment, one of the biggest facing leaders right now is quickly setting up a compliant work-from-home program that adheres to important Company policies and requirements, such as confidentiality, safety, timekeeping, and workers' compensation.

Remote work continues to trend upward, having grown 44% in the last 5 years and 91% in the last 10 years. This is because remote work programs offer many unique benefits for both the employee and the employer, including

- Improved employee **engagement and productivity**
- Increased quantity and **quality of applicants**
- Increased **employee retention**

A proper policy is the vital foundation for any effective work-from-home program. This resource is ideal for employers who are new to managing a remote workforce or who want to quickly scale and improve upon their existing policy.

The “How to Write a Compliant Work-from-Home Policy” checklist will help you:

- **Save time** by giving you sample policy verbiage, best practices, and a checklist of next steps for successfully implementing your policy
- **Reduce risk** by providing you a checklist of the critical information you need to include in your work-from-home policy
- **Improve communication** by ensuring you cover the key information your employees need to know

Let's get started.



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WORK-FROM-HOME POLICY CHECKLIST

A Checklist of What to Include in Your Policy

The following checklist will help you create a compliant work-from-home policy. Keep in mind it's important to tailor your policy for your unique business circumstances as well as the State your Company resides in, as legal and other requirements vary by State. It is also recommended you have your policy reviewed by an attorney.

Throughout this checklist, I use the terms “telecommuting,” “remote work,” “flexible work,” and “work-from-home” interchangeably. What you decide to call your policy will depend on your business circumstances and workplace culture.

- Statement of Purpose.** Start your policy with a statement about why you set up a work-from-home program.

Example: *“The Company believes remote work is a valuable work option when the individual employee and job are suited for the flexible work arrangement and in special circumstances, such as business travel, special projects, inclement weather, or other unforeseen circumstances.”*

- Determine if the policy is temporary.** For some employers, the remote work policy is permanent where for others it may be temporary due to special circumstances.

Example: *“This policy is effective XDATE and will be reviewed periodically, as circumstances change, to determine whether the work-from-home program will continue. The Company will keep employees apprised as more information becomes available.”*

- Include a non-guarantee of continuation statement.** It's important to tell employees that working remotely is not a guaranteed benefit. Circumstances may change, such as new job duties that require availability in the office or individual performance issues may arise.

Example: *“Since circumstances related to job duties, performance, or other business needs may change, remote work is not a guaranteed benefit for any employee. The remote working relationship may be evaluated and discontinued at any time.”*

- Compliance with other organizational policies.** To avoid any confusion, ensure employees know they are still subject to the employer's other policies, regardless of working remotely.

Example: *“All of the Company's policies continue to apply to remote workers, including but not limited to the Standards of Conduct, Confidentiality, HIPAA, Workers' Compensation, and Timekeeping policies.”*

- Eligibility.** Identifying the factors you will use to evaluate remote working arrangements will help to establish parameters for your program. Typical factors employers consider are employee performance, individual job duties, and the needs of the business.

Example: *“The Company will review the viability of a telecommuting arrangement based on the suitability of the job and the employee, and the needs of the organization and work group.”*

- **Employee request process.** Be sure to include a process for employees to follow to request remote work. Not only is it important to clearly communicate your established program parameters, it's also important to allow employees to request to work from home. This allows for open communication with employees about the program and why it may or may not work for their individual circumstances.

Example: *"If an employee is interested in remote work, they are encouraged to speak with their direct supervisor or the Human Resources Department. Suitability will be reviewed and the employee will be informed of the decision."*

- **Work hours and availability.** Employees and managers will need clarification on expected hours of work and availability.

Example: *"An employee's regular work schedule will remain in place, regardless of working remotely. Remote employees are expected to be available during their normally scheduled hours of work."*

- **Hourly employees and timetracking.** Timetracking and overtime policies must remain in place, regardless of whether the employee is working remotely.

Example: *"Remote workers are not exempt from the overtime requirements of the Fair Labor Standards Act (FLSA). Non-exempt (hourly) employees are required to track their time per the Company's Timekeeping Policy."*

- **Work equipment ownership.** It's important to clarify when the Company will purchase equipment and who owns the purchased equipment. **Best practice** is for the employer to purchase a phone, computer, and other office equipment normally used in an office setting. Or, employers may choose to reimburse for some equipment expenses. What you decide will likely depend on your workplace culture and budget.

Example: *"At the Company's discretion, we may provide technology, equipment, and resources, such as a computer, phone, or other equipment as deemed necessary and appropriate. Any hardware, software, or other equipment purchased by the Company remains the property of the Company and must be returned upon separation of employment or when a remote work arrangement is discontinued."*

- **Confidentiality.** **Best practice** is for employers to train employees on how to ensure confidentiality is maintained while working remotely. For example, if your policy prohibits saying a client's full name in front of members of the public, that policy would apply to the employee working remotely as well, and remote workers will likely need to be trained on how to apply the policy while working remotely.

Example: *"Confidential documents, including but not limited to paper client files and personnel records, may not be removed from the Company, copied or distributed in any way. The Company's confidentiality policy applies to remote workers."*

- **Data security and Company software.** It is important to outline parameters for handling confidential data while working remotely. **Best practice** is for the remote worker to work directly from the Company's virtual network and computer. That way, there would be no business need for downloading data or software to a personal computer or phone. Maintaining compliance with the Health Insurance Portability and Accountability Act (HIPAA) is also required. When applicable, you must implement appropriate security measures for accessing or managing Protected Health Information (PHI) while working remotely. **Best practice** is to regularly train employees on HIPAA privacy.

Example: *"The Company's electronic information and documents, data, and software must remain on the Company's network and equipment only, and shall not be downloaded or transferred to personal computers or other electronic devices."*

- **Safety.** Encouraging safety in a home working space is important. **Best practice** is to provide your employees with a "home office safety checklist," as a good way to communicate and prioritize remote worker safety.

Example: *"While working remotely, employees are encouraged to maintain a safe working environment free of safety hazards."*

- **Workers' Compensation.** Workers' Compensation laws vary by State so you will want to be sure to tailor your policy for the State you operate in, or if applicable, by your private insurance policy.

Example: *"Injuries sustained during work hours, in a remote work location and while performing work functions are generally covered by the workers' compensation policy. The Company is not responsible for any injuries sustained by visitors to the employee's work site."*

- **Tax obligations.** Depending on State law, if an employee lives in one state, but works for an employer based in another, there may be tax consequences. Some states have reciprocal tax agreements that may alleviate some tax consequences. Additionally, in some circumstances employees may be able to "write off" their home office expenses as a tax deduction. **Best practice:** When it comes to taxes, each employee's individual tax circumstances vary and it is best for employees to understand their own tax implications/obligations.

Depending on the complexity of the employer's circumstance (i.e. multiple state operations or employees living out of state, etc.), **best practice** would be to partner with a tax professional or other resource to refer employees to when additional information is needed.

Example: *"Employee tax implications and obligations related to working in an alternate work location are solely the responsibility of the employee."*

- **Other important disclaimers.** To avoid any confusion, **best practice** is to address the following issues.

Example 1: *"The Company assumes no responsibility for the employee's personal property."*

Example 2: *"The Company assumes no responsibility for damages or injury, including loss of property, not directly associated with official job duties or work functions."*

NEXT STEPS

A Checklist for Implementing Your Work-from-Home Policy

Once you have your Work-from-Home policy completed, here are a couple of other pro-tips to remember:

- Have your policy reviewed by an attorney
- Share your policy with your liability insurance provider
- Train your employees on the policy
- Ensure employees sign-off on the policy
- Have employees sign individual remote work agreements, if their individual circumstances vary
- Make a plan for keeping your remote workforce engaged and productive
- Consistently communicate the policy to employees
- Consider communicating your remote work program to applicants in your job advertisements and recruitment materials

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**Jarrett Ransom, Owner –
The Rayvan Group, Phoenix, AZ**



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ABOUT SKYE



Skye Mercer, MBA, SPHR, SHRM-SCP, is a certified HR Consultant and Leadership Coach who works with small businesses, nonprofits, and local governments all over the US to help offload the overwhelm of HR to create compliant and drama-free workplaces. Skye's background includes:

- 18+ years of professional HR Experience
- Master of Business Administration (MBA)
- Senior Professional in Human Resources (SPHR) Certification
- Society for Human Resource Management Senior Certified Professional (SHRM-SCP)
- Certified Disability Management Specialist (CDMS)

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