

Approaching Hybrid Work Policies: What Real Estate Employers Should Consider

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As the COVID-19 pandemic subsides and white-collar employees are finally heading back to their offices, the real estate industry, like other industries employing large numbers of white-collar employees, will face pressures from employees seeking greater flexibility as to where they perform work.

Many industry employers were at the forefront of the return to work (RTW) movement during the past year. Further, employers across industries are issuing RTW policies that respond to employee demands for flexibility. While real estate employers may feel pressure to adopt “office only” policies to model the RTW movement, the reality is that industry employers cannot ignore more flexible work arrangements. The workplace has evolved during the pandemic, and this evolution will continue. Real estate employers must focus on their customer needs and changes in workspace design and use, but employers should not forget their workforce.

With many businesses embracing the hybrid work model (generally, employees having the option of working both in-office and remotely), employers in the real estate industry should make sure their policies include flexibility. As the commercial real estate industry works to attract and retain top talent, it will be important to be able to compete with other industry employers by providing opportunities for flexible work arrangements. Recent surveys demonstrate employee demand for flexibility. For example, see Future Forum Pulse (October 5, 2021), futureforum.com/pulse-survey: [“The great executive-employee disconnect: Study of global knowledge workers shows the view of the office looks different from the top.”](#)

The best way to respond to employee demand for flexibility is with a well-thought-out policy. Now is the time for organizations that have not drafted a comprehensive approach to flexible work arrangements to do so, and for organizations with such a policy to recalibrate. During the past two years, businesses and employees alike have experienced the see-saw of change as the pandemic varied in intensity. If nothing else, the pandemic has taught businesses that they must be able to pivot quickly. Undoubtedly, circumstances will continue to change, but it is time to decide on an approach for flexible work arrangements.

Key steps to a policy:

First, ensure that a diverse group of voices participate in the process. Deciding where employees will work has broad implications for organizations. The ultimate approach must be supported by the entire organization, so feedback from a broad range of stakeholders is encouraged.

Second, ensure that the flexible policy articulates the organization’s commitment to diversity, equity, and inclusion. Policies should be designed with an eye to provide parents

and caregivers flexibility and address the needs of employees with disabilities. While the policy can articulate different approaches for different employees, these approaches should not create opportunities for “one-off” deals with individuals that can lead to challenges of favoritism or disparate treatment. For example, if the organization designates some employees as “remote-eligible,” those designations should be based on a business rationale, not just a particular employee’s desire. Business rationale might include a determination that certain positions are independent contributors, whose duties do not require in-person collaboration. Positions could be designated remote eligible, for example, so the organization can cast a wider net for recruitment purposes. The policy should include adequate guardrails so leaders cannot offer flexibility only to favored employees.

Jackson Lewis attorneys have worked with many employers to ensure that policies do not run afoul of workplace regulations and effectively support the organization’s goals. If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you work.

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