



What You Need to Know about Remote Workers



The U.S. Department of Labor's (DOL's) Wage and Hour Division posted a new set of FAQs March 9, addressing wage and hour issues for employers affected by COVID-19, the disease caused by the spreading coronavirus.

The new FAQs clarify employers' responsibilities under the federal Fair Labor Standards Act (FLSA), and address pay issues regarding teleworkers.

While the guidance breaks no new ground, it serves as a reminder of employers' obligations to workers, whether or

not those workers are exempt from mandatory pay for overtime hours worked.

Pay for Remote Workers

Employers may encourage or require employees to work at home as a prevention or an infection-control strategy, based on information from public health authorities.

Generally, workers must be paid for telework. Under the FLSA, employers generally have to pay employees for the hours they actually work, whether at home or at the employer's office," the DOL said.

Pandemic or not, don't forget these stipulations:

- The FLSA requires employers to pay nonexempt workers at least minimum wage for hours worked and at least 1.5 times the regular rate of pay for hours worked in excess of 40 in a workweek.
- Salaried, exempt employees generally must receive their full salary in any week when they perform any work, subject to certain very limited exceptions.



The pandemic is not an excuse for ignoring minimum-wage rules, the DOL warns, as "employers must pay at least the minimum wage for all hours worked."

When employees' jobs can't be performed from home, the DOL is encouraging businesses "to consider additional options to promote social distancing, such as staggered work shifts."

Employers must not single out employees either to work at home or to continue reporting to the workplace on any basis prohibited by any of the Equal Employment Opportunity (EEO) laws. For more information, check the U.S. Equal Employment Opportunity Commission's [Work at Home/Telework as a Reasonable Accommodation](#).



Reimbursing Remote Workers' Expenses

Some employers pay business expenses related to remote work—for Internet access, new computers, extra phone lines, or even increased electricity use. Regarding these costs, the DOL says that "employers may not require employees who are covered by the FLSA to pay or reimburse the employer for such items that are business expenses if doing so reduces the employee's earnings below the required minimum wage or overtime compensation."



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Nonexempt employees must receive the required minimum wage and overtime pay “free and clear.”

In addition, employers may not require employees to pay or reimburse the employer for such items “if telework is being provided to a qualified individual with a disability as a reasonable accommodation under the Americans with Disabilities Act.”

Tracking Remote Workers’ Hours

Employers must keep an accurate record of hours worked for all employees, “including those participating in telework or other flexible work arrangements,” and pay no less than the minimum wage for all hours worked, plus any required overtime pay, when nonexempt employees work more than 40 hours in a workweek.

Employers are encouraged to work with their employees to establish hours of work for employees who telework and a mechanism for recording each teleworking employee’s hours of work. Visit the U.S. Department of Labor [Wage and Hour Division](#) for more information or call 1-866-487-9243 if you have questions.



OSHA Requirements

The Department of Labor’s Occupational Safety and Health Administration (OSHA) does not hold employers liable for nor expect employers to inspect their employees’ home offices. However, “employers who are required to keep records of work-related injuries and illnesses will continue to be responsible for keeping such records for injuries and illnesses occurring in a home office,” the guidance states.

Using Paid-Time-Off Benefits



The DOL “encourages employers to be accommodating and flexible with workers impacted by government-imposed quarantines. Employers may offer alternative work arrangements, such as teleworking, and additional paid time off to such employees.”

The FLSA does not regulate policies regarding paid time off (PTO). However, experts advise, “if employees are told not to come in, think about substituting PTO for missed work or compensating them under a wage-continuation plan.”

Employers “can require employees to use time that they may have under PTO policies to get paid while they can’t come to work, have been instructed not to come to work, or if there is a lack of work for them because of supply or product shortages.” If employees exhaust their PTO, “you can allow them to run a negative balance and replenish the negative balance on that borrowed PTO when they return to work.”

Additional Information

For additional information, visit the DOL’s [Wage and Hour Division](#) and/or call the toll-free information and helpline—available 8:00 a.m. to 5:00 p.m. in your time zone—at 1-866-4USWAGE (1-866-487-9243).