



Practical and Legal Considerations for Managing a Multi-State Workforce

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Agenda

Framing and Context

How Do We Start?

Principals for Assessing Risk

Practical Considerations

Insurance Considerations

Privacy/Cybersecurity

Union Issues

Personal Jurisdiction and Conflict of Laws

Practical Takeaways



How Did We Get Here?

How Do We Start?



Prospective Requests



Retroactive Requests

General Principles for Assessing Risk

Employment laws vary from state to state

Courts/agencies typically apply the law where employee is located

A physical campus presence is not required

General Principles for Assessing Risk

- What laws should we be concerned about?
 - Business registration
 - Required notices/postings/policies
 - Background checks
 - Wage and hour
 - Benefits
 - Taxes
 - Workers' compensation
 - Leaves
 - Discrimination
 - Whistleblower
 - Required trainings
 - Expense reimbursements
 - Severance agreements

General Principles for Assessing Risk



Blue states = more regulated
Red states = less regulated



Remedies and SOLs vary



First Steps

Which states/cities are your employees in and how many?
What compliance issues do you struggle with already?



Constitutional issues for public institutions



Practical Considerations

Time zones

Workday flow

In-person requirements

Equipment/supplies



The Hundred Thousand Dollar Question

“We would like to allow remote employment in State X. What do we need to know about key differences in employment laws of State X vs. our own state?”



State Specific Considerations

Business Registration

Notices

Required Policies

Background Checks/Ban the Box Laws

Drug Testing

Wage and Hour Laws

Taxes



State-Specific Laws

Leaves

- Paid leave laws
- Mini-FMLA laws
- State disability funds
- Obscure protected leaves

Workers' Compensation/OSHA

- Carrier Issues
- Home workspaces

State-Specific Laws

Discrimination/Harassment

- Protected classes
- Remedies for violations
- Administrative exhaustion

Whistleblower

- Protected activity
- Covered entities

State-Specific Laws

Required harassment training

Expense reimbursement

Severance agreements

Other

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State-Specific Laws

- Independent Contractors
 - Common law vs. statute
 - Different agencies = different tests
 - New laws (CA, MA)

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Insurance Coverage Considerations



**Privacy/
Cybersecurity**

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Labor Issues



Does your contract allow remote work?



Unit scope issues



Subcontracting



Direct dealing



Labor Issues

- Non-Union Environments
 - Right-to-work states
 - Protected, concerted activity
 - Organizing in an unfamiliar jurisdiction
 - Dispersed workforce

Litigation Issues

Personal Jurisdiction

- Where can you be sued?
- Can you sue an employee in your home state?

Venue

- Litigating in an unfamiliar jurisdiction
- Choice of counsel

Conflicts of Laws



Practical Takeaways

- Know where your employees are located
- Develop an approval process
- Understand compliance requirements
- Monitor for new developments in key states
- Gather resources



A map of the Eastern United States with several pushpins (yellow, green, blue, red) placed on it. The word "Questions?" is overlaid in large white text.

Questions?



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