

# Remote Work Considerations



## Criteria for Determining Whether a Role Can Be Performed Remotely

- Individual role considerations:**
  - » Client-facing
  - » Management responsibilities
  - » System/technology requirements
  - » Physical presence requirements (regulatory, operational, etc.)
  - » Existing travel demands
  - » For current employees, individual performance considerations:
    1. Tenure, performance ratings, and other objective criteria
    2. Manager assessment of ability to work effectively while remote
- Team considerations:**
  - » Limit on total number of remote employees
  - » Coordination between team members on remote schedule
- Any financial, legal, or regulatory impact to the company:**
  - » Regulated industry, including financial services
  - » Exposure to confidential information



## Remote Work Locations

- How will the remote location be tracked (and updated, as necessary)?**
- Tax implications:**
  - » Individual tax implications
  - » Corporate tax implications
- Compliance Issues:**
  - » Any business registrations required?
  - » Any protections (inspection of space, enhanced supervision) required?
- Implications of local employment laws:**
  - » Paid sick leave laws, disability insurance, paid family leave insurance, and other local statutory rights
  - » Mandatory harassment trainings
  - » Enforceability of restrictive covenants, arbitration provisions
- Practical implications:**
  - » Is the new location in the same time zone as the current working location?
  - » Does the new location provide easy access to return to the primary office if required on occasion?



## Immigration Issues

- Limited work locations for some employer-sponsored visas:**
  - » H-1B, E-3, H-1B1, and F-1 positions are subject to location-specific requirements.
  - » Changes in work location may trigger notice/refiling obligations and may impact the continuity of the visa status.
- Form I-9 compliance:**
  - » There is a COVID-19 exception to the general rule that all Forms I-9 must be reviewed with original documents in person within three business days of the employee's start date.
  - » Monitor and develop a plan for compliance after the COVID-19 exception expires.



## Permanent vs. Probationary

- All arrangements should be solely at the discretion of company and subject to review, change, or cancellation at any time.**
- An explicit probationary/pilot period is helpful in setting expectations.**



## Compensation Adjustments

- Adjust compensation for lower-cost remote market?**
- Different approach based on new role vs. incumbent?**
- Consider whether remote work is imposed by the company or requested by the employee, including as a form of accommodation relating to a disability.**



## Expense Reimbursement

- Who is eligible?**
  - » All remote employees
  - » Only those in locations where required (e.g., CA and IL)
- What is eligible?**
  - » Software: Internet; phone, if separate service, or VoIP
  - » Hardware: supplies/equipment, furniture, ergonomic devices
  - » Travel, including from home office to company office
- How to facilitate expense reimbursement?**
  - » Stipends vs. reimbursement
  - » Consider ease of administration as compared to overall cost, taxable impact, and potential for abuse



## Training/Supervision

- Managers should be trained to manage remote employees, ensure employee performance is maintained, and identify and escalate performance or leave issues.**
- If non-exempt employees are permitted to work remotely on a permanent basis, enhanced tools/supervision may be needed to manage wage and hour issues.**



## Health and Safety

- Workers' compensation compliance**
- OSHA standards**
- Equipment provided as a reasonable accommodation**



## Confidentiality and Data Security

- IT department's consideration to establish security of confidential information and company devices**
- Compliance with applicable data breach and consumer privacy laws**
- Employee monitoring software and pending laws**
- Employee cybersecurity training**



## Approval Chain

- Clear approval chain and criteria needed to ensure policy is consistently applied, limit abuse, and limit claims of unfair/unlawful treatment**
- Potential stakeholders may include:**
  - » Tax/Payroll/HR/Compliance/Legal
  - » Direct manager
  - » Senior management



## Documenting a Remote Work Framework

- Remote work policy**
- Remote work agreements**
- Request forms and other process documentation**



## Employee Benefits

- Are remote workers covered under current plans?**
  - » Health insurance plans may have geographic limitations that impact access to care.
  - » Review benefit programs and determine if riders are needed to provide access to coverage.
- Are remote workers in a jurisdiction that has mandates related to health coverage, including reporting requirements?**

**NALP AEC APRIL 2021 New Playbook: Leveraging the Pandemic Disrupted Landscape to Improve Recruiting Outcomes** → The pandemic and its effect on our economy and operations have changed the playing field and created opportunity for regional law schools and mid-sized law firms to leverage technology, creative networking and engagement, and other innovative approaches to improve their recruiting outcomes.

### TRENDS TO WATCH

- Will 2L students miss out on opportunities (a.k.a. get fewer offers) if they give employers the impression they are too interested in location flexibility? In other words, will employers judge those students as not sufficiently serious about their firm simply because they expressed too much interest in working remotely, working from home, or working in varying office locations?
- Will junior associates who are able to work remotely or work out of an office location that is different than their primary source of work (live in Nashville, but all their work comes from New York) end up being less satisfied in the profession because of their inability to develop a true network of strong relationships with peers, mentors and sponsors? Will they be able to advance in their career? Or, will they not care and be happy as clams?
- Will we see increased lateral hiring of mid-to-senior level attorneys with specific skill sets and experience, without any requests to relocate? Will concerns around taxes, licensure and insurance fade away in response to the increased efficiency of this type of hiring? Will lateral recruiting become more nationalized?
  - Will these lateral associates ever truly be integrated into the firm?
- What will we observe about the job satisfaction of the class of 2022 and class of 2023, many of whom selected their firm through a virtual process? Were they able to make the right choice, or will there be regrets and increased attrition?
  - What will we ultimately observe about the job satisfaction of remote workers?
- Will we see less pre-recruiting in 2021? (Prediction, yes; we are all exhausted.) Will pre-recruiting return with a vengeance in 2022? (Prediction, sigh, yes; of course it will.)
- Will firms continue to use the efficiency of virtual OCI to expand recruiting efforts to different law schools, especially those with a particularly strong diversity enrollment?
- Will firms continue to try creative student engagement efforts, using the efficiency of virtual events? Will students show up on zoom meetings, once they are back in person?
- Will schools continue to collaborate on targeted job fairs and employer events? Will firms continue to collaborate on student events, outreach and hiring efforts?
- Will the increase in 3L hiring become a more permanent feature of our hiring practices?

# Checklist for Virtual Job Fairs

**NALP AEC APRIL 2021 New Playbook: Leveraging the Pandemic Disrupted Landscape to Improve Recruiting Outcomes** → Before the pandemic many of us held job fairs where employers would set up tables and students would go from table to table and talk with potential employers. This past year if you wanted to conduct such a fair you needed to do it virtually. Below is a checklist of considerations for running such a fair.

## Step 1 Figure out Your Technology and Test it!

- We use Flo Recruit which has a platform for job fairs and support
- There are many vendors out there that offer similar services – some are going to have more features so you will have to figure out what is in your budget
- Be prepared to justify your cost and point to cost savings if any – we didn't need to order food, tables, or pay for set-up.
- If you have little or no budget for additional software you can use Zoom
- Set up test employers and students and test the technology

## Step 2 Invites

- Send them out a month before the event, which leaves time for follow-up but also is close enough to the event that you will get people to commit
- For our Small to Midsize firm fair – we rely on data and invite any firm that has hired one of our students for an entry-level position over the last ten years
- Use alumni database to identify new firms
- No geographic limitations when going virtual, but we still look for areas where there will be student interest – do not want disappointed employers
- Can also manage employer expectations – some with niche practice areas are fine meeting with a handful of students who are really interested in their practice
- Use LinkedIn (people move to new employers all the time), undergraduate assistants, and other online sources to identify new employers

## Step 3 The Fair

- There are a lot of ways to structure virtual job fairs we used the following:
  - 90 minute fair broken up into 10 minute sessions (meet with up to 9 employers)
  - We allow up to 3 students to sign up to meet with an employer during a session
  - If possible, have technical support rooms set up for both employers and students – we used separate Zoom links for these support rooms and then would go into breakout rooms to talk through any issues
- Have students prepare for the job fair
  - We provide links to all of the firms and the representatives coming so that they can do research before the job fair
  - Provide both employers and students a checklist for the technology you are using

## Step 4 Follow-Up

- Counsel students to follow up with employers where they have interest and to potentially meet with employers they did not get a chance to meet
- Check in with employers to see how the fair went for them – implement feedback into future fairs