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## 12 Days Of Handbook Updates: Remote Workers

January 5, 2024 | [Labor And Employment](#), [State Labor Laws](#), [Employment Discrimination](#)



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**This is the last in the series of 12 Days of Handbook Updates that take you through 12 important topics for employers as we round out the year.**

To round out the season, let's talk about remote workers. If an employer's remote worker moved to a new location this year, significant handbook updates may be required.

When updating handbooks, employers are encouraged to make an up-to-date list of the municipalities and states in which they have remote employees. The state in which remote employees are physically located is often considered the state in which they "work." Therefore, employers' handbook policies may need to be compliant with certain employment laws of the states and municipalities where they have remote workers.

Some of the key state and local employment laws that may apply to remote workers include:

- **Leave laws:** Even basic leave such as bereavement leave, jury duty, and election leave may differ depending on the state and the municipality
- **Non-competes:** These clauses should be tailored to the state where the employee works

- **Pay equity:** A number of states have laws requiring salary transparency or laws that ban inquiry into the wage history of applicants
- **The CROWN Act:** Approximately 24 states and 40 local governing bodies have passed laws prohibiting race-based hair discrimination

## Drug Testing

Drug testing procedures tend to vary state to state. In addition, there were several notable developments in this area of law this year:

- **Michigan:** As of Oct. 1, 2023, most state employees will not be tested for marijuana pre-employment
- **Washington:** As of Jan. 1, 2024: “It is unlawful for an employer to discriminate against a person in the initial hiring for employment if the discrimination is based upon: (a) The person's use of cannabis off the job and away from the workplace; or (b) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.”
- **U.S. Department of Transportation:** As of June 1, 2023, the agency's regulated industry drug testing program includes oral fluid testing

## Background Checks

Approximately 37 U.S. states and more than 100 municipalities have enacted legislation that bans application questions about arrest history and convictions, and limit when in the interview process background checks can be conducted. Employers should ensure they are applying the right state and local laws when running background checks on remote workers.

When updating handbook policies, 1) employers should check where their remote workers are physically located, and 2) check whether the employment laws of the states and localities where the remote workers reside require additions or changes to handbook policies. Happy New Year, and happy handbook updating.