

Employer OSHA Liabilities for Remote Workers

Encouraging remote work has become a new normal for a variety of reasons. Whether it is to reduce costs of operating a physical place of business, address pandemic reasons or allow employees to have a better work-life balance, more and more workers are working from home. However, many organizations are not aware of how the Occupational Safety and Health Administration (OSHA) oversees injuries that occur at an employee's home. OSHA has provided [guidance](#) on how to deal with remote worker injuries and inspections.

Home Offices vs. Home-based Worksites

To start, it is important to distinguish home offices from home-based worksites for the purposes of OSHA inspections. Home offices are where an employee engages in office work activities. This consists of activities that use office equipment like computers and telephones.

In contrast, a home-based worksite is an area of an employee's personal residence where the employee performs work of the employer (e.g., home manufacturing operations such as industrial sewing or woodworking).

The difference between the two is that one consists of office work and the other involves using an area of the home for employees to perform the work of the employer. This is important because the difference determines whether OSHA will perform an inspection.

OSHA Inspection Guidance

OSHA has policies for both home offices and home-based worksites. The policy for home offices is that OSHA will not conduct inspections of an employee's home office or hold employers liable for employees' home offices. OSHA has never conducted inspections of home offices, but it will with certain types of home-based worksites that are dangerous or hazardous.

Communicating safety expectations to remote workers can reduce liability when it comes to injuries and OSHA complaints.

OSHA will only conduct inspections of other home-based worksites if it receives a complaint or referral that indicates one of the following:

- There is a violation of a safety or health standard that threatens physical harm.
- Imminent danger exists (including reports of a work-related fatality).

The inspection is limited only to the employee's work activities since OSHA regulations do not apply to an employee's house. For example, if a cabinet manufacturer sends home wood cutting tools for their employee to use for building cabinetry remotely, the inspection would be limited to the area in which the

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Employer OSHA Liabilities for Remote Workers

employee is working and would include the tools that were being used.

It is important for you to note as an employer that, in these situations, you are responsible for any hazards caused by materials, equipment or work processes that you provide or require to be used in the employee's home.

If an inspection does occur, OSHA regulations will apply as they normally would, and the inspection process will be completed according to the standards—except what has been modified by the OSHA [guidance](#) for worksites in employees' homes.

Injury and Illness Tracking

Under OSHA, there are injury and illness recordkeeping [requirements](#). An injury or illness that occurs while the employee is working from home is considered a work-related injury or illness if it directly relates to the activities of the job rather than the activities in the home environment. An injury is recordable if it is a work-related:

- Fatality
- Injury or illness that results in the loss of consciousness, days away from work, restricted work or transfer to another job
- Injury or illness requiring medical treatment beyond first aid
- Needlestick or sharps injury, medical removal, hearing loss or tuberculosis

Employers must record work-related injuries that occur at home on the OSHA 300 [logs](#) like they would if employees were on-site and injured.

An example of a non-work-related injury is if an employee runs to pick up the work phone during work hours and trips, which results in an injury to the employee. Another example is when an employee hears

their child crying, gets up to tend to their child and is injured in the process. Although both injuries occurred during work, they did not directly relate to the performance of the job. They occurred due to the general home environment.

While OSHA is not entering homes for inspections for home office complaints, you will still need to keep a record of those injuries or illnesses that are considered OSHA recordables. This will cause an increase in your incident rate that can be compared to industry standards under the North American Industry Classification System (NAICS). If your incident rate is high for the industry average, your organization can be flagged, alerting OSHA that there is an issue with your safety program. A high incident rate could likely initiate an audit at your facility.

Being Proactive

You can decrease the risk of recordable OSHA injuries by being proactive. Reducing these recordable injuries will lower your incident rate.

You should have a remote worker policy drafted and implemented so there is documentation of your expectations as an employer. The policy should define job tasks for each job description. This provides guidance to those working from home. It also helps provide documentation that may be needed to rebut a complaint from OSHA.

Job descriptions provide detailed information of what an employee should be doing for their job tasks. This is helpful because, if an employee is injured while performing an activity that is not within the job description, it does not have to be documented on the OSHA 300 logs.

You should also provide materials to assist employees in setting up their home office. Assisting employees with the setup of their home office to prevent any ergonomic issues is one way to reduce the risk of a remote office injury. This can be done by providing information to employees on:

Employer OSHA Liabilities for Remote Workers

- How to set up their workstations
- Proper posture
- How often to take breaks
- Stretches they can use during their shift
- How exercise can help prevent injuries

A way to monitor the employee's participation with proper setup of their workstation is to participate in virtual meetings where the employee can show the employer their workstation. This can be done by using a mobile webcam. Another option is to require employees to perform at home office inspections themselves (like a mini audit of their workstations) and have them submit them to you for review.

By providing training and assistance to your employees, it can help reduce the risk of having an OSHA recordable injury. Getting creative to drive safety initiatives without overstepping privacy boundaries of a person's home can be challenging, but ultimately can be done. It can help prevent OSHA inspections and costly injuries, and reduce incident rates.

For more risk management guidance, contact Pelnik Insurance today.

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