THE TOP 5 CONSIDERATIONS FOR “BRINGING YOUR OWN DEVICE” POLICIES IN LIGHT OF COVID-19

COVID-19 has seemingly changed the legal field’s traditional brick-and-mortar office dynamic with many law firms now permitting employees to work from home, or WFH. Although Governor DeWine has announced that Ohio’s economy will begin reopening on May 1, social distancing will be one of the key measures to reduce community spread and employees could be alternating between working at the office and WFH for the foreseeable future. However, moving between a trusted office security environment and WFH can substantially increase cybersecurity risk. Before COVID-19’s onset, 26 percent of law firms experienced a cybersecurity breach of some fashion, according to the American Bar Association’s 2019 Tech Report, and the number of breaches will seemingly increase based on the transition to WFH. As a result, a growing number of law firms are considering “bring your own device” policies. BYOD policies allow employees to connect their personal devices such as smartphones, tablets or laptops to the firm’s network to perform employment-related obligations.

While BYOD policies can provide important benefits to firms, numerous legal and business concerns should be assessed when implementing such a policy. Here are the top five considerations to evaluate as part of your BYOD policy:

Security, security, security. It is crucial that your BYOD policy ensures that the appropriate security measures are implemented to keep your information safe. Options include:

■ Requiring complex password protection.
■ Limiting access to confidential information.
■ Requiring employee devices to have firm-provided security software installed and mandating that such software have the latest security updates prior to connecting to the firm’s network.
■ Barring the use of public WiFi to connect to the network.
■ Requiring multifactor authentication prior to each log-in.

Register approved devices. The benefits of BYOD are lost if you do not know what devices are accessing your firm’s network and who owns those devices. Your BYOD policy should delineate a clear procedure to register devices and you should keep a list of all approved devices that contains information such as the device’s owner and IP protocol.

Employee Privacy. Employees are often concerned that BYOD policies might lead to inappropriate access to health, financial and personal information. One solution is to utilize a mobile device management program to create a virtual wall between personal information and work information. Even if your security protocols result in passive monitoring of employee personal information, your BYOD policy should notify employees of the same.

Disabling features. When talking about work matters, employees may be drawn to connect with each other via text messaging or private social media messaging instead of secure email platforms. Your BYOD policy should prohibit communication regarding confidential information via unsecured methods and you should remind your employees to use their best judgment when talking about work matters.

WHAT EMPLOYERS SHOULD KNOW ABOUT ANIMALS IN THE WORKPLACE

When can an employee bring a service animal into the workplace, and are there distinctions among service animals, comfort animals and emotional support animals? It is important for business owners and HR professionals to know the answers, as the Americans with Disabilities Act has specific accommodation requirements concerning certain types of animals in the workplace.

According to the ADA, a service animal is defined specifically as a dog that is “individually trained to do work or perform tasks for people with disabilities.” Emotional support animals, or comfort animals, are distinct from service animals under federal law. As the ADA fact sheet explains, “dogs [and other animals] whose sole function is to provide comfort or emotional support to do not qualify as service animals under the ADA.”

Under Title I of the ADA, an employer may be required to allow a service animal into the workplace as a reasonable accommodation for an employee with a disability. Although Title I does not specifically say anything about service animals, an accommodation request for a service animal will usually need to be granted by the employer if the service animal’s function is connected to the employee’s disability, has been trained appropriately, will provide the employee with a greater ability to perform their job, and the accommodation does not present an undue hardship to the business. At the same time, certain health and safety regulations may allow an employer to limit where a service animal goes within the workplace. If you have a “no animals” workplace policy, permitting a service animal as a reasonable accommodation under the ADA may require you to change the policy on a per-request basis. In general, employers are not required to treat requests for emotional support animals in the workplace the same way they would treat accommodation requests for service animals under the ADA. The ADA allows an employer to ask an employee for documentation concerning the disability and the employee’s functional limitations related to the disability. The employer also has a right to request documentation that the dog is a trained service animal. At the same time, employers should know that there are confidentiality rules connected to the ADA, and employers are not permitted to provide information to other employees about the service animal or an employee’s disability accommodations.