

# TO TEXT OR NOT TO TEXT

## ESTABLISHING GUIDELINES FOR AFTER-HOURS COMMUNICATION

For self-help professionals and TV psychologists, few subjects are as popular as the need to maintain a healthy “work-life balance.” According to them, it’s one of the keys to achieving a happy existence in an increasingly stressful world. And, generally, they recommend that employees be allowed to leave work when they leave the workplace.

The problem is, employers and managers can’t always consider employees’ quality of life when hustling to run a successful business, satisfy demanding customers and clients, and stay one step ahead in a competitive global market. Sometimes they have to ask that employees adopt the same 24/7 approach to work as they’ve adopted for themselves. The question is, who’s right? Should employees be free from all work-related responsibilities after 5pm? Or should they be “on call” after hours? More specifically, should they be required to take phone calls and read texts and emails? Most importantly, what’s the right policy for your business?



## The Tide is Turning

After more than three decades of technology-fueled expansion, it appears that the average workday may soon begin to contract a bit.

Here are just a few recent developments:

In 2017, French workers won the “right to disconnect” from email, smartphones and other electronic leashes once their workday ended.

In Germany, Volkswagen doesn’t send emails to employees between 6pm and 7am. And financial services giant, Allianz, doesn’t require employees to answer emails on weekends.

A proposed bill would make it a violation for NYC businesses with at least ten employees to require staff to check or respond to work-related communication after hours.

In the U.S., healthcare consulting firm Vynamic asks employees not to check their email or “bother” their coworkers after hours.

There is increasing scrutiny surrounding the requirement for employers to pay non-exempt employees (hourly workers) overtime for fielding after-hours communication.

While these and other developments are hailed as employee victories, the reality is a bit more complex. Because while one might expect employees to welcome a world where free time is free time, this may not be the case. In fact, a recent survey by the Workforce Institute found that 63% of respondents would continue to work after hours even if it violated company policy! Whether this is due to their inability to “unplug” or a desire to advance their careers is unclear.

What is clear is that these issues are still in flux, and employers must remain open and flexible until they are settled. The following practical tips may help:

**Solicit employee input.** If you must contact employees after hours, let them set the ground rules. For instance, ask them what times are strictly off limits and which device(s) they prefer to be contacted on.

**Be fair.** Don't expect employees to be available all the time, and try to limit contacts to urgent or crisis situations. Remember that your business is more important to you than it is to your employees.

**Establish a company wide cut off time.** Most workplace experts and HR professionals agree that employers shouldn't contact employees after 9pm.

**Don't take advantage.** Distribute after-hours responsibilities evenly among your employees. Don't place undue burden on any one employee simply because he or she doesn't complain.

**Express your gratitude.** Let your employees know how much you appreciate their after-hours work. If appropriate, consider rewarding them with a bonus, an afternoon off or an extra vacation day.

**Differentiate between exempt and non-exempt.** Think about developing specific after-hours policies for exempt employees (those paid a salary) and non-exempt employees (those paid by the hour) and stay current on related court decisions and FLSA (Fair Labor Standards Act) rules. For instance, while the Supreme Court has indicated that it's not necessary to pay non-exempts for “de-minimis” after-hours work (less than ten minutes), there is ongoing debate about how to handle situations where the employee is contacted multiple times in the course of a week.

Finally, stay up-to-date on new trends, developments, legislation and regulation. What happens in New York City today may happen on Long Island tomorrow, so plan ahead and be prepared to rethink your after-hours communications practices.

