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Maintaining Privacy and Data Security in the Remote Workplace

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Agenda: Topics We Will Discuss Today

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- Laws and Regulations
 - Privacy and Security Compliance in the Workplace
 - Unique Issues in the Remote Workplace
 - Considerations in Litigation
 - Considerations in Investigations
 - Recommended Best Practices

Statutes

- Often state specific
- Can be narrow in scope
 - Breach notification
 - Category specific (e.g., health information)
- Trend is toward more robust/comprehensive statutory regimes
- CCPA
- Can include regulatory regimes involving security
 - Massachusetts
 - New York



Other Laws Governing Privacy in the Workplace



- Expectations of privacy
 - Generally low expectation of privacy in the workplace
 - Tort laws regarding privacy
 - Contracts and policies
 - Employee privacy policy
 - Bring your own device policies
 - Non-disclosure agreements
- Surveillance and biometrics laws
- Rapidly shifting landscape



Privacy considerations go hand in hand with other data security efforts:

- Trade secrets
- Intellectual property
- Sensitive commercial information

Privacy and Security Compliance in the Workplace

- Policies and procedures
 - Can set expectations
 - In the event of a later investigation or dispute, policies can provide evidence of notice
 - Providing notices
 - Updating notices
- Security
 - Importance of creating reasonable level of information security
 - Employee training
 - Concept of shared responsibility for workplace security



Unique Issues in the Remote Workplace



- **Lack of clarity in translating policies**
 - Use and security of personal devices
 - Potential for workarounds
 - Employee mobility plays out differently
- **Need for training**
 - Phishing threats
 - Zoom bombing and other threats to confidentiality
- **Return to work issues**
 - COVID testing
 - Surveillance

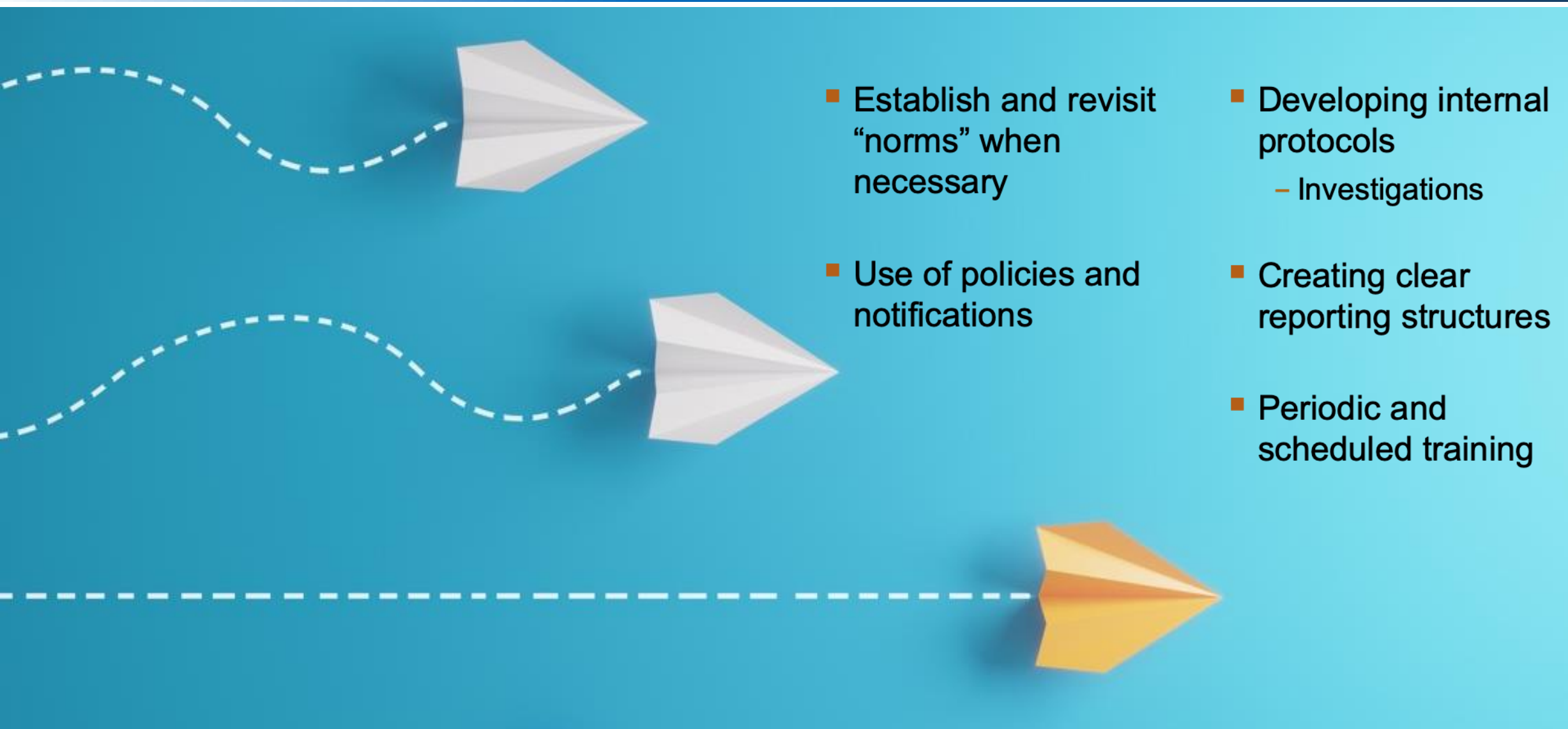


- Gathering evidence
 - Email
 - Texts
 - Use of personal devices
- Maintaining confidentiality

- Litigation Holds
- Discovery
- Protective orders



Best Practices - Limiting Potential Liability



SECURITY, PRIVACY AND THE LAW

LEGAL PERSPECTIVES ON THE EXPANDING UNIVERSE OF INFORMATION SECURITY & PRIVACY ISSUES

The Foley Hoag Security, Privacy and the Law Blog focuses on the security and privacy issues encountered by businesses that often require immediate and discreet solutions.

www.securityprivacyandthelaw.com



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