

HR/LR Policy #1422

Telework Policy

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Authority: Enterprise Human Resources,
Department of Administration, Office
of MN.IT Services

OVERVIEW

Objective

Provide flexible work environment arrangements when consistent with business needs as part of the agency's strategy to attract and retain a highly qualified and skilled workforce. These arrangements provide business-related benefits to agencies including:

- Attracting and retaining skilled workers from throughout the state and region
- Allowing employees flexibility in performing work from an approved alternative worksite while delivering quality services to customers
- Increasing productivity as a result of fewer interruptions and distractions
- Supporting continuity of operations
- Reducing the need for office space and parking
- Minimizing impact to the environment

Policy Statement

State agencies support teleworking where it meets the business needs of the agency.

Scope

This policy applies to all employees of executive branch agencies and classified employees of the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System.

Definitions and Key Terms

| Terms | Definitions |
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| <i>Core hours</i> | The designated period of each workday when employees are assigned to work. |
| <i>Permanent/principal work location</i> | The worksite to which an employee is permanently assigned, usually the agency office. |
| <i>Remote worker</i> | An employee who, as a condition of their employment, has their home or alternative location as their assigned work location and works permanently from that location. |
| <i>Mobile worker</i> | An employee who travels continuously for work or who performs work at multiple locations outside of an agency office, such as a field location or other site. |
| <i>Telework</i> | A formalized work arrangement that allows an employee to perform work on a regular, recurring basis at a telework location that is not the employee's permanent/principal work location. |
| <i>Telework agreement</i> | A document signed by an employee and the Appointing Authority or their designee in the employee's divisional leadership that outlines the terms of the agency and the employee's telework arrangement. |
| <i>Telework location</i> | An approved alternative worksite in which an employee is authorized to conduct telework. In most cases, the telework location will be an employee's home. |
| <i>Teleworker</i> | An employee who has entered into a telework agreement with the employee's agency and works at a telework location. |

Exclusions

This policy does not apply to employees who:

- Work at home as a temporary or reasonable accommodation
- Work at home on a case-by-case or situational basis
- Are mobile workers or remote workers

Alternate work environments that complement or go beyond telework may also exist. However, this policy only addresses telework as defined above.

Statutory References

[M.S. 16E.05](#), subd. 3, Government Information Access, Capitol Investment

GENERAL STANDARDS AND EXPECTATIONS

The use and approval of telework is at the sole discretion of the agency, and the agency may terminate a telework agreement at-will, at any time, with or without cause or notice. Not all work situations are appropriate for telework, nor is telework appropriate for all employees. An agency that allows telework must ensure that an appropriate telework location and an appropriate framework of expectations exists prior to entering into a telework agreement with an employee, as outlined below.

I. EMPLOYMENT CONDITIONS

- a. **Compliance with Federal/State Employment Laws.** Telework arrangements must comply with all applicable state and federal employment laws. This includes the Fair Labor Standards Act (FLSA) which regulates the payment of overtime for FLSA non-exempt employees.
- b. **Job Duties and Responsibilities.** A teleworker remains responsible for all the job duties, responsibilities and obligations of their position while teleworking. The terms and conditions of employment, as specified in the applicable collective bargaining agreement/plan, do not change based on telework status.
- c. **Compliance with Bargaining Agreement/Plans.** Provisions of the applicable bargaining agreements or plans must be followed when implementing telework agreements. Salary, retirement benefits, and state-sponsored insurance coverage remain unchanged.

II. EMPLOYEE EXPECTATIONS

- a. **Personal Activities.** Telework hours are regular work hours and may not be used as a substitute for personal activities, such as dependent care or errands. Just as with regular work hours, teleworkers are expected to follow agency vacation and sick leave policies and procedures to request time off from telework to engage in non-work activities.
- b. **Work Schedule/Meetings.** Prior to entering into a telework agreement, the supervisor and teleworker must discuss the work schedule, including normal work day hours, breaks, and Core Hours (if required by agency policy), and use of vacation and sick leave. The work schedule must comply with the FLSA, agency policies and procedures, and the applicable bargaining agreement or compensation plan. Any changes to the work schedule due to flex time, overtime, or other situations must follow the applicable plan or bargaining agreement. Exempt employees must notify their supervisor if they will not be available due to flexing time. The supervisor must determine the number of days per week/payroll period that the employee will be permitted to telework.

Unless excused by the supervisor, the teleworker must attend all assigned meetings, including those which normally would be held on a telework day. The supervisor will determine whether the teleworker's attendance at the meeting must be in-person, or if the teleworker may attend the meeting remotely from the telework location.

- c. **Location and Travel.**

- i. Normal commute time between a telework location and the permanent/principal work location is not work time. If occurring during the teleworker's normally scheduled work hours, travel time between the telework location and the permanent/principal work location is considered work time. For example, if a teleworker begins work at the telework location at 8 a.m., and then travels to the permanent/principal work location beginning at 10 a.m., travel time would be considered work time. Travel home from the permanent/principal work location is not work time, unless the teleworker continues to perform work activity from the telework location after returning from the permanent/principal work location. Mileage between the Telework Location and the permanent/principal work location shall be considered commuting mileage and is not subject to reimbursement
 - ii. If the teleworker is working at an alternative work site (not the telework location and not the permanent/principal work location), the mileage from the alternative work site to the permanent/principal work location shall be reimbursable in accordance with the employee's collective bargaining agreement or compensation plan. Any travel to the alternative work site is considered work time if it occurs during the teleworker's normal work hours.
- d. **Communications.** Teleworkers must be reachable by customers, co-workers, managers, supervisors, and agency leadership during agreed-upon hours. Teleworkers must notify assigned office staff and/or their supervisors if they leave their telework location during work hours, just as they would if they worked in the permanent/principal work location. They must also notify the supervisor if they are not performing work due to vacation or sick time and must follow the normal procedures for requesting time off.
- e. **Supplies and Expenses.** Supplies needed for the telework location will be obtained through the normal supply request procedures. A teleworker must seek prior approval from the supervisor for expenses that will be incurred. Approved expenses will be reimbursed in accordance with existing state policies and collective bargaining agreements.
- f. **Responsibilities When Telework Location is in the Home.** The teleworker is responsible for establishing and maintaining a safe and adequate telework location in the home. The designated telework location may be subject to review and approval by the supervisor to ensure that it is conducive to performing work. The teleworker will be responsible for all costs related to modifications of the telework location including, but not limited to remodeling or electrical modifications. In-person business meetings may not be held in the home telework location; meetings may be conducted in a public setting outside the home or via video conference, phone conference, or other electronic means.
- g. **Privacy and Security.** Teleworkers must make arrangements with their supervisors regarding any necessary access to confidential or sensitive information while working at a telework location. The information type will be documented in the telework agreement before the teleworker may take the information from the principal/permanent work location. Teleworkers are responsible for protecting the privacy and confidentiality of data and information at their telework location, which includes compliance with enterprise security policies. Teleworkers must ensure the security of data and information that is transported to and from their telework location.
- h. **Insurance.** Any insurance for state-owned equipment is the responsibility of the agency. The agency is not responsible for insuring the telework location. Teleworkers are responsible for purchasing personal insurance for employee-owned equipment and for the telework location, if desired. The agency is not responsible for any loss or damage to any employee-owned equipment.

- i. **Return of Property.** Any state-owned property used specifically for telework purposes, documents, and other information must be returned upon termination of the telework agreement.
- j. **Notice to Supervisor.** Teleworkers are responsible for promptly notifying their supervisor of an equipment malfunction or failure of either state-owned or employee-owned equipment needed to do assigned work. If the malfunction prevents the teleworker from performing assigned tasks, the teleworker must notify the supervisor immediately.
- k. **Performance.** Teleworkers are responsible for maintaining satisfactory work performance. Declining or unsatisfactory work performance may result in termination of the telework agreement.
- l. **Inclement Weather.** A teleworker who is scheduled to work at their telework location on a day with inclement weather is expected to work as normally scheduled.
- m. **Closure of Agency Facility.** If an agency facility is closed due to a natural or human-made emergency, any employee scheduled or able to telework is expected to work as normally scheduled.
- n. **Taxes.** Federal and state tax implications of teleworking and use of the home as a telework location are the responsibility of the teleworker.
- o. **Timesheets for Out of State Teleworkers.** Employees who telework in a different state than their permanent/principal work location must complete the biweekly out-of-state [Telecommuting Timesheet](#) for each pay period. Please contact your agency payroll administrator for further assistance.

III. SUPERVISOR EXPECTATIONS

- a. **Communication Plan.** The supervisor must work with the teleworker to develop an effective communication plan. The communication plan should ensure that the teleworker effectively manages their workload and that teleworking does not have a negative impact on the teleworker's managers, supervisors, co-workers, team, customers, or the agency's operations. In addition, the supervisor should set expectations for responding to emails and phone calls during the telework day and maintain regular communication with the teleworker.
- b. **Performance Expectations Plan.** The supervisor must develop a plan that defines performance expectations and deliverables, and review the plan with the teleworker.
- c. **Emergency Plan.** The supervisor and teleworker must develop emergency and back up plans with necessary phone numbers and a messaging plan in case of an emergency (e.g. equipment failure).
- d. **Meetings.** The supervisor should endeavor to communicate planned meeting schedules in advance within any schedule-change notice provisions of the collective bargaining agreements or compensation plans, to permit teleworkers to adjust their work schedules and work location accordingly.
- e. **Reporting to HR.** Supervisors must provide the telework agreement to the agency HR office and to payroll (e.g., to address tax implications of working in different state).

IV. EQUIPMENT AND MATERIALS

- a. **Agency-Provided Equipment.** Agencies may provide, at their sole discretion, computer hardware equipment, software, and telephone service deemed necessary for the teleworker to perform assigned work at a telework location.
- b. **Record of Equipment.** Agencies must maintain a record of state-owned hardware, software, and other equipment located at the telework location.
- c. **Employee-Owned Equipment.** Agencies may authorize teleworkers to use employee-owned computer hardware equipment and software that is necessary to perform assigned work at the telework location. A teleworker's use of employee-owned technology for work purposes is subject to state policies and

procedures, including the [Appropriate Use of Electronic Communication and Technology Policy](#), and other [IT use policies](#).

- d. **Installation and Repair of State-Owned Equipment.** Agencies are responsible for installing, testing, maintenance, and repair of state-owned equipment and upgrades of software.
- e. **Repair of Employee-Owned Equipment.** Agencies may provide, at their sole discretion, maintenance and repair of employee-owned equipment, hardware and software used for telework in situations where the agency does not provide the employee with alternative state-owned equipment.
- f. **Business Use Restrictions.** All equipment, hardware and software agencies furnish to the teleworker remain the property of the state and are subject to the same business use restrictions as if the property was located on state premises. To ensure hardware and software security for state-owned equipment, all software used for teleworking must be approved by the agency. State-owned software cannot be installed on employee-owned hardware unless authorized by the agency. Employee-owned software cannot be installed on state-owned hardware. Teleworkers must continue to comply with enterprise technology policies.
- g. **Permanent/Principal Location Workspace.** The agency will provide the teleworker with a workspace when the teleworker works at the permanent/principal location.

V. DATA AND SECURITY

- a. **Data Practices Act.** Teleworkers must follow all applicable provisions of the Minnesota Government Data Practices Act (“MGDPA”) and agency data privacy policies when performing work at the telework location. The teleworker and supervisor must discuss the type and form of data which will be taken to and from the telework location and must agree on the security and transfer process necessary to meet the needs of the agency, to protect the security of the data, and to comply with the MGDPA.
- b. **Data Privacy.** The address provided for the work location in SEMA4 must not contain private data. As a result, if the telework location is the employee’s home, the work location address used in SEMA4 must be the address of the permanent/principal work location, regardless of how many days per week the employee teleworks from home.
- c. **Data Requests and Retention.** Data created and maintained during a telework arrangement generated for the purpose of conducting state business is subject to the MGDPA and the state's records management statute, regardless of whether the telework is performed using state-owned or employee-owned equipment. This means the teleworker is responsible for following proper retention and disposal procedures, such data remains the property of the state, and the teleworker must return all such data to the state upon request of the agency or upon the teleworker’s separation from employment.

VI. TELEWORK SITE

- a. **Extension of the Agency.** The telework location is considered an extension of the agency during the agreed-upon working hours. The designated telework location must accommodate any equipment to be used in work performed and the teleworker must protect the work space from hazards and dangers that could affect the teleworker or the equipment. An agency may, at its discretion, send a representative to visit the telework location, with advanced notice, to ensure that the equipment and work area are safe and free from hazards.
- b. **State-owned Equipment.** The telework location must accommodate any equipment to be used in work performed and the teleworker must protect the telework location from hazards and dangers that could affect the teleworker or the equipment. The teleworker is responsible for taking appropriate steps to minimize damage to state-owned property at the telework location.

- c. **Third Party Liability.** The State of Minnesota and its agencies do not assume responsibility for injury or property damage to third parties that may occur at the telework location, such as injury to a courier driver. If an agency representative is visiting the telework location on state business and is injured, the injury may be covered by workers' compensation. Business meetings held at the telework location, if the office is not located at the teleworker's home, must be approved in advance by the teleworker's supervisor and are at the discretion of the agency. Business meetings may not be held in a teleworker's home.
- d. **Workers' Compensation.** An employee is covered by the state's Workers' Compensation laws while acting in the course and scope of employment while in telework status. Any injury that occurs within the course and scope of employment must be reported to the supervisor immediately, using the agency's standard workplace injury reporting process. The employee's designated telework location is considered an extension of state work space only during scheduled teleworking hours for purposes of workers' compensation. If a telework location is outside the boundaries of the State of Minnesota, it may be necessary for the agency to purchase workers' compensation coverage in the state where the telework is located. The Appointing Authority or their designee must contact the worker's compensation program at 651-201-3030 prior to establishing a telework agreement with a non-Minnesota telework location, or if there are any questions.

VII. TELEWORK APPROVALS

Agencies authorizing telework must create a process for determining which positions are eligible for telework using job related criteria. The agency also must create a set of criteria based on employee performance. Agencies retain the right to approve or deny requests at their sole discretion. Agencies should monitor teleworkers' performance to ensure that teleworkers continue to meet customer and business needs and performance expectations.

Examples of possible approval criteria could include:

a. Job Related Criteria

- Overall business needs
- Ability to provide adequate supervision of the employee remotely
- The effects of teleworking on customer service
- The costs to be saved or incurred
- The need or availability of tools and equipment
- The existence of well-defined job objectives and output that can be assessed
- The teleworker can be reached by coworkers and customers and be responsive to calls and other types of correspondence
- A need for sensitive data that cannot be taken off-site; the ability or lack of ability to safeguard necessary data
- Feasible method to accurately track and record time worked for payroll processing and FLSA / state law compliance

b. Performance Related Criteria

- The employee's current and past job performance
- The employee's communication skills
- The employee's ability to manage priorities and work independently
- Attendance history (excluding Family and Medical Leave Act (FMLA) absences, other statutorily-protected leaves, and Americans with Disabilities Act (ADA) accommodations)
- The employee's ability to complete work projects with minimal direct oversight or supervision

VIII. TELEWORK AGREEMENT

- a. **Agreement required.** Agencies that allow telework must create a telework agreement. At minimum, an agency's telework agreement must address the following:
- Employee performance expectations and monitoring
 - Work hours and schedule
 - Telework location
 - Equipment and supplies
 - Workers' compensation
 - Responsibility for work area and equipment
 - Data privacy and security
 - Communication and availability
 - Employment conditions
 - Expense reimbursement
- b. **Signature.** A telework agreement must be signed by the supervisor and employee prior to the start of teleworking. Agencies may require additional approvals for telework agreements as part of their process.
- c. **Cancellation.** The telework agreement can be changed or cancelled by the agency at-will, at any time, with or without cause or notice. A telework agreement should be cancelled when the teleworker has performance issues, but a supervisor may also decide to allow the telework agreement to continue under a performance improvement plan with reassessment upon completion. The telework agreement should be cancelled if there is a change in job responsibilities requiring the employee to work in the permanent/principal work location, or when the needs of the agency are not being met. The teleworker can also cancel the telework agreement at any time. The teleworker must give sufficient advance notice to their supervisor of the cancellation to enable the supervisor to provide adequate space at the permanent/principal work location, minimize disruption, and meet business needs.
- d. **Changes to Telework Agreement.** Any changes to the telework agreement by the employee must be reviewed and approved by the supervisor. The supervisor has the discretion to approve or reject any proposed changes.
- e. **Renewal of Telework Agreement.** The telework agreement expires no later than one year after its effective date. At least annually, the supervisor and teleworker must discuss whether to renew the telework agreement. If any of the following events occur, the telework agreement is suspended and the supervisor and teleworker must discuss the arrangement to determine whether to continue the telework agreement:
- A change in the teleworker's job duties
 - Teleworker or supervisor changes positions
 - Trial period expires
 - A change in any of the conditions of the telework agreement

Telework agreements must be reviewed annually or as part of the annual performance review process, and a new Telework agreement signed at that time, if the telework is to continue.

RESPONSIBILITIES

Agencies are

responsible for adopting this policy if teleworking is provided as an option for employees.

responsible for complying with the terms of this policy, managing the implementation of telework in their agency, and drafting any corresponding agency-specific policies or procedures they deem necessary.

responsible for effectively communicating and providing clear expectations to teleworkers.

responsible for maintaining corresponding tools/resources created by the agency.

responsible for providing applicable supervisor and employee training.

responsible for identifying and documenting internal controls related to telework.

encouraged to provide training for supervisors and teleworkers to enable a successful telework program. For example, topics could include: telework policy and procedure, data security and privacy, FLSA, communication, injury reporting, goal and standard setting, technology use and guidelines, safety, time tracking, etc.

MMB

MMB is responsible for maintaining this policy and corresponding tools/resources.

Employee

Employees are responsible for complying with all applicable terms of this policy.

A teleworker is responsible for maintaining a safe and adequate workspace when Telework is in the employee's home.

A teleworker is responsible for complying with internal controls activities, which the agency determines apply to telework agreements.

FORMS AND INSTRUCTIONS

- [Telework Approval Process](#)
- [Telework Agreement Template](#)
- [Supervisor Telework Considerations](#)
- Other possible forms to be developed by Agency include:
 - Teleworker checklist for employee and supervisor to have the necessary tools to begin telework
 - A telework tracking tool to track telework activity in the agency that includes 1) number of teleworkers, 2) schedule, 3) how telework hours are tracked, 4) major barriers to telework in agency, 5) type of positions approved for telework, or 6) any information that may be used for analyzing the impacts of telework on the human capital or business strategy of the agency.

REFERENCES

- [Appropriate Use of Electronic Communication and Technology Policy](#)
- M.S. 16E.05, subd. 3, Government Information Access, Capitol Investment
- M.S. 43A.38 Code of Ethics for Employees in the Executive Branch
- M.S. Ch. 13 Minnesota Government Data Practices Act
- [HR/LR Policy #1437 Emergency Closure of State Agency Facilities](#)

CONTACTS

MMB's Human Resources Management Division