

HR/LR Policy #1422

Telework

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

OVERVIEW

Objective

Provide state agency employees flexible work environment arrangements consistent with business needs as part of a strategy to attract and retain a highly qualified and skilled workforce. Telework provides a broad array of benefits to state agencies and their employees including:

- Allowing employees flexibility to perform work from an approved alternative worksite while delivering quality services to Minnesotans
- Supporting continuity of operations, including during health and safety situations impacting agencies' workforces
- Reducing the need for office space and parking
- Minimizing impact to the environment
- Attracting and retaining skilled workers from throughout the state and region

Policy Statement

State agency employees have the option to telework up to 50% of their scheduled workdays each month at the discretion of the appointing authority if their performance is at least satisfactory and if it meets agency business needs.

Scope

This policy applies to all employees of agencies in the executive branch, as defined in Minnesota Statutes, section 43A.02, subdivisions 2 and 22, and employees of the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teachers Retirement Association.

This policy applies to these employees unless an ADA Reasonable Accommodation Acknowledgment modifies any of its provisions.

Definitions and Key Terms

Terms	Definitions
<i>Core hours</i>	The designated period of each workday when generally all agency employees are expected to work.
<i>Permanent/principal work location</i>	The location to which a position is permanently assigned, usually the agency office.
<i>Remote worker</i>	An employee who, as a condition of their appointment, has their home or alternative location as the assigned work location, works permanently from that location, and does not have an agency permanent/principal work 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 work arrangement that allows an employee to perform work on a scheduled regular, recurring basis at a telework location that is not the employee's permanent/principal work location.
<i>Telework schedule and acknowledgement form</i>	A document identifying the employee's expected telework schedule and in which the employee acknowledges the requirements of the telework arrangement.
<i>Telework location</i>	An approved worksite, different from the permanent/principal work location, 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 an agreed-upon schedule during which they are expected to work at a telework location rather than their permanent/principal work location.

Exclusions

This policy does not apply to employees who:

- Work at home on a case-by-case or situational basis
- Are mobile workers or remote workers

GENERAL STANDARDS AND EXPECTATIONS

State agency employees with at least satisfactory performance may telework up to 50% of their scheduled workdays each month if the agency determines it meets agency business needs. Employees that live 75 miles or more from their permanent/principal work location may telework more than 50% at the sole discretion of the appointing authority. Telework is not an express or implied employee right or benefit, but a staffing and work arrangement at the sole discretion of the appointing authority. Telework is not grievable. Telework is not subject to appeal unless otherwise provided by an applicable collective bargaining agreement (CBA) or compensation plan. Not all work situations are appropriate for telework, nor is telework appropriate for all employees, and all telework arrangements must meet agency business needs. The use and approval of telework is at the sole discretion of the appointing authority, and the agency may change or cancel a telework arrangement. If the appointing authority denies a request for telework, or changes or cancels telework, the agency shall communicate the denial, change or cancellation to the extent required by the employee's CBA or compensation plan, and consistent with applicable agency and statewide policies.

I. EMPLOYMENT CONDITIONS

- a. Compliance with Federal/State Employment Laws.** Telework arrangements must comply with all applicable local, 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 CBA/compensation plan, do not change based on telework status.
- c. Compliance with CBA/Compensation Plans.** Applicable provisions of the CBAs or compensation plans must be followed regarding telework. 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 to perform personal activities. 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. While the presence of dependents or others in the household should not be a bar to teleworking, employees should not engage in dependent care activities when performing job duties. While occasional, brief interruptions may occur, interruptions should be kept to a minimum to avoid work disruptions.
- b. **Telework Schedule.** Prior to the start of an employee's telework arrangement, the supervisor and teleworker must discuss the telework schedule, including expected work hours, breaks, and Core Hours (if required by the agency or unit), and use of vacation and sick leave. The telework schedule must comply with the FLSA, agency policies and procedures, and the applicable CBA or compensation plan. Any changes to the telework schedule due to flex time, overtime, or other situations must follow the applicable plan or CBA. Exempt employees must notify their supervisor if they will not be available during the telework schedule due to flexing time. The supervisor must determine the number of days per week/payroll period that the employee will be permitted to telework, not to exceed 50% of their scheduled workdays each month, unless they live 75 miles or more from their permanent/principal work location and have been approved to telework in excess of 50% of their scheduled hours and develop a telework schedule with the employee.
- c. **Meetings.** Teleworkers are expected to attend meetings as scheduled. The supervisor and teleworker must discuss expectations for meetings and determine when the teleworker must attend in-person meetings if they fall on a telework day.
- d. **Travel Between Locations.**
 - i. Teleworkers are expected to begin and end all scheduled workdays from the same location. Travel between the permanent/principal location and telework location during the workday should be avoided unless required by business necessity and at the specific direction of an employee's supervisor. Normal commute time between a telework location and the permanent/principal work location is not work time. If occurring during (not before or after) the teleworker's normally scheduled work hours, and not interrupted by personal activities, 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 directly travels to the permanent/principal work location beginning at 10 a.m. for work-related purposes, 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 directly returning from the permanent/principal work location. In addition, if the employee teleworks for part of the day, works at the permanent/principal work location for part of the day, but completes personal tasks in between, the travel time is not work time but is unpaid commute time. See [DOL Opinion Letter December 31, 2020](#).

Mileage between the telework location and the permanent/principal work location is considered commuting mileage and is not subject to reimbursement. However, if the employee's travel time is considered work time (as described above), then mileage for the associated travel may be reimbursable if permitted by the applicable CBA or compensation plan.
 - ii. If the teleworker is working at an alternative work site (such as a field location, and not the telework location or the permanent/principal work location), the mileage from the alternative work site to the

permanent/principal work location is reimbursable in accordance with the applicable CBA or compensation plan. Any travel to the alternative work site, that is not interrupted by personal activities, is considered work time if it occurs during (not before or after) the teleworker's normal work hours.

- e. **Communications.** During the hours of the telework schedule, teleworkers must be reachable by customers, co-workers, managers, supervisors, and agency leadership, by the means and methods as determined by the supervisor. 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.
- f. **Supplies and Expenses.** Office supplies, such as pens, paper, notepads, needed for the telework location will be obtained through the normal office supply request procedures. Expenses will be reimbursed only if pre-approved and to the extent reimbursement is provided by the applicable CBA or compensation plan, and consistent with applicable agency and statewide policies. The agency assumes no responsibility for operating costs associated with the telework location beyond a computer if provided by the agency, including but not limited to maintenance or modification of the telework location, internet, telephone, furniture, utilities, and insurance.
- g. **Responsibilities When Telework Location is in the Home.** The teleworker is responsible for establishing and maintaining a safe and adequate telework location when the telework location is in their home. Aside from items employees may be permitted by the agency to transport to the telework location from the permanent work location, teleworkers will be responsible for all costs related to modifications of the telework location, including but not limited to providing any furniture, remodeling, electrical or any other space modifications. ADA reasonable accommodation requests related to the telework location will be reviewed on a case-by-case basis and are excluded from this policy. In-person business meetings may not be held in home telework locations; meetings may be conducted via video conference, phone conference, or other applicable and approved technology.
- h. **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. 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.
- i. **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 or to the telework location.
- j. **Return of Property.** Any state-owned property used for telework purposes, documents, and other information must be returned upon termination of the telework arrangement.
- k. **Notice to Supervisor.** Teleworkers are responsible for promptly notifying their supervisor of an equipment malfunction, failure of either state-owned or employee-owned equipment needed to do assigned work, or connectivity issues. If the malfunction prevents the teleworker from working, the teleworker must notify the supervisor immediately. Equipment malfunction and connectivity issues do not constitute emergencies under [HR/LR Policy #1437 Emergency Closure of State Agency Facilities](#). The teleworker and supervisor should discuss flexible scheduling for these situations or other options available for completing work.

- l. Performance.** Teleworkers' duties and responsibilities are not altered by telework. Teleworkers are responsible for meeting performance expectations and standards and maintaining satisfactory work performance.
- m. 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.
- n. 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. Emergency paid leave is not available when agencies must close due to emergencies unless authorized by the MMB Commissioner.
- o. Taxes.** Federal and state tax implications of teleworking and use of the home as a telework location are the responsibility of the teleworker.

III. SUPERVISOR EXPECTATIONS

- a. Communication Plan.** The supervisor must work with the teleworker to develop an effective communication plan that sets expectations for responding to emails and phone calls during the telework day and for maintaining regular communication with the teleworker.
- b. Performance Expectations.** Teleworking employees are expected to maintain at least satisfactory performance. At a supervisor's sole discretion, a supervisor may permit a teleworking employee who fails to maintain satisfactory performance to continue to telework under a performance improvement plan, with reassessment upon completion.
- 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 in-person meeting schedules in advance within any schedule-change notice provisions of the CBA or compensation plans, to permit teleworkers to adjust their work schedules and work location accordingly.
- e. Reporting to HR.** Supervisors must provide the Telework Schedule and Acknowledgement form to the agency HR office and to payroll (e.g., to address tax implications of working in a different state).

IV. EQUIPMENT AND MATERIALS

- a. Agency-Provided Equipment.** Agencies may provide, at their sole discretion, computer hardware equipment, and software deemed necessary for the teleworker to perform assigned work at a telework location. A teleworker's use of state-owned technology is subject to state policies and procedures, including the [Appropriate Use of Electronic Communication and Information Technology Policy](#), and other [IT use policies](#).
- 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 Information Technology Policy](#), and other [IT use policies](#).
- d. Maintenance and Repair of State-Owned Equipment.** Agencies are responsible for maintaining and repairing state-owned equipment based on normal use, and the installation and testing of software and software upgrades for state-owned electronic equipment. Employees are responsible for bringing state-owned equipment to the agency office unless installation, testing, maintenance and repair can be conducted remotely. Nothing in this policy waives the agency's ability as may be permitted by law to pursue costs for lost or stolen state-owned property or for damages beyond normal wear-and-tear.

- e. **Repair of Employee-Owned Equipment.** Agencies will not provide maintenance or repair of employee-owned equipment, hardware or software used for telework.
- f. **Business Use Restrictions.** All equipment, hardware, and software an agency furnishes 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 address 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. This workspace may be a touch down work station and not an assigned cubicle or office space.

V. DATA AND SECURITY

- a. **Data Practices Act.** Teleworkers must follow all applicable provisions of the [Minnesota Government Data Practices Act](#) (MGDPA), any other applicable laws, 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 and any other applicable laws.
- 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. The employee's personal phone number must not be listed as the work phone number. The work phone number in SEMA4 must either be the number of a state-owned phone or must be left blank.
- 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, upon termination of the telework arrangement if applicable, or upon the teleworker's separation from employment.

VI. TELEWORK LOCATION

- a. **Protection from Hazards.** The telework location must accommodate any equipment to be used to perform 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.
- b. **No Third-Party Liability.** In-person business meetings may not be held in a teleworker's home. 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. If an agency representative is visiting the telework location on state business and is injured, the injury may be covered by workers' compensation. In-person 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.

- c. **Workers' Compensation.** An employee is covered by the state's workers' compensation laws while they are acting in the course and scope of their employment while they are teleworking. Any injury that occurs in 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 workspace only during scheduled teleworking hours for purposes of workers' compensation.
- d. **Teleworking Outside Minnesota.** With the exception of employees that live in a county bordering Minnesota, employees shall not telework outside the state of Minnesota. At the sole discretion of the appointing authority, short-term requests to telework outside the state of Minnesota, within the United States, may be approved, not exceeding 30 calendar days each calendar year.

Before approving any telework location outside of Minnesota, agencies must review and follow existing payroll guidance for telework time reporting from Statewide Payroll Services and may consult with Statewide Payroll Services about potential employer obligations for state tax withholding. Agencies may be responsible for unemployment compensation reporting and should consult Statewide Payroll Services.

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 for the state where the telework is located. The Appointing Authority or their designee must contact the Risk Management Division for information on [Workers' Compensation Requirements in Other States for Teleworkers](#).

Agencies must also confer with their agency general counsel or the Attorney General's Office about other potential legal risks or compliance issues. If approved, the employee must continue to follow the terms of this policy, as well as any procedures for reporting time worked outside of Minnesota. **The telework location shall not be outside of the United States.**

- e. **Timesheets for Out of State Teleworkers.** Employees who telework from outside of Minnesota must complete timesheets using state-specific earnings codes. Please contact your agency payroll administrator for further assistance.

VII. TELEWORK APPROVALS

Agencies authorizing telework must create a process for determining which positions are eligible for telework using job-related criteria. Agencies retain the right to approve or deny telework requests at their sole discretion, but in keeping with the policy objective to offer telework to employees with at least satisfactory performance when it meets agency business needs. Agencies must monitor teleworkers' performance, and teleworkers must continue to meet customer and business needs and performance expectations.

VIII. TELEWORK SCHEDULE AND ACKNOWLEDGMENT FORM

- a. **Acknowledgment form required.** Agencies that allow telework must use the Telework Schedule and Acknowledgment form to identify the telework schedule and expectations. Agencies may add additional provisions to the form if needed.

- b. Signature.** A Telework Schedule and Acknowledgment form must be signed by the supervisor and employee prior to the start of telework. Agencies may require additional approvals as part of their process.
- c. Change/Cancellation.** The telework arrangement can be changed or cancelled by the agency, at any time. Agencies should attempt to provide up to a month's notice prior to a change in the telework arrangement taking effect, if possible. However, nothing in this policy limits the agency's right to change or cancel a telework arrangement effective immediately or with less than a month's notice. Any changes to the telework arrangement must be documented in a revised and signed Telework Schedule and Acknowledgment form. Cancellation of telework should be documented but does not require a signed Telework Schedule and Acknowledgment Form. The agency's decision to approve or not approve, to change, or to cancel a telework arrangement is not subject to the grievance procedure. Telework is not subject to appeal unless otherwise provided by an applicable CBA or compensation plan.

If the teleworker wishes to cancel the telework arrangement, the teleworker must give advance notice of at least three weeks 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. Workspace provided upon cancellation may be located wherever space is available at the permanent/principal work location.

- d. Renewal of Telework Arrangement.** At least annually, the supervisor and teleworker must discuss the telework arrangement. The supervisor and teleworker must also discuss the telework arrangement if any of the following events occur:
- A change in the teleworker's job duties
 - Teleworker or supervisor changes positions
 - A change in any of the provisions documented in the Telework Schedule and Acknowledgment form

Any changes to the telework arrangement must be documented in a new, signed Telework Schedule and Acknowledgment form.

RESPONSIBILITIES

Agencies are responsible for:

Adopting and communicating this policy.

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.

Maintaining corresponding tools/resources created by the agency.

Completing a Telework Schedule and Acknowledgement form for teleworking employees covered under this policy.

Providing applicable supervisor and employee training. 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.

Identifying and documenting internal controls related to telework.

MMB is responsible for:

Maintaining this policy and corresponding tools/resources.

Making modifications to this policy as determined in MMB's sole discretion.

Employees are responsible for:

Complying with all applicable terms of this policy.

FORMS AND INSTRUCTIONS

- [Telework Approval Process](#)
- [Telework Schedule and Acknowledgement Form](#)
- [Supervisor Telework Considerations](#)
- Other possible forms to be developed by the 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 the agency, 5) type of positions approved for telework, or 6) any information that may be used for analyzing the impacts of telework on the agency.

REFERENCES

[M.S. Ch. 13 Minnesota Government Data Practices Act](#)

[M.S. 43A.38 Code of Ethics for Employees in the Executive Branch](#)

[HR/LR Policy #1437 Emergency Closure of State Agency Facilities](#)

[HR/LR Policy #1423 Appropriate Use of Electronic Communication and Information Technology](#)

[Collective Bargaining Agreements and Compensation Plans](#)

CONTACTS

MMB Enterprise Employee Resources