

HR/LR Policy #1422

## Telework Policy

**Date Issued:** 07/01/1997

**Date Revised:** 01/21/2020, 09/21/2020

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

## OVERVIEW

### Objective

Use telework where possible as a means to prevent and mitigate the potential spread of COVID-19 in the workplace, and provide flexible work environment arrangements consistent with business needs as part of agencies' strategy to attract and retain a highly qualified and skilled workforce. Telework provides business-related benefits to agencies including:

- Attracting and retaining skilled workers from throughout the state and region
- Allowing employees flexibility to perform work from an approved alternative worksite while delivering quality services to Minnesotans
- Reducing risk of infectious disease transmission in the workplace
- 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

### Policy Statement

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

### 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 Teacher's Retirement Association

## Definitions and Key Terms

Terms	Definitions
<i>Core hours</i>	The designated period of each workday when agency 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 appointment, has their home or alternative location as their 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 as a reasonable accommodation
- Work at home on a case-by-case or situational basis
- Are mobile workers or remote workers

# 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 arrangement at will. If an agency requires teleworking employees to return to the permanent work location, the agency must provide reasonable advanced notice to the employees being recalled. Not all work situations are appropriate for telework, nor is telework appropriate for all employees.

## 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 arrangements. 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. However, employees may telework even if their dependents or an individual they are caring for is present in the telework location so long as the employee is actually performing their job duties and working their normal schedule or flexing their time as approved by their supervisor.
- b. **Work Schedule.** Prior to the start of an employee's telework arrangement, the supervisor and teleworker must discuss the work schedule, including normal work 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 and develop a telework schedule with the employee.
- c. **Meetings.** Teleworkers are expected to attend meetings as scheduled using applicable technology.
- d. **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. 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 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.
- 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.** Unless otherwise indicated in this policy, or as explicitly authorized by the supervisor, the teleworker is responsible for supplies and expenses necessary to perform telework at the telework location, including but not limited to internet and telephone connection equipment and costs. A teleworker must seek prior approval from the supervisor for any expenses that will be incurred for which the teleworker will seek reimbursement. Approved expenses will be reimbursed as provided in the applicable collective bargaining agreement or compensation plan, and consistent with applicable agency and statewide policies.
- g. **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 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 via video conference, phone conference, or other applicable 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.
- 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 performing assigned tasks, the teleworker must notify the supervisor immediately. The teleworker and supervisor should discuss flex 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.
- o. Taxes.** Federal and state tax implications of teleworking and use of the home as a telework location is the responsibility of the teleworker.
- p. Timesheets for Out of State Teleworkers.** Employees who live outside of MN and telework from their home state must complete timesheets using state-specific earnings codes. 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 must require 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 for maintaining 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 in-person 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 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.
- 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. Maintenance of State-Owned Equipment.** Agencies are responsible for ensuring the maintenance and repair of state-owned equipment 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.

- e. **Repair of State-Owned Equipment.** Agencies are responsible for testing, maintenance, and repair of state-owned equipment and upgrades of software.
- f. **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.
- g. **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.
- h. **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 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 should not be listed as the work phone number.
- 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 LOCATION

- a. **Protection from Hazards.** 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.
- b. **No 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. 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. Business meetings may not be held in a teleworker's home.

- 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. 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 the start of a telework arrangement with a non-Minnesota telework location, or if there are any questions.
- d. **Telework Location.** The telework location may not be outside of the United States. Before approving any telework location outside of Minnesota, agencies should consult with MMB payroll about potential employer obligations for state tax withholding and unemployment insurance. 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.

## 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 requests at their sole discretion. Agencies should monitor teleworkers' performance to ensure that teleworkers 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 teleworking. 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-will, at any time, with or without cause or notice. Any changes to the telework arrangement must be documented in a revised and signed Telework Schedule and Acknowledgment form. The supervisor has the discretion to approve or reject any changes suggested by the employee, including a request by the employee to cancel the telework arrangement.
- 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.

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

## 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 Template](#)
- [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 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 Enterprise Human Capital Division