

<b>ADMINISTRATIVE DIVISION</b> HR Division of Human Resources		<b>POLICY NUMBER</b> HR 1.22
<b>POLICY TITLE</b> Telecommuting		
<b>SCOPE OF POLICY</b> USC System		<b>DATE OF REVISION</b> April 29, 2022
<b>RESPONSIBLE OFFICER</b> Vice President for Human Resources		<b>ADMINISTRATIVE OFFICE</b> Division of Human Resources

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## **PURPOSE**

This document establishes a telecommuting program for staff and administrators within the University of South Carolina pursuant to Section 8-11-15 (B) of the South Carolina Code of Laws, as amended. Section 8-11-15(B) of the South Carolina Code of Laws permits the university to “use alternate work locations, including telecommuting, that result in greater efficiency and cost savings.” Therefore, to be compliant with the law, the decision to allow telecommuting should be based on clearly defined and measurable benefits for the agency and the taxpayers.

## **DEFINITIONS**

**Alternate Workplace** – A workplace other than the employee’s usual and customary workplace (primary workplace) and may include the employee’s home. The alternative workplace is not a University of South Carolina office location.

**Primary Workplace** – The telecommuter’s usual and customary workplace. The University of South Carolina office location to which the employee is assigned.

**Telecommuting Application** – The document used by supervisors and employee to evaluate the employee’s ability to successfully telecommute.

**Telecommuting Agreement** – The signed documents that outline the understanding between the university and the employee regarding the telecommuting arrangement.

**Telecommuter or Teleworker** – An employee who has an agreed-upon schedule during which they are expected to work at an alternate workplace rather than the primary workplace.

**Telecommuting** – A work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their primary workplace, in accordance with a work agreement. Also known as teleworking or remote work.

**Telecommuting Coordinator** – The person responsible for providing support to telecommuting employees and their supervisors and monitoring the success of the telecommuting program.

## **POLICY STATEMENT**

The University of South Carolina recognizes the value of telecommuting for both employee and employer. Telecommuting is a management tool allowing for flexibility in work options. Telecommuting may not be suitable for all employees and/or positions.

Telecommuting can improve work performance, increase employee retention, reduce commuting costs, reduce departmental costs, allow temporary or permanent job modifications for return-to-work and/or the Americans with Disabilities Act compliance, and improve an employee's quality of work life.

Telecommuting does not change the basic terms and conditions of employment. It is a management option and not a universal employee benefit or right. Telecommuting may not be suitable for all employees and/or positions. The decision to allow an employee to telecommute is solely at the discretion of the university. The university may revoke the approval of any employee to telecommute at any time, with or without notice and the decision to revoke the right to telecommute is not a grievable action under the South Carolina Employee Grievance Procedure Act.

The decision to allow telecommuting should be based on clearly defined and measurable benefits for the institution.

Selection and approval for telecommuting must be done in a non-discriminatory manner that does not violate state and/or federal law.

The Division of Human Resources may grant exceptions to portions of this policy. Departments and divisions must contact the university Telecommuting Coordinator in the Office of Employee Relations to request such exceptions.

### **A. Types of Telecommuting**

Periodic or Intermittent. Periodic telecommuting arrangements include short term projects or

specific work assignments that require uninterrupted time to complete. This type of telecommuting does not require a formal telecommuting agreement. The supervisor must document approval of the periodic, intermittent telecommuting arrangement in writing with the employee. Periodic or intermittent telecommuting arrangements are not to exceed three months and cannot run consecutively. Departments should utilize regular or reoccurring agreements for instances where consecutive assignments may occur.

1. Temporary or Emergency. Temporary telecommuting may be used during short-term illness, transportation emergency due to weather, a natural disaster, pandemic health crises, or other similar unplanned emergent events. This type of telecommuting does not require a formal agreement.

Temporary telecommuting arrangements for short-term illness, transportation emergency due to weather, or similar emergency events require supervisor approval. Supervisors are to exercise judgment in determining if the nature of the event will allow the employee to focus on their job duties and if the employee can perform the essential functions of their position remotely. As an example, in the case of a short-term illness, employees must be well enough to fully concentrate on their job duties and cannot be under the influence of any medications that would inhibit their ability to mentally focus.

Temporary telecommuting arrangements for natural disaster or pandemic health crisis require university approval.

These arrangements must be limited to the duration of the short-term illness, transportation emergency due to weather, natural disaster, pandemic health crisis, or other similar unplanned emergency event.

Temporary telecommuting agreements are not to exceed three months. Longer periods of telecommuting are to be covered by a Regular or Recurring telecommuting agreement or, if appropriate, through an ADA accommodation.

2. Regular or Recurring Telecommuting. May be full-time or part-time, such as one or two days a week, or parts of each workday, to avoid peak commuting hours. This type of telecommuting arrangement requires a Formal Telecommuting Agreement.

## B. Formal Telecommuting Agreements

Telecommuting agreements are based on the needs of the employee, the department or unit, and the university. Once an agreement is in place, the employee may not terminate the agreement without approval by the supervisor.

Generally, an employee's participation in telecommuting is voluntary and must be mutually agreed upon by the employee and supervisor, with final approval by the Division of Human Resources. A specific position may be designated as telecommuting only. In this case, telecommuting is not voluntary, but is a condition of employment.

For formal telecommuting arrangements, the primary workplace is the university office location to which the employee is assigned. The alternative workplace is the employee's telecommuting work address. The employee will work at the primary workplace or the approved alternate workplace, and not from another unapproved site. Failure to comply with this provision may result in termination of the agreement, and other appropriate disciplinary action.

Generally, the alternate workplace will be in South Carolina. If an employee is approved to designate an alternate workplace outside of South Carolina, it is the responsibility of the employee to notify the Payroll Office and to ensure appropriate taxes are withheld. Under no circumstances may an employee conduct work from a location outside of the state of South Carolina unless specific prior approval is received from their supervisor and Human Resources. No work may be performed at a location outside of the United States.

The employee may be required to report to the primary workplace without advanced notice, upon request by the university.

A formal telecommuting agreement must be reviewed and updated if there is a permanent change to the employee's job duties or if the provisions of the telecommuting agreement change. Telecommuting agreements are not transferable from one position to another.

## **PROCEDURES**

### **A. Telecommuting as a Reasonable Accommodation**

Telecommuting may be considered a reasonable accommodation under the Americans with Disabilities Act (ADA).

To be covered under the ADA, the employee must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

When notified of a need for an accommodation, the department or unit must notify their Human Resources Contact or Campus Human Resources Office. An appropriate Human Resources representative shall initiate the interactive process with the employee to determine the type of accommodation needed.

To determine if any or all job duties can be performed at an alternate workplace, the supervisor must ensure that all essential functions of the position have been identified and consideration given to the feasibility of telecommuting on a full-time, part-time, or intermittent basis.

The university may waive certain telecommuting eligibility requirements, modify the telecommuting policy, or waive or modify other workplace policies to allow an employee with a disability to work remotely as a means of reasonable accommodation. Employees will not be permitted to telecommute as an accommodation if telecommuting prevents the employee from performing the essential job functions of their position or causes undue hardship to the department or unit.

While telecommuting may be a possible accommodation, the university is not obligated to allow telecommuting. If another reasonable accommodation is appropriate and effective, the university has the right to deny the request to work remotely even if this is the accommodation preferred by the employee.

## B. Formal Telecommuting Agreements.

### 1. Employee Eligibility and Selection/Approval Criteria

- a. The department should identify job classes or positions with duties considered appropriate for telecommuting. If only some duties are appropriate for telecommuting, a schedule where the employee works part of their time out of the office may be an option. It is not necessary that every employee in these job classes or position be allowed to telecommute. This decision will be based on various factors.
- b. Generally, all university employees are eligible for telecommuting. Employees in a warning notice of substandard performance are not eligible for telecommuting. Employees with recent disciplinary actions should generally be prohibited from telecommuting. These requirements may be waived at the discretion of the dean/director or their designee if the position is one in which telecommuting is required or for any other reason deemed appropriate by the dean/director.
- c. Initiation of a telecommuting arrangement can be at the request of either the university or the employee. If requested by the employee, a Telecommuting Request form must be submitted for review and approval by the appropriate authority before telecommuting may begin. If the telecommuting arrangement is initiated by the supervisor, only the Safety and IT Security sections of the Telecommuting Request form need to be completed and must be reviewed before the telecommuting may begin. A specific position may be designated as telecommuting only. In this case, telecommuting is not voluntary, but is a condition of employment.
- d. If the request for telecommuting is initiated by the employee, the supervisor, department chair, or dean/director will review the Telecommuting Request form for approval, considering the following factors:
  - i. Needs of the department/unit and the employee;
  - ii. Employee's work duties and the ability to measure or assess work performed;

- iii. Availability and costs of needed equipment;
  - iv. Employee's current and past job performance, as documented in performance evaluations, including time management, organizational skills, self-motivation, and the ability to work independently;
  - v. Assessment of other employees in the immediate work unit performing similar responsibilities to determine interest;
  - vi. Effect on the provision of services and on the remaining employees of the unit or department;
  - vii. Measurable objectives and results mutually agreed to by the employee and the supervisor; and
  - viii. Other items deemed necessary and appropriate.
- e. If approved, the employee and supervisor will complete a Telecommuting Agreement prior to the employee beginning the telecommuting program.
  - f. Copies of these documents are to be kept in the department and sent to the Division of Human Resources to be placed in the employee's permanent HR file. The Telecommuting Agreement must be reviewed and updated as conditions change but at minimum the agreement will be renewed annually.

## 2. Conditions of Employment

- a. The employee's duties, responsibilities, and conditions of employment remain the same as if the employee were working at the employee's USC office workplace. The employee will continue to comply with all federal laws, state laws, and university policies and procedures while working at the alternate workplace. The employee remains subject to all agency disciplinary policies and procedures while performing work at the alternate workplace. This includes Fair Labor Standards Act (FLSA) requirements related to the payment for time worked and overtime compensation.
- b. Telecommuting will not adversely affect an employee's eligibility for advancement or any other employee right or benefit.
- c. The employee will be compensated for all time worked to include overtime, if applicable, leave, and travel in accordance with the provisions of the FLSA and university policy HR 1.84 Minimum Wage, Official Workweek, and Overtime Compensation.
- d. Travel expenses relating to commuting between the university and the employee's alternate workplace are not reimbursable travel expenses. Qualified travel is a reimbursable expense when the employee telecommutes full-time.

- e. Required work hours, compensatory time, performance evaluations, and leave benefits will not change as a result of telecommuting.
- f. Requests to work overtime, accrual of compensatory time, or use of sick, annual, or other leave must be approved in the same manner as when the employee works at the primary workplace and are subject to the same rules and regulations.
- g. An employee shall not work overtime unless authorized in advance by their supervisor or otherwise authorized by university policy HR 1.84 Minimum Wage, Official Workweek, and Overtime Compensation.
- h. The actual work schedule of the telecommuting employee will be determined by the supervisor, department chair and/or dean/director and will be documented in the Telecommuting Agreement.
- i. The university must be able to contact the employee by telephone and email during the scheduled work hours.
- j. If the employee works less than the employee's normal workweek, salary and benefits must be adjusted accordingly.
- k. Telecommuters who have provided a medical certification prohibiting them from working are similarly prohibited from working remotely.
- l. Telecommuters are expected to be working and focused on the performance of their job duties during all work hours. Telecommuting workers may have household members or others who depend on them for care. Telecommuters with these obligations must have adequate care arrangements that do not interfere with their job responsibilities. Telecommuting is not a substitute for childcare, dependent care or other personal responsibilities. All personal activities, including child and dependent care, pet care, housework, yardwork, personal errands, etc., should be done only during established break times, lunch time and before and after work hours. Telecommuters are required to use accrued leave when necessary, to provide dependent care or when addressing other personal responsibilities. This includes time spent caring for an ill household member or other person.
- m. Working hours cannot coincide or overlap with any other type of employment.
- n. Regular communication through weekly or monthly meetings, teleconferencing, or in-office days is required. The employee may be directed to report to the primary workplace on a scheduled or an as-needed basis. The intervals and the means by which the telecommuting employee should check-in with their supervisor must be documented in the Telecommuting Agreement (i.e., frequency of face-to-face meetings, expected response times, standards of conduct for video conferencing, deliverables, status report on a weekly/monthly basis).
- o. A supervisor may require a test period of up to 6 months to evaluate the success of

the telecommuting arrangement.

### 3. Designating the Alternate Workplace

- a. The employee must agree to designate a separate workspace in the alternate workplace for the purposes of telecommuting and maintain this area in a safe condition, free from hazards and other dangers to the employee, the university's equipment, and confidential information.
- b. To ensure the safety of the workspace, the employee agrees to complete the Safety Checklist included in the Telecommuting Agreement prior to the employee beginning the telecommuting program. It is the employee's obligation to ensure the safety of the offsite workspace and compliance with all health, safety, and confidentiality requirements. The employee should consult with the university before moving any heavy equipment or furniture in the alternate workplace.
- c. The employee agrees that the university shall have reasonable access to the designated offsite workspace for all reasonable purposes, including but not limited to inspection of the space, supervision of the employee, and retrieval of university-owned property and information.
- d. No employee engaged in telecommuting will be allowed to conduct face-to-face, university-related business at the alternate workplace except for those employees with a primary work location designated as offsite as a condition of employment or as required in paragraph B.3.c. The employee will be liable for injuries or damages in the alternate workplace to the person or property of third parties or any members of the employee's family and agrees to indemnify the university for any such claims.
- e. The employee understands that the university will not reimburse the cost of designated workspace expenses for telecommuters, including but not limited to rent, heat, water, electricity, insurance, or any other incidental costs (e.g. cellphone or internet).
- f. It is the responsibility of the employee to review any applicable lease documents, insurance documents, and zoning regulations to ensure a home office/ home workspace is permitted.

### 4. Workers' Compensation

The offsite workspace, as approved, is considered an extension of the employee's USC office work location; therefore, workers' compensation benefits will continue to exist for the employee when performing official work duties in the defined, offsite workspace during approved telecommuting hours. Any work-related injuries must be reported to the employee's supervisor immediately, and the employee must complete all necessary or management requested documents regarding the injury.

### 5. Equipment Information



The university may provide all or part of the equipment necessary for accomplishing work assignments, as determined by the appropriate authority. However, where agreements specify, employees may be authorized to use their own equipment.

Telecommuting employees must abide by the university's policies concerning information security, software licensing and data privacy. All official university records, files, and documents must be protected from unauthorized disclosure or damage and returned safely to the primary workplace whenever requested by the university. The employee agrees to abide by any university rules concerning computer equipment (including protecting personal computers against "viruses"), agrees to follow university procedures for network access and to take all necessary steps to protect the integrity of the systems. Specific guidance regarding security for remote access is provided at:

[http://sc.edu/about/offices\\_and\\_divisions/university\\_technology\\_services/security/docs/secure\\_remote\\_access\\_guidance.pdf](http://sc.edu/about/offices_and_divisions/university_technology_services/security/docs/secure_remote_access_guidance.pdf).

a. State-Owned Equipment and Documents

- i. The university established security controls and conditions for use of the state-owned equipment for the primary workplace will also apply to the alternative workplace.
- ii. Data must be backed up to the university network on a regular basis to ensure the university has records, particularly as required for State and federal grants and other record keeping requirements.
- iii. Telecommuting employees must abide by University Purchasing and Accounting policies, to include obtaining appropriate advance approval, for all purchases and expenditures incurred for telecommuting equipment or services. The Telecommuting Agreement will be required as documentation for purchases and expenditures related to telecommuting and must be attached to all transactions.
- iv. Support, maintenance, and repair of university-owned equipment will be performed only by a university authorized technician. The employee will be responsible for notifying the supervisor and bringing the equipment to the employer-designated repair location. Necessary maintenance and repairs on university-owned equipment will be performed at the university's expense. The telecommuting arrangement may be suspended/modified until functioning equipment is in place.
- v. The employee will return all university equipment, files, documents, and supplies to the university immediately upon termination of telecommuting or of the employee's employment.

b. Employee-Owned Equipment

- i. When employees are authorized to use their own equipment, the university will not assume responsibility for the cost of repair, maintenance, or service even if

the employee is engaged in university work at the time of malfunction. The employee must make repairs or arrangements for repairs as quickly as possible and the telecommuting arrangement may be suspended/modified until functioning equipment is in place.

- ii. Telecommuters using their own equipment must use the same security controls and protect data privacy.
- iii. Employees will coordinate with their department IT specialist for the download of any required software to ensure it meets the university standards. This equipment and software may be provided by the university or the employee.

6. Termination of Participation

- a. The university may terminate the telecommuting arrangement at any time with or without cause. This termination is final in terms of administrative review. The employee may request that the arrangement be terminated but it is at the university’s discretion to end the arrangement.
- b. The university will give two weeks’ notice of termination of agreements, if feasible.

Telecommuting forms and additional guidance are available on the Human Resources website.

**RELATED UNIVERSITY, STATE AND FEDERAL POLICIES**

Fair Labor Standards Act (FLSA)

[HR 1.84 Minimum Wage, Official Workweek, and Overtime Compensation](#)

[IT 3.00 Information Security](#)

**HISTORY OF REVISIONS**

DATE OF REVISION	REASON FOR REVISION
March 25, 2020	Updated to new format Removed requirement of a formal agreement for short-term or emergency telecommuting arrangements when employee has access to university network or information.
August 6, 2021	Revised to correspond to updated Division of State Human Resources model policy.
April 29, 2022	Removed one year of service eligibility requirement; clarified annual renewal of agreement.