# Frequently Asked Questions Relating to the

# Telework Policy (Revised) – Effective May 15, 2024

## *Definitions*

### What is a teleworker?

A teleworker is a State employee who is in a telework eligible classification and has an approved hybrid telework schedule permitting the employee to work at least two to three days at a Remote Work Site (generally referred to as "telework days"), or who has been approved for full-time telework status.

### What is a Remote Work Site?

This is a work location that is not a State Work Site where an employee who is in a telework eligible classification is permitted to work.

### What is a State Work Site?

A State Work Site is defined as any building, facility or location managed or leased by the State for the purposes of allowing employees to work.

It is important to note that a State Work Site also includes any locations in the field where the employee performs their duties.

### What is a Telework Eligible Classification?

A job profile (also commonly referred to as a job classification) that has been designated by the DBM Secretary as appropriate for work from a Remote Work Site.

### What is full-time telework?

Full-time telework is a work status where all primary work hours are performed from a Remote Work Site. Full-time telework is granted on an exception basis if certain criteria are met (namely, the request contains the basis for granting full-time telework and identifies a specific benefit to the State), and the employee's agency head has approved this work status.

### What is hybrid telework?

Within the meaning of the Telework Policy, hybrid telework is a work status where work hours are performed from a Remote Work Site and a State Work Site. Hybrid telework status requires at least two days per workweek at the State Work Site, and two days per

workweek at the Remote Work Site. Whether the fifth day in the workweek is at the Remote Work Site is determined by the manager or agency head. This determination is to be made in a manner that is consistent across all hybrid telework designated roles within the particular office or work unit.

**The Telework Policy refers to performance metrics. What does this mean?**
Within the meaning of the policy, performance metrics are defined as a set of quantifiable work expectations for employees who are in hybrid telework status.

## *Telework Eligibility*

**Who is permitted to telework?**
The DBM Secretary is responsible for creating and maintaining a list of Telework Eligible Classifications. An employee who is in a classification that is eligible to telework must be given the opportunity to telework at least two days in a workweek unless the employee does not wish to telework or in other limited circumstances discussed below.

**May an agency change the status of a telework eligible classification to ineligible for telework?**
No. The agency must submit the request to the DBM Secretary. A telework eligible classification may not be made ineligible for telework without good cause shown. The proposed change must be bargained over if it is a bargaining unit classification.

**May an agency change the status of a classification from ineligible for telework to telework eligible?**
Any changes to the telework status of a classification requires the approval of the DBM Secretary. If the classification is in a bargaining unit, prior to the change being made, the appropriate exclusive representative must be notified.

**Does an employee have a right to be a teleworker?**
Teleworking is a privilege. If an employee is in a telework eligible classification, the employee will be permitted to telework at least two days a week, but the privilege may be suspended for a defined period of time based on workload under extraordinary circumstances.

Additionally, a supervisor may terminate an employee's telework agreement for cause but must provide written notice 14 calendar days in advance of the termination of the privilege. An employee has the right to grieve this decision. A decision maker at any stage of the grievance process has the right to reinstitute the employee's telework privilege.

*UPDATED*

**May temporary/contractual employees telework?**

If the temporary/contractual employee occupies a classification that is telework eligible, the employee's status as temporary or contractual is not a reason to deny the employee the opportunity to telework.

**May an employee in a classification that is not on the list of Telework Eligible Classifications be permitted to telework?**

An employee who is in a classification that has been determined by the agency to be ineligible to telework is not permitted to be in a full-time or hybrid telework status unless the agency has documented sufficient cause to permit telework based on the employee's specific job responsibilities. The agency must detail the way in which the employee's duties differ from other employees who are in the same non-eligible classification within the agency.

**May an employer deny telework to an employee who is a classification that is eligible to telework?**

Yes. If an employee's assigned duties do not permit the employee to telework at least two days per week, the employee may be deemed ineligible to telework even though the employee's classification is telework eligible. These exceptions were negotiated with exclusive representatives of bargaining unit positions.

## *Employee Participation*

**Does an employee in a telework eligible class have to telework?**

No. Teleworking is voluntary. An employee who is in a telework eligible class does not have to telework and an employee who does have a hybrid telework schedule may cease working a hybrid telework schedule at any time after notification to the supervisor.

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**May an otherwise telework eligible employee elect to come into the office more frequently than two to three days per week?**

Yes. An employee who has a hybrid work schedule may choose to come into the office more frequently. An employee does not have to telework two or three days a week if the employee prefers to come into the office more frequently.

**May a supervisor terminate an employee's telework privilege?**

Yes, a supervisor may terminate an employee's hybrid telework or full-time telework schedule if the supervisor has cause to do so. In this situation, the supervisor must provide the reason in a written notice to the employee 14 calendar days prior to the date that the telework privilege is being terminated. An employee may grieve the cancellation

of the employee's hybrid telework or full-time telework schedule. A decision-maker at any step of the process may reinstitute the privilege.

**If a supervisor terminates an employee's telework privilege for failing to meet performance standards, what happens if the employee's performance improves?**

When an employee is unable to meet performance standards while working a hybrid or full-time telework schedule, the employee's telework privilege may be terminated. In these situations, the supervisor should be clear about performance expectations. Once the employee's performance improves, the employee may request to have the telework privilege reinstated.

**If an employee is in a telework eligible classification but has not had a telework schedule established, what may the employee do?**

An employee who is in a telework eligible classification may make a request to the employee's supervisor. The employee's supervisor is obliged to respond to the request within 14 calendar days.

**May a probationary employee telework?**

Probationary status does not bar an employee from teleworking if the probationary employee is in a telework eligible classification. Of paramount concern is the ability of the employee to successfully perform the duties assigned to the position. As long as the employee can receive the training and assistance required, probationary status is not a reason to deny telework.

## *Employment*

**Does telework status change the nature of the employee's work obligations?**

No. An employee who has a hybrid or full-time telework schedule is required to perform the employee's duties and meet the obligations and responsibilities of the position in the same manner as expected if the employee works exclusively at a State Work Site. This means that the employee's work performance is measured in the same way at the Remote Work Site as it is at the State Work Site, and daily work expectations are treated the same no matter where the employee is working.

Additionally, an employee who is working at a Remote Work Site is required to adhere to all laws, regulations, policies and procedures in the same manner as the employee would if the employee was at the State Work Site. This includes but is not limited to the State's Substance Abuse Policy. This means that an employee may not:

- Work under the influence of prescription drugs or over-the-counter drugs if it causes the employee to be impaired and/or unable to perform the essential functions of the employee's job safely and effectively;
- Work under the influence of a controlled dangerous substance; or
- Work under the influence of alcohol.

### Does telework impact the employee's salary or benefits?
No, an employee's salary and benefits including retirement and health benefits are unchanged by telework status.

### May a teleworker treat travel between the Remote Work Site and the employee's assigned State Work Site as work time?
No.

### When an employee travels from the State Work Site to a field location or vice versa, is the travel time between the State Work Site and the field location work time?
Yes, whenever an employee travels directly to a field location, whether the starting point is the State Work Site or the Remote Work Site, the time spent traveling to the field location is work time. Similarly, when an employee travels from a field location to the State Work Site or the Remote Work Site, the time spent in travel is work time.

### What happens if an employee is injured at a Remote Work Site?
If an employee is injured during the actual performance of official duties at the Remote Work Site, the employee is covered under the State's Workers' Compensation Law. The employee, or someone acting on behalf of the employee, is required to immediately notify the supervisor of any accident or injury that occurs at the Remote Work Site.

### Are the rules for using leave handled differently for teleworkers?
No. An employee who is working at a Remote Work Site must adhere to applicable laws, regulations, policies and procedures relating to the use of leave. An employee who is working at a Remote Work Site must request pre-approval to use annual or pandemic carryover leave, or compensatory time.

Sick leave and personal leave may be used after notification to the employee's supervisor.

The use of leave without pay may not occur without the prior approval of the employee's appointing authority or designee, based on the requirements of the employing agency.

### May an employee work overtime while at a Remote Work Site?
Yes, an employee may earn overtime, or in the case of exempt employees, compensatory time for overtime hours worked at a Remote Work Site but the employee is required to obtain pre-approval in the same manner as the employee would request to work overtime at the State Work Site.

### Are telework hours required to be tracked?

Employees who work at a Remote Work Site are required to record their work hours using the appropriate work tag in Workday (*Remote Work Location: Teleworking*). If an employee works in an agency that does not use Workday, the agency shall ensure that employees are aware of the proper mechanism for recording hours worked at the Remote Work Site. The agency must be able to provide the data required by the Reporting Requirements section of the Telework Policy.

## *Schedules*

### Who determines the employee's hybrid or full-time telework schedule?

The supervisor should work with the employee to establish the telework schedule. While the schedule must benefit the State of Maryland and ensure proper office coverage and the delivery of exceptional service, the supervisor should consider the employee's input in developing the schedule.

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### How does an agency head determine whether full-time telework is appropriate?

As noted in the policy, full-time telework should be permitted on an exception basis. Agencies should develop criteria for reviewing requests for full-time telework and apply the criteria in each situation to ensure fair and equitable treatment of each request. Some things to consider may include: does the employee have to access sensitive data to perform duties; does the employee need to access materials in the office to perform duties; does the employee have to provide office coverage (particularly considering that other employees may be on hybrid work schedules, too); does the employee interact with other units; does the employee have external customers who come on-site; what specific benefit does 100% remote work provide for the agency.

### May a supervisor require an employee to work at the State Work Site on a day that the employee is assigned to work at the Remote Work Site?

Yes, there will be times when the interests of the office and workload considerations will take precedence over working at a Remote Work Site. The expectation is that this will not be a frequent occurrence, but a supervisor has the ability to require an employee to work in the office on a scheduled telework day when it is deemed operationally necessary.

### How much flexibility is permitted in telework schedules?

Many employees currently enjoy flexible hours and/or schedules. The Telework Policy does not prohibit employees from working flexible hours or schedules at the Remote Work Site as long as the supervisor has approved the arrangement in advance.

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**What type of telework schedule is appropriate for an employee who is otherwise eligible to telework, but has a compressed workweek schedule?**

An employee who is working a compressed schedule (such as four 10-hour days) may be permitted to work remotely one to two days per week. This will provide the employee with an equivalent number of remote workdays and office days as other employees are working.

*NEW*

**How many days remote days are appropriate for a part-time employee who is eligible to telework?**

It depends on how many days the employee is working. If the employee is working only three days per week, one day of telework is appropriate.

## *Teleworker Availability*

**What should happen if a supervisor is unable to reach an employee during work hours if the employee is working at the Remote Work Site?**

Supervisors should establish response times for teleworkers so that the expectation is understood. If an employee is not reachable within the established response time during work, the supervisor should discuss this matter with the employee. Counseling or disciplinary action may be taken to address the failure to be responsive. Persistent issues may result in the revocation of telework privileges.

**What should happen if an employee cannot perform duties at the Remote Work Site due to an issue beyond the employee's control, such as loss of connectivity due to power outage or internet?**

An employee who is working at a Remote Work Site must notify the supervisor immediately if there is a reason that the employee cannot perform their job duties. Available options for addressing this type of issue include: the supervisor may approve a change in the employee's work hours for the day; the employee may request to take accrued leave in accordance with the applicable time off policies and procedures; or the employee may elect to work at the State Work Site.

## *Emergency Conditions*

**If there is a widespread closure of facilities due to a communicable disease outbreak as declared by the Maryland Department of Health, may employees telework full-time?**

In this situation, supervisors should plan for all non-essential employees who are otherwise eligible to telework to be able to do so.

**With regard to teleworking, how are non-emergency essential employees treated in the event of a weather-related closure of offices?**
It depends. Non-emergency essential employees who are not eligible to telework do not have to report during a weather-related closure of offices. These individuals receive State Emergency Release Time Off.

Non-emergency essential employees who are eligible to telework should remain at home and telework unless leave is granted.

**What should a teleworker do if liberal leave is declared?**
If the liberal leave declaration occurs on a day that the telework-eligible employee is assigned to work in the office, the employee may take liberal leave.

If the liberal leave declaration occurs on a day that the employee is assigned to work at the remote work site, the employee may request to take leave, but liberal leave is not applicable. Supervisors and managers are encouraged to be flexible in this situation and grant leave requests whenever possible.

## *Workplace, Equipment and Supplies*

**Are there any requirements for an employee's workspace at the Remote Work Site?**
Yes. An employee is required to designate a workspace at the Remote Work Site where the employee is able to safely perform the employee's job. The workspace must be free of hazards that might endanger the employee or result in damage or loss of agency equipment or property. The teleworker is responsible for ensuring that the designated workspace permits the employee to ensure that confidential information is handled in a manner that protects the material from unauthorized disclosure.

**Is the employer obligated to provide equipment in order to enable an eligible employee to telework?**
If a teleworker does not possess the equipment and software required to work at a Remote Work Site, the agency is not obligated to provide it. If it is provided, it remains the property of the State and must be returned if telework privileges are revoked or the employee separates from State service.

**Must a teleworker have a telephone at the Remote Work Site?**
A teleworker must have a telephone or mobile device to facilitate communication.

**Is the State responsible for reimbursing a teleworker for utilities or other expenses, including but not limited to internet access associated with work at a Remote Work Site?**

No. The State assumes no financial or other responsibility for the teleworker's expenses relating to working at a Remote Work Site, with the exception of long-distance calls that the teleworker may have to make from the Remote Work Site. Employees should make every effort to make long-distance calls from the State Work Site, but expenses for long-distance calls that must be made from a teleworker's home may be reimbursed if the reason and cost for the call are documented and approved by the supervisor.

**Is the teleworker required to provide supplies for the Remote Work Site?**
No. The employer is obligated to provide supplies that are necessary to perform job duties. With supervisory approval, the teleworker may obtain needed supplies from the State Work Site for work at the Remote Work Site. If supplies are not available, the employee must receive approval from the supervisor before purchasing supplies.

## *Child/Dependent Care - Personal Business*

**May an employee care for children or other dependents while in telework status?**
Telework is not a substitute for child or dependent care. An employee must arrange child or dependent care in the same manner as the employee would if the employee was working full-time at the State Work Site.

**May an employee conduct personal business while working at the Remote Work Site?**
No. If the employee needs to conduct personal business that cannot be accomplished on the employee's unpaid lunch break, the employee may request to take leave or flex the employee's work schedule in order to accommodate the need to take care of personal business.

**May an employee hold work-related meetings in the employee's home while working at the Remote Work Site?**
No. While an employee is expected to participate in on-line meetings and calls, an employee is not permitted to hold in-person work-related meetings in the employee's home.

## *Travel Expenses*

**May a teleworker treat travel between the Remote Work Site and the employee's assigned State Work Site as work time?**
No.

### May a teleworker claim mileage reimbursement for travel between the Remote Work Site and the employee's assigned State Work Site?

No.

## *Reporting Requirements*

### What must an agency do in order to comply with the reporting requirements of the Telework Policy?

Annually, an agency must submit a report to the DBM Secretary on its telework program. The report must include:

- The number of employees eligible to telework and the number of employees who are actively teleworking;
- How many days per week employees are in the office;
- How many employees are fully remote and for these employees, an explanation of how the agency is measuring job performance, productivity and employee engagement, and how the agency is ensuring that high quality services are being provided to businesses and Maryland citizens, or internal clients; and
- Any cost-savings that have been achieved by the agency as a result of teleworking.