

DIVISION OF HUMAN RESOURCES

4.5 POLICY ON TELEWORK

(a) Purpose and Scope

(1) Purpose

The purpose of this policy is to provide guidance and define qualifications for the use of telework to continue to advance the mission of Maryland Judiciary. Telework in the Judiciary is a management option to increase employee satisfaction, improve employee recruitment and retention, and facilitate increased productivity.

In addition to regular or ad hoc telework as detailed in this policy, an employee may be permitted to telework due to an unexpected office closing such as inclement weather, Judiciary emergency or disaster as declared by the Chief Justice of the Supreme Court of Maryland.

(2) Scope

- (A) This policy applies to Regular Employees of the Supreme Court of Maryland, Appellate Court of Maryland, a Circuit Court Clerk's Office, the District Court of Maryland, the Administrative Office of the Courts, and Judiciary Units, who are paid through the Central Payroll Bureau of the Comptroller.
- (B) This policy applies to law clerks and judicial assistants who are paid through the Central Payroll Bureau of the Comptroller.
- (C) This policy does not apply to Clerks of the Circuit Courts, Contractual and Temporary Employees, locally funded employees in the Circuit Courts, employees of the Attorney Grievance Commission and the Client Protection Fund, employees of the Register of Wills or the Orphans' Court, and justices, judges, and magistrates.

(b) Definitions

(1) Administrative Head:

- (A) For the Supreme Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Justice for all other employees of that Court;
- (B) For the Appellate Court of Maryland, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge for all other employees of that Court;
- (C) For the circuit courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under their supervision;
- (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under their supervision;
- (E) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (F) For any units, the head of the unit where the employee works;
- (G) For law clerks in the District Court, their respective administrative judges;

- (H) In courts other than the District Court, for law clerks and judicial assistants who work within a single judge’s chambers and are paid through the Central Payroll Bureau of the Comptroller, their respective justices, and judges; and
- (I) Any person who serves as an authorized designee of any individual identified in (A) through (H).
- (2) Contractual Employee** – An employee whose conditions of employment and compensation are specified in a personal services contract.
- (3) Judiciary Human Resources Division (JHRD)** – The division within the AOC that is responsible for, but not limited to, the following functions for state employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; talent acquisition; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (4) Main Worksite** – An employee’s usual and customary assigned worksite.
- (5) Regular Employee** – For purposes of this policy, a state employee holding a position funded under an approved budget and having an assigned position identification number (PIN). This does not include Clerks of Court, Contractual and Temporary Employees, justices, judges, and magistrates.
- (6) Remote Worksite** – An approved worksite other than the employee’s Main Worksite with appropriate equipment and confidentiality conducive to the work being performed.
- (7) Telework** – Work performed at a remote worksite.
- (8) Telework, Ad-Hoc** – Work performed at a remote worksite for a temporary duration of time approved by the Administrative Head.
- (9) Teleworker** – An employee who is approved to telework by the employee’s Administrative Head.
- (10) Telework Plan** – The court or office specific guidelines set forth by the Administrative Head for employees to follow when teleworking, which shall comply with the JHRD Telework Plan template.
- (11) Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment is not to exceed one year from the date of hire.
- (12) Work Week** – A work week is Wednesday through the following Tuesday.
- (13) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Standing Committee on Rules of Practice and Procedure.

(c) Approving Authority

The Administrative Head will have the final authority to allow telework according to this Policy and have a formalized Telework Plan to provide guidelines to employees. The Administrative Head may require an employee to telework or to relocate during an emergency for continuity of operations.

(d) Evaluation Considerations for Telework

- (1)** The Administrative Head shall determine which job functions and employees under their authority are eligible to telework under this policy and to what extent.
- (2) Eligibility Criteria.** The criteria are characterized by factors such as, but not limited to:
 - (A) Successful completion of six-month probationary period in a position, which may be waived in full or in part by the Administrative Head, for teleworking purposes only.

- (i) Employees must still follow the requirements of the Policy on Talent Acquisition, Examination, Selection, and Probation.
- (B) Employees can adequately perform their duties without being present at the Main Worksite;
- (C) Duties and assignments are characterized by clear work objectives that can be accomplished at a Remote Worksite as effectively as at the Main Worksite; and,
- (D) Measurable outcomes are equivalent to the amount of work expected to be performed if the employee was working at the Main Worksite.

(3) Eligible Employees

- (A) Only those employees identified in Section (a)(2)(A) and (a)(2)(B) are permitted to telework under this policy. An exception to allow Contractual and Temporary Employees to telework may be made pursuant to Section (m).
- (B) Telework involves a commitment by the employee to:
 - (i) work independently on assigned work during agreed upon work hours;
 - (ii) be accessible by agreed upon communication methods during normal work hours, which may include but not be limited to telephone, email, or video-conferencing;
 - (iii) perform work at Remote Worksite;
 - (iv) be able to report to the Main Worksite, if included in the Telework Plan, on the day the employee is normally scheduled to telework if the Administrative Head determines the employee is needed at the Main Worksite that day;
 - (v) adhere to all provisions of the Telework Agreement and Telework Plan.
- (C) Factors that may be considered in determining an employee’s eligibility for telework include:
 - (i) job functions that are compatible;
 - (ii) an employee has a history of satisfactory performance, such as a meets standard or above rating on the latest performance appraisal (if applicable) and has not received counseling or a disciplinary action within the last 12 months;
- (D) Employees who telework are subject to the same performance standards, policies, and applicable laws as they would be when not teleworking.
- (E) Employees are prohibited from teleworking in lieu of taking leave for an illness or other reason and must follow the requirements of the Policy on Leave.

(e) Equipment and Services

- (1)** The Teleworker must have a Remote Worksite with appropriate level of confidentiality conducive to the work being performed and the necessary equipment and supplies to do the assigned work, including, but not limited to, reliable internet connection and an agreed upon communication method. The Teleworker will have full responsibility for procuring and maintaining the necessary equipment, furnishing, facilities, and utilities of the Remote Worksite. If the employee loses internet connectivity at the Remote Worksite for a period of time that negatively impacts their ability to perform their duties, then they must report to their Main Worksite until the connectivity has been restored or may be required to use unscheduled personal leave for the time the employee is unable to telework due to the connectivity issue. The Telework Agreement will be rescinded if internet connectivity is consistently unreliable at the Remote Worksite.
- (2)** The Judiciary may, but is not required to, provide equipment or supplies to the Teleworker.

- (A) The Judiciary equipment, software, or other items for the Remote Worksite shall remain the property of the Judiciary and shall be returned upon the termination of the Telework Agreement. The employee may be responsible for any damage, loss, or other unwarranted costs that occur because of theft, damage, negligence, misuse or abuse.

(f) Telework Sites

- (1) Employees are responsible to ensure they have a Remote Worksite that is safe and free from hazards, if the Remote Worksite is not a Judiciary location.
- (2) The Judiciary is not liable for any injuries sustained by visitors or damages to the teleworker's personal or real property at the Remote Worksite.
- (3) Injuries sustained by the teleworker in a Remote Worksite and in the course of the actual performance of official duties may be covered by the Maryland Workers' Compensation law. In case of injury, the teleworker or, if this is not possible, a person acting on the teleworker's behalf, must follow all rules regarding notification and documentation as specified in this law.

(g) Administration of Telework Agreements

- (1) Telework Agreements for a regular telework schedule shall be recorded and approved through the CONNECT system. An employee identified in Section (a)(2)(A) can telework up to two days per work week. A Telework Agreement for a probationary employee may be entered for a term of six months. A Telework Agreement for a non-probationary employee may be approved for one year.
- (2) Ad-hoc Telework may be authorized by an Administrative Head to address short-term, temporary, non-recurring circumstances. Ad-hoc Telework is not a substitute for a regular telework schedule.
- (3) An employee who was expected to telework from a Remote Worksite on a day when a delayed opening or closing is declared, will continue to telework. If the employee is incapable of performing work from Remote Worksite due to the cause of a delayed opening or closing of the employee's Main Worksite, then the employee may be granted administrative leave upon the approval of the Administrative Head.
- (4) The employee's Administrative Head shall ensure success of the work product of an employee who teleworks.
 - (A) This may include evaluation of work and work verification measures that the Administrative Head deems appropriate including, but not limited to, formalized Telework Plans, check-in/check-out communication, emails, reports, or other such measures that demonstrate productivity.
- (5) The employee must produce a work product in quantity and quality that is acceptable to the Administrative Head. The work product must not be any less acceptable than that of a similarly situated employee who does not telework.
- (6) The Administrative Head must review the Telework Agreement at the end of the annual approved period. The Administrative Head may reapprove, modify, or rescind the agreement at that time. The Administrative Head may review the agreement on a more frequent basis at their discretion. A Telework Agreement can generally be rescinded with two weeks' notice. However, the notice may be less if, after consultation with JHRD, it appears the employee has abused the privileges of telework or

otherwise exhibits deficiencies in performance, conduct, or attendance, or other reason as determined by the Administrative Head.

- (7) The Administrative Head may take appropriate disciplinary action against an employee for abusing a Telework Agreement or for failing to perform as required when teleworking.

(h) Child and Dependent Care

- (1) Teleworking is not a substitute for child or dependent care. An employee shall not act as a caregiver for children or dependents during telework hours.
- (2) The employee must continue to arrange for child or dependent care as if the employee is working at the Main Worksite.
- (3) The above restrictions may be relaxed during an office closing for an emergency, disaster, or inclement weather. Pursuant to Section (g)(5), the employee still is expected to produce a work product in quantity and quality that is acceptable to the Administrative Head.

(i) Limitations

- (1) An Administrative Head has the discretion to approve an employee identified in Section (a)(2)(A) and (a)(2)(B) of this policy to telework. That discretion shall not be exercised in a manner that is contrary to the plain language or intent of this policy. Telework should be implemented in a manner that does not negatively affect the operation of the court or office for which the Administrative Head is responsible.
- (2) An employee cannot simultaneously have a telework agreement that allows the employee to telework on a regular basis and an Alternative Work Schedule, unless authorized pursuant to Section (m) of this policy.

(j) Confidentiality

The Administrative Head and the employee shall take appropriate safeguards to secure confidential data and information. The employee must adhere to the Judiciary's Policy on Confidentiality and signed confidentiality agreement.

(k) Discontinuation of the Policy

This policy may be discontinued at any time and for any reason at the discretion of the Chief Justice of the Supreme Court of Maryland or the State Court Administrator.

(l) Policy is not Subject to a Grievance Action

The allowance or denial of telework or the Administrative Head's decisions, actions, or inactions regarding this policy are not subject to a grievance action.

(m) Exceptions

The Chief Justice of the Supreme Court of Maryland or the State Court Administrator may make exceptions to any provision of this policy.

An Administrative Head who would like to establish a pilot plan to authorize telework or an Alternative Work Schedule that is beyond what is authorized in this Policy may seek approval to do so by completing an application to be made available by the State Court Administrator.

(n) Interpretive Authority

The JHRD is responsible for the interpretation of this policy.

(o) Not a Contract

This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.