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Mary Elizabeth Bailey
SECRETARY

MEMORANDUM

PERSONNEL MEMO 25-08

To: Cabinet Secretaries
Agency Heads
Human Resource (HR) Administrators

From: Mary Elizabeth Bailey, Secretary

Date: June 5, 2025

Re: Enterprise Telecommuting Policy Update

Telecommuting, which is authorized in 101 KAR 2:095 (6) and 101 KAR 3:050 (9) has been crucial during times of inclement weather and state of emergencies and for recruiting applicants and retaining employees. The enterprise policy, which outlines the requirements and conditions of telecommuting, received its last major update in 2022 to add minimum days onsite, has been revised. This updated policy is effective August 1, 2025. A copy is attached for your reference.

Revisions have been made throughout the existing policy and include key impacts to the following sections:

- Authority
- Dress Code and Professional Image
- Leave and Overtime
- Workplace Safety
- Confidential and Sensitive Information
- Liability and Home Safety

Details on how this revised policy should be incorporated at the agency and communicated to employees, prior to the effective date, is forthcoming to agency HR Executives. If you have any questions, please contact Jamie Caldwell, Commissioner, Department of Human Resources Administration, at Jamie.Caldwell@ky.gov.

Thank you.

Telecommuting Policy

Purpose:

The purpose of this Telecommuting Policy is to define the _____ (the “agency”) telecommuting program and the rules under which it will operate. The Telecommuting Policy permits the agency to designate employees to work at alternate locations in order to promote efficiencies. This policy will assist managers and employees with understanding their rights and responsibilities.

Authority:

101 KAR 2:095, Classified Service General Requirements, Section 6, authorizes an appointing authority to establish a telecommuting program for all or any part of the agency. 101 KAR 2:095, Section 2, states that each classified employee shall be assigned an official work station and may be assigned one (1) or more additional alternate work stations by the appointing authority. 101 KAR 3:050 states that the provisions of 101 KAR 2:095 shall apply to an employee in the unclassified service.

Definitions:

Telecommuting is a work arrangement in which managers direct or permit employees to perform their normal job duties and responsibilities at home or another place apart from the employee’s official work station.. Three main categories of telecommuting exist as follows:

- **Regular, recurring telecommuting** may be full-time or partial. This level of telecommuting requires a formal agreement between the employee, manager and office/department head. A copy of the agreement shall be provided to the agency Human Resources (HR) office and placed in the employee’s agency personnel file.
- **Periodic, intermittent telecommuting** arrangements may arise, for example, where an employee is assigned a project with a short timeframe or one that requires intense concentration that is best completed outside of the office. It may also apply to extending the workday through remote access. This level of telecommuting does not require a formal agreement or checklist process. It only requires a verbal agreement between the employee and manager.
- **Temporary or emergency telecommuting** may be approved for circumstances such as short-term illness, transportation emergency due to weather, personal circumstances that may prohibit an employee from reporting to work on that business day, a natural disaster, or a state of emergency. During this type of temporary telecommuting arrangement, a formal agreement may be required at the discretion of HR staff. These arrangements are approved on an as-needed basis only, with no expectation of ongoing continuance. An agency may require employees to return to regular, in-office work at any time.

Official Work Station – The location that is designated as the telecommuter’s “official work station” by the appointing authority.

Alternate Work Station – A work station other than the employee’s official work station that may be assigned to the employee by the appointing authority. It may include the employee’s home. An alternate work station assignment shall not include a permanent assignment to a location outside of the Commonwealth of Kentucky.

Telecommuting Agreement – The signed document that outlines the understanding and terms of agreement between the agency and the employee regarding the telecommuting arrangement.

Eligibility Requirements:

101 KAR 2:095, Section 6 (3), states: “Eligibility and selection for participation in a telecommuting program shall be the decision of the agency, with no implied or specific right to participation being granted to an employee.” As such, telecommuting is a management option and not an employee right. Telecommuting may not be suitable for all employees and/or positions. Selection of employees shall not be arbitrary nor based on seniority, but shall be based on specific, work-related criteria established by management. Employees who are not meeting current job expectations, including issues with attendance or those with performance improvement plans, are not eligible for telecommuting. Employees with either of the two (2) lowest possible evaluation ratings on their most recent evaluation are not eligible to telecommute.

Conditions of Telecommuting:

The employee’s duties, responsibilities, and conditions of employment remain the same as if the employee were working at their official work station. Employee salary, benefits, and employer-sponsored insurance coverage shall not change as a result of telecommuting. The telecommuter shall be responsible for the security and confidentiality of data as well as the protection of state-provided equipment used or accessed during telecommuting. The telecommuter shall agree to maintain a clean, safe work station. An on-site or virtual visit by the employer for monitoring of safety issues may occur, with or without advance notice to the employee. Virtual visits for any work-related reason may also occur with or without advance notice to the employee. The employee will continue to comply with federal, state, and agency laws, policies, and regulations while working at an alternate location. The employee shall remain subject to all agency policies and procedures while performing work in the alternate location.

Required Onsite Attendance: All employees who partially telecommute will be required to work from an Executive Branch office building a minimum of three (3) days per week. Management, at their discretion, may require employees to work onsite more than three (3) days. Management may also require employees to be present at their official work station on a specific designated day per week (i.e., all staff reports to official work station on Monday due to the historically high number of in-person customers requiring service, all staff reports to official work station on Wednesday for the purpose of fostering a team environment, etc.).

Work Hours: Work hours and location are specified as part of this agreement. The employee must be accessible to the public and the agency during the specified work hours. The agency and the employee agree that, at the agency’s discretion, the employee may perform assigned work for the agency at a location other than the official work station as a “telecommuter.” If an employee’s equipment is not operational at any given time or is unable to be accessed during the specified telecommuting work hours, the employee shall report to the official work station. If the official work station is closed, the employee shall contact the agency HR office for guidance.

Work Assignments and Evaluation: On a routine basis, the employee will communicate with their manager (on-site, telephonically, or virtual) to receive assignments and to review completed work. The employee will remain productive during scheduled work hours. The employee will complete all assigned work according to procedures, timelines, guidelines, and expectations established by the manager, and according to guidelines and expectations stated in the employee’s performance plan. The evaluation of the employee’s job performance will be based on such established standards.

The employee agrees to immediately notify their manager of any situation that interferes with their ability to perform their duties. The manager shall institute methods, consistent with agency HR guidance, to measure each employee’s productivity and to ensure an employee’s continued productivity at their alternate work station. Examples may include productivity reports, routine meetings (on-site or virtual), routine telephone conferences, etc. Performance must remain satisfactory to remain a telecommuter.

Dress Code and Professional Image: Unless a supervisor grants an exception, employees are required to use cameras to appear in virtual meetings. Therefore, employees must continue to adhere to the agency’s dress code policy while attending video conferences, when attending any off-site meetings, and when interacting with the public in the performance of one’s duties. The employee’s telecommuting location should be free of distractions, including any background noise and visual clutter, during duty hours. The workspace shall be professional and clear of any inappropriate images or materials that would not be permitted in the workplace. Unless required for the meeting, third parties or family members shall not be present for virtual meetings

Pay and Attendance: The employee's salary and benefits remain the same as if the employee were working at their official work station. Please note that if employee's alternate work station is in a different work county, local taxes will be based on the percentage of time in that work county. The employee will continue to comply with federal, state, and agency laws, regulations, policies, and procedures while working at the alternate work station. If the employee works less than the employee's normal work week, the employee's compensation must be adjusted accordingly.

Leave and Overtime: Requests to work overtime and use sick, annual, or any other leave must be approved by the agency in the same manner as when working at the agency's official work station. An employee shall work the assigned schedule and shall not make any change to the work schedule, including working overtime, unless requested and approved in advance by the supervisor. When using approved leave, the employee shall apply "out of office" automatic email replies. The employee agrees that telecommuting is not to be utilized as a substitute for dependent care.

Official and Telecommuting Location: The employee shall work at the official work station or the alternate work station, and shall not work from another unapproved site. Failure to comply with this provision may result in the immediate termination of the telecommuting agreement and other appropriate corrective or disciplinary action. The employee may be required to report to the official work station upon request by the manager or other agency staff.

Workspace Safety: The employee agrees to designate a separate work space in the alternate work station for the purposes of telecommuting and will maintain this area in a safe condition, free from hazards and other dangers to the employee and the agency's equipment. To ensure the safety of the work space, the employee agrees to complete and return to the agency a Telecommuting Safety Checklist which will certify the employee's alternate work station complies with health and safety requirements. The employee must submit this checklist to the manager before telecommuting can begin. However, this requirement may be waived by the agency HR office in appropriate situations. The Telecommuting Safety Checklist should be placed in the employee's agency personnel file. The employee agrees that the agency shall have access to the alternate work station for the purposes of inspection of the site and retrieval of state-owned property. An employee understands that they will be liable for injuries or damages to the person or property of third parties or any members of the employee's family in the alternate work station if it is in the employee's home. Also, the use of intoxicating substances and the use of controlled substances without a valid prescription (including a valid written certification under KRS Chapter 218B) while performing work remotely is strictly prohibited.

Confidential and Sensitive Information: Telecommuters are expected to adhere to all laws, rules, and policies in the Commonwealth's Employee Handbook, acceptable use policies, and all agency policies and procedures regarding security and confidentiality for the use of technology, its data and information, and any other information handled in the course of work. Employees shall not record virtual meetings without first obtaining approval from the appointing authority or his or her designee and the agency's legal office. If recordings are approved, all meeting participants should be notified verbally or in writing that the meeting will be recorded. Employees are responsible for the security of their equipment. The equipment and all services are for the employee only while they perform work. It is not for friends, family, or personal use.

Equipment and its Maintenance: The agency may provide all or part of the equipment necessary for accomplishing work assignments. However, where agreements specify, employees may be authorized to use their own equipment with prior authorization from their supervisors.

State-Owned equipment:

The employee agrees that the agency shall have access to the alternate work station for business related purposes such as inspection of the space and retrieval of state-owned property.

- **Authorized Use/Users** – State-owned equipment may be used only for legitimate state purposes by authorized employees.
- **Maintenance** – State-owned equipment used in the normal course of employment will be maintained, serviced, and repaired by the state.

- **Monitors and hardware** – employees provided with state-owned monitors or other hardware will be required to complete the Commonwealth Office of Technology (COT) Take Home Hardware Telecommuting Acknowledgement Form when equipment is signed out and returned.

Employee-Owned Equipment: When employees are authorized to use their own equipment, agencies will not assume responsibility for the cost of repair, maintenance, or service. The agency and the employee must agree upon the equipment to be used in telecommuting. The employee must protect equipment provided by the agency against damage and unauthorized use. Equipment provided by the employee will be at no cost to the agency and will be maintained by the employee.

Operating Costs: The agency will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities or internet services), associated with the use of the employee's residence. Employees will not be reimbursed for supplies, equipment, or services that they purchase on their own, unless otherwise required by law.

Protecting Computer Systems and Records: The agency's security controls and conditions for use of the state-owned equipment for the official work station will also apply to the alternate work station. All official agency records, files, and documents must be retained in accordance with applicable retention schedules and must be protected from unauthorized disclosure or damage and returned safely to the official work station. The employee must abide by any rules promulgated by the agency concerning the use of computer equipment (which may include protecting the employee's home personal computer (PC) against computer "viruses"), and understands that these rules may be changed at any time. The employee must follow agency procedures for network access and to take all necessary steps to protect the integrity of systems including but not limited to: protecting passwords, not duplicating agency-owned software, and not allowing agency files to be viewed by others.

Liability and Home Safety: The agency will not be liable for damages to the employee's property resulting from participation in the telecommuting program. The employee agrees to hold the state harmless against any and all claims, excluding workers' compensation claims. The employee accepts responsibility for maintaining the security, condition, and confidentiality of agency equipment and materials (including but not limited to files, applications, manuals, forms) that are at the alternate work station. No employee engaged in telecommuting will be allowed to conduct in-person services or face-to-face agency-related business at the alternate work station without prior authorization, and under no circumstances shall an employee conduct in-person services or face-to-face agency-related business from the employee's home. The employee must verify that the alternate work station, if it is the employee's home, is free of safety and fire hazards.

Workers' Compensation: The alternate work station is considered an extension of the employee's official work station; therefore, workers' compensation will continue to exist for the employee when performing official work duties at the alternate work station during approved telecommuting hours. Any work-related injuries must be reported to the employee's manager immediately. The employee will remain liable for injuries or damage to the person or property of third parties or members of his family on the premises and must indemnify and hold the agency harmless from any and all claims for losses, costs, or expenses asserted against the agency by such third parties or members of the employee's family.

Training Requirements: To be eligible for telecommuting, the following training is required:

- Managers: Managing Remote Workers (MyPURPOSE Course)
- Employees: Working Effectively From Home (MyPURPOSE Course)

Accommodations: Reasonable accommodations may be available for qualified employees with disabilities. Employees may submit accommodation requests to their agency Human Resources Office.

Termination of Telecommuting: The agency has the right to revoke any telecommuting agreement if telecommuting fails to benefit organizational needs or if the employee violates any provision of this policy. In the event the employee ceases employment with the agency, or telecommuting is revoked for any reason, the employee must return all agency equipment and supplies to the official work station immediately, to include any equipment provided as an accommodation. If the employee fails to do so, the employee must reimburse the agency for all

unreturned property, or the agency may deduct the value of the unreturned property from the employee's salary and/or final payment of annual and compensatory leave balances, if applicable. The employee must also immediately return all work documents and materials to the agency.

The agency may terminate or modify the telecommuting arrangement at any time. Termination of an employee's participation may be immediate and does not require advance notice. The employee may submit a request to terminate telecommuting participation to his or her supervisor for consideration.

An employee's failure to comply with this policy may lead to corrective or disciplinary action, up to and including dismissal.

Attachments:

Telecommuting Agreement

Telecommuting Safety Checklist