



SCDC POLICY

NUMBER: **HR-17.09**

TITLE: TELECOMMUTING

ISSUE DATE: FEBRUARY 7, 2023

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

POLICY MANUAL: **HUMAN RESOURCES**

SUPERSEDES: ADM-17.09/APRIL 23, 2018

RELEVANT SCDC FORMS/SUPPLIES: 16-128, **16-136, 16-137**

ACA/CAC STANDARDS:

STATE/FEDERAL STATUTES: **Section 8-11-15(B) of the South Carolina Code of Laws**

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

**PURPOSE:** *The purpose of this policy is to define the agency's telecommuting program and the rules under which it will operate. This policy is designed to help supervisors and employees understand telecommuting.*

**POLICY STATEMENT:** *Section 8-11-15(B) of the South Carolina Code of Laws says that state agencies "may 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.*

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1. **AUTHORITY:**

**1.1 The agency head has the authority to establish a telecommuting program within the agency, based on S.C. Code 8-11-15(B) of the South Carolina Code of Laws, as amended, and the Telecommuting Guidelines established by the South Carolina Department of Administration's (Admin) Division of State Human Resources. The agency head or his designee has the ability to set the work schedule and work location for agency employees. Each telecommuting program should be implemented following the Telecommuting Guidelines published by Admin's Division of State Human Resources (DSHR) and all other appropriate federal and state laws, as well as agency regulations and policies.**

**2. TELECOMMUTING/TELEWORKING: Is a work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their primary workplace, in accordance with telecommuting agreements. May also be referred to as remote work. Three main categories of telecommuting exist:**

- Regular, 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 level of telecommuting requires a formal agreement between the employee and the agency, and the time telecommuting must be tracked in SCEIS or as required for non-SCEIS agencies.**
- Periodic, intermittent, telecommuting arrangements such as when an employee is assigned a project with a short timeframe or one that requires uninterrupted time to complete. This level of telecommuting does not require the formal agreement or checklist process. While it is not required that employees in these arrangements sign a telecommuting agreement, it is advised that the agency document the approval of the periodic, intermittent telecommuting arrangement in writing with the employee.**
- Temporary or emergency 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 level of telecommuting does not require a formal agreement or checklist process. These arrangements require a verbal agreement between the employee and the agency. These arrangements should 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.**

**3. ELIGIBILITY REQUIREMENTS FOR TELECOMMUTING:**

**3.1 Telecommuting is a management option and not a universal employee benefit. 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 agency. The agency may revoke the approval of any employee to telecommute at anytime, 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.**

**3.2 Generally, an employee's participation in the agency's telecommuting program is voluntary and must be mutually agreed upon by the employee and supervisor, with final approval by the agency head or his/her designee. The agency head or his/her designee may, however, designate a position as telecommuting only. In this case, telecommuting would not be voluntary.**

**3.3 To be eligible to participate in telecommuting, an employee must have completed one year of satisfactory employment with the agency. This requirement may be waived at the discretion of the agency head or designee if the position has been designated as a telecommuting position or for any reason deemed appropriate by the agency head. Employees in a warning period of substandard performance or those who were recently subject to disciplinary action are not eligible for telecommuting. These requirements can be waived by the agency head or his designee if the position is one in which telecommuting is required or for any other reason deemed appropriate by the agency head.**

**3.4 The supervisor and employee should complete a SCDC Form 16-136, "Telecommuting Application," to determine if the employee will be permitted to participate in a telecommuting arrangement.**

#### **4. *CONDITIONS OF EMPLOYMENT:***

*4.1 The employee's duties, responsibilities, and conditions of employment remain the same as if the employee were working at the agency's primary workplace. The telecommuter's supervisor may, however, assign additional duties related to communication, work progress and productivity. The employee will continue to comply with federal and state law, and agency policies and procedures while working at an alternate place. The employee shall remain 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.*

#### **5. *WORK HOURS:***

*5.1 Work hours and location are specified as part of the telecommuting agreement. The employee must be accessible 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 Agency's on-site office as a "telecommuter."*

*5.2 Telecommuters are expected to be working and focused on the performance of their job duties during all work hours. All personal activities, including child and dependent care, pet care, housework, yard work, 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 of when addressing other personal responsibilities. This includes time spent caring for an ill household member or other person.*

*5.3 Working hours cannot coincide or overlap with any other type of employment.*

#### **6. *PAY AND ATTENDANCE:***

*6.1 The employee's salary and benefits remain the same as if the employee were working at the agency's primary workplace. If the employee works less than the employee's normal workweek, salary and benefits must be adjusted accordingly.*

*6.2 Telecommuters who have provided a medical certification prohibiting them from working are similarly prohibited from working remotely.*

#### **7. *ADVANCEMENT:***

*7.1 Telecommuters will not adversely affect an employee's eligibility for advancement or any other employee right or benefit. An employee will be compensated for all pay, leave, and overtime (for non-exempt employees) as if all duties were being performed at the employee's primary workplace.*

#### **8. *LEAVE AND OVERTIME:***

*8.1 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 primary workplace. An employee shall not work overtime unless authorized in advance by the agency or as otherwise authorized by the agency's overtime policy. Telecommuting hours are regular work hours and, therefore, employees may not perform personal activities during these hours. The employee agrees that telecommuting is not to be viewed as a substitute for dependent care. Telecommuters with dependent care requirements, must make arrangements for someone else to provide dependent care services during the agreed upon work hours. Telecommuters are expected to follow agency leave policies and procedures to request time off from telecommuting to engage in non-work activities.*

#### **9. *OFFICE AND TELECOMMUTING LOCATION:***

*9.1 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. The agency will establish agreed upon expectations relative to the time the employee would need to spend in the primary workplace and to give adequate notice when these expectations are subject to change, when possible. However, the employee may be required to report to the primary workplace without advance notice, upon request by the agency.*

*9.2 Generally, the alternate workplace should be in South Carolina. If an agency deems it necessary to allow an employee to designate an alternate workplace outside of South Carolina, the agency should research tax, workers' compensation, and other implications of having employees who perform work in another state. Employee requests to designate an alternate work location outside of South Carolina, the agency should research tax, workers' compensation, and other implications of having employees who perform work in another state. Employee requests to designate an alternate work location outside of South Carolina may be denied. Under no circumstances may be performed at a location outside of the United States.*

*9.3 If the alternate workplace is in the employees home, the employees is responsible for reviewing their home or rental insurance to ensure there is not prohibition against a home office and any relevant zoning requirements to ensure a home office is permitted.*

## **10. WORKSPACE SAFETY**

*10.1 The employee agrees to designate a separate workspace in the alternate workplace 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 workspace, the employee agrees to complete and return to the agency a Telecommuting Safety Checklist which will certify the employee's alternate workplace complies with health and safety requirements. The employee must submit this checklist to the agency before he or she may begin telecommuting. The employee agrees that the agency shall have reasonable access to the alternate workplace for the purpose of inspection of the site and retrieval of state-owned property. An employee understands that he or she 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 workplace if it is in the employee's home. The employee agrees to consult with the agency before moving any heavy equipment or furniture in the alternate workplace.*

## **11. DEFINITIONS:**

*Alternate Workplace – A workplace other than the employee's usual and customary workplace (primary workplace) and may include the employee's home. The alternate workplace is not an agency office.*

*Child Care and Dependent Care – 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. 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 ill household members or other people.*

*Primary Workplace – The telecommuter's usual and customary agency workplace. The primary workplace may include time spent by the employee at the Agency's other office location (e.g., satellite or county offices). For employees who primarily work in the field, or who are full-time telecommuters, the primary work location should still be an agency office.*

*Telecommuting Agreement – The signed document that outlines the understanding between the agency and the employee regarding the telecommuting arrangement. A telecommuting agreement should be renewed at least annually. The telecommuting agreement should 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.*

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

*Telecommuter or Teleworker – An employee who has an agreed-upon schedule during which they are expected to work at a telecommuting location rather than the Agency's primary location.*

**SIGNATURE ON FILE**

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**s/Bryan P. Stirling, Director**

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**Date of Signature**

**ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.**