

Policy #: <b>456</b>
Title: <b>TEMPORARY TELEWORKING</b>
Date of Initial Approval: 8/15/2019
Revision/Re-authorization Dates:
Reviewers: MSA Human Resources Director; MSA Superintendent

## I. PURPOSE

The purpose of this policy is to provide structure and clarity to the process for temporary teleworking arrangements for certain employees of the Minnesota State Academies (MSA). Temporary telework arrangements allow certain employees the flexibility to perform work at home or from an alternative location in times when inclement weather or other situations prevent them from working from their usual office spaces. This arrangement may provide alternate benefits to MSA, including supporting the state's requirements for continuity of operations; attracting skilled workers; minimizing the impact of inclement weather; and increasing productivity.

## II. SCOPE

This policy applies only to certain MSA employees identified by the MSA superintendent as eligible for temporary teleworking. Employees who provide direct services to students as well as those whose services cannot be provided by teleworking (i.e. physical plant staff; food services staff) are not eligible for teleworking under this policy.

Under normal circumstances, no MSA employees are eligible for teleworking, following definitions set forth in MMB HR/LR Policy #1422 as MSA's essential services require physical presence on MSA's campuses to serve students, parents/family members, staff, and community members.

However, in some situations, temporary teleworking arrangements can be made. Situations in which temporary teleworking arrangements might be made are as follows:

- 1) School Closures due to snow, extreme cold, or other weather conditions
- 2) Poor road conditions preventing normal commute to work
- 3) Unique needs due to scheduling or travel arrangements
- 4) Unique situations requiring specific accommodations that are only available in alternate locations
- 5) Incident requiring implementation of MSA's Continuity of Operations Plan (COOP) or Crisis Implementation Plan

Identified employees will be notified by the Superintendent's office and required to complete a teleworking agreement, outlining the understanding between MSA and the employee regarding work expectations and conditions prior to any

telework. The plan is not a contract and can be changed or canceled at any time at the discretion of MSA.

### III. EMPLOYMENT CONDITIONS

#### A. Compliance with Federal/State Employment Laws

Temporary telework arrangements must comply with state and federal employment laws that apply to all state employees. This includes the Fair Labor Standards Act (FLSA) which regulates the payment of overtime.

#### B. Job Duties and Responsibilities

The job duties, responsibilities, and obligations of the position as well as the related terms and conditions of employment as specified in the collective bargaining agreement/plan are not affected by temporary teleworking arrangements.

#### C. Compliance with Bargaining Agreements/Plans

Provisions of the applicable bargaining agreements or plans must be followed when implementing temporary teleworking arrangements. Salary, retirement benefits, and state-sponsored insurance coverage remain unchanged.

### IV. EMPLOYEE EXPECTATIONS

#### A. Dependent Care

Telework hours are regular work hours and are not a substitute for dependent care.

#### B. Work Schedule/Meetings

The work schedule, including normal work day hours, breaks, core hours, and use of vacation/sick leave will be discussed by the supervisor and the teleworker within the framework of the FLSA, MSA policy, and the applicable bargaining agreement. Core hours are those hours during which the teleworker is expected to be available to communicate with the supervisor, co-workers, or the public by telephone, e-mail, fax, etc. The supervisor will pre-approve any temporary teleworking arrangement in advance. Any overtime hours for non-exempt employees must also be pre-approved.

If there is any assigned meetings related to the performance of the job/position during period of time when the employee is teleworking, the supervisor will determine how the teleworker should participate in the meeting (phone, videoconference, etc.)

Temporary teleworking locations for employees do not change the permanent/principal work location for teleworkers.

C. Communications

Teleworkers must be reachable by supervisors, colleagues, and clients during agreed upon hours. Teleworkers must notify supervisors and/or office staff if they leave their telework location during work hours just as they would if they were in the office. They must also notify the supervisor if they are not performing work due to illness or personal reasons and must follow the normal procedures for requesting time off.

D. Supplies and Expenses

Because of the temporary nature of teleworking allowed under this policy, it is not expected that any supplies or expenses will be necessary. If there are any expenses, they must be pre-approved by the supervisor and teleworkers must follow MSA policies/procedures for reimbursement.

E. Responsibilities during Teleworking

The teleworker is responsible for establishing and maintaining a safe and adequate telework space in their home or alternate spaces. The teleworker is responsible for all costs related to modifications or upkeep of the telework office.

F. Privacy and Security

Teleworkers needing restricted access to confidential or sensitive information while working at a telework office will discuss the need with their supervisor. The information type will be documented in the telework agreement before the teleworker may take the information off-site. Teleworkers are responsible for protecting the privacy and confidentiality of data at their telework office the same as they would be in the permanent/principal work location. Teleworkers must ensure the security of data and information that is transported to and from their telework office site, including information that is transported through the internet (e-mail, file sharing, access to applications, etc.)

G. Equipment

Teleworkers are responsible for employee-owned equipment (maintenance, upkeep, insurance). Teleworkers must return all state-owned hardware, software, supplies, documents, and/or other information and property to MSA prior to termination of teleworking or employment. Teleworkers are responsible for promptly notifying their supervisor of an equipment malfunction or failure of either state-owned or employee-owned equipment needed to do assigned work. If the malfunction prevents the teleworker from performing assigned tasks, the teleworker must notify their supervisor immediately. The teleworker may be assigned to perform different tasks, to assist with repair or exchange of equipment, or to proceed to another work location.

H. Performance

The teleworker is responsible for maintaining satisfactory work performance. A decline in work performance will result in termination of the telework agreement.

I. Weather emergencies

Normally, under this policy, teleworkers are expected to work at home. If they have pre-approval to perform work at an alternate location and are unable to arrive at that location due to weather, they must contact their supervisor and discuss alternate plans.

J. Taxes

Federal and state tax implications of teleworking and use of a home office are the responsibility of the employee.

**V. SUPERVISOR EXPECTATIONS**

A. Teleworking Plan

Supervisors must work with employees to develop a teleworking plan that includes the following:

1. Communication strategies – ensuring that the teleworker can effectively manage their workload and does not have a negative impact on the department and/or co-workers. Also ensuring that the teleworker and the supervisor have regular communication.
2. Performance Expectations – defining performance expectations and deliverables, including periodic review of the plan.
3. Telework location, work hours, and schedule – defining how documentation will be shared with the supervisor.
4. Equipment, Supplies, Data Privacy/Sharing, and Accessibility – defining how those will be covered during temporary teleworking situations.
5. Emergency Plan – developing emergency and back-up strategies with necessary phone numbers and a messaging plan in case of equipment failure or other emergencies
6. Meetings – planning for participation in scheduled meetings as necessary.

This plan must be discussed and implemented during the beginning of each school year, in advance of any situation that may require temporary teleworking. The telework arrangement is not open-ended. The plan must be renewed at least annually and can be changed or canceled by MSA at any time. A telework agreement will be canceled if the teleworker has performance issues, a change in job duties/responsibilities, or when the needs of MSA are not being met.

**B. Training**

Supervisors should provide training to teleworkers to ensure a successful telework experience. Examples of topics that could be included are:

1. Telework policy and procedure
2. Data security and privacy/Technology use and guidelines
3. Communication protocols
4. Goals and Standards
5. Safety
6. Time tracking

**C. Equipment and Materials**

Supervisors are responsible for pre-arranging appropriate MSA-provided equipment and access to software, cloud-based storage, and so forth to ensure that the teleworker can adequately perform the assigned work off-site. If necessary, supervisors may authorize teleworkers to use employee-owned computer hardware and software instead.

MSA must maintain a record of state-owned hardware, software, and other property that is assigned to the teleworker that might be used for work off-site (i.e. laptop; iPad; smartphone). MSA will be responsible for installing, testing, maintenance, and repair of equipment and upgrades of software and teleworkers must bring their equipment into the office for such upgrades.

Supervisors must emphasize that any equipment, hardware, or software furnished by MSA for teleworking remains the property of the state and are subject to *MSA Policy #524 – Appropriate Use of Electronic Communication and Technology*. State-owned software shall not be installed on employee-owned hardware unless authorized by MSA. Likewise, employee-owned software shall not be installed on state-owned hardware unless authorized by MSA.

**VI. DATA AND SECURITY**

**A. Data Practices Act**

Provisions of the Minnesota Government Data Practices Act (MGDPA) and MSA data privacy policies must be followed when performing work at the telework office. The teleworker and supervisor must discuss the type and form of data which will be taken to and from the telework office and must agree on the security and transfer process necessary to meet the needs of MSA, to protect the security of the data, and to comply with the MGDPA.

**B. Data Requests and Retention**

Data created and maintained during a teleworker arrangement generated for the purpose of conducting state business, is subject to the MGDPA and MSA (and the state)'s records management statute, regardless of whether the telework is performed on state-owned or employee-owned equipment. This means the teleworker is responsible for following proper retention and

disposal procedures, such data remains the property of the state, and such data must be returned upon the request of MSA.

## **VII. LIABILITY**

MSA does not assume responsibility for third party injury or property damage that may occur at the teleworker's home or alternate work site. Any business meetings held at the telework office must be approved in advance by the superintendent and are at the discretion of MSA.

### **Legal References:**

*Minn. Stat. § 16E.05, Subd. 3 (Government Information Access, Capitol Investment)*

*Minn. Stat. § 43A.38 (Code of Ethics for Employees in the Executive Branch)*

*Minn. Stat. § 13 et seq (Minnesota Government Data Practices Act)*

### **Cross References:**

*MSA Policy #524 – Appropriate Use of Electronic Communication and Technology*

*MSA Records Retention Schedule*

### **Appendix:**

*456-A: Teleworking Agreement Form*