

South Carolina State Employee Sample Telecommuting Policy

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 sample policy is to define the agency's telecommuting program and the rules under which it will operate. This policy is designed to help managers and employees understand the telecommuting environment. This policy should provide a general framework for telecommuters in state agencies. It does not attempt to address the special conditions and needs of all state employees. When developing a telecommuting policy, an agency should consult with its legal counsel to determine if the language meets the agency's specific needs.

Authority

The agency director 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 Division of State Human Resources. Each agency director 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 and all other appropriate federal, state, and agency laws, regulations, and policies.

Definitions

Telecommuting is a work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their central workplace, in accordance with work agreements. Three main categories of telecommuting can 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 supervisor.
- 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. This level of telecommuting does not require the formal agreement or checklist process. It only requires verbal agreement between the employee and supervisor.
- Temporary or emergency telecommuting may be used during short-term illness, transportation emergency due to weather, a natural disaster, or pandemic health crises. During this type of telecommuting arrangement, a formal agreement is not required.

Primary Workplace – The telecommuter’s usual and customary workplace.

Alternate Workplace – A workplace other than the employee’s usual and customary workplace (primary workplace) and may include the employee’s home.

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

Eligibility Requirements for Telecommuting:

- Telecommuting is a management option and not a universal employee benefit. Telecommuting may not be suitable for all employees and/or positions; therefore, agencies may implement telecommuting based on specific criteria consistently applied throughout the agency. It is the agency’s option to allow an employee to telecommute through the agency’s telecommuting policy.
- 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 designee. The supervisor and employee should complete a “Telecommuter Application” (see Sample Telecommuter Application) to determine if the employee is eligible for a telecommuting arrangement.
- To be eligible to participate in telecommuting, an employee must have completed six months of satisfactory employment with the agency. This six-month requirement may be waived at the discretion of the Agency Head or his designee. The agency may identify a list of skills and characteristics deemed necessary for the employee to be a successful telecommuter. Employees in a warning period of substandard performance are not eligible for telecommuting.

Conditions of Employment:

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 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 disciplinary policies and procedures while performing work at the alternate workplace.

Work Hours: Work hours and location are specified as part of this 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 onsite office as a “telecommuter.”

Pay and Attendance: The employee’s salary and benefits remain the same as if the employee were working at the agency’s primary workplace. The employee will continue to comply with federal, state, and agency laws, regulations, policies, and procedures while working at the alternate workplace. If the employee works less than the employee’s normal work week, salary and benefits must be adjusted accordingly.

Advancement: Telecommuting 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.

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 primary workplace. An employee shall not work overtime unless authorized in advance. The employee agrees that telecommuting is not to be viewed as a substitute for dependent care. Telecommuters with dependent care issues are encouraged to have someone else provide dependent care services during the agreed upon work hours.

Office and Telecommuting Location: The employee agrees to work at the primary workplace or the 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 agrees to 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. However, the employee may be required to report to the primary workplace without advanced notice, upon request by the agency.

Workspace Safety: The employee agrees to designate a separate work space 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 work space, the employee agrees to complete and return to the agency a Telecommuting Safety Checklist (see Sample 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 may begin telecommuting. The employee agrees that the agency shall have reasonable access to the alternate workplace for the purposes of inspection of the site and retrieval of state-owned property. An employee understands that he 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.

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.

State-Owned equipment:

- **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.

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. Agency-owned equipment will be serviced and maintained by the agency. Equipment provided by the employee will be at no cost to the agency and will be maintained by the employee. The employee agrees that the agency shall have reasonable access to the alternate workplace for business related purposes such as inspection of the space and retrieval of state-owned property.

Operating Costs: The agency will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities), associated with the use of the employee's residence.

Protecting Computer Systems and Records: The agency's security controls and conditions for use of the state-owned equipment for the official work location will also apply to alternate workplaces. All official agency records, files, and documents must be protected from unauthorized disclosure or damage and returned safely to the primary workplace. The employee agrees to abide by any rules promulgated by the agency concerning the use of computer equipment (which may include protecting the employee's home PC against computer "viruses") and understands that these rules may be changed at any time with proper notice. The employee agrees to 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. In signing this document, 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 workplace. No employee engaged in telecommuting will be allowed to conduct face-to-face agency-related business at the alternate workplace, if it is the employee's home. In signing this agreement, the employee verifies that the alternate workplace, if it is the employee's home, is free of safety and fire hazards.

Workers' Compensation: The alternate workplace is considered an extension of the employee's primary workplace; therefore, workers' compensation will continue to exist for the employee when performing official work duties in the alternate workplace during approved telecommuting hours. Any work-related injuries must be reported to the employee's supervisor immediately. The employee understands that he remains liable for injuries or damage to the person or property of third parties or members of his family on the premises and agrees to 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.

Work Assignments and Evaluation: The employee will meet with the supervisor to receive assignments and to review completed work. The employee will complete all assigned work according to procedures mutually agreed upon with the supervisor. The employee will be required to adhere to those performance standards agreed upon with his manager for telecommuting purposes. The evaluation of the employee's job performance will be based on such established standards. Performance must remain satisfactory to remain a telecommuter.

Curtailment of the Agreement: The agency has the right to remove the employee from the program if participation fails to benefit organizational needs. In the event the employee ceases employment with the agency, or this telecommuting arrangement is discontinued for any reason, the employee agrees to return all agency equipment and supplies to the primary workplace within 48 hours or a mutually agreed upon reasonable time period. If the employee fails to do so, he will reimburse the agency for all unreturned property. All work documents will be returned immediately to the agency. In addition, this agreement shall automatically terminate when the employee ceases to be employed by the agency.

Termination of Telecommuting: The agency may terminate the telecommuting arrangement at any time with or without cause at its convenience, and this termination is final in terms of administrative review. By participating in a telecommuting arrangement, the employee agrees that any termination of working from the alternate workplace will not constitute an involuntary reassignment under the State Employee Grievance Procedure Act