

ARTICLE 47

TELEWORK

The Agency and the Union (hereinafter, “The Parties”) regard employees' health and welfare as critically related to their ability to contribute to the Agency’s mission. The Parties acknowledge the benefits of Telework. Telework is a voluntary work program that has been noted to improve performance and improve employee morale by allowing employees to balance work and personal life. Further, the Parties also recognize that telework can help achieve its mission and operational needs by enhancing retention and recruitment and improving the quality of life for our employees.

The Parties agree that the PBGC telework program is intended to promote and maximize the effective use of telework for bargaining unit employees who participate. The Agency agrees that telework requests and approvals will be handled fairly, equitably, and consistent with applicable laws, rules, and regulations. The terms of participation are covered by the Agency’s Telework ***Program Directive***. The Parties support the Agency’s Telework Program and agree to comply with the PBGC Telework Program *Directive*, along with the following additional provisions in this Article. However, this Article will be controlling for bargaining Unit employees where there is a conflict between this Article and the **PBGC Telework Program Directive**.

Section 1. General Provisions

- A. For purposes of this Agreement, telework refers to an employee performing assigned duties at a location other than the official duty station also referred to as alternate work location (AWL).
- B. Employees who participate in telework must be on an approved telework agreement.
- C. Employees on a telework agreement may participate in one of the following:
 - 1. Regular (Recurring or Set Schedule) telework up to four (4) workdays a week if on a regular straight schedule or a 5-day a week Gliding schedule; up to 3 days week if on a 4/10 Maxiflex schedule; or up to seven (7) workdays per pay period if on an alternative work schedule (AWS) 5/4/9 or *Maxiflex schedule*, without diminished employee performance. Employees may be allowed to work full or partial workdays on telework.

All employees who elect to telework three (3) or more days a week, will not be assigned an office. On the days such an employee must be in the office, such employee will be required to reserve an office for his/her use 24 hours in advance of his/her arrival.

Transitioning to Return to Work Only:

Upon the finalization of this Agreement, if interested in participating in the Telework program, an employee must sign a telework agreement and must be approved by their Manager prior to participation. Once the employee is

- approved and if the employee opts to telework three (3) or more days a week, they will have a three (3) week period from the date of approval to clear out their previously assigned office. However, if an employee timely sends a telework request to his manager prior to her/his return-to-work date and does not receive an approval/disapproval response prior to January 30, 2023, that employee may be allowed to remain on maximum (100%) telework until a decision is rendered. If the decision is an approval, the employee will have three (3) weeks from that date to clean out his/her office if they opt to telework three (3) or more days a week. If the telework request is disapproved, the employee must report to his assigned duty station the next business day after the decision.
2. Floating. Telework that occurs with an agreed upon frequency, (e.g., once per week, three (3) times per month, etc.) but not always on the same day(s) of the week, pay period, or month (e.g., employee is permitted to telework one (1) day per week, but the day of the week “floats” depending on the employee’s weekly schedule).
 3. Episodic (Intermittent or Ad Hoc) - Working at an AWL sporadically or incidentally with written supervisory approval for each instance, and not on a regular/recurring basis.
 4. Medical Arrangements: Telework to provide a medical arrangement for an employee will be limited to a maximum period of six (6) months. Such arrangement may only be considered where the illness or injury requires the employee to stay at home or close to home, does not negatively affect the employee’s ability to perform his/her regular work assignments, does not require the employee to provide care to family members during scheduled work hours, and the employee provides medical documentation to support the arrangement. The Agency may approve up to five (5) days per week at the AWL. Medical telework is not to be used as a substitute for Reasonable Accommodation that may be available to qualified disabled employees under the Rehabilitation Act.
- D. The Agency will ensure employees are treated equitably when it comes to conduct and performance expectations, whether they are working onsite or teleworking. In addition, employees shall maintain acceptable levels of conduct and performance, whether they are working onsite or teleworking.
- E. The Agency will require employees to sign in and sign out by e-mail with their supervisors on the days that they telework.
- F. Managing Work and Family Matters: Children or dependent adults who are cared for by persons other than the employee should remain in those situations, regardless of whether the employee is engaged in telework. If a situation arises where the employee must attend to a dependent or address other personal matters during the telework scheduled duty hours, the employee must immediately notify the supervisor and arrange to take some form of unscheduled leave.

Section 2. Eligibility

The Parties agree that an eligibility determination is a prerequisite for telework. Employees deemed eligible, may apply for telework and, with Agency approval, participate. To be eligible to participate in Telework, employees must meet certain criteria, as follows:

- A. Demonstrate a high level of dependability and the ability to handle the responsibility of working independently without the need for close supervision;
- B. Demonstrate the ability to prioritize work effectively and utilize good time management and organizational skills;
- C. Have Performance at a “Successful” level;
- D. Adhere to applicable PBGC privacy and security procedures governing information management and electronic security procedures for safeguarding data.
- E. Must ensure that they can be contacted without undue delay;
- F. Have not received a disciplinary or adverse action within the preceding six-month (6-month) period for conduct involving dishonesty or lack of candor;
- G. Have not been absent without permission for more than five (5) days (consecutive or cumulative) in any calendar year,
- H. Have never been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.
- I. Have Portable Work. As defined and applied in the Telework Directive.
- K. Must successfully complete telework training. See Section 7, Training.

Section 3. Probationary Employees

Probationary employees may participate in telework subject to this Agreement and supervisory approval.

Section 4. Conditions of Telework

- A. Once approved for participation, the employee will inform his/her supervisor of his/her preferred Telework days. The supervisor, however, retains discretion to determine the employee’s Telework days. Normally, the employee will give the supervisor their

proposed Telework information two (2) weeks in advance, but this does not prohibit changes in schedules.

- B. If requested by the supervisor, the employee will provide, either orally or in writing (as appropriate), a description of the work performed or the employee's work product (for example, a list or description of what work was done or a copy of the actual report).
- C. Employees may request modification of his/her approved Telework days (such as requesting a different Telework day), in advance of the scheduled days. See Section 8, Modification and Recall.
- D. The employee must have the equipment necessary to work at the AWL. See Section 9. Equipment.
- E. Employees on Telework are obligated to ensure a safe and healthy work environment and to apply necessary safeguards to protect Government records from damage or unauthorized disclosure, including during the transport between Official Duty Station and AWL. See PBGC Telework Directive, Section 8.p. for more information.
- F. In the event the Agency proposes to change how and when office(s) are assigned, the Agency will notify the Union and fulfill its obligations to bargain in accordance with the law.

Section 5. Application and Approval

- A. Employees may request telework at any time. Agreements must be renewed every year.
- B. Employees may request to telework on a regular (recurring, set schedule) and/or on an episodic non-regular (intermittent, ad-hoc) basis. See also, PBGC Telework Directive, Section 8.1 regarding reporting requirements, accessibility, coverage and leave.
- C. Employees previously approved for telework under the previous Directive may continue to work telework, if still eligible, until a new agreement is signed. Otherwise, employees deemed eligible by the Agency may telework only after the employee's request is approved by the Agency. The supervisor shall meet with the employee to determine the telework start date.

Section 6. Disapproved Applicants

- (1) A notice of a disapproved agreement will be sent to the applicant with a brief description of the reason for the disapproval.
- (2) Disapproved agreements will be immediately routed to the applicant's Department Director for final decision; and the Department Director will render the

decision within ten (10) business days of receipt. Disapproval does not prevent such an employee from reapplying for/requesting telework at a later date.

- (3) If an employee decides to appeal a disapproval decision, he/she must first meet with his/her supervisor to informally address and attempt to resolve the issue. An employee should raise such issues informally within four (4) business days. The Agency will respond within four (4) business days. If the employee is dissatisfied with the outcome of the informal resolution the employee may raise the matter through the grievance procedure in the Collective Bargaining Agreement (CBA).
- (4) If any employee believes the management action is due to discrimination on the basis of race, sex, age, religion, color, national origin, or physical or mental disability, he or she may raise the matter under the EEOC complaint process.

Section 7. Training

- (1) All employees who wish to participate in the PBGC Telework Program must complete telework training and provide proof of completion before the employee is approved to commence telework.
- (2) The Agency Telework Coordinator (ATC) will determine whether Telework training taken outside of sessions offered by PBGC is creditable for purposes of meeting the training requirement. This determination must be made prior to taking any outside Telework training.

Section 8. Modification and Recall

- (1) Supervisors may modify a telework schedule or recall an employee (unless otherwise excluded) due to work requirements, such as travel, training, coverage, or meetings that cannot reasonably be handled via conference call or video conference.
 - (2) Supervisors will give employees reasonable advance notice of any modification or recall, based on the circumstances. Employees will be given reasonable appropriate time to report to their duty station. If a modification or recall recurs on a regular basis, the supervisor may re-evaluate whether the employee's position is suitable for telework and may decide that such a position is not currently suitable. Employees may grieve or file an EEO complaint to such decision in accordance with the processes outlined in the Disapproved Applicants Section. Termination of telework due to Recall does not prevent an employee from reapplying for or requesting telework later.
- (3) An employee may initiate a permanent modification to his/her telework day by submitting a modification request as prescribed by HRD.
- (4) Employees may make temporary modifications to their telework day and/or location with prior written supervisory approval (e.g. email from supervisor approving the temporary modification).

- (5) Employees may be required, unless otherwise excluded, to report to their official duty station for training, conferences, meetings, exigencies, etc., or to perform work on a short-term basis that cannot otherwise be performed teleworking or accomplished via telephone or other reasonable alternative methods. Employees will be given reasonable advance notice of such events and will have appropriate time to report to their duty station.

Section 9. Equipment

- (1) Employees must have the equipment necessary to work at the AWL, which include a computer and a PBGC PIV Reader token; or PBGC issued cell phone. Additionally, the employee must maintain a phone line or cell phone, and a secure high-speed internet connection.
- (2) PBGC owned equipment may be loaned to an employee if reasonably available, although PBGC is not under any obligation to purchase equipment for this purpose. If the employee uses his/her own equipment, the employee is responsible for its service, maintenance and for ensuring that the equipment complies with PBGC computer security policies and procedures to protect hardware, software, and data including all software licenses, copyright agreements, and computer virus requirements.
- (3) PBGC is not responsible for operating costs, home maintenance, or any other incidental costs to the employee (e.g., utilities, cost of phone lines).
- (4) The loan of PBGC owned equipment is authorized only for official use, as described in PBGC directive IM 05-4, Use of Information Technology Resources, and will be properly documented, serviced and maintained by PBGC.
- (5) PBGC owned equipment that is stolen, damaged, or destroyed due to carelessness or negligence on the part of the employee is subject to financial liability on the part of the employee in accordance with applicable agreements concerning replacement of property between the Parties.
- (6) PBGC is not liable for damages to an employee's real or personal property during the performance of official duties or while using PBGC owned equipment in the employee's residence, except to the extent that PBGC is held liable by administrative claims under the Federal Tort Claims Act or for claims arising under the Military Personnel and Civilian Employee Claim Act.

Section 10. Termination

1. Supervisors may terminate a telework arrangement whenever:
 - (a) the employee no longer meets eligibility criteria for program participation;
 - (b) there is a change in the employee's work requirements that makes a telework arrangement impracticable; or

- (c) the employee demonstrates a pattern of unavailability or inaccessibility while teleworking. Under these circumstances, supervisors should warn the employee when they observe a developing pattern of unavailability or inaccessibility before termination.
2. Upon termination, supervisors will provide employees written reason(s) for termination. Supervisors will forward a copy of the termination notice to the Department Director and ATC. Removal from telework does not prevent an employee from reapplying for the program later.
3. An employee who wishes to appeal a decision to terminate the Telework Agreement is encouraged to meet with his/her supervisor to informally address and attempt to resolve the issue. An employee should raise such issues informally within four (4) business days. The Agency will respond within four (4) business days. When an employee is removed from the Telework Program and the subject employee was not assigned an office, that employee will be assigned an office as soon as reasonably possible. If there cannot be an immediate assignment, the employee will be temporarily assigned an office until a permanent office can be assigned.
4. If the employee is dissatisfied with the outcome of the informal resolution, employees may raise the matter pursuant to the grievance procedure outlined in the CBA.
5. All employees may raise the matter under the EEO complaint process if the employee believes the management action is due to discrimination on the basis of race, sex, age, religion, color, national origin or their disability.

Section 11. Telework Agreement Renewal

- (1) For employees' first initial telework agreement, under this Article, they will remain on telework for six (6) months to decide to exit the telework program. After the initial six (6) months and every year thereafter, each employee must remain in the telework program for a full year barring unforeseen circumstances that may prevent the employee from participating in the telework program. The yearly "open period" for telework agreement renewals will begin June 1 through June 30th of each calendar year.
- (2) An employee renewing his/her agreement must adhere to the instructions provided by the ATC during the Annual Call for Renewal, or anytime that they again request telework.
- (3) Supervisors must consider whether the employee was in full compliance with the specific provisions of the Telework Agreement and the overall program guidance during the previous year. If the supervisor decides that renewal of the telework arrangement is not appropriate, the supervisor must adhere to the disapproval process requirements. Removal from telework does not prevent an employee from reapplying for the program later.

- (4) An employee who is reassigned, detailed to a new position, or has a change of reporting official in the current position, may be required to modify his/her current agreement to reflect all applicable changes to continue participation in the Telework Program.

Section 12. Federal Office Closures/Dismissals/Delayed Openings

Employees who have an approved telework agreement, during office closures, dismissals and delayed openings, must follow the work attendance requirements, consistent with the OPM Government-wide Dismissal and Closing Procedures.

Section 13.

The Agency has agreed to negotiate a separate Remote Work Article once the new agency directive is completed and approved.

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