



Alternative Work Arrangements	
POLICY #306	Page 1 of 11
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1. Policy Purpose

The department recognizes the value of offering employees alternative work arrangements, which include telework and flexible working schedules. These alternative work arrangements may be appropriate depending on the operational needs of the department and the essential functions of the position. This policy sets forth the parameters for telework, alternative work locations, and alternative work schedules that promote efficiency while providing the department and its employees flexibility in the delivery of services.

2. Scope

This policy applies to eligible department employees. Department employees may be approved for alternative work arrangements based on eligibility criteria outlined in this policy.

This policy replaces the department's previous Telework and Alternative Work Schedule policies.

3. Definitions

Alternative work arrangement (AWA): work arrangements that differ from the state or department's regular work schedules and employee's on-site work location to accommodate the needs of employees while meeting the operational needs of the department. All alternative work arrangements require the approval of the employee's supervisor and division director. The types of alternative work arrangements offered through this policy include telework, alternative work locations, and alternative work schedules.

AWA agreement: a written agreement between the department and the employee that details the approved terms of the employee's alternative work arrangement, that is to be reviewed and completed annually.

Alternative work location: An approved work location other than employee's assigned on-site work location where official state business is being performed. Such locations may include, but are not limited to, employee's residences and/or satellite offices.

Alternative Work Schedule (AWS): an alternative work arrangement with scheduled hours based upon the operational needs, staffing requirements, service delivery requirements, and

back-up coverage needs of the department that meet the full number of required hours in a pay period. AWS includes compressed, flexible, and windowed schedules.

Compressed work schedule: an alternative work schedule that reduces the standard five-day work week to fewer days. Employees work the full number of required 75 or 80 hours per pay period by working longer days in exchange for shorter workweeks, for example an employee may work one less day each work week or one less day each pay period.

Flexible work schedule: an alternative work schedule where the arrangement allows employees and their supervisors to set start and end times that vary from the regular business work schedule of 8:00am to 4:30pm. An employee may also work more than half their standard work week hours in one week and the remainder the other week of a two week pay period. FLSA covered (non-exempt) employees may not exceed 40 hours in any one pay week. An example of a flexible work schedule is an employee requests to work 40 hours the first week and 35 hours the second week of the pay period week.

Non-essential employees: per the Governor's Executive Order #28, employees who are not necessary to the emergency service function of their employing agency and who are generally not expected to report to work when a Severe Weather Conditions & Emergencies event (SWCE) is declared, and State offices are closed.

On-site work location: an employee's designated work location where they are assigned or designated to work by their supervisor.

Open office: an alternative work location where employees use non-dedicated, non-permanent workspaces assigned on a first come, first served basis. This alternative work location arrangement may be suitable for an employee whose primary place to conduct state business is in a regularly assigned work location or who regularly works remotely, but who frequently collaborates with different groups and/or engages in a variety of different projects at different work locations.

Reasonable accommodation: Title I of the Americans with Disabilities Act (ADA) requires certain employers to provide for reasonable accommodations to qualified employees with disabilities, unless doing so would cause undue hardship for the agency. In general, an accommodation is a change in the work environment or in the way things are customarily done that would enable an individual with a disability to experience equal employment opportunities.

Standard work week: full-time employees are designated to a 37.5-hour work week per the Merit Rules. The standard 37.5 work week schedule includes working 7.5 hours per day, 5 days per week, with a ½ or 1-hour unpaid meal break each day included in the schedule.

Telework: an alternative work arrangement in which employees perform essential and non-essential functions of their job at an alternative work location, in accordance with telework terms in this policy and their alternative work arrangement agreement. Telework may be approved full-time or for only part of the work week. If an employee teleworks partially during the work week, it is referred to as **hybrid telework**.

Windowed schedule: a type of AWS flexible schedule where an employee's workday is split into two core windows of work. For the standard 8:00am to 4:30pm schedule, an example could have the first core window of hours from 8:00am to 2:00pm and the second core window of hours from 7:00pm to 9:00pm.

4. Policy / Procedures

Provisions for Alternative Work Arrangements (AWA)

- A. AWA is a voluntary agreement that is not suitable for all employees or all job classifications. AWA is not guaranteed for any employee and request for AWA will be evaluated on a case-by-case basis, taking into account the likelihood of the employee to succeed and the supervisor's ability to manage employees with AWA.
- B. The department may waive some or all of the requirements of this policy in the event of unforeseen circumstances, such as a declared state of emergency or unexpected operational needs.
- C. Employees may be required to temporarily telework or work from alternative locations based on non-discriminatory operational needs of the department.
- D. Employees must follow all state and department policies while on AWA.
- E. Employees' compensation, benefits, work status and work responsibilities will not change as a result of participation in AWA. The amount of time that employees are expected to work per pay period will not change because of participation in AWA.
- F. AWAs are options offered at the department's discretion and are not an employee entitlement or right. Denials of telework or AWS requests or the revoking of an AWA agreement are not subject to appeal or grievance unless Merit Rule Chapter 2 is invoked (exceptions to this term may apply for employees where telework is a condition included in the offer of employment).
- G. An AWA will not adversely affect an employee's eligibility for advancement or any other employee right or benefit. Supervisors are to be proactive and include all pertinent personnel, whether on AWS, teleworking or working on-site, in discussions of meetings where that employee would normally be included. Efforts should be made to support collaboration and inclusion of those working off-premises or on an AWS, to assure fair assignment of work, and to provide equal opportunities regardless of an AWA.
- H. If an employee is promoted or otherwise leaves one position for another, either within the department or state government generally, the telework or AWS privilege and AWA agreement does not transfer to the employee's subsequent position.

- I. Work schedules for non-exempt (hourly) employees must comply with any applicable Collective Bargaining Agreement (if the employee is a member of the collective bargaining unit), the Fair Labor Standards Act (FLSA); 29 Del. C. sec. 5955, and all applicable State Merit Rules. Employees must have their supervisor's approval for any special arrangements to their work schedule, including working beyond their regularly scheduled hours. Employees working AWS who are covered by FLSA may not be scheduled to work more than 40 hours in any week unless the employee is on an FLSA-recognized schedule for their profession or workplace (for example, a 14-day or 28-day law enforcement work period or an 8 and 80 schedule for residential care and hospitals).
- J. Employees may request an initial or may request to continue an AWS when applying for or while teleworking. An AWS, regardless of teleworking status, requires employees assigned to a standard 37.5-hour work week to work 75 hours each two-week pay period.
 - a. Employees may not be scheduled for regular work hours that would incur overtime.
 - b. Employee hours on a windowed AWS must not be scheduled before 6:00am or after 9:00pm.
- K. The supervisor must complete a performance plan on employees, including new hires, prior to implementing or approving an AWA request or for a continuation of either privilege. Supervisors are to periodically assess the performance of all employees. If an employee's performance is determined to be less than "meets expectations" in any area, the AWA may not be initiated, may be modified, or may be terminated with appropriate notice. In exigent circumstances, exceptions to this provision may be approved by the cabinet secretary or designee.
- L. If the AWA agreement is being modified based on a reasonable accommodation, an interactive dialogue must occur between the employee and the department prior to any revisions.
- M. An employee may not be eligible to participate in AWA if the employee was subject to documented performance concerns, official notice of unsatisfactory performance or discipline, including suspension, involuntary demotion, or recommendation for termination, within the last 12 months from the date of the request.
- N. Positions approved for telework may require employees to attend training and other business meetings on-site. Supervisors will notify employees of this requirement during the AWA consideration.
- O. All personal activities, including child and dependent care, pet care, housework, yardwork, personal errands, etc. should be done during established break times, lunch time, before, or after work hours only unless approval is requested and received by the employee's supervisor to flex time or leave is approved prior to the activity.
- P. All employees approved for an AWA shall enter into a written agreement providing the details of the AWA. The agreement shall be reviewed and, if approved, renewed annually, and signed by the employee, the employee's supervisor, and the division director or designee.
- Q. Annual and sick leave will accrue as regular per the employee's position. Leave usage shall be charged based on the approved AWS schedule. Employees are required to

request and use applicable annual or sick leave, accumulated compensatory time, if applicable, or other eligible leave, if the employee is unable to work any portion of the telework or AWS day. Floating holidays, if applicable, may only be used in whole-day increments.

- R. Employees are not to telework if they are on approved leave (i.e. annual leave, sick leave, FMLA, etc.).
- S. Supervisors are to assure non-essential employees who are teleworking or on an AWS do not work a regularly scheduled workday when state offices are closed due to a declared SWCE event.
- T. Employees must abide by this policy and their AWA agreement. Failure to do so may result in modification or termination of the agreement, addressing of unsatisfactory performance, and/or administration of discipline up to and including termination.
- U. Employees must immediately notify their supervisor if they are not able to comply with any aspect of their AWA or provisions of this policy.

General Provisions – Telework

In addition to the provisions outlined above, the following applies to telework:

- A. The department has the ability to designate teleworking or hybrid teleworking as an option for a vacant position and post the vacancy with the information that the position is authorized to telework. Telework may be a condition of a job offer and acceptance for a new hire employee.
- B. Existing employees shall be eligible to request a teleworking arrangement once an employee has completed their initial probationary period. The privilege of working remotely is for the convenience of the employee and the employee will continue to be subject to tax and withholding based on their assigned on-site work location. The cabinet secretary may consider a request to approve telework for a probationary employee who otherwise meets the criteria to telework.
- C. Assignment of employees to their on-site location is at the sole discretion of the department and the position's supervisor and will be based on operational needs. Supervisors may not approve the reassignment of an employee's regularly assigned on-site work location to a different on-site location for any purpose other than operational need.
- D. Generally, employees are responsible for obtaining equipment and services necessary to perform the essential functions of their position and maintain communication from the alternative work location; however, the department may provide all or a portion of equipment subject to availability and budgetary restrictions. The department will not provide or cover the costs of accessories such as printers, standing desks, etc. If an emergency requires all employees to telework immediately, the supervisor or department designee will work with the employee to set up equipment and services to telework. Supervisors should consult the Department of Technology and Information's [Remote Workforce Information page](#) for more information.

- E. Employees must be available during telework hours via phone and email as they would if working at their on-site work location. Telework shall include utilizing alternative tools of communication such as Microsoft Teams or Zoom, for example. Employees must be on-site for mandatory meetings or at their manager's request, which means the employee's alternative work location must be within commuting distance. Employees will not hold in-person business visits or meetings with professional colleagues, customers, or the public at their residence alternative work location.
- F. The supervisor must assure that performance and productivity are measured equally for employees working at an alternative work location and those employees working at their on-site work location. Specific performance objective must be set and documented in a current performance plan.
- G. Telework is not intended to serve as a substitute for child or adult care. Telework employees are expected to have dependent care arrangements in place when working from their alternative work location. If children or adults in need of dependent care are in the alternative work location during the employee's work hours, the employee must request and use available leave time for hours not worked. If there is an unplanned or temporary circumstance when dependent care arrangements are not in place, supervisors may exercise discretion in determining whether an employee can accomplish part of their duties and approve leave time for the other portion of the employee's work time. The department may allow flexing of regular work hours if doing so does not create an overtime situation.
- H. Employees should maintain records and documents confidentially, safely, and securely at their alternative work location in accordance with Policy 205 (Confidentiality of Client Records) and HIPAA. This includes ensuring records are kept out of view and devices are closed/locked when not in use.
- I. If the alternative work location is the employee's residence, the employee is responsible for ensuring their alternative work location is a safe environment. Any injuries that may occur while teleworking should be reported to the employee's supervisor and Human Resources representative so that a workers' compensation claim may be filed on the employee's behalf. The third-party workers' compensation administrator will handle the investigation of the claim on behalf of the state and decide as to whether the claim is compensable under the workers' compensation statute.
- J. Incremental home utility costs associated with working from home will not be paid by the department. Costs associated with the copying of work-related materials, express mail, including printer ink and paper, etc., are the responsibility of the employee. Employees may go to their on-site location to use a copier, shredder, and other office equipment. General office supplies such as paper, pens, etc. should be requested according to the protocols at the employee's on-site work location. These general office supplies obtained from the employee's on-site work location can be used for the employee's state work only.
- K. The State of Delaware will continue to withhold payroll taxes based on the employee's assigned on-site work location. Employees who telework are encouraged to seek professional advice regarding any tax implications associated with working from home.

- L. Employees who were already receiving a reasonable accommodation prior to moving from their on-site work location to an alternative work location may be entitled to additional or modified accommodation if it does not cause the department undue hardship. Since each reasonable accommodation request is to be considered on a case-by-case basis, the department will engage in an interactive dialogue with employees whether the same or a different disability is the basis for this new request and why an additional or modified accommodation is needed. The equipment that may be needed to enable employees to telework will depend on the specific facts of the situation associated with the accommodation request.
- M. Supervisors and employees must adhere to any state licensure requirements specific to a classification while teleworking. For example, if an employee needs, and the agency can provide, on-site supervised social work hours for licensing.
- N. The telework arrangement is not intended to permanently replace an employee's on-site work location unless it was a condition of employment with the job offer for that position to that employee.
- O. Any telework arrangement may be discontinued at the request of the employee with two weeks' written notice and justification. Non-temporary revisions to an approved telework agreement must be documented in a new or revised fully executed AWA agreement.
- P. The department may utilize monitoring software on devices used for telework and any attempt to alter or disable the software will result in discipline up to and including termination.
- Q. If an employee terminates their employment with the department, the department and the employee must immediately disable and remove any software or hardware that the agency has provided, complete a checklist to assure all state equipment is returned, and submit documentation to appropriate personnel. Employees are responsible for returning all equipment, including but not limited to computers/laptops, monitors, and cell phones.

Security and Data Integrity – Telework

- A. Employees must comply with all state and department procedures to assure that security measures are in place to protect equipment and data from physical damage, theft, loss, or access by unauthorized individuals.
- B. Employees must protect information from modification, destruction, or inappropriate release. This includes protection from family members or other individuals who may have access to the employee's equipment at the alternative work location. All data containing identifying information must be sent encrypted.
- C. Access to sensitive documents, data, records, etc., at the alternative work location must comply with the state's [Acceptable Use Policy](#).
- D. The state will not incur any liability or assume any costs resulting from the use, misuse, loss, theft, or destruction of equipment in the employee's alternative work location. Liability is the sole responsibility of the employee. Exceptions to this provision may apply.

- E. Employees must access the state network according to DTI standards and policies via Virtual Private Network (VPN) or authorized connection from the alternative work location. More information is found on DTI's Remote Workforce Information webpage.
- F. It is a requirement that the alternative work location has an adequate connection and phone to broadband internet to assure performance standards are being met to telework, as determined by DTI.
- G. Employees who use their personal cell phone as their work phone should discuss with their supervisor whether or not it is recommended to block their personal phone number when used while teleworking.

General Provisions – Alternative Work Schedules (AWS)

In addition to the Provisions for Alternative Work Arrangements, the following applies to AWS:

- A. Employees shall be eligible to request an AWS once a successful initial probationary period is completed. The privilege of working an AWS is for the convenience of the employee. An exception to this provision can be made with division director approval.
- B. An AWS does not entitle an employee to shift differential. Merit Rule 4.15.1 states shift differential is pay for working inconvenient hours and schedules authorized at the department's discretion. Shift differential is not authorized for flexible or compressed schedules established at the request of, and for the convenience of, employees even if the requirements in 4.15.2 are met.
- C. If an employee is covered by a negotiated collective bargaining agreement, work schedule provisions in that agreement may take precedent over this policy if there is a conflict between those provisions and this policy.
- D. The department may require an employee to return to the standard work week schedule if the needs of the department require it for other work-related reasons such as employee performance, misconduct, attendance issues, or other valid justification, with two weeks' notice. The employee shall have the right to return to the standard work schedule with two weeks' notice and valid justification. Non-temporary revisions to an AWS must be documented in a revised, fully executed AWA agreement.
- E. The department reserves the right to temporarily revert an employee's AWS to a standard work week or to a special flexible schedule in order to accommodate holiday weeks, training, attendance at conferences or other special events with two weeks' notice.
- F. If an employee on AWS is on approved full-time leave for a period of more than two weeks, the employee's AWS will automatically revert to a standard work week schedule for the duration of the time the employee is not working.
- G. If an approved state holiday falls on a day that a regular full-time employee on an AWS is scheduled for more than 7.5 hours, the employee may:
 - a. Account for additional time required through use of annual leave or compensatory time in order to complete 75 hours (or 80 hours) in a pay period; or
 - b. Complete the required hours by working additional time within the same work week, with the approval of the employee's supervisor.

- H. If an approved state holiday falls on a day that a regular full-time employee on an AWS is not scheduled to work, the employee may:
- Revert to a 5-day, 7.5 hour work week for the full pay period in which the holiday falls; or
 - Schedule an alternative day off within the same work week as the holiday with supervisor permission (i.e. flex the holiday).
- I. The AWS is not intended to permanently replace an employee's assigned work schedule.

Determining Suitability for Remote Work

To assist managers in determining which positions and/or employees may be best suited for remote work, the following should be considered:

A. Position eligibility – telework

- Whether the position has minimal face-to-face communication with service recipients/the public. This consideration extends to in-person interactions at state facilities or other work sites where state employees must interact with customers such as daycare providers, family homes, parks, etc.
- The impact on the ability to provide quality customer service.
- The required tools and technology can be made available at an alternative location with minimal difficulty or cost.
- Security requirements can be met at an alternative location with minimal difficulty or cost.
- The position has job tasks and work responsibilities and activities with measurable objectives.
- The position frequently requires access to hard copy files from the on-site location that are not available electronically.
- The position handles secure material frequently with restricted access.
- The utilization of office space.

B. Employee Eligibility – Telework

- The employee demonstrates the ability to work independently.
- The employee meets or exceeds performance standards for their position.
- The employee is self-directed to complete their work.
- The employee can successfully participate as part of a work team remotely.
- The employee can manage other employees remotely.
- The supervisor has developed a performance plan and documented the employee's satisfactory performance.
- The supervisor has developed a performance plan for the telework arrangement for the new hire as part of an employment offer.
- The employee has not been subject to official notice of unsatisfactory performance or discipline, including suspension, involuntary demotion, or recommendation for termination, within the last 12 months.

- The supervisor does not have documented work-related concerns about the employee's ability to perform the duties from an alternative location (reliability, quality control, etc.).

Determining Suitability for an Alternative Work Schedule

To assist managers in determining which positions and/or employees may be best suited for AWS, the following should be considered:

A. Position eligibility – AWS

- The position requires daily, or on a defined consistent basis, work activities that cannot be performed on an alternative work schedule.
- The impact, if any, on ability to provide quality customer service.

B. Employee eligibility – AWS

- The employee meets or exceeds performance standards for their position.
- The supervisor has developed a performance plan and documented the employee's satisfactory performance.
- The employee has not been subject to official notice of unsatisfactory performance or discipline, including suspension, involuntary demotion, or recommendation for termination, within the last 12 months.

AWA Agreement

In order to approve an AWA for an employee, the department and employee must have a written agreement that describes the terms of the AWA. The AWA agreement is to be acknowledged (signed) by the employee, supervisor, and division director or designee in order to proceed with an AWA.

- Eligible employees must request telework, an AWS, or both, by filling out the AWA agreement form, but employees are encouraged to discuss their interest in an AWA with their supervisor prior to submitting the AWA agreement form.
- A current employee submits the completed form to their manager/supervisor. Newly hired employees submit the form to their hiring manager.
- The manager/supervisor is responsible for ensuring that the employee's position meets the eligibility for the requested AWA, and that the office has on-site coverage on state business days and hours of 8:00am-4:30pm.
- The manager/supervisor will consult with their Human Resources representative to determine if a requested AWS already exists or if creation is needed in the agency's timekeeping system.
- The manager/supervisor will forward the AWA agreement form to the division director or designee for final determination and return to the manager/supervisor.
- The manager/supervisor will provide a copy of the AWA agreement form to the agency's HR representative and to the employee.
- A denial or revocation of an AWA must be documented on the agreement form, noting specific reasons.

- H. Changes to an approved AWA shall not be made without executing a new agreement form.
- I. AWA agreements shall be reviewed annually, and if approved, renewed.

Employee responsibilities for AWA

Employees requesting AWA must meet sustainability criteria that apply for each AWA or both and continue to meet criteria outlined below:

- A. Be willing to sign and abide by the AWA policy with an understanding that AWA is a privilege and can be terminated.
- B. Maintain established performance standards.
- C. Demonstrate the ability to work independently with minimal supervision and receive adequate feedback.
- D. Procure and maintain internet services appropriate to the work effort at their own expense. If an employee's alternative work site is without internet or phone service sufficient for accomplishing their work via telework, the employee must notify their supervisor and determine an alternative plan or work site where internet or phone service is available.
- E. Maintain flexibility and responsiveness to the needs of the supervisor, work team, and department through communication and collaboration. The employee who is teleworking must be as available as if they were working at their on-site work location.
- F. Non-exempt (hourly) employees are required to record all hours worked.
- G. Request an AWA agreement annually from the start date of the agreement or in conjunction with performance planning.
- H. Be considerate when using shared workspaces.
- I. Employees who utilize virtual meetings with clients must appear on camera whenever possible. Employees should follow the dress code when teleworking, specifically when interacting with youth and families, other staff members, and for any trainings or meetings.
- J. Employees must adhere to the department's confidentiality of client records policy and safeguard confidential documents when teleworking.

5. Legal Authority

[Department of Human Resources Alternative Work Arrangements Policy](#)

6. Associated Forms

[Department of Human Resources Alternative Work Arrangement Agreement Form](#)

7. Responsibility for this Policy

The Division of Management Support Services and Human Resources are responsible for providing guidance regarding this policy.