



**ALTERNATIVE WORK ARRANGEMENT POLICY AND PROCEDURES**

<b>Policy #: To be assigned.</b>	<b>Authority: MR 1.4, 4.13, 4.14, Budget Act</b>
<b>Effective Date: April 4, 2022</b>	<b>Supersedes: March 28, 2022; Alternative Work Schedule Policy December 2016; Telecommuting Policy and Procedures October 4, 2021</b>
<b>Application: Executive Branch Agencies</b>	<b>Signature: <i>Claire M. DeMatters</i></b>

**1. Policy Purpose Statement**

The State of Delaware 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 agency and the essential functions of the position. This policy sets forth parameters for telework, alternative work locations, and alternative work schedules that promote efficiency while providing agencies and employees flexibility in the delivery of State services. This policy provides the State’s workforce new opportunities to perform their work, provides increased options for work-life balance, assists in attracting and retaining employees and supports continuity of operations, while adhering to State statutes, merit rules and other relevant authority.

**2. Scope**

This policy applies to eligible Executive Branch agency employees. This Statewide Executive Branch policy supersedes any Executive Branch agency policy, procedure or guideline pertaining or otherwise related to alternative work arrangements. Casual/seasonal and probationary employees may be approved for alternative work arrangement based on the eligibility criteria outlined in this policy.

**3. Definitions and Acronyms**

- **Alternative Work Arrangement (AWA)** – Work arrangements that differ from the State’s regular work schedules and employees’ on-site work location to accommodate the needs of employees while meeting the operational needs of agencies. All alternative work arrangements require the approval of the employee’s supervisor and appropriate agency management. The types of alternative work arrangements offered through this policy include telework, alternative work locations, and alternative work schedule. Each type of arrangement may require specific eligibility based on the provisions of this policy.
- **AWA Agreement** – A written agreement between an agency and an employee that details the approved terms of the employee’s alternative work arrangement, that is to be completed annually.
- **Alternative Work Location** – Approved work locations other than employees’ assigned on-site work location where official State business is performed. Such locations may include, but are not limited to, employees’ 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 agency 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 workweek to fewer number of 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 Schedules** – An Alternative Work Schedule where the arrangement allows employees and their supervisors to set start and end times that vary from the regular State business work schedule of 8:00 a.m. to 4:30 p.m. An employee may also work more than half their standard workweek hours in one week and the remainder of the other week of a two-week pay period. FLSA covered (Non-Exempt) employees may not exceed 40 hours in any one pay week. A flexible schedule example is when 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 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 (i.e., physical address: 801 Silver Lake Blvd., Dover) where employees are assigned to work.
- **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 ADA requires certain employers to provide for reasonable accommodations to qualified employees with disabilities unless doing so would cause undue hardship. 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 Workweek** – Full-time employees are designated to a 37.5-hour workweek per the Merit Rules or 40-hour workweek as provided in the Budget Act. The standard 37.5 workweek 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 (i.e., 8:00 a.m. through 4:30 p.m.); the standard 40-hour workweek schedule includes working 8.0 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. If an employee teleworks partially during the workweek, it is referred to as **hybrid telework**. Telework is also referred to as telecommute or remote work and has the same meaning in this document.
- **Windowed Schedule** – A type of AWS flexible schedule where an employee's workday is split into two core windows of work. For the standard 8:00 a.m. to 4:30 p.m. schedule (37.5 workweek), a schedule example could have the first core window of hours from 8:00 a.m. to 2:00 p.m. and the second core window hours from 7:00 p.m. to 9:00 p.m. (8 hours scheduled; 7.5 hours worked).
- **Work Schedule** – Employees' regular, scheduled hours of work.

#### 4. Policy

##### Provisions for Alternative Work Arrangements (AWA)

- a. Agencies may provide opportunities for alternative work arrangements within the terms set forth in this policy for specific filled or vacant positions and/or classifications. Certain positions may not be eligible for telework or AWS due to operational needs or the essential duties of the position. The AWA options for existing employees or for new hires require the consent of the position's supervisor and the approval of appropriate management.
- b. The State may waive some or all requirements in this policy in the event of unforeseen circumstances, such as a declared state of emergency.
- c. Employees may be required to **temporarily** telework or work from alternative work locations based on non-discriminatory, operational needs of the agency.
- d. Employees must follow all State and agency policies and procedures while on alternative work arrangements.
- e. Employees' compensation, benefits, work status, and work responsibilities will not change as a result of participation in alternative work arrangements. The amount of time that employees are expected to work per pay period will not change because of participation in alternative work arrangements.
- f. AWA are options offered at the agency'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 Alternative Working Arrangement 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 an AWS, teleworking, or working on-site, in discussions or 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 alternative work arrangement. If an employee is promoted or otherwise leaves one State position for another, the telework or AWS privilege and AWA Agreement does not transfer to the employee's subsequent position.
- h. Work schedules for non-exempt (hourly) employees must comply with the Fair Labor Standards Act (FLSA); 29 Del. C. § 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 the 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 (i.e.; a 14-day or 28-day law enforcement work period or an 8 and 80 schedule for residential care and hospitals).
  - Work hours cannot coincide or overlap with any other type of employment.
  - The number of days per week that employees may telecommute is at their agency's discretion based on operational needs.
  - Meal break periods may not be scheduled for the start or end of an employee's scheduled workday.

- i. 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 workweek, to work 75 hours each two-week pay period. Similarly, employees on an AWS assigned to a standard 40-hour workweek will be required to work 80 hours each two-week pay period.
  - 1. Agencies are prohibited from scheduling employees for regular work hours that would incur overtime.
  - 2. Employees' hours on a Windowed AWS working days must not be scheduled before 6:00 a.m. or after 9:00 p.m.
- j. The supervisor must complete a Performance Plan on employees, including new hires, prior to implementing or approving a request for AWS or Telework or for a continuation of either privilege. Supervisors are to periodically assess the performance of all employees. If employees' performance is determined to be less than "Meets Expectations" in any area, the Alternative Working Arrangement may not be initiated, may be modified, or may be terminated with appropriate notice. In exigent circumstances, exceptions may be approved by the Cabinet Secretary, or Agency head, or Designee.
- k. If the Alternative Work Arrangement Agreement being modified is based on a reasonable accommodation, an interactive dialogue must occur between the employee and the agency prior to any revisions.
- l. Managers and/or supervisors are to assure that public serving offices have on-site employee coverage on State business days for the hours of 8:00 am to 4:30 pm and/or additional public serving hours. Supervisors must evaluate employees requesting and participating in Alternative Work Arrangements per the Suitability Criteria listed in the Procedures section of this policy.
- m. An employee may not be eligible to participate in telework or an AWS if the employee was subject to 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. Designated positions approved for telework will 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, lunchtime, 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 AWS or approved for telework shall enter into a written agreement providing the details of the alternative work arrangement. The agreement shall be reviewed and, if approved, renewed annually, and signed by the employee, the employee's supervisor, and the Division Director or appropriate agency management each year.
- 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 employees are unable to work any portion of the telework or AWS day. Floating

holidays, if applicable, may only be used in whole-day or half-day increments based on the agency's practice.

- r. Employees are not to telework if they are on approved leave (i.e., Annual Leave Time, Sick Leave Time, FMLA, etc.)
- s. Supervisors are to assure non-essential employees who are teleworking or on an AWS do not work on a regularly scheduled workday when State offices are closed due to a declared SWCE event.
  - 1. Day(s) off due to a declared SWCE event for non-essential employees will be counted as the amount of time normally worked that day.
  - 2. If an SWCE is declared where State offices are closed on a non-workday or part of a non-workday for non-essential employees, additional hours, or a day off shall not be granted.
- t. Employees must abide by this Policy and their AWA Agreement. Failure to do so may result in modification or termination of the AWA 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 alternative work arrangement or provisions of this policy.

### **General Provisions - Telework**

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

- a. Agencies may designate and/or approve positions for teleworking. Telework is offered at the agency's discretion and may be approved full-time or for part of a workweek.
- b. Agencies may designate teleworking or hybrid teleworking as an option for a vacant position and shall post the vacancy with information that the position is authorized to telework. Telework may be a condition of a job offer and acceptance for a new hire employee.
- c. 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. Agencies may request approval from their Cabinet Secretary or Agency Head for a probationary employee who, otherwise, meets the criteria to telecommute. (This paragraph applies unless there is an event that requires immediate telework.)
- d. Telework will not be allowed or approved for the convenience of the employer.
- e. Assignment of employees to their on-site location is at the sole discretion of the agency 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.
- f. 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, agencies may provide all or a portion of equipment subject to availability and budgetary restrictions. If an emergency requires all employees to telecommute immediately, the supervisor or agency designee will work with the employee to set up equipment and services

to telework. Supervisors should consult the Department of Technology and Information's (DTI's) Remote Workforce Information page for more information: <https://dti.delaware.gov/state-agencies-portal/Remote%20Workforce%20Information/>.

- g. Employees must be available during telework hours via phone and email as the employees 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 will not hold in-person business visits or meetings with professional colleagues, customers, or the public at their residence alternative work location.
- h. The supervisor must assure that employees' 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 objectives must be set and documented in a current Performance Plan.
- i. Telework is not intended to serve as a substitute for child or adult care. Teleworking employees are expected to have dependent care arrangements in place when working from an alternative work location. If children or adults in need of dependent care are in the alternative work location during employees' work hours, employees must request and use available leave time for hours not worked. If there is an unplanned and temporary circumstance, when dependent care arrangements are not in place, supervisors will 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. Agencies may allow flexing of regular work hours if doing so does not create an overtime situation.
- j. Documents that are determined to be confidential<sup>1</sup> under the State of Delaware Records Retention Guidelines, should not be removed from the workplace. Any document which is determined to be vital<sup>2</sup> may be removed from the workplace if approved by the agency's Records Officer and their Manager in accordance with the Records Retention Guidelines.
- k. If the alternative work location is the employees' residence, employees are responsible for ensuring their alternative work location is a safe environment. Any injuries that may occur while teleworking should be reported to the employees' supervisor and Human Resources representative so that a workers' compensation (WC) claim may be filed on the employees' behalf. The third-party administrator for WC will handle the investigation of the claim on behalf

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<sup>1</sup> Confidential records are records that are not open to the public in order to protect the privacy rights of individuals or the security arrangements of locations, persons, places, and items as defined by law. Federal and State statutes and regulations determine a record's confidentiality status. Restrictions to public inspection of confidential records may apply to the entire record or to discrete portions of information enclosed in the record. It is the agency's responsibility to identify records containing confidential information. Confidential records should always be handled to assure the security of the information within. Agency personnel may have to redact personally protected or confidential information discovered within a record whose series is not listed in the retention schedule as confidential. This information may have been included in the record by accident or because of an exceptional situation. In either case, the information must be redacted prior to servicing the record to requestors without the proper clearance and need to know.

<sup>2</sup> Vital Records are those records that are required to assure that an agency is able to function during an emergency, disaster, and recovery operations. Furthermore, they are records that are crucial to protecting the legal and financial rights and interests of an agency and of the individuals directly affected by its activities. The agency is responsible for identifying which of their records are vital. The primary protection method for vital records is through duplication and dispersal. These records should be identified in record backup plans, contingency plans, or migration strategies (electronic records) to assure measures are in place to safeguard these records (e.g., COOP).

of the State and decide as to whether the claim is compensable under the workers' compensation statute.

- l. Incremental home utility costs associated with working from home will not be paid by the agency. Costs associated with the copying of work-related materials, express mail, including printer ink and paper, etc., are the responsibility of employees. Employees may go to their on-site location to use a copier, shredder, and other office equipment. Agencies may allow employees to obtain general office supplies such as paper, pens, etc. from their workplace for their State work only.
- m. The State of Delaware will continue to withhold payroll taxes based on the employee's assigned on-site work location. Telecommuters are encouraged to seek professional advice regarding any tax implications associated with working from home.
- n. 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 agency undue hardship. Since each reasonable accommodation request is to be considered on a case-by-case basis, the agency is to 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.
- o. Supervisors and employees are to 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.
- p. The telework arrangement is not intended to permanently replace employees' on-site work location unless it was a condition of employment with the job offer for that position to that employee.
- q. Any telecommuting arrangement may be discontinued at the request of the Agency or the employee with two (2) 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.
- r. If employees terminate employment at the agency, the agency and employees 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 agency 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 employees' equipment at the alternative work location. All data containing employees 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 employees' alternative work location. Liability is the sole responsibility of the employees. Exceptions to this term 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 web page: <https://dti.delaware.gov/state-agencies-portal/Remote%20Workforce%20Information/>.
- 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. It is the employees' responsibility to assure their personal phone number is protected or blocked when used while teleworking.
- h. The State reserves the right to monitor and log, without notice, all telework activity, including email and cell phone usage. Employees that are teleworking should have no expectation of privacy in the use of State-related resources or business. (See State's [Acceptable Use Policy](#).)

### **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 Alternative Work Schedule once a successful initial probationary period is completed. The privilege of working an AWS is for the convenience of the employee. Agencies may request approval from their Cabinet Secretary or Agency Head for a probationary employee who meets the eligibility criteria for an AWS.
- b. An AWS does not entitle the requesting eligible employee to shift differential. Merit Rule 4.15.1 states shift differential is pay for working inconvenient hours and schedules authorized at the agency'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 of 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 agency may require the employee to return to the standard workweek schedule if the needs of the agency require it or for other work-related reasons such as, employee performance, misconduct, attendance issues, or other valid justification, with two (2) weeks' notice. The employee shall have the right to return to the standard work schedule with two (2) weeks' notice and valid justification. Non-temporary revisions to an AWS arrangement must be documented in a revised fully executed AWA agreement.
- e. Management reserves the right to temporarily revert an employee's AWS to a standard workweek or to a special flexible schedule in order to accommodate holiday weeks, training, attendance at conferences or other special events with two (2) weeks' notices.



- 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 workweek schedule for the duration of 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 (or 8.0 hours for a 40-hour employee), the employee may:
  1. 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
  2. Complete the required hours by working additional time within the same workweek, 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:
  1. Revert to a 5-day, 7.5 hour or 8.0-hour workweek for the full pay period in which the holiday falls; or
  2. Schedule an alternative day off within the same workweek as the holiday (i.e., flex the holiday); or
  3. Allow the employee to request compensatory time for hours over 37.5 (or 40.00) if options 1 or 2 are not operationally feasible, the agency is able to absorb the increased cost, and the agency approves this option.
- i. The supervisor must assure that employees' performance and productivity are measured equally for employees working an AWS, whether at their on-site work location or an alternative location. Specific performance objectives must be set and documented in a current Performance Plan.
- j. The AWS is not intended to permanently replace employees' assigned work schedule.

## **5. Procedures**

### **a. 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:

- 1) Position Eligibility - Telework
  - The position has minimal face-to-face communication with customers/citizens. 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 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 on-site location that are not available electronically.
  - The position handles secure material frequently with restricted access.
  - The utilization of office space.

**2) Employee Eligibility -Telework**

- The employee is experienced and/or properly trained 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 employee's satisfactory performance.
- The supervisor has developed a Performance Plan for the telework arrangement for the new hire as part of 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 non-discriminatory documented concerns about the employee's ability to perform the duties from an alternative location (reliability, quality control, etc.).

**b. Determining Suitability for an Alternative Working Schedule**

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

**1) 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.

**2) Employee Eligibility – AWS**

- The employee meets or exceeds performance standards for their position.
- The supervisor has developed a Performance Plan and documented 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 in the last 12 months from the date of the request.

**c. AWA Agreement**

If an agency approves an Alternative Working Arrangement for an employee, the agency shall require a written agreement between the employee and the agency that describes the terms of the alternative work arrangement annually. An AWA Agreement is to be acknowledged (signed) by employees, supervisors, and division directors or appropriate agency management to proceed with telework and/or an AWS.

- 1) Eligible employees must request Telework or an Alternative Work Schedule, or both, by filling out the AWA Agreement Form.
- 2) Eligible candidate or newly hired employee is to request AWA by filling out the AWA Form.
- 3) Current employee submits completed Agreement Form to their Manager/Supervisor. Newly hired employee submits completed Agreement Form to their Hiring manager.
- 4) The Manager/Supervisor is responsible for ensuring that the employee's position meets the eligibility for Telework or AWS, or both, and the office has on-site coverage on State business days and hours of 8:00 am to 4:30 pm.

- 5) The Manager/Supervisor will consult with their Human Resources (HR) representative to determine if a requested alternative work schedule already exists or if creation is needed in the agency's timekeeping system.
- 6) The Manager/Supervisor will forward the Agreement Form to the Division Director or Agency Head or Designee for final determination and return to the Manager/Supervisor. (If the request is for a vacant position, the determination will be done prior to posting.)
- 7) The Manager/Supervisor will provide a copy of the Agreement Form to the agency's HR representative and to the employee.
- 8) A denial or revocation of an AWA must be documented on the Agreement Form with appropriate justification.
- 9) Changes to an approved AWA shall not be made without executing a new Agreement Form.
- 10) AWA Agreements shall be reviewed annually, and if approved, renewed.

**d. Employees' Responsibilities for AWA:**

Employees requesting to Telework or an AWS must meet Suitability criteria that apply for each alternative work arrangement or both and continue to meet criteria outlined below:

- 1) Be willing to sign and abide by the AWA Policy with an understanding that telework, and AWS are privileges that can be terminated.
- 2) Maintain established performance standards.
- 3) Demonstrate the ability to work independently with minimal supervision and receive adequate feedback.
- 4) Assure that the approved alternative work location is appropriate and provides the work environment, connectivity, technology, resource access, and security authority consistent with the work in which the employees are engaged.
- 5) Procure and maintain internet services appropriate to the work effort at their own expense.
- 6) Maintain flexibility and responsiveness to the needs of the supervisor, work team, and department through communication and collaboration.
- 7) Document telework and/or AWS time in accordance with established attendance policies including requesting and obtaining approval for leave, overtime, or any changes to employees' work schedule.
- 8) Non-exempt (hourly) employees are required to record all hours worked.
- 9) Comply with all State and Agency policies and practices.
- 10) Maintain effective communication with supervisors and other employees with whom communication is essential for successfully implementing the arrangement, including being on camera as required by supervisors; and forward office number to residence or cellphone when working remotely.
- 11) Request an AWA Agreement annually from the start date of the Agreement or in conjunction with performance planning.
- 12) Be considerate of employees sharing workspace and maintaining a clean workspace at all times.
- 13) Properly maintain, protect, and dispose of confidential information and follow data security procedures at all times.
- 14) Use shared workspace only so long as needed.
- 15) Maintain a high level of customer service.
- 16) Upon termination of employment with the agency, employees are responsible for returning all State-owned assets to their supervisor.
- 17) Employees are to continue to follow agency attire requirements as appropriate dress code is required even when teleworking.

- 18) Employees are to assure they have all materials necessary to complete their work and not rely on on-site co-workers.
- 19) Employees are not to remove any confidential files and may remove vital files only following agency sign-out procedures.
- 20) Employees must immediately notify their supervisor if they are not able to comply with any aspect of their alternative work arrangement or provisions of this policy.

**e. Agency Responsibilities:**

Supervisors of employees utilizing remote work or AWS have certain responsibilities which include, but are not limited to, the following:

- 1) Clearly define and set forth the employee's responsibilities.
- 2) Provide eligible candidate AWA Agreement Form for completion during the job offer discussion.
- 3) For approved telework requests and in consultation with DTI, determine the equipment necessary for telework including appropriate technology services, access to State IT infrastructure and any equipment/software required for the alternative work location. At the agency's discretion, employees may be responsible for any licensing costs incurred for the installation of required software at their alternative work location.
- 4) Assure that quality customer service is not adversely affected by teleworking or AWS.
- 5) Maintain effective communications with teleworking and AWS employees, including training and mentoring, on a regular basis.
- 6) The supervisor must complete a Performance Plan on employees, including new hires, prior to implementing or approving a request for AWS or telework or the continuation of each privilege.
- 7) Supervisors are to periodically assess performance of all employees and annually for the continuation of an AWA.
- 8) Maintain responsibility and accountability for treating all on-site and teleworking employees similarly in acts involving managerial discretion, including but not limited to distribution of assignments among employees in the work unit, use of appropriate tracking and communication tools, performance management, both informal and formal feedback, performance coaching, learning and development opportunities, reassignment, promotions, retention, and discipline.
- 9) Respond to an employee's accommodation request per ADA policy requirements.
- 10) Review and approve, if appropriate, the employee's AWA Agreement annually.
- 11) The supervisor must maintain original AWA Agreements and provide a copy to the employee and the Agency's Human Resources section.
- 12) The supervisor will maintain and enforce this policy and the AWA Agreement in accordance with the State's Merit Rules and any other relevant documents.
- 13) Upon termination of an employee's employment with the agency, the supervisor is responsible for ensuring the employee returned all State-owned assets and that the assets are returned to the agency.

**6. Exclusions or Exceptions**

- Positions and employees that do not meet criteria evaluated under Suitability as outlined in this policy.

## 7. Dissemination and Training

- Agencies are to distribute this policy to their employees and review it with their supervisors within 30 days of its effective date.
- Employees are to acknowledge their review of this Policy within 30 days of the request from the Delaware Learning Center.
- Supervisors may be required to attend training on supervising employees on AWA.

## 8. Data Reporting

- Agencies are to maintain records of their employees who are teleworking and/or on an AWS, and the duration of each alternative working arrangement.

## 9. Associated Policy/Regulations/Information

- [Acceptable Use Policy](#)
- [ADA Reasonable Accommodation Procedure](#)
- [AWA Frequently Asked Questions \(FAQs\)](#)

## 10. Appendices and Forms

- [AWA Agreement Form](#)
- Security Form for VPN access

## 11. Policy Owner

- Division Name: Division of Talent Management
- Policy Administrator: Employee Engagement Administrator
- Website: [DHR - Employee Engagement \(delaware.gov\)](#)

*This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with, i.e., the law or regulation and this policy, the law and/or regulation govern.*