



TELEWORK PROGRAM POLICY

PURPOSE

The policy defines program guidelines and rules under which the Office of the State Public Defender (OSPD) Telework program will operate. This policy supersedes all other previously issued telework policies and memos and applies to all OSPD employees.

BACKGROUND

On October 6, 2021, a Statewide Telework Policy (SAM 0181) was issued with an effective date of October 1, 2021. Under the statewide policy, OSPD is required to provide a structure for telework programs to benefit the state of California and its employees, establish a written policy specific to the OSPD's business needs in accordance with the statewide policy, and establish uniform expectations for performance management and for communication between team members in different locations as a foundation for a successful telework program.

The terms 'telework' and 'teleworking' refer to work flexible arrangements established between OSPD and the OSPD employee where the employee performs the duties and responsibilities of their position from a location other than an OSPD office (an alternate work location). Note: Definitions for terms are at the end of the policy.

GOALS

OSPD's telework program will:

- Encourage participation of eligible employees
- Reduce required state office space
- Improve employee retention and recruitment
- Maintain or improve employee productivity
- Reduce state environmental impacts, such as traffic congestion
- Maintain or improve customer service

AUTHORITY

The statewide telework program is established pursuant to Government Code sections [14200-14203](#). Existing law requires every state department to incorporate teleworking as a work option. For bargaining units (BUs) with an existing Memorandum of Understanding (MOU), if the MOU contains telework language that is in conflict with this policy, the MOU language shall be controlling.

GENERAL PROVISIONS

Participation:

All employees in positions designated by management as eligible shall be qualified to participate in OSPD's Telework Program and are authorized to participate to the fullest extent possible without diminished individual or organizational performance. Employees are notified of their eligibility and approval to telework by their supervisor upon onboarding or during annual performance evaluations. Employees are encouraged to participate in OSPD's Telework program; however, participation is a voluntary work arrangement between an individual employee and OSPD in which some, or all, of an employee's work is performed at an alternate work location, usually at home. Requests to telework will not be denied except for operational needs. Denied requests must be in writing according to bargaining unit agreements.

Telework is only feasible for those tasks within a position which are amenable to being performed away from the office. Not all positions or job classifications may be appropriate for telework arrangements and OSPD has the discretion to determine an employee's participation in telework.

No employee shall be required to telework if they do not choose to do so. Likewise, OSPD's assent to telework agreements is voluntary. That is, the employee and management must mutually agree that the employee's participation is in the best interests of OSPD's mission.

OSPD uses the following state guidelines to determine what functions may be appropriate for telework:

- Activities that do not require physical presence, including, but not limited to, analysis, data entry, telephoning, writing and editing, design and virtual service delivery.
- Responsibilities that do not require public presence.

- Activities where data is not sensitive or confidential or where an information security risk assessment and resulting security approach is in place for telework access to sensitive or confidential data.

OSPD will consider at a minimum the following factors when determining which positions may be eligible for a telework arrangement:

- Nature of work performed.
- Efficiency of work processes.
- Effectiveness of existing project teams.
- Impact on ability to provide quality customer service.
- Utilization of office space or space savings.
- Technology readiness of department such as equipment, infrastructure, and support.
- Impact to employee retention.

Teleworking employees are eligible for the same opportunities as employees not participating in telework, including assignments, development opportunities, promotions, and awards/recognition. Supervisors/managers are expected to advise employees that they will continue to be assessed using existing performance standards, expectations, and measures.

All forms of telework imply an employer-employee relationship wherein the employee receives the same benefits as a non-telecommuting colleague. None of the rights or benefits provided under the employee's collective bargaining agreement between the State and the employee unions is enhanced or abridged by the implementation of a telework program.

A teleworker is considered **Remote-centered** if they work fifty percent or more of their time from an alternate work location. A teleworker is considered **Office-centered** if they work fifty percent or more from an OSPD office site.

Telework Agreement, Modification and Termination

A Telework Agreement is a formal document prepared and signed by the teleworker and supervisor. The Telework Agreement provides the framework for the discussion about the general expectations that need to take place between the supervisor and the employee in order to work effectively. Participation in the program requires completion of the Telework Agreement form (Standard Form 200 – Telework Agreement). The

Telework Agreement must be completed and acknowledged by both the employee and supervisor prior to implementation and must be reviewed annually.

Telework arrangements without a written agreement are prohibited. Occasional telework, as well as emergency telework arrangements due to unforeseen circumstances, may be entered into at OSPD's discretion.

Teleworkers may modify or terminate participation in the program without cause, for any reason and at any time, with written notice to the supervisor. OSPD may modify or terminate a teleworker's participation in the program at any time, including:

1. The telework arrangement results in a reduction in performance, does not enable training, oversight, or any other supervision deemed necessary.
2. The agreement no longer supports operational needs due to funding or services being shifted.

OSPD will endeavor to provide 30 days' written notice to the employee in the event of a revision or termination of a Telework Agreement. OSPD requests a minimum of 10 days notice when an employee wishes to terminate a Telework Agreement.

OSPD Management Responsibilities

1. Ensure that teleworking arrangements conform with applicable laws, rules, regulations, policies, and collective bargaining agreements.
2. Compensate telework employees in accordance with all applicable laws, rules, regulations, and policies, including the Fair Labor Standards Act ([FLSA](#)).
3. Evaluate employee performance in accordance with existing performance management laws, rules, regulations, policies, standards, expectations, and measures.
4. Determine that the employee can effectively perform the job duties of the position while teleworking.
5. Review employee Telework Agreements at least annually to ensure the agreement continues to meet business needs.
6. Retain the authority to disapprove an employee's selection of a particular alternate work location if management determines the location is not business appropriate.

7. Treat teleworking employees the same as an employee working in the office with respect to performance management, conduct, training, and promotional opportunities.

Teleworkers Responsibilities

1. Be responsible for maintaining their workstation at their alternate work location and for maintaining and returning equipment as outlined in the Telework Agreement.
2. Ensure that alternate work location is free from distractions.
3. Secure needed internet service prior to the start of a telework arrangement.
4. Observe departmental policy for overtime. Overtime compensation shall be consistent with the department's overtime policy. A Telework Agreement does not amend compensation or time reporting requirements.
5. Use state-owned hardware, software, email, and other forms of state-owned communication media in a manner consistent with the state's information security and privacy policies and standards that are prescribed in the State Administrative Manual (SAM) Chapter 5300 and the corresponding State Information Management Manual (SIMM).
6. Agree to follow OSPD's Information Technology policies.
7. Complete their annual Information Security and Privacy Awareness training.
8. Ensure the care of dependents (children, the elderly or other functionally impaired person) and other personal responsibilities do not adversely affect an employee's normal work duties or professionalism.
9. Participate in all studies, inquiries, reports, and analyses relating to the telework program.

Workstation, Equipment and Supplies

OSPD will provide teleworkers with appropriate equipment for a single dedicated workstation required to perform job functions including:

- Computing equipment needed to do their work which may include but is not limited to laptop, mouse, printer, scanner, and other supplies the need for which will be evaluated in accordance with existing applicable laws, policies, and standards
- Telephone service.
 - If an employee needs a work number, OSPD will provided a single phone number that can be used at an alternate work location and office location.

- Ergonomic equipment as appropriate per OSPD's ergonomic guidelines.
- Office supplies such as paper, pens, etc.
- Delivery of items that are not easily moved to the workstation at the alternate work location.

Maintenance of state-owned equipment is managed the same as in the office. Remote-centered employees shall have their dedicated workstation at their designated alternate work location. Remote-centered teleworkers shall use a shared workstation when working in the office.

Office-centered employees maintain a dedicated workstation in the office and utilize their own equipment or department provided mobile equipment for teleworking at their designated alternate work location.

Use of OSPD provided equipment is intended for State-related business. All employees are obligated to exercise due care to protect and preserve all OSPD property entrusted to them as they would their own property. Maintenance, repair, and replacement of personally owned property used while teleworking will remain the responsibility of the Teleworker. Maintenance, repair, and replacement of OSPD-owned property authorized to be used while teleworking will remain OSPD's responsibility. If OSPD equipment at the alternate work location malfunctions, the Teleworker must notify their supervisor immediately. OSPD equipment may have to be returned to the office immediately for any reason deemed appropriate by management. Costs related to sending equipment back to OSPD will be covered by OSPD or reimbursed by OSPD. The employee will attempt to minimize the costs by transporting the equipment to an OSPD office when appropriate.

Security Responsibilities

Security of confidential information is of primary concern and importance to OSPD. Teleworkers are expected to adhere to all applicable laws, rules, regulations, policies, and procedures regarding information security. All OSPD equipment, software and confidential information used in the Telework Program are subject to these security requirements. A Teleworker's responsibilities relative to information security are listed below:

- Use OSPD information assets only for authorized purposes.

- Back up critical OSPD information on a regular basis to assure the information can be recovered if the primary source is damaged or destroyed.
- Use passwords on all systems containing confidential OSPD information and keep those passwords secure.
- Use the latest virus protection software, which shall be provided by OSPD, on telework systems used to prepare information for subsequent use on OSPD systems.
- Return all material (paper documents, diskettes, etc.) containing confidential information to OSPD for proper handling or disposal, if necessary.
- Adhere to copyright law by not copying or sharing any OSPD-owned software utilized by Telecommuter.
- Ensure that OSPD confidential information is not disclosed to an unauthorized person.
- Notify the Chief Information Officer or their designee of any suspected or actual security violation.

Teleworkers must understand that adherence to the above policies is an essential requirement of the Telework Program. Failure to comply with these provisions may be cause for terminating participation in the Program and/or possible adverse action.

Telework Expenses

Expenses related to teleworking are the responsibility of the teleworker. Any reimbursements or stipends approved by the state will be paid to eligible teleworkers according to the terms of the applicable MOU.

Reporting Requirements

DGS will survey departments to measure the results of adopting telework programs. OSPD shall provide reporting to DGS. At a minimum, OSPD shall collect information related to all department teleworkers as of October 1, 2021, the effective date of the Statewide Telework Policy and report:

- Number of employees eligible to participate
- Number of employees participating in telework
- Average number of days teleworking per employee
- Office space saved as a result of teleworking

- Additional costs and/or savings associated with implementation of telework.
- Number of shared workstations
- Measures used to determine productivity
- Reduction in vehicle commute miles traveled

Liability

The alternate work location is an extension of the OSPD's workplace only when used for work. All existing workplace health and safety rules, as well as all existing employment laws, rules, and policies, apply the same as they would for employees reporting to the office.

OSPD and the state of California are not responsible for any injuries to family members, visitors, or other guests at the employee's alternate work location.

The teleworking employee shall not have any business guests at a residence designated as an alternate work location.

The teleworking employee is solely responsible for any tax implications and insurance requirements, and compliance with state and local laws and ordinances when the alternate work location is a residence.

Definitions

Remote-centered telework: A teleworker is considered Remote-centered if they work fifty percent or more of their time from an alternate work location. Remote-centered teleworkers shall have their dedicated workstation located at their designated alternate work location. Remote-centered teleworkers shall use shared space when working in the office.

Office-centered telework: A teleworker is considered Office-centered if they work more than fifty percent from the office. Office-centered teleworkers maintain a dedicated workstation in the office and utilize their own equipment or department provided mobile equipment for teleworking at their designated alternate work location.

Alternate work location: The term alternate work location refers to the approved work location other than the office. Alternate work location could be an employee's residence or other approved site.

Shared space: Shared space is a work area that is used on an individual basis by multiple people. Alternatives may include hoteling or shared cubicles.

Dependent care: The term dependent care refers to the support and nurturing of persons who cannot meet their own needs, such as children, functionally impaired adults, or the elderly.

Emergency telework: Emergency telework occurs due to unforeseen circumstances, such as inclement weather, a declared State of Emergency or closure of government buildings. In an emergency, departments may choose to temporarily modify formal agreements and policy as appropriate.

Office: The term office refers to the location, state building, or official worksite that would be the employee's work location if not teleworking.

Incidental telework: The term refers to an unplanned situation causing an employee to request and receive supervisory approval to work from an alternate work location.

Informal telework: Informal telework arrangements are those without a formal documented Telework Agreement.

Distributed teams: A distributed team is comprised of employees where at least one member is not co-located with other members.

Telework: The terms 'telework,' 'teleworking,' 'telecommute,' and 'telecommuting' are defined as a work flexibility arrangement established between the department management and the employee under which the employee performs the duties and responsibilities of the employee's position, and other authorized activities, from an approved location other than the office. In practice, telework is a work arrangement that allows an employee to perform work, during any part of regular, paid hours, at an approved alternate work location.

Telework Agreement: The Telework Agreement is a formal document prepared and signed by the teleworker and supervisor. The Telework Agreement provides the

framework for the discussion about the general expectations that need to take place between the supervisor and the employee in order to work effectively.

Workstation: The term workstation refers to the desk or place where the employee completes work.

SAMPLE