



Universities of Wisconsin Telecommuting (Remote Work) Guidelines for Supervisors

**Universities of Wisconsin
Human Resources
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EXECUTIVE SUMMARY

This guide has been developed to help Universities of Wisconsin supervisors process telecommuting (remote work) applications from their employees and make decisions whether to approve a particular application.

Supervisors are responsible for attesting to the validity of the remote work agreements, confirming the appropriate remote work type for the employee, and ensuring that the telecommuting (remote work) agreement receives any additional, needed approvals, according to university policies.

TELECOMMUTING GENERALLY

Telecommuting (remote work) agreements will be used when an employee spends a meaningful part of their work week at a location other than the normal Universities of Wisconsin headquarters assigned for their position. The creation of a telecommuting (remote work) agreement serves three important risk management interests for the Universities of Wisconsin:

- employee health and safety
- data and information system security
- workforce management

When we authorize a remote workspace, we are essentially creating a satellite Universities of Wisconsin work location. These satellite work locations are subject to the same policies, procedures, and safety requirements as our regular work locations.

- Liability associated with employees is the same when the employee works at a remote work location as when they work in a traditional workplace.
- Responsibilities to keep our confidential data secure and protect our information systems from intrusion are the same whether the employee is working at a remote location or in a traditional workplace.
- If an employee is injured at a remote work location, worker's compensation applies. If the injury is the result of a safety violation, our responsibilities are the same.
- If an employee sexually harasses another person at a remote work location, we have the same obligations and responsibilities under Title VII.

The telecommuting/remote work policy and the associated Telecommuting (Remote Work) Agreement form are designed to mitigate the risks to the Universities of Wisconsin associated with allowing employees to operate without supervision, at a remote site over which we have no direct control.

WHAT IS NOT CONSIDERED TELECOMMUTING (REMOTE WORK)

The telecommuting (remote work) agreement is about the creation of a new Universities of Wisconsin remote workspace. Not all work performed away from a traditional headquarters location is considered telecommuting (remote work). Here are some examples of remote work that would not be considered telecommuting (remote work):

- Business travel
 - Sending an employee to a conference, attending a business lunch, or going to a meeting at some other entity's business location is not telecommuting (remote work). Neither Universities of Wisconsin nor our employee has any legal control over the destination property. This type of remote work is also likely intermittent, and the destination locations likely vary from trip to trip.
- Employees holding meetings off-site
 - A group of employees attending a meeting at a restaurant or some other public accommodation are not telecommuting. We may still be responsible for any misconduct, but if an employee is injured because a chair breaks in a restaurant, we will not be fined by OSHA.
- An employee visiting another employee's home outside of normal work hours.
 - If the visit occurs outside of normal work hours, this will not fall under the telecommuting (remote work) policy's prohibition against business visitors.
- Time spent away from the office by a salaried employee, unless there is an expectation by the employer that the employee will perform work at a remote work location.
 - For salaried employees, the critical question is not how many hours are spent on campus versus elsewhere, but rather whether the employer expects the employee to perform work at a remote work location on a regular basis. For example, a salaried employee may spend 30 hours a week on campus on Mondays, Wednesdays, and Fridays, but remain at home on Tuesdays and Thursdays. A telecommuting (remote work) agreement is only required if the institution has approved and expects the employee to work from home on Tuesdays and Thursdays.
- An employee staying home on FMLA leave.
 - FMLA leave is intended to provide an employee with protected, unpaid, time off from work if such leave is necessary due to an employee being unable to work due to illness/injury, following the birth or adoption of a child, or to care for a family member with a serious health condition. An employee on FMLA leave is, by definition, not working. An employee who is telecommuting is working.

Combining leave with telecommuting (remote work):

It is permissible under the policy for an employee to combine telecommuting (remote work) with paid or unpaid leave. If such an arrangement is acceptable to both the employee and the institution, the telecommuting (remote work) agreement should be very clear about both the work expectations, and the amount and type of leave being used. Any leave used should still be tracked by normal processes, separate from the telecommuting (remote work) agreement.

PROCESSING A TELECOMMUTING (REMOTE WORK) AGREEMENT

This section of this document addresses the Universities of Wisconsin Telecommuting (Remote Work) Agreement, including how a supervisor should respond to certain data fields or certain information provided on the form.

Section 1(A) Designated Workspace

Telecommuting (remote work) Agreements must identify the location of the employee's remote workspace. **This may be a home, apartment, or rented/owned office space.** It should not be a location in which the employee exercises no control/dominion over the property (e.g. a coffee shop, a friend's house). Employees cannot guarantee compliance with our IT Security protocols, our business record security/confidentiality standards or our workplace safety standards in a location they do not control.

The employee should specify if the remote workspace is a room or a portion of a room. This is important in the event an accident or injury occurs at the employee's home and is also important for the employee's income taxes, if they intend to claim deductions related to the maintenance of a home office.

The address should also be a Wisconsin address. If the employee is seeking to telecommute from a location outside the state of Wisconsin, the approval of the institution Office of Human Resources is required. This approval shall only be granted after the local Office of Human Resources has consulted with the Universities of Wisconsin Administration Office of Human Resources to ensure all appropriate considerations have been taken with respect to the tax, insurance, and employment law implications of an employee telecommuting from another state or country. Such arrangements are not prohibited, per se, but a supplemental agreement may be required if the institution is so advised by legal counsel. The employee should also be fully aware of the additional impacts created by telecommuting from out of state. (See SYS 1228 section 1228(6)(F).)

Note regarding out-of-state telecommuting (remote work):

The intent of this process is not to unduly limit telecommuting (remote work) for those employees who may live across state lines but live within a reasonable commuting distance of their home campus. The intent is to ensure that all stakeholders have appropriate notice about the special legal considerations that exist when an employee is working for the Universities of Wisconsin from outside the State of Wisconsin.

Section 1(B) Telecommuting (Remote Work) Schedule

This section of the Telecommuting (Remote Work) Agreement allows the employee and the supervisor to specify the employee's expected work schedule, as well as which days they are expected to work from home and which days they will work in their regular headquarters office. **The employee's schedule should be estimated as accurately as possible.** It is important to have this information in the event an incident occurs at the employee's remote work location. **If the employee's schedule varies, this information should be included in the text boxes provided for specifying hours.**

The beginning date of the agreement should be specified. All telecommuting (remote work) agreements expire on June 30th of each year, and a new agreement must be implemented on or about July 1st of the following year, if the employee and the supervisor wish to continue the telecommuting (remote work) arrangement. If a telecommuting (remote work) agreement has a fixed end date and the total duration of the agreement is less than one year, it is not necessary to specify a review date.

Section 1(C) Expectations

This section provides an opportunity for the employee and the supervisor to articulate other expectations for the employee as related to the telecommuting (remote work) agreement. Best practice with remote employees includes routine contact with the supervisor and other co-workers to ensure the employee does not become disconnected from their colleagues, and as an accountability factor. This is a greater concern with full-time telecommuters than with hybrid remote work. The information in this section may be minimal for hybrid remote workers who are in the office one or more days per week.

Telecommuting expectations for faculty:

When approving a telecommuting (remote work) agreement for faculty, the approving institution should ensure that the faculty member is able to meet all of their obligations as a faculty member, including teaching, service and scholarship.

Section 1(D) Records Management

In this section, the acknowledgement of our remote IT security policies is mandatory. The requirement to notify the employer of any change in residence is also mandatory. An employee who is relocating their remote work location should not be permitted to begin work in the new location until their telecommuting (remote work) agreement has been updated with the new address information along with the necessary approvals (i.e. out of state address).

The employee is required to maintain homeowner's or renter's insurance and to retain proof of that insurance. The supervisor may require this documentation at any time. Universities of Wisconsin insurance policies may not cover negligent damage to Universities of Wisconsin furniture or IT assets located at a remote work location.

Section 2 Communications Expectations

Acknowledgement of Universities of Wisconsin communication expectations is mandatory.

Section 3 Travel Status and Expenses

This section allows for the pre-approval of any future reimbursable travel-related expenses that are known at the time the Agreement is signed. Reimbursement of travel expenses from the remote

worksite to the position's normal headquarters location is prohibited for employees working a hybrid remote work schedule or who voluntarily work a fully remote work schedule.

For an employee operating under an Assigned Fully Remote Work Agreement (remote work that has been assigned by the employer, rather than requested by the employee), their remote work location is considered their principal place of business. Travel to other locations, away from that remote work site, may be reimbursable travel. Remote work employees, other than assigned fully remote workers, will not be reimbursed for travel to their department headquarters location, however fully remote workers may be able to claim that travel cost as a deduction on their taxes as an unreimbursed business travel expense. Employees should be advised to consult with a tax advisor in that circumstance. For an employee utilizing a hybrid remote work agreement, the employee's workplace is considered their principal place of business. Travel from the employee's home to their university workplace is considered non-reimbursable commuting.

Section 4 Telecommunication and Equipment Costs

This section provides for the documentation of the telecommunications, office equipment and computing resources that will be provided to the telecommuting employee.

At least one method of telecommunication must be provided to a telecommuting employee by their home institution.

Universities of Wisconsin policy is that Universities of Wisconsin does not provide internet service to telecommuters. Employees must secure their own service as a condition of telecommuting (remote work).

Ergonomic office furniture/equipment is a requirement for telecommuting (remote work). The employee may provide their own furniture (provided it meets our ergonomic standards), or the institution may provide furniture/equipment.

Employees are required to use Universities of Wisconsin issued computers for routine telecommuting (remote work). Asset tracking is required for any issued equipment. Only Universities of Wisconsin IT personnel may perform maintenance on Universities of Wisconsin computers or equipment.

Section 5 Confidentiality of Data & Record Management

This section is mandatory. At a minimum the employee must check "yes". If the employee is working with particularly sensitive records or there are numerous other individuals in the household, it is appropriate to fill in the additional text box to describe steps the employee will take to protect sensitive records.

Telecommuting (Remote Work) Safety Checklist

Questions 1 through 15 relate to OSHA workplace safety standards. The employee must self-certify that the answer to each question is “yes”. If an employee answers “no” to one or more of these questions, the remediation of those hazards should be a prerequisite to the approval of the Telecommuting (Remote Work) Agreement.

Question 16 is a domestic violence screening question. If the employee answers “no” to this question, the supervisor should set up a private meeting, at a Universities of Wisconsin location, with the employee and including at least one HR rep who has completed Universities of Wisconsin domestic violence training. **Answering “no” to this question does not automatically disqualify an employee from eligibility for telecommuting (remote work), but it is mandatory that the DV-trained HR representative authorize the telecommuting (remote work) agreement to proceed, notwithstanding the “no” answer.**

Telecommuting (Remote Work)- Ergonomic Checklist

The seventeen questions in this section are designed to mitigate the risk of workplace illnesses or injuries related to ergonomic workspace design. If an employee answers “no” to one or more of these questions, the supervisor will work with the employee to mitigate the issue. Mitigation may include institution-provided ergonomic furniture and lights, reimbursing the employee for the purchase of ergonomic furniture, the employee using existing furniture or equipment within their home, or through other measures such as stretch breaks, reorganization of workspace, choosing a different room for the remote workspace, etc. If, after mitigation attempts, the answer to one or more questions is still “no”, the supervisor may assess the ergonomic risk and approve or deny the application accordingly. If the application is approved, it is recommended that the supervisor follow up with the employee on a regular basis during the term of the Telecommuting (Remote Work) Agreement to determine if the employee is developing any signs of injury related to poor workspace ergonomics. If such signs appear, the supervisor should revisit the mitigation measures with the employee. If necessary, a Telecommuting (Remote Work) Agreement can be modified or discontinued to mitigate ergonomic injuries. **Supervisors should keep documentation of ergonomic concerns and mitigation measures that arise from these conversations.**

Any questions related to telecommuting (remote work) not addressed in this guide may be directed to Universities of Wisconsin Human Resources Staff at: uwshr@wisconsin.edu

Appendix A- Special Considerations for Faculty and Instructional Academic Staff

Faculty and Instructional Academic Staff (IAS) require special considerations when deciding whether or not to utilize a Telecommuting (Remote Work) Agreement.

As FLSA exempt employees, faculty and IAS do not routinely have their time tracked on an hourly basis. There may also be a history of institutional flexibility with regards to when and where faculty complete their assigned work (with the exception of those hours the faculty member or IAS is assigned to a particular course section). “Taking work home” is a common practice among faculty and IAS.

As mentioned earlier in this guidance, not every instance of a faculty member or IAS working someplace other than a campus constitutes the creation of a remote work site, and subsequently will not constitute telecommuting (remote work) for the purposes of the policy.

This Appendix is designed to help supervisors determine when a telecommuting (remote work) agreement is necessary for faculty or instructional academic staff. To make this determination, ask the following questions:

Have I directed this employee to work at a remote work site?

When you hired this employee, or when you most recently assigned work to this employee, what was your understanding about where the work would be performed? Does the employee have an office or cubicle on campus? Does the employee have access to a shared workspace or hoteling space? If you have provided a place on campus for the employee to complete their assigned work, and have not expressly, or through implication, created the expectation that the employee will perform work elsewhere, then that assigned campus space is the employee’s work site.

If I have directed an employee to work at a remote work site, is the length of the assignment long enough to implicate the Telecommuting (Remote Work) Policy?

See the policy for the definition of workplace flexibility, hybrid remote work and fully remote work. Sending an employee to a conference, for example, would not likely be a long enough assignment to go beyond workplace flexibility. If the assignment

Faculty Work Sites

One of the primary purposes of our Telecommuting (Remote Work) Policy is to identify remote work sites where our employees have been assigned to work. This is important because if we have assigned an employee to work at a remote work site, we have an obligation to ensure that work site is safe.

An employee is assigned to a work site when an employer directs an employee to perform work at a location. This may be an express directive (such as when an employee signs a telecommuting (remote work) agreement indicating they will work at an identified remote work location on certain days), or this may be an implied directive (an employee is assigned work, but we have not provided space on campus for them to perform this work- by implication, we intend for them to complete the work somewhere else).

If a faculty member/IAS has been assigned, or provided access to, space on campus to complete the work assigned to them, then that is their work site. If a faculty member/IAS has not been given space on campus, or if we know the faculty member/IAS will be based somewhere other than the campus, then we must identify their remote work site.

Telecommuting (remote work) agreements are required when an employee is assigned to a remote work site (subject to the other elements of the policy).

does not meet the duration and frequency requirements to qualify as hybrid-remote work then it does not require a telecommuting (remote work) agreement.

Do I *know* this employee will routinely be working at an off-campus site, and have I agreed to this arrangement?

Sometimes an employee is hired with the understanding that they will be working from home or some other remote location. Sometimes an employee is hired to teach one or more courses and is not provided with an on-campus workspace. (This creates the situation where the supervisors knows, or should know, that the employee will be working from someplace off campus.) In these instances, the employer has tacitly or expressly consented to the creation of a remote work site.

Am I tolerating an employee taking work away from their campus work site, or do I expect the employee to do work off-campus?

If an employee has been provided with an on-campus workspace, and the supervisor has no expectation that the employee will routinely work at a remote location, then the employer has not created a remote work site. Tolerating an employee taking work home on their own initiative is not the same thing as directing the employee to do so. By contrast, in the typical case of non-instructional academic staff and university staff, if a supervisor agrees to allow an employee to spend some portion of their work week away from their primary work headquarters, then there is an expectation that the employee will be performing work during that absence. Through past practice and institutional culture, non-instructional academic staff and university staff have normally been more accountable for their particular hours of work than faculty and instructional academic staff, as a matter of workforce management. This is related, but separate, from the determination of whether a remote work site is being created by the employer. [It is also related, but separate, from the question of the FLSA status of the employee. Think of the differences between lawyers (whose time is closely tracked) and outside sales reps (whose time is seldom monitored). Both are FLSA exempt, but with very different workforce time management expectations.]

Special Telecommuting (Remote Work) Agreement for Faculty and Instructional Academic Staff

Some of the information required on the long form telecommuting (remote work) agreement is not directly relevant to faculty and instructional academic staff (e.g. daily hours of work). For this reason, when a Telecommuting (Remote Work) Agreement is required for these types of employees, **Form Section I.B. (Telecommuting Schedule)** is **optional** at the discretion of the institution.

Examples:

I have hired an assistant professor to teach on-line courses. At the time of hire, the employee told me they plan on working from their home in Illinois.

*We *know* this employee will be routinely working at an off-campus location and have agreed to this arrangement- a Telecommuting (Remote Work) Agreement is required. Additionally, Telecommuting*

(Remote Work) Agreements for out-of-state or out-of-country arrangements require approval of an institution's Office of Human Resources and consultation with the Office of General Counsel.

I have an Associate Professor who teaches on campus, but spends little time in their office and routinely takes work home.

The employee has an assigned office space on campus. We tolerate the employee taking work home, but do not expect it. The employee could be reasonably expected to do all of their work from their campus office if they chose to do so. No telecommuting (remote work) agreement required.

I have a faculty member who will be spending a year in Germany as part of a faculty exchange program. We will still be paying this faculty member's salary and benefits during this period.

A Telecommuting (Remote Work) Agreement is required. We know this employee will be working at an off-campus site for 1 year. Telecommuting (Remote Work) Agreements for out-of-state or out-of-country arrangements require approval of an institution's Office of Human Resources and consultation with the Office of General Counsel.

I have hired a part-time instructor to teach an on-line course. We have provided the employee with access to a shared on-campus workspace and computers.

The employee has an assigned office space on campus. We tolerate the employee taking work home, but do not expect it. The employee could be reasonably expected to do all of their work from the shared office space if they chose to do so. No telecommuting (remote work) agreement is required.

I have hired a part-time instructor to teach an in-person course. We have provided them with access to a shared on-campus workspace and computers. We have 3 such spaces available for 200 part-time instructors.

*There is no particular magic ratio when it comes to shared office spaces, but in this extreme example, we could not reasonably expect that the 200 part-time faculty members could do all their work from the shared office spaces if they chose to do so. Telecommuting (remote work) agreements would be required. Think in these terms- if this employee were working from home and were somehow injured in the course of performing their work, could they make a reasonable argument that Universities of Wisconsin *required* them to work from home?*

I have an associate professor who has been assigned a 100% on-line workload. They still have their usual campus office assigned to them.

*The employee may decide to do much of this work from home, but that isn't necessarily our expectation. We have provided them with a workspace on campus and they could reasonably be expected to perform all of their work there, if they chose to do so. The type of assignment isn't as important as what expectations we create for where the work will be performed. No telecommuting (remote work) agreement required. (Exception- the employee informs us that they will be living in a cabin in South Dakota during this assignment, now we *know* they will be working from a remote location, and must work from that location, since that would be beyond a reasonable commuting distance. A telecommuting (remote work) agreement is now required.*

Faculty/IAS Status and Assignment	Workspace Provided	Telecommuting (Remote Work) Status
Any Faculty or IAS Assigned at least 1 on-campus course section	Assigned or provided access to an on-campus workspace	No telecommuting (remote work) agreement required
Any Faculty or IAS Assigned only on-line course sections	Assigned or provided access to an on-campus workspace	No telecommuting (remote work) agreement required
Any FT Faculty or IAS Assigned only on-line course sections	Not assigned or provided access to on-campus workspace <or> appointment assumes 100% working from a remote work site	Telecommuting (remote work) agreement required

Appendix B- FAQ

SUMMARY

This FAQ has been developed to help Universities of Wisconsin supervisors process telecommuting (remote work) applications from their employees and make decisions whether to approve a particular application.

GENERAL QUESTIONS

1. What are telecommuting (remote work) agreements and why are they important?

Answer: Telecommuting (remote work) agreements are written agreements used when an employee routinely spends part of their work week at a location other than the official location where the employee's work is performed on a permanent basis, this is typically the campus or university office. The agreements promote employee health and safety, provide for information technology and data system security, and serve as a tool for effective management of remote work.

2. What is the difference between Fully Remote Work and Assigned Fully Remote Work?

Answer: Assigned fully remote work is a designation for employees who are assigned to work from home or an alternate work location, on a full-time basis, as a condition or expectation of employment. Fully remote work is a designation for employees who voluntarily work remotely, and it is not a condition or expectation of employment.

3. Is an employee covered by worker's compensation when working remotely?

Answer: An employee who sustains a work-related injury in a remote workplace is covered by worker's compensation to the same extent as if they had been at the work site.

4. Is the employee protected from liability while working remotely?

Answer: With limited exceptions, university employees are indemnified and provided with legal counsel by the state when sued for acts taken within the scope of their employment regardless of where the work is performed. Acts performed out-of-state or out of the country are normally indemnified but raise different legal concerns because the university cannot rely on its state law damage limitations and immunities.

5. Will the university be liable for injuries to third parties in a remote workspace?

Answer: Possibly, but much depends on the circumstances of the situation. For example, the university would likely not be liable for injuries to a third party caused by employee negligence, because the university has governmental immunities. However, as noted above, there are different and greater concerns if the injury occurs outside of Wisconsin.

6. How do information security obligations apply to employees working remotely?

Answer: The University's legal and practical obligations for IT security do not change when an employee is working remotely, but the challenges are greater when employees are working offsite. Employees should complete required training and work with their supervisors and IT offices to ensure that their home office systems meet IT security standards.

7. Must remote work sites meet established safety standards?

University work sites must comply with safety regulations and standards established by the Wisconsin Department of Safety and Professional Services. Applicable standards necessarily differ depending on the particular work environment. Home office safety standards are not the same as those applicable to campus facilities, nevertheless, one of the reasons for the telecommuting (remote work) agreement is to ensure that the employee has a safe and private working environment regardless of safety standards.

8. Are employees subject to work rules while working remotely?

Answer: Some work rules or expectations may apply differently for an employee working remotely, but most work rules including those covering respectful communications and appropriate use of technology and university resources remain unchanged. Supervisors should work with remote employees to ensure there is no confusion regarding work expectations.

9. What work is not considered telecommuting (remote work)?

Answer: Business travel and off-site meetings are not telecommuting (remote work), nor is work that has traditionally been performed away from the office such as research/writing, grading, class preparation, or off-hours activities.

10. Must employees who are telecommuting report leave time, such as vacation, sick leave or family and medical leave?

Answer: There is no difference in the leave reporting requirements between in-office work and telecommuting. Individuals who are not working during regular working hours must use and report leave time.

11. Why is the telecommuting (remote work) employee required to verify that they have homeowner's or renter's insurance?

Answer: The State of Wisconsin includes this requirement for state employees who are telecommuting and is subject to the same statutes and rules regarding liability and insurance as is the university. The Universities of Wisconsin has chosen to be consistent with the State of Wisconsin on this point.