Frequently Asked Telework Questions

Note: Many answers to personnel-related questions are found in the “Consolidated USMH and UM Policies and Procedures Manual” http://www.president.umd.edu/policies/.


Additional resources are on the Student Affairs Work-Life website: www.studentaffairs.umd.edu/worklife/.

These FAQs Include:
• Nonexempt and Exempt status related to telework
• Appropriateness of telework
• Injuries if working off-site
• Off-site work locations
• Confidentiality and security
• Resources and support
• Financial implications

1. Are Nonexempt employees allowed to telework? Are Exempt employees allowed to telework?

Telework is not mentioned in the current Collective Bargaining Nonexempt Memorandum of Understanding (MOU) and, therefore, formal telework arrangements cannot be created with Nonexempt employees. http://www.uhr.umd.edu/documents/2010_Nonexempt_Memorandum_of_Understanding.pdf


Article 3, Section 5 pertaining to this is as follows:

Section 5. Telecommuting

Due to the nature of Exempt employment and the nature of the services provided by professional employees at the University, the University may allow employees to telecommute or work from a different location when prior written approval from the immediate supervisor or department director has been obtained. The decision to allow an employee to telecommute or work from a different location shall be made on a case-by-case basis depending on the nature of the employee’s duties and responsibilities. However, nothing in this Section precludes the University from establishing positions where the employee is expected to be regularly present on the job. Nor shall the Section
be construed to prevent the University from requiring an employee’s physical presence 1) at any reasonable time, with reasonable prior notice to the employee or 2) at any time in response to a critical operational need.

Some of the reasons why telework is not offered in the Nonexempt MOU may include:

a. **Supervision** – By definition, Nonexempt employees require regular direction and supervision of their work. Establishing a regular telework arrangement where they are unsupervised for extended periods of time begs the question of whether they are expected to work independently, and hence should be Exempt employees.

b. **Fair Labor Standards Act (FLSA) Issues** – The University is required to pay Nonexempt employees for all hours worked, even if those hours are worked without permission. Having Nonexempt employees report to an on-site work location enables supervisors to monitor work hours separate from hours the employee is “clocked in.” In a telework situation, there is no direct oversight of the hours worked. An employee could report hours on a timesheet in PHR, but also track other hours separately and the employer would be unaware of, but liable for payment of, those hours. If an employee must be onsite to work, it is easier to monitor actual hours worked.

c. **Meal Breaks** – A “duty free” meal period must be provided to Nonexempt employees under the MOU and FLSA. The employer cannot fully monitor and/or control when/if such breaks are taken when the employee works from home.

d. **Workers Compensation** – This is an issue for both Exempt and Nonexempt employees. If an employee works from home, that becomes the workplace and the University may be liable for any accident or injury occurring while they are working (tripping over furniture while walking to a work station such as a computer station, work table, etc.). Investigating incidents which occur off the University premises presents unique challenges.

While a department cannot formally establish a telework schedule with a Nonexempt employee, when it is in the best interests of the department, an employer can assign work to Nonexempt employees to complete using telework, subject to the concerns outlined above. Informal, unplanned, and incidental situations that occur on a case-by-case basis in response to unusual circumstances and that are to the benefit of the University are less likely to be of concern. However, supervisors must be mindful of the MOU anytime they consider allowing a Nonexempt employee to telework and consult with staff in University Human Resources for guidance.

2. **Why can some employees telework but others cannot?**

There are two common reasons why a supervisor might approve one person to work from home, yet not approve a telework request from another employee: 1.) the MOU restrictions, and 2.) the job duties.

The Collective Bargaining Agreement "Memorandum of Understanding" (MOU) for Exempt Staff permits telework. However, because the MOU for Non-Exempt Staff does not mention it, a formal telework arrangement for Non-Exempt Staff is not advised.
If a job’s duties and responsibilities can be carried out away from the workplace just as well as at the workplace, that position is more likely to be allowed to telework. However, if a job's duties and responsibilities must be performed on site that position is not likely to be allowed to telework.

Staff members whose job duties involve interacting on a face-to-face basis with members of the campus community (e.g., providing healthcare, counseling services, or receptionist duties) or performing work with the physical structures of campus (e.g., doing maintenance, housekeeping, or preparing or serving food) do not have positions that are conducive to telework. However, if they also perform some duties that can be done off-site, they may be allowed to telework for that aspect of their job. For example, if an employee with on-site duties and responsibilities regularly spends 10-20% of his/her time, reviewing records, developing schedules, etc. then that employee may be permitted to telework once a week or once a pay period to conduct those job duties that can be performed off-site.

Employees must be familiar with their current job description prior to engaging in conversations about telework. Staff members who do not have a current copy of their job description are encouraged to ask for one. Dialogue (not merely written correspondence) between supervisors and employees is strongly recommended.

3. **What happens if someone gets injured when teleworking?**

If an employee is injured in the course of doing his or her job, including if the employee is teleworking, the employee may be eligible for Workers Compensation. However, the issues of deciding whether an injury which occurs when working off-site will be compensable (considered work-related or in the course of employment) are complicated. Supervisors need to spell out clear expectations for teleworking staff and their off-site work locations to minimize the potential for accidental injury.

4. **Are there requirements for the off-site work area?**

Employees are responsible for establishing an appropriate work area when teleworking. It is the employee’s responsibility to ensure the work location is in a safe condition, free from hazards to the employee or any equipment. Student Affairs is not responsible for costs associated with any initial setup or modifications of the worksite.

5. **What are the confidentiality and security issues related to telework?**

Employees are expected to ensure the confidentiality and security of all information and data they are working with. Employees who handle sensitive information (such as student or employee names, addresses, University ID numbers, social security numbers, or other personnel data) should be extremely careful about transporting such information between home and the office, as well as safeguarding such information off-site.

6. **What are the considerations regarding equipment, access and support?**

Issues regarding whether the employer or the employee will provide a computer and telephone should be determined as part of the telework agreement. Unless staff who have similar job requirements and roles are routinely provided with laptop computers and cell phones, employees who are interested in teleworking should assume that they will be responsible for having the computer hardware and
telephone lines necessary. In addition employees are expected to provide their own ISP (Internet Service Provider). Decisions regarding support are made on a case-by-case basis by the supervisor.

This issue should be addressed as part of the process when a department and employee are considering a telework request. Some departments may be able to provide take home equipment, such as laptops loaded with the necessary software, or flash drives for transporting e-documents between home and work. Some departments can also provide remote access so that an employee can access their work computers from elsewhere.

7. *What are the financial implications of teleworking?*

Expenses for office and other supplies should be discussed prior to finalizing the telework arrangement and prior to any purchase. However, it is unlikely that a department will be able to reimburse an employee for certain expenses, such as internet access or printer supplies (for example, paper and ink cartridges).

Regarding any implications on teleworking on an employee’s personal income tax, employees are encouraged to consult with a qualified tax advisor.

8. *Where can I find additional information about teleworking?*

A number of issues that should be considered are outlined in the Student Affairs Work-Life Conversation Guides for employees and supervisors regarding telework accommodations, [http://www.studentaffairs.umd.edu/worklife/guides.html](http://www.studentaffairs.umd.edu/worklife/guides.html).