

Emergency Telework in the Event of Pandemic Declaration

Request

Pursuant to Executive Order 1457, the Mississippi State Personnel Board has developed the following policy guidance concerning emergency telework in the event of a pandemic declaration.

Introduction

It is the determination of MSPB staff that a “one size fits all” approach to telework would not be in the best interests of the State. It has been determined that the varied functions and priorities of our state entities would best be served through the provision of a set of guidelines which could be used by those entities to tailor an emergency telework policy to suit their individual needs and allocation of resources.

MSPB staff compiled the guidelines found herein for state entities to consider in the drafting of their telework policies for emergency situations, such as pandemic influenza. **In developing a policy based on these guidelines, MSPB staff strongly encourages state entities to consult with relevant staff, such as information technology and human resources personnel, as well as legal counsel prior to finalization and implementation of an emergency telework policy.**

Guidelines

Scope of Emergency Declaration

Specific implementation of an emergency telework policy in the event of a pandemic situation would be dependent upon the scope of the emergency declared. Any policy developed should allow for flexibility dependent upon the scope of the Governor’s or appointing authority’s declaration of an emergency.

Mission Essential Functions

State entities should review their current organizational structure to determine the following:

- Which employees perform essential duties required to carry out the entity’s mission in the event of an emergency;
- Which employees may be necessary in certain limited circumstances to continue entity operations during an emergency situation; and
- Which employees perform duties which may not be necessary while an emergency declaration is in effect.

For each of these groups, the state entity should then determine which employees will be required to work during the emergency situation. For those employees required to work, the entity should

review the individual job duties assigned to the included employees and determine which could be performed via teleworking. For example, employees such as nurses or highway patrol officers may be needed in a specific location or capacity that would make telework impossible. On the other hand, certain essential administrative employees might be able to telework if provided with the necessary equipment.

Leave and Timekeeping Policies

State entities should also consider timekeeping and leave in drafting an emergency telework policy. A fundamental leave policy regarding a declared emergency should be developed by the state entity.

Leave and Requirement to Work

Pursuant to Miss. Code Ann. § 25-3-92(2)(b):

The Governor or the appointing authority may grant administrative leave with pay to state employees on a local or statewide basis in the event of extreme weather conditions or in the event of a man-made, technological or natural disaster or emergency. Any employee on a previously approved leave during the affected period shall be eligible for such administrative leave granted by the Governor or appointing authority, and shall not be charged for his previously approved leave during the affected period.

Employees who telework during an emergency may be eligible to receive credit for compensatory leave pursuant to Miss. Code Ann. § 25-3-92(1):

When, in the opinion of the appointing authority, it is essential that a state employee work after normal working hours, the employee may receive credit for compensatory leave. Except as otherwise provided in Section 37-13-89, when, in the opinion of the appointing authority, it is essential that a state employee work during an official state holiday, the employee shall receive credit for compensatory leave.

The development of the leave and requirement to work portions of an emergency telework policy should take into account the federal Fair Labor Standards Act and any other relevant state or federal laws and regulations governing overtime, work schedules, and the accrual and usage of leave. The MSPB policies governing leave, overtime, and work schedules can be found in Chapter 3 of the *State Employee Handbook*.

In conjunction with leave policy, consideration should be made for how authorized time worked is determined and recorded.

Timekeeping

In the event of an emergency, a state entity may determine that a schedule other than normal working hours should be used for employees who telework. If that is the case, an emergency telework policy should address this contingency as well as who has the authority to determine the number and schedule of hours worked by teleworking employees, including any limitations to be imposed.

For timekeeping purposes, the entity should also make sure to include provisions regarding:

- How time worked will be recorded;
- Whether some independent system of verification will be used; and
- Who will approve/authorize time worked for the purposes of scheduling and payroll.

There are also other practical considerations which a state entity should take into account in the formation of an emergency telework policy.

Equipment and Networking

Equipment Availability and Distribution

State entities that intend to enact an emergency telework policy should review their inventory to determine if equipment is available to serve the needs of the entity in such instances. Relevant equipment could include:

- Laptop computers;
- Personal computers;
- Tablet or handheld devices; and
- Landline-based or cellular phones.

A plan for assignment and distribution of equipment to be used in an emergency telework situation should be included in an entity's emergency telework policy and may need to provide contingencies for different types of emergencies. Additionally, the entity should determine what requirements may exist, such as internet access, for an employee to telework in the event of an emergency. If an employee serving an essential function who would be required to work during the state of emergency does not have the necessary capability to telework due to a limitation, such as lack of internet access, the agency may need to determine if the work can be performed via a different method or if equipment to address such a contingency should be provided as needed.

Where an entity does not maintain sufficient equipment to allow for broad functionality in the event that emergency telework becomes necessary, the entity will need to prioritize the provision of equipment and review alternative solutions for facilitating telework. In some instances, this could include allowing employees to make use of personal equipment to perform the necessary

business of the entity; any use of personal equipment would likely give rise to security and recordkeeping concerns which would need to be reviewed and addressed.

Network Security

A state entity should incorporate provisions regarding secure remote access to the entity's network in its emergency telework policy. The policy should address:

- How to remotely access the network;
- Limitations on access, such as the use of a secured wireless network;
- Restrictions to limit the unintentional spread of malware and/or infected files and data;
- Any special provisions needed in the event that an employee uses personal equipment, such as necessary software; and
- Any other requirements which the entity feels are necessary in order to ensure that its operations and information are protected.

It is recommended that entities consult with both their individual information technology departments and the Department of Information Technology Services when determining the necessary equipment and network security components of their emergency telework policies.

Conclusion

The above guidelines are intended to provide a basis upon which an individual state entity may develop an emergency telework policy. They are not exhaustive, as each entity will want to address its specific operational needs through its policy. To reiterate, in developing a policy based on these guidelines, MSPB staff strongly encourages state entities to consult with relevant staff, such as information technology and human resources personnel, as well as legal counsel prior to finalization and implementation of an emergency telework policy.