

MCIT
MINNESOTA COUNTIES INTERGOVERNMENTAL TRUST
VIRTUAL RISK MANAGEMENT WORKSHOP

Make Telecommuting Work for Employer and Employee

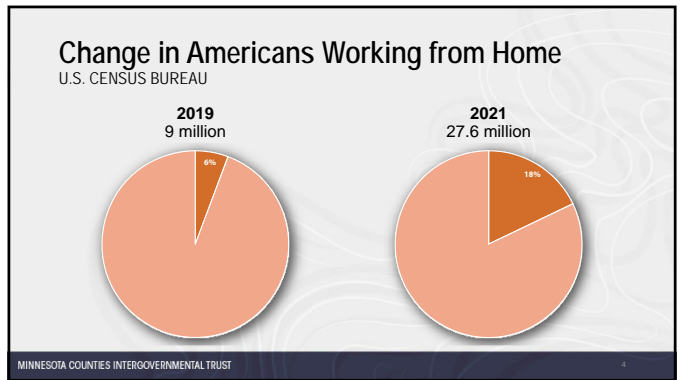
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Telecommuting Is a Policy Decision

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Telecommuters' Perspective (Gallup Poll)

- Better for wellbeing
- More flexibility
- Fewer distractions = more productive
- Save time (no commute)
- 49 percent preferred fully remote
- 45 percent preferred hybrid schedule

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Telecommuters Report Challenges

- Maintaining the same productivity levels
- Communication and collaboration among team members
- Engaging with remote colleagues while onsite

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What About Managers?

- 6 out of 10 managers report the pandemic negatively affected their mental health
- 40% now rank mental health over career



Concerns Reported by Managers

About Themselves

- 44% are concerned about falling behind in their own career development
- 23% are concerned they are not getting support they need from employer

About Their Employees

- 50% are concerned employees are falling behind in career development
- 56% report it is harder to find opportunities to teach and mentor in a remote setting

Benefits of Telecommuting



- Recruitment and retention
 - Attract candidates seeking flexibility
 - Expand geographic boundaries of recruitment
- Increased productivity
- Improved morale
- Decreased absenteeism
- Reduced office space, rent, overhead

Drawbacks to Telecommuting



- Additional effort for managers and human resources
- Challenges for information technology staff
- Concerns about team building and collaboration
- Concerns about meeting expectations for public services

Development of the Program

- Who is eligible to telecommute?
 - Job positions
 - Individual employees
- What equipment will be provided?
- How will data and property be secured?
- How will performance be managed and addressed?
- How will safety, wellness and other liability topics be addressed?
- How will team building and communication be managed?

Considerations for Eligibility

Discuss Eligibility

Not All Jobs Can Be Done Remotely

- Do job tasks require onsite-only resources?
- Can you maintain the level of service desired with remote employees?
- Is walk-in customer service a primary responsibility?

Not All Workers Can Do the Job Remotely

- Does the employee have sufficient independent access to information, including feedback?
- Does the position have sufficient autonomy to work remotely?

Create Eligibility Parameters

- Fairness
- Process for allowing remote work
- Team approach to selection and transparency
 - Applications go to HR and direct supervisor

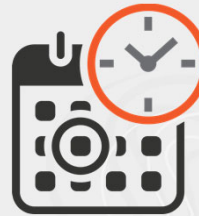


Define Eligibility in Policy and Application



- Set eligibility guidelines, such as:
 - Nature of the position
 - How long a person has been at the company or in their current role
 - Past job performance
 - How frequently a staff member can telecommute

Define Work Hours



- Work hours may vary from person to person
- Trust telecommuters
 - Give freedom to do jobs in way that works for them
- Employees need to be held accountable for their assigned jobs

Avoid Discrimination Lawsuits



- In the policy, define eligible positions to work remotely
- Consistently abide by limitations when granting/denying request to work remotely
- Require employees to submit written requests for remote work to managers and HR
- Train managers how to handle remote work requests

Equipment and Technology Considerations

Equipment and Technical Support

- Determine what equipment employer will provide
- Review how technical support will be provided to employee
- Identify work expenses that will be reimbursed

Equipment and Cyber-security

- Ensure security of data outside of office network
- Monitoring devices and programs
- Safeguard against hacks and breaches
- Password protect all business devices
- Encrypt outgoing data



Cyber-security for Remote Work

- Protocols to secure all organization, client and employee data
- Use a business VPN
- Employees should store work files on organization devices, not personal drives
- Remind workers that employer-owned or -issued devices and programs are for business use only



Best Practices for Data Security

- Train employees on breaches, hacking, phishing, smishing, etc.
- Employer should provide laptop with appropriate software to ensure security
- Employer instant messaging and virtual meeting software
- Managers work with IT department for software needs to ensure security



Best Practices for IT or HR

- Keep a current inventory of all devices that telecommuters have in their possession, ensure each one has GPS tracking turned on
- Install technology to wipe data remotely from any device that has been lost or stolen
- Ensure coverage is provided for member equipment at the employee's home

Managing Performance and Communication

Set Performance Expectations

- Define expectations for employee and manager
- Evaluate performance based on work product, not location of employee
- Discuss employee goals and ways to meet them
- Define when an employee can lose telecommuting privileges



Establish Channels for Communication

- Discuss communication: Be strategic
- Planned virtual meetings or ad hoc?
- What need does employee perceive is unmet in remote work model?



Communication Methods



- Frequent phone and video calls, instant messaging, emails
- It is easy to feel disengaged and not included when telecommuting

Manage Wage and Hour Considerations

Fair Labor Standards Act (FLSA)



- Employers must compensate all hours worked ("suffered or permitted")
- Includes overtime employer knows or has reason to know was worked even if not approved
- Time over 40 hours in work week is paid at time and a half
- Also requires classification of employees
- Nonexempt (hourly) or exempt (salary)
- Sets minimum wage

Wage and Hour Issues for Nonexempt Employees

- Employee is responsible for reporting daily hours to employer
- Employer ensures reports are consistently submitted and monitored
- Agreement should contain a clear statement that working overtime is prohibited without supervisory approval

Tips for Compliance with FLSA

- Time tracking can be accessed remotely
- Clear and well-publicized policies on what constitutes "hours worked"
- Specific overtime expectations:
 - Prohibit work over 40 hours in work week?
 - Require supervisor approval?
- Prohibit working off the clock, under-reporting or over-reporting time worked



Timekeeping for Hourly Employees

- Internal control policy
 - Requires reports of hours or days worked, not just reports of hours or days absent
 - Requires both employee and supervisor to verify hours worked

https://www.osa.state.mn.us/media/011/lhhs0/employeetimekeepingproc_0808_statement.pdf

Safety and Wellness Considerations

Workplace Injuries

- Employers are required to keep records of work-related injuries and illnesses
 - Location of injury/illness does not matter as long as it meets recording criteria of 29 CFR Part 1904
- Work-related if injury or illness occurs while the employee is remotely performing work for pay and is directly related to the performance of work, rather than general home environment



Ergonomics



- Ergonomics review by loss control or supervisor can also be accomplished by virtual meeting
- It is in best interests of employer and employee to avoid any injuries as result of work
- Employer can purchase equipment for workstation when appropriate

Investigation Tips for Offsite Injuries

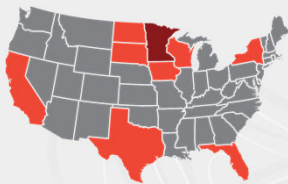
- Did injury take place in a location employer authorized and would expect employee to be working?
- Was employee performing employer-authorized work duties when he/she sustained the injury or illness?
- Did the injury take place during appointed work hours?
- Was employee injured while engaging in personal, nonwork activities?

Work or Nonwork Injury?

- If employee drops box of work documents and injures foot, it is considered work related
- If employee is injured when rushing to answer a work phone call but trips over the family dog, not considered work related
- If employee is electrocuted because of faulty home wiring, the injury is not considered work related

Special Considerations for Out-of-state Telecommuting

When Remote Worksite Is in Another State



- Workers' compensation coverage:
 - Governed by state law
 - Generally provided by employer through insurance company or self-insured
 - Different benefits are available in each state
- Employer must provide workers' compensation insurance from both states

Other Laws That Vary from State to State

- State family, medical and other leave laws
- Unemployment taxes for employer and payout for employee
- Income taxes, payroll tax
- Other employment-related laws

Best Practices

- Employer/HR should maintain list of states where employees are working remotely
- Have legal counsel be aware of states involved and their various employment and tax laws
- Employer provides workers' compensation coverage for work-related injuries required by state law
- Employer verifies that employees' homeowners insurance is sufficient to cover visitors

Telecommuting Agreements with Employees

Telecommuting Agreement

- Remind employees they are expected to comply with all applicable personnel policies:
 - Acceptable use for computers
 - Mobile phone
 - Data privacy and security
 - Others as needed
- Discuss work hours:
 - Confirm that nonexempt employees will abide by wage and hour reporting policies
- Establish employee goals and performance standards

Telecommuting Agreement

- Attach list of safety requirements
- Employee is responsible for safety
 - Generally employers don't want to view home offices because of privacy issues
- Require self-audit
 - Give appropriate information related to workstation ergonomics
- Other safety and security measures
- "Telecommuting Safety Checklist"
 - [MCIT.org/resource/](https://mciit.org/resource/)



Evaluate Hybrid or Remote Program

Evaluate Telecommuting Program

- Seek input from all stakeholders
- Recognize the extra burden on managers of remote workers and provide support
- Review and adjust regularly
 - How is organization doing as a whole?
 - Are there changes employees and managers recommend?



Key Take Aways

- Remote or hybrid workforce has benefits
- Challenges of human resources remain
- Perceptions of managers and employees do not always align
- There is no mandate for telecommuting
- Like other programs involving employees, have written policy, protocols and agreement



Resources

- Employer's obligations for record keeping for telecommuting employees
 - [DOL.gov/sites/dolgov/files/WHD/legacy/files/fab_2020_5.pdf](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fab_2020_5.pdf)
- "Telecommuting: Address Safety, Liability of Home-based Workers"
 - [MCIT.org/resource/telecommuting-address-safety-liability-of-home-based-workers/](https://mciit.org/resource/telecommuting-address-safety-liability-of-home-based-workers/)
- "Telecommuting Safety Checklist"
 - [MCIT.org/resource/telecommuting-safety-checklist/](https://mciit.org/resource/telecommuting-safety-checklist/)

Join Us for More Workshops

Register at MCIT.org/training-calendar/

- **Resilience for Managers: Leading The Way:**
Oct. 13 at 1:30 p.m.
- **Key Employment Risks for Small Employers (For Entities with Fewer than 50 Employees):**
Oct. 26 at 10:30 a.m.
- **Ethics and Public Purpose Doctrine for Public Entities:**
Oct. 27 at 1:30 p.m.
- **Managing Performance with Positive Communication:**
Nov. 16 at 1:30 p.m.

DISCUSSION

ASK QUESTIONS, SHARE EXPERIENCES