

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

NGOH-HRZ

7 June 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Ohio National Guard Telework Policy (HRO Policy # 21-018)

1. **References:**

- a. 5 USC Sections 6501-6506.
- b. DoDI 1035.01, Telework Policy, 4 April 2012, Change 1, 7 April 2021
- c. DoD Instruction 5400.11, "DoD Privacy and Civil Liberties Programs," January 29, 2019
- d. Section 552a of title 5, United States Code (also known as the "Privacy Act of 1974")
- e. DoD Manual 5400.07, "DoD Freedom Of Information Act (FOIA) Program," January 25, 2017
- f. Office of Management and Budget Memorandum 07-16, "Safeguarding Against and Responding to the Breach of Personally Identifiable Information", May 27, 2007
- g. Office of Management and Budget Memorandum 06-16, "Protection of Sensitive Agency Information, June 23, 2006
- h. Section 423 of title 41, United States Code (also known as section 27 of the "Office of Federal Procurement Policy Act, as amended")
- i. Federal Acquisition Regulation, current edition

2. **Compliance:** The DoD Telework Policy implements the legal requirement for executive agencies to establish policies under which civilian employees and military service members may participate in teleworking, without diminished employee performance. This memorandum outlines the telework policy for the Ohio National Guard (OHNG).

3. **Applicability:** This policy applies to all federal employees and all full-time military service members of the OHNG (henceforth referred to as "workforce members").

Workforce members specifically include Title 32 Dual-Status Technicians (MILTECHs), Title 5 National Guard Employees (NGEs), and all military members performing Full-Time National Guard Duty (FTNGD), such as Title 32 Active Guard Reserve (AGR) duty and all other forms of FTNGD. FTNGD includes - but is not limited to - Operational Support (FTNGD-OS), Counter-Drug (FTNGD-CD), and Other Training Duty (FTNGD-OTD). Probationary MILTECHs, probationary NGEs, and FTNGD personnel, whose FTNGD orders do not exceed one year, will be permitted to telework in only rare circumstances. This policy does **NOT** apply to state of Ohio employees.

4. **Background:** Telework is a voluntary work-flexibility arrangement under which a workforce member performs his / her duties from an approved alternate worksite location (i.e. a location that differs from the member's normal, assigned worksite location) on either a regular and recurring or a situational basis.

a. **Mandatory Telework:** Under normal conditions, workforce members may not be ordered to telework; however, under emergency conditions, workforce members may be ordered to telework, as further described in paragraph 11 of this policy.

b. **Approved Locations:** Alternate worksite locations include, but are not limited to, OHNG bases, armories, or other government-owned facilities; a member's home of record; etc.

c. **Normal Travel:** Telework does not include any part of work done while on official travel or mobile work, such as work characterized by routine and regular travel to customer or other worksites, instead of a single defined worksite. In other words, telework agreements are not required for workforce members on TDY or for members who travel to other sites regularly, as a normal part of their duties (e.g. inspectors, auditors, etc.).

5. **Policy:** Commanders and supervisors are authorized and encouraged to use telework as a management tool for all segments of the federal workforce. Before doing so, however, they must thoroughly review telework requests from the perspective of mission readiness and mission accomplishment. While workforce quality of life may be used as a criterion, when deciding whether to approve such requests, mission readiness and mission accomplishment must be at the forefront and the most heavily weighted factor for these decisions. With that in mind, all commanders and supervisors shall adhere to the guidance and procedures in this policy when reviewing telework requests, when implementing telework agreements, and when generally using telework as a management tool. General eligibility and approval guidelines follow:

a. **Discretionary vs. Entitlement:** Telework is a workplace-flexibility / management tool; furthermore, use of telework is at the sole discretion of commanders and supervisors. Telework is not an entitlement and does not change employment or service-agreement terms and/or conditions.

b. Workforce members, who work with classified information on a daily basis, must telework from a secure site and will only be authorized to do so on a case-by-case basis and for a limited time.

c. Workforce members in positions that require-on a daily basis-on-site activity or face-to-face personal contacts, which cannot be performed remotely or at an alternative worksite (e.g., hands-on contact with machinery, equipment, or vehicles) would not generally be candidates for telework. These members may, however, be eligible for situational telework in specific circumstances: e.g., to accomplish relevant, duty-related administrative requirements or on-line training that is required for their position as OHNG workforce members.

d. Workforce members whose performance was officially appraised below fully-successful will not ordinarily be authorized to telework; however, if they are permitted to do so, their supervisors shall explain how they will be appropriately supervised.

e. No workforce member, who has been coded as (charged with) Absence Without Leave (AWOL), within the previous calendar year, will be granted teleworking privileges.

f. No workforce member, upon whom any adverse action or disciplinary action (formal or informal) has been imposed / implemented - within the previous calendar year - will be granted teleworking privileges. No workforce member, who is the subject of an investigation or inquiry that could reasonably lead to an adverse or disciplinary action - or is pending such action - will be granted teleworking privileges. No full-time military member, who is currently "flagged" (i.e. under suspension of favorable personnel action), will be granted teleworking privileges.

g. Telework is not a substitute for child care.

6. **Work Schedules:** Telework will not be scheduled outside existing hours of duty or outside the workforce member's approved work schedule. See the current OHNG Work Schedule Policy for Federal Workforce Members for additional details.

7. **Telework Agreements:** The DD Form 2946 shall be signed and dated by the work force member and supervisor after the required training has been completed. The supervisor and HRO shall maintain copies of the agreement and training certification. Telework arrangements (agreements) may be made as part of a workforce member's ongoing work schedule or on a case-by-case basis, to accommodate a specific agency or workforce - member need. With the exception of emergency situations - approved by The Adjutant General (TAG) or his designated official - all telework agreements require supervisors and workforce members to undergo specific telework training, complete and execute DoD telework agreements (via DD Form 2946), and obtain Human Resources Office (HRO) approval. Additionally, no telework agreement may exceed two calendar

years from the agreed start date, as annotated on DD Form 2946; after which a new agreement must be completed, submitted, and approved. There are two types of telework:

a. **Regular and Recurring:** Regular and recurring telework may be requested and approved as part of an ongoing, regular, and recurring schedule. Under this type of agreement / arrangement, workforce members may be approved to telework for one or more days per work week from their homes of record or other alternate worksite locations. Telework day(s) will not "float" throughout the week, but will be a regular part of the work schedule (e.g. every Monday, every Tuesday and Thursday, etc.).

b. **Situational:** Situational telework may be requested and approved on a case-by-case basis, in which the hours worked are not part of a previously approved, ongoing, and regular telework schedule (e.g., as a result of inclement weather, medical appointments, special work assignments, or to accommodate other special circumstances). Telework is considered "situational," even when it may occur continuously for a specified period, and is also referred to as episodic, intermittent, unscheduled, or ad hoc telework.

(1) **Specified period:** Workforce members may be approved to telework for a specified, finite period of time, to accommodate a specific workforce-member or agency need. For example, a workforce member may be required to remain at home for six weeks, after recovering from foot surgery; however, the member's duties may be performed remotely. In this example, a telework agreement may be approved for the six-week period, for which the member is required to remain at home. Any additional telework, beyond that six - week period, however, must be requested, approved, and implemented separately, in this example.

(2) **Intermittent / episodic / ad hoc:** Members may be approved to telework intermittently, on a case-by-case basis, for up to a two - year period. If approved for this type of agreement, a workforce member may work from an approved alternate worksite intermittently, as the need arises, with supervisor approval: e.g. during the two - year agreement, the member may work from an alternate worksite, for a specified period, to complete a special project or to accommodate a specific workforce - member need; such as the one described in the previous paragraph or, for example, due to poor commuting conditions (e.g. hazardous weather), etc. Each instance of intermittent telework, during the two - year agreement, must be approved by the workforce member's supervisor.

(3) Supervisors must document, in writing, each instance of approved intermittent telework - described in paragraph 7b (2) - and maintain local records for a period of two years, for audit purposes. Acceptable forms of written documentation includes, but is not limited to: requests and approvals via email; memorandums for record; etc.

8. **Operating costs:** The OHNG is not responsible for any operating costs associated with the workforce member's use of his or her home as an alternate worksite. This includes, but is not limited to, home renovations, insurance, internet connectivity, utilities, and / or home or cell phone reimbursement. The workforce member must also acknowledge and agree that the OHNG will not be liable for damages to a workforce member's personal or real property, while he or she is working at the approved alternative worksite.

9. **Request Procedures:** Workforce members may request either a "regular – and - recurring" or "situational" telework arrangement by completing DD Form 2946 (DoD Telework Agreement). Workforce members will provide a justification for telework as well as a detailed outline of the work that will be accomplished, how he or she will remain productive, a description of the alternative work site, and how communication will be maintained with the supervisor and customers. This request will be submitted to the workforce member's immediate supervisor for review. After the workforce member's supervisor reviews, the request will be sent to the first O5/GS13 in the supervisory chain for approval. If the first O5/GS13 in the supervisory chain agrees with the request, the request packet will be forwarded to the Human Resources Office, ATTN: Customer Service, for review and final approval.

10. **Other Required Documentation / Acknowledgments:** In addition to DD Form 2946, supervisors and workforce members will complete all required and applicable Telework training (see websites below) and provide the corresponding training certificates to the HRO, as part of the aforementioned request packet. Additionally, workforce members and supervisory chains will ensure, acknowledge, and/or provide documentary verification for the following:

a. **Telework required training websites:**

(1) **Supervisor Training:** <https://www.telework.gov/training-resources/telework-training/virtual-telework-fundamentals-training-courses/managers-course/index.htm>

(2) **Workforce-Member (Employee) Training:** <https://www.telework.gov/training-resources/telework-training/virtual-telework-fundamentals-training-courses/employee-course/index.htm>

b. **Cybersecurity Annual Training:** The workforce member's DoD Cybersecurity training is up-to-date (i.e. does not expire within 90 days).

c. **Alternative worksite required conditions:** Supervisors are encouraged but not required to inspect the proposed Telework site, prior to recommending approval of a telework agreement; however, all workforce members must certify that they are responsible for ensuring a safe and healthy alternative worksite and that they agree to all other terms of the telework agreement, as enumerated in DD Form 2946. By signing DD Form 2946, workforce members and their supervisors are attesting that the

workforce member's proposed alternative worksite meets the required conditions of an alternative worksite.

d. **Accidents, Injuries, Illnesses:** The workforce member must notify his or her supervisor immediately of any accidents, injuries, or illnesses that occur at the alternative workplace, while performing assigned duties and complete any applicable, required documentation. The supervisor will investigate such reports and, if deemed necessary, arrange an on - site investigation. Neither the OHNG nor the United States Government, will be liable for accidents that occur outside of the specific work area in a workforce member's home of record.

e. **Mission-Critical Designation:** If the workforce member is designated as someone whose duties are mission - critical, the supervisor will ensure that the following statement is inserted in the "Component - specific Terms and Conditions" block of DD Form 2946, as part of the proposed Telework Agreement: "Full Name performs mission-critical duties for the Ohio National Guard and will, therefore, be required to continue the performance of those duties, via telework, in the event that emergency conditions prevent the performance of those duties at the normal worksite/duty location." Prior to completing and signing the telework agreement, the supervisor will discuss this specific condition with the workforce member to ensure his or her full acknowledgement and understanding of this additional condition of the agreement.

f. **Telework Denial or Termination:** Commanders and supervisors may deny requests for telework. They may also terminate previously approved telework agreements. Workforce members may also request termination of a telework agreement, except when ordered to telework under the provisions of paragraph 11 of this policy. Terminations may be without prior notice; however, all telework denials and terminations must be documented in writing, as described below:

(1) **Written Termination:** Whether supervisors are denying or terminating telework agreements or workforce members are requesting the termination of an approved telework agreement, all such denials and terminations must be documented in writing, using page 4 of DD Form 2946, "DoD Telework Agreement" (enclosed).

(2) **Basis:** All denials and terminations must provide the basis for the denial or termination. The basis may include - but is not limited to - such reasons as: mission requirements, workforce member performance or conduct, needs of the workforce member's workgroup or work center, workforce member's duties are not conducive to telework, etc. When applicable, supervisors should also include information about when the workforce member may reapply, or actions that the member should take to improve his or her chances of approval.

11. **Continuity of Operations Plan (COOP) / Declared Emergencies:** Under certain mission - critical and emergency conditions, TAG or his designated official may order workforce members to perform situational telework for a short or even extended period

of time, regardless of whether those members have existing telework agreements. Under these conditions, the procedural requirements of this policy are waived (i.e. those listed in paragraphs 9, 10c, 10e, and 10f above). In the event of and in preparation for such conditions, however, commanders and supervisors should take the following actions, **when time permits and/or as directed by TAG or his designated official**:

a. **Extended emergency telework:** If an emergency order to telework is anticipated to last for an extended period of time, supervisors will take action to comply with all procedural requirements of this policy.

b. **Prior to an emergency:** Identify all workforce members who would meet the criteria for telework (e.g. as described in paragraph 5 above), in preparation for emergency situations that would require TAG to order workforce members to telework.

c. **Emergency preparedness:** After identifying all workforce members, who meet the telework criteria, commanders and supervisors are highly encouraged to implement the requirements for two - year situational (intermittent / episodic / ad hoc) telework agreements for these workforce members. These agreements need only be enacted in an emergency, but having them on file prior to an emergency, could significantly ease administrative burdens during that emergency.

12. **Accountability:** Time spent in a telework status must be accounted for and reported in the same manner as if the workforce member reported for duty at his or her regular worksite. Supervisors should verify work output through regular contact with the workforce member (e.g. telephone calls, emails, etc.) and / or by determining the reasonableness of work output, compared to time spent teleworking.

13. **Timekeeping for Federal Employees:** Hours spent in a telework status must be documented using the appropriate Standard Labor Data Collection and Distribution (SCDLADA) codes. When using SLDCADA, the type-hour code will be "RG" and the environmental code will be one of the following:

- a. Telework situational / ad hoc: TS;
- b. Telework situational / medical: TM; or
- c. Telework regular & recurring schedule: TW.

14. **Security Considerations:** Workforce members are responsible for safeguarding all OHNG information, protecting Government - furnished computer equipment (GFE) and Government property, and performing assigned duties while teleworking in support of OHNG mission requirements. All GFE, software, and communications, with appropriate security measures, are required for any telework arrangement that involves CUI data.

a. Workforce members, in telework arrangements, shall not take classified documents (hard copy or electronic) to their homes or alternative worksites. If classified telework is authorized at an approved alternative secure location, teleworkers shall comply with the procedures established by the OHNG regarding such work.

b. Workforce members must protect CUI, including Privacy Act or For Official Use Only data, consistent with the guidance set forth in DoD Instruction 5400.11; section 552a of title 5, U.S.C. (also known as the Privacy Act of 1974); and DoD Manual 5400.07; as well as OHNG policy.

(1) Teleworking employees who access Personally Identifiable Information (PII) may only do so on encrypted GFE requiring two-factor authentication for access, in accordance with Office of Management and Budget (OMB) Memorandum 07-16.

(2) Extraction of PII from DoD systems onto GFE used for teleworking is prohibited unless approved by a manager and logged and erased in accordance with the requirements of OMB Memorandum 06-16.

(3) The use of personal e-mail accounts for PII transmission is strictly prohibited. PII may only be e-mailed between Government email accounts and must be encrypted and digitally signed.

c. Workforce members must protect CUI or contractor proprietary data restricted by section 423 of title 41, U.S.C. (also known as section 27 of the "Office of Federal Procurement Policy Act, as amended") or data otherwise restricted by the Federal Acquisition Regulation or the Defense Federal Acquisition Regulation Supplement or other acquisition policies.

d. Workforce members must comply with criteria and guidelines established by the DoD CIO and OHNG for using both GFE and non-GFE and for access to DoD information systems and networks to perform telework.

e. Workforce members who telework from home must comply with criteria and guidelines established by OHNG for keeping Government property and information safe and secure.

f. The GFE shall be used for official use and authorized purposes only. Family members and friends of Workforce members are not authorized to use GFE and materials. The GFE must be returned to the OHNG at the conclusion of teleworking arrangements or at the OHNG's request.

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15. **Points of Contact:** Questions concerning this policy may be directed to the Labor Relations Specialist, Cheryl L. Clark, at cheryl.l.clark.civ@mail.mil; or to AGR Branch Manager, CW4 Peter J. Toland, peter.j.toland.mil@mail.mil.

FOR THE ADJUTANT GENERAL:

A handwritten signature in black ink, appearing to read "Joseph F. Logan". The signature is fluid and cursive, with a long horizontal stroke at the end.

JOSEPH F. LOGAN, Col, ANG
Director for Human Resources

Encl
DD Form 2946

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