



OFFICE OF THE UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

MAY 12 2011

PERSONNEL AND
READINESS

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Telework Eligibility

As you are aware, the President signed the Telework Enhancement Act of 2010 into law on December 9, 2010. The Act provides a framework to maximize the use of flexible work arrangements and reinforces DoD policy to actively promote and implement telework throughout the Department in support of DoD's commitment to workforce efficiency, emergency preparedness and quality of life.

The intent of the Act is to expand participation in telework. The Act defines three requirements for participation: employee telework-eligibility is identified Department-wide and employees are notified of their eligibility 180 days from the date of enactment; employees and their supervisors are trained in telework; and all employees who are authorized to telework have a written telework agreement with their supervisor

The Act presumes that all employees are *eligible* to telework, but specifies those conditions (Attachment 1) that make an employee *ineligible* to participate in telework. It does not establish new eligibility standards. We have provided your telework coordinators with samples of participation criteria for their use if Component standards and criteria have not yet been established. With the revised DoD Instruction 1035.01, Telework Policy, currently progressing through the DoD Instruction coordination process, establishing eligibility for all DoD employees to participate in telework is our highest priority.

Several Components have initiated the process to develop Component-specific criteria for eligibility to participate in telework based on job duties and employee performance or conduct. Components with robust telework programs have already identified those positions and employees that are appropriate for telework. These positions and employees do not need to be re-identified for their eligibility to participate in telework, but reviewing those positions and employees that are currently ineligible for telework participation is encouraged. Those employees whose participation status has changed must be notified of the change in their status. If you have not initiated the process for your Component, it is imperative that you begin this process without delay. The following actions must be accomplished:

- Telework participation status must be identified for all positions. Components should use a consistent decision making approach to determine eligibility based on criteria related to job requirements and an assessment of employee performance, conduct, and work habits.
- All employees must be notified of their telework eligibility status.

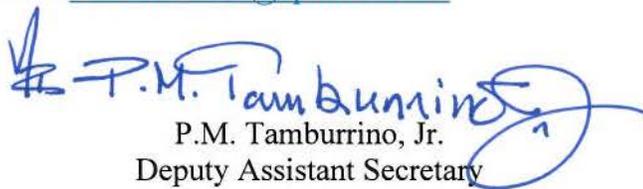


- OPM advises that by June 7, 2011, all employees must be notified that they are telework eligible if they do not meet the limitation criteria in Section 6502 of the Telework Enhancement Act of 2010 with the qualification that actual participation is contingent upon the duties of their position or employee performance or conduct criteria that could result in diminished employee performance or agency operations. Notification through a blast email or other mass notification is acceptable. A notification template (Attachment 2) is attached for your use by June 7, 2011.
- Participation criteria determinations must be in progress, but may not necessarily be completed 180 days from enactment of the law. Participation notification should take place in a conversation between supervisors and employees as soon as it is feasible.
- All employees who are eligible to participate in telework, but not currently teleworking under an approved telework agreement and their supervisors must be trained in telework before entering into a written telework agreement.

Several other actions are in progress to meet the requirements of the Act. CPMS Human Resources Business Information Technology Solutions (HR BITS) is developing an application to track telework eligibility by position and employee criteria in the Defense Civilian Personnel Data System (DCPDS). When the tracking system is deployed, HRSO personnel will be required to enter position eligibility status into DCPDS. Proposed delivery of the application is July 10, 2011. Supervisors will enter employee eligibility into MyBiz. DD Form 2946, DoD Telework Agreement, is being revised to document employee and supervisor self-certification of their participation in telework training.

I appreciate the efforts of your Component telework coordinators and your ongoing support of the actions required to assure the Department fully implements the provisions of the Act and that DoD policy provides a practical framework for an effective telework program.

I look forward to working with you as we implement the provisions of this new law and maximize its impact to enhance the DoD telework program. My point of contact is Ms. Pamela Budda who can be reached at Pamela.budda@cpms.osd.mil.


P.M. Tamburrino, Jr.
Deputy Assistant Secretary
Civilian Personnel Policy

Attachments:
As stated

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Draft Telework Enforcement Act of 2010 Telework Eligibility Notification template

The following information can be provided to employees in a Component email or memorandum format:

SUBJECT: Telework Enforcement Act of 2010 Telework Eligibility Information

The Telework Enforcement Act of 2010 was signed into law on December 9, 2010. The Act specifies roles, responsibilities and expectations for all Federal executive agencies with regard to telework policies; employee eligibility and participation; program implementation; and reporting.

The Act further specifies two categories of employees who may not be deemed eligible to telework under any circumstances: an employee who "has been officially disciplined for being absent without permission for more than 5 days in any calendar year" and an employee who "has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct of Employees of the Executive Branch for reviewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties [Public Law 111-292, 6502(a)(2)(A)(B)]."

It is Department of Defense policy that telework is actively promoted and implemented throughout the Department in support of the DoD commitment to workforce efficiency, emergency preparedness, and quality of life. [INSERT COMPONENT] remains committed to authorizing participation in telework for the maximum number of positions to the extent that mission readiness is not jeopardized. The following provides information on employee eligibility to participate in telework.

- DoD employees are considered eligible to telework if their position duties, performance, and conduct meet the criteria required by DoD policy and applicable Collective Bargaining Agreements in order to **participate** in a telework arrangement. Please be aware that telework is not an employee right and is subject to supervisory approval.
- These participation determinations are being made at the local level and your individual supervisors will talk with you about your eligibility to participate in telework. Employee requests to telework must be submitted to their supervisors. Employees who are eligible to participate in telework and their supervisors must complete telework training before completing the telework agreement:
<http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2946.pdf> . OPM provides web-based telework training available at the following link:
http://www.telework.gov/Tools_and_Resources/Training/index.aspx.

The [INSERT COMPONENT] Point of Contact for information on this matter is [INSERT COMPONENT POC AND POC CONTACT INFORMATION].

This information must be provided to all Component employees by June 7, 2011 to meet the notification requirement in the Act.

Telework Eligibility Limitations

Section 6502 of the Telework Enhancement Act of 2010 establishes the following limitation to employees' eligibility to telework under Federal agencies telework policies if:

- The employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or
- The employee has been officially disciplined for violations of Subpart G Standards of Ethical Conduct of Employees of the Executive Branch (Section 2635.704 of title 5, Code of Federal Regulations) for viewing, downloading, or exchanging pornography, including child pornography on a Federal Government computer or while performing Federal Government duties.

Other possible limitations include the following types of positions that are typically not eligible for telework, but there may be a portion of the position's functions/tasks can be performed via telework:

- Positions that require, on a daily basis, direct handling of classified materials.
- Positions that require, on a daily basis, an on-site activity or face-to-face personal contacts that cannot be handled remotely or at an alternative worksite (e.g., hands-on contact with machinery, equipment, or vehicles; direct patient care).

The following conditions impact employee eligibility to telework, but should not result in permanent telework ineligibility:

- Employees whose performance or conduct warrants more close supervisory direction than telework may provide, whose rating of record is below fully successful (or its equivalent), whose conduct has resulted in disciplinary action within the past 12 months, or who have unresolved security issues.
- Employees recently assigned or newly appointed to trainee or entry level positions.