



## SECTION V: EMPLOYEES

## POLICY 5365

### TELEWORK DURING EXTENDED SCHOOL CLOSURE

#### TELEWORK DURING EXTENDED SCHOOL CLOSURE OR FOR INTERMITTENT USE

THIS POLICY SHALL BE IN EFFECT WHEN DISTRICT SCHOOL SITES ARE CLOSED FOR AN EXTENDED PERIOD DUE TO EXIGENT CIRCUMSTANCES [ OR WHEN INTERMITTENT TELEWORK ARRANGEMENTS ARE WARRANTED]; THESE PROCEDURES WILL NOT BE USED WHEN THE DISTRICT IS OPEN FOR IN-PERSON INSTRUCTION [EXCEPT AS DETERMINED NECESSARY BY THE SUPERINTENDENT].

The board of education, while preferring that all District employees perform their work duties at their Primary Work Locations, does recognize that under certain extenuating circumstances it may be necessary to require or authorize some District employees to work from an alternative work location.

The purpose of this policy is to ensure the District is able to effectively continue educating and serving its students when it is required to temporarily close District work sites for an extended period due to extenuating circumstances, including, but not limited to, pandemic health emergencies and closure orders from federal, state, or local authorities [or when the Superintendent determines that intermittent telework arrangements are necessary and meet District needs].

#### **DEFINITIONS**

- **District Work Location:** A location, either on or off District property, to which a Teleworking Employee must physically report to complete a task or work assignment by his/her supervisor.
- **On-Call:** A work assignment where the employee is considered “at work,” though not physically present at his/her Primary Workplace, by being immediately available and accessible by electronic or telephonic means during the employee’s regular work hours, including any other designated hours due to a staggered or alternate work schedule, and who is required to physically report to a District Work Location or the Teleworking Employee’s Primary Workplace when directed by their supervisor.
- **Primary Workplace:** The Teleworking Employee’s usual and customary workplace or work site.
- **Telework/Teleworking:** A flexible work arrangement in which the superintendent or designee directs or allows Teleworking Employees to perform their essential job functions at pre-approved Telework Locations in accordance with their same performance expectations.
- **Telework Employee(s)/Teleworking Employee(s):** District personnel who have been authorized by District administration to Telework during a Telework Event to produce an agreed upon work product and/or complete work-related duties. This includes support personnel who are working On-Call.
- **Telework Event:** A potentially recurring situation during which time designated employees may Telework in lieu of physically reporting to their Primary Workplace.
- **Telework Location:** A work site or space not owned or leased by the District, but which is an approved location from which Teleworking Employees may perform their assigned job functions, which can include an employee’s home. A Telework Location is one which is safe, secure, free of undue distractions, adequately equipped to allow the Teleworking Employee to complete assigned work tasks and duties, and one which allows the employee to be immediately available and accessible by electronic or telephonic communication means during regular work hours and any other assigned or designated hours (e.g., required office hours pursuant to any virtual or distance learning policy).



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#### **GENERALLY**

In circumstances which necessitate extended cessation of in-person instruction and/or closure of some or all District work sites, the District considers Telework to be a viable alternative work arrangement for the delivery of instruction and services to students from designated certified employees and support staff. Therefore, under certain circumstances, the board of education (board) delegates authority to the superintendent or designee to designate employees, individually or collectively, who may or must Telework until further advised.

Teleworking, in part or whole, will continue as an acceptable work arrangement as long as, in the superintendent's sole discretion, such conditions continue to exist which necessitate the use of Teleworking as a means to deliver instruction and/or services to students. The superintendent will consider local, state and/or federal guidance related to the Telework Event when making this determination.

The decision of whether Telework is appropriate or required for a particular employment position is at the sole discretion of the superintendent. The superintendent or designee is authorized to establish any necessary guidelines or procedures to be used in identifying suitable work positions and employees who are eligible to Telework and may require any employee to Telework or not Telework. Teleworking arrangements may be discontinued at any time with reasonable advance notice.

Telework may be appropriate for some employment positions and employees; however, Teleworking is not an entitlement. Telework may be denied to certain employees at the sole discretion of the superintendent or designee, and any such denial is not appealable to the board. The superintendent's discretion under this policy shall, in compliance with federal and state antidiscrimination laws, be exercised in a non-discriminatory manner.

Notwithstanding the provisions above, if the assignment or denial of Telework to an employee effectively results in a demotion, suspension, or termination, this policy shall not prevent a qualified employee from exercising due process rights under the district's policies related to that demotion, suspension or termination.

Not all employees may be eligible for Teleworking. Employees who may not be eligible to Telework can include, but are not limited to, those employees that are identified as emergency personnel, members of critical infrastructure pursuant to any federal or state order, or employees whose physical presence at their Primary Workplace is essential to the performance of their duties (e.g., food service, maintenance, administrative personnel, etc.). If an employee is not eligible for Telework and the employee is unable to work during assigned hours, the employee may be required to take any available accrued leave, whether paid or unpaid, in compliance with relevant District leave policies, unless the employee is eligible for other state or federal leave benefits available at the time.

Neither this policy, nor the procedures outlined herein, are intended to and do not confer additional employment rights on any District employee, including the right to Telework or be assigned to a position that is eligible for Teleworking under this policy.

The board reserves discretion to overrule or modify the superintendent's decisions to permit, require, or terminate Telework under this policy.

#### **TELEWORK LOCATION APPROVAL:**



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Any and all telework locations must be approved prior to the employee beginning telework assignments. It is the duty of the employee to provide the address of the telework location to the superintendent/designee and to receive written approval within a reasonable time frame prior to commencing telework. No employee shall commence telework without written prior approval of the telework location by the superintendent or designee. The requested telework location may be denied to employees at the sole discretion of the superintendent or designee. Telework out-of- state will not be approved due to the myriad tax, employment and other issues presented when employees seek to work in out-of-state locations.

If an employee wishes to work from an alternative location, other than the pre-approved location, the employee must give [suggested # of weeks here] notice to the superintendent/designee including the new address of the location and reason for the relocation. The employee must receive written approval prior to commencing telework in the new location.

All teleworking employees must be available to report to the district worksite location at all times during work hours unless a health consideration exists.

#### **CONDITIONS OF TELEWORK**

Employees may not Telework on a full-time, permanent basis. Teleworking Employees shall adhere to all applicable District policies and procedures, unless specifically preempted pursuant to this policy.

Employees who Telework via electronic means must be computer literate and have access to a pre-approved, appropriate Telework Location, along with the required computer and telecommunications resources necessary for completion of work responsibilities. District-owned software may be installed on a Telework Employee's personal computer equipment in compliance with and subject to applicable software license agreements and must be removed from the employee's personal electronic equipment upon direction by District Administration. In all cases, if an employee separates from the District for any reason, all District software must be removed from the employee's personal electronic equipment.

Employees must seek prior approval to remove district technology or equipment from the pre- approved telework location. Absent approval, teleworking employees may not remove district technology or equipment from the pre-approved telework location for any reason.

Teleworking Employees must be available by phone and email during their regularly-scheduled work hours and during any alternate or staggered schedule hours as necessary under the circumstances and assigned by the employee's supervisor (e.g., scheduled office hours pursuant to any virtual or distance learning policy). Attendance at the employee's Primary Workplace for mandatory on-site meetings, training sessions, or other official District business activities is required when scheduled by the District.

On-Call Employees must be immediately available and accessible by electronic or telephonic communication means during the employee's regular work hours, including any other designated hours due to a staggered or alternate work schedule, from their Telework Location and are required to physically report to a District Work Location or the Teleworking Employee's Primary Workplace when directed by their supervisor.

All District and professional standards of performance and conduct that apply in the employee's Primary Workplace continue to apply at Telework Locations. Furthermore, employees shall adhere to all District policies, rules, and regulations while Teleworking. Employees with questions as to how a specific policy



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or procedure will be effective in the Telework environment should contact their direct supervisor for guidance.

The District may, but is not required, to give the employee a list of directives regarding teleworking in relation to this policy. Any work-related injuries that occur while the employee is teleworking must be reported to the District.

#### **IMPACT ON SALARY AND BENEFITS**

Any change in salary and hourly pay or benefits will be done in accordance with Oklahoma law. Teleworking employees unable to Telework due to illness or other reasons should contact their supervisor in accordance with District leave policies.

#### **TELEWORKING AS AN ADA ACCOMMODATION**

This policy does not apply to employees who Telework as an accommodation under the Americans with Disabilities Act (ADA). Should the District determine that Teleworking is a reasonable accommodation under the ADA and does not impose an undue burden on the District, the District and employee shall follow the District's applicable ADA accommodations procedures and policies with respect to such accommodation.

Reference: 29 U.S.C. 201–209; 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35

Source: *Broken Arrow Board of Education policy adoption, August 10, 2020.*