

Implementation of the HHS Workplace Flexibilities Policy

NIH Guiding Principles

The following sets forth the guiding principles to support the consistent application of the HHS Workplace Flexibility Policy across NIH. These principles solidify the NIH's commitment to an agile and flexible workforce and sustain our role as the leader in biomedical research and scientific discovery.

ENSURE FAIR AND EQUITABLE IMPLEMENTATION

Executive Officers (EOs) maintain oversight of workplace flexibility (WPF) programs within their respective Institute or Center (IC).

- The EO is responsible for appropriate implementation of the HHS WPF policy within the IC, including education of employees and supervisors.
- Each IC will determine how to best implement training based on their respective population and resources; however, WPF training is mandatory to ensure that supervisors are sufficiently informed about flexibility options.
- First-line supervisors will conduct WPF eligibility assessments on an individual employee basis with a lens towards equity as it relates to similarly situated employees, as well as evaluate the overall business needs of the work unit to ensure organizational performance is not diminished.
- To determine eligibility, first-line supervisors should avoid decisions based on personal preference, and instead should evaluate the portability of work that requires an onsite presence with the understanding that each position may differ, even those within the same job series, grade, and position.
- Examples of duties which require some level of onsite presence include the following: customer-facing duties (e.g., receptionists in front offices), those with building facilities responsibilities, need for in-person collaboration, in-person training of trainees in a lab, and in-person patient care.
- During the initial implementation of the HHS WPF policy, Division Directors (or their equivalent) and EO (or their designee) may require review and concurrence of telework eligibility decisions and ensure that first-line supervisor decisions for similarly situated employees are made in an equitable fashion.

DETERMINE ELIGIBILITY FOR WORKPLACE FLEXIBILITIES

Eligibility is determined at the supervisory level unless otherwise specified by the IC.

- The first-line supervisor determines eligibility for WPF given their familiarity and awareness of the relative portability of each employee's duties and responsibilities, as well as the regularity with which the employee must perform work onsite.
- While eligibility of positions resides at the supervisory level, EO concurrence is required to approve or deny any remote work agreements (local and non-local) given budget, space, consistency across functions, and other IC wide implications.
- This eligibility determination is the first step in the approval process upon receipt of a request for workplace flexibilities via an WPF agreement.

REMOTE WORK

The specific nature of the position is considered to determine if remote work (inside or outside of the local commuting area [LCA]) should be approved. All local and non-local remote work requests require concurrence from the Division Director (or their equivalent) and EO (or their designee). This requirement for higher level concurrence by the Division Director and EO will be reevaluated after a one-year period and full implementation of the HHS WPF policy.

Non-Local Remote Work

- Non-local remote is a position designation used when there is little to no onsite presence required.
- Travel to the agency worksite from outside of the Washington, DC locality pay area should not exceed four (4) times per year to avoid risk due to increased travel costs/budgetary factors and to comply with the spirit of non-local remote work.
- Non-local remote travel to the agency inside of the Washington, DC locality pay area (but outside of the 50-mile radius) may occur more than four (4) times per year but no more than 10 times per year to meet the spirit of non-local remote work.
- Travel reimbursement may be required (refer to the HHS travel policy)¹. EOs may grant exceptions to the number of times an employee must report to the agency worksite or the overall travel budget as long as the intent of the HHS WPF policy and NIH Guiding Principles are met. The first-line supervisor must provide a list of onsite travel requirements with an estimated total budget per year to the Division Director (or their equivalent) and EO (or their designee) for consideration to obtain concurrence (e.g., two [2] trips to attend a February and September council, and one [1] trip to attend a scientific symposium at a cost of \$1,500 per trip for a total estimated remote work travel of \$4,500).
- The travel requirements should be included in the remote work agreement, and total travel costs in excess of \$10,000 should be discouraged. No dedicated or permanent space will be provided to non-local remote employees, but ICs must provide touchdown or hoteling space (e.g., office or workstation) when employees are required to report onsite.
- The first-line supervisor should include the expectation of onsite presence requirements in the Workplace Flexibilities Agreement (WFA) in order to obtain concurrence.
- Non-local remote work requests in excess of four (4) times per year on a regular basis should be limited or considered for local remote.

Local Remote Work

- Local-remote is a position designation used when there is some frequency for an onsite presence at the agency's physical worksite – an irregular but consistent need to be on site.
- Local remote may require travel to the agency worksite. This should be less than 2 days or 16 hours per pay period.
- For these positions, employees should have an official worksite/alternative worksite (i.e., home) within the local commuting area.
- The local commuting area² will be defined by the locality pay area of the Agency physical worksite that requires the employee's onsite presence.

¹ Please visit NIH Travel Regulations for further questions or email the NIH Travel office at ofmtravel@od.nih.gov.

² When the Agency physical worksite falls in the "Rest of US" Locality, the local commuting area is defined as 100 miles from the agency worksite.

- A local remote employee will be entitled to reimbursement for travel to the agency's physical worksite upon request if the agency has requested the employees to travel to the worksite and the employee is required to travel more than 50 miles each way.
- Requirements to travel to the agency worksite on a recurring basis in excess of two (2) days or 16 hours per pay period should be denied and considered for telework.
- The first-line supervisor should include the expectation of onsite presence requirements in the Workplace Flexibilities Agreement (WFA) in order to obtain concurrence.
- No dedicated or permanent space will be provided to local remote employees, but ICs must provide touchdown or hoteling space (e.g., office or workstation) when employees are required to report onsite.

DUTY HOURS

Responsibility to determine appropriate duty hours is at the supervisory level while considering flexible schedules to the extent possible.

A work unit or branch may consist of remote staff outside of the local commuting area who are located in areas outside of Eastern Standard Time (EST). The supervisor has the authority to determine the appropriate duty hours to ensure availability and consistency for a functional area. Supervisors must ensure that employees are compensated for hours worked.

DEPENDENT CARE

Dependents are allowed in the home during an employee's tour of duty only under the supervision of another caregiver. Employee acknowledgement is required, and scheduling flexibilities should be leveraged.

While workplace flexibilities are not a substitute for dependent care, NIH supports the utilization of workplace flexibilities for employees to navigate competing dependent care responsibilities.

NOTIFICATION TO EMPLOYEES WHO ARE ON WFA BACK TO THE WORKSITE FOR BUSINESS REASONS

EOs require supervisors to provide a minimum of 24-hour notice to employees when requesting remote employees within 50-mile radius of the agency worksite to return to the office, and 48-hour notice for remote work employees beyond the 50-mile radius.

Given that staff on a WFA may have personal arrangements that need adjustment, it is appropriate to provide staff with sufficient time to prepare for an unscheduled request to return to the office.

TERMINATION OF AGREEMENTS

NIH-wide requirement to consult with the Office of Human Resources/Employee and Labor Relations Branch (ELRB) prior to termination of a WFA, as well as concurrence of the EO.

To ensure equity and consistency in termination of agreements, ELRB must be consulted before an EO authorizes the termination of an agreement.