

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

EXECUTIVE OFFICE OF THE TRIAL COURT

AND

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

This MOU is by and between the Executive Office of the Trial Court (EOTC) and the National Association of Government Employees (NAGE), collectively referred to as the "Parties."

Whereas, the Parties wish to implement a new policy permitting telework for the Massachusetts Probation Services on a trial or pilot basis;

Now therefore, the Parties agree as follows:

1. Policy- The pilot telework policy is attached hereto and incorporated herein as Appendix A.
2. Effective Date- This pilot telework policy will take effect on January 3rd, 2022.
3. Review of Pilot- The Parties agree to meet periodically during the course of the 6 month pilot program to discuss issues/ concerns/ possible adjustments as necessary.

 12/22/21

NAGE Date



EOTC Date 12/22/21

MPS Telework Policy

The Massachusetts Probation Service (MPS) Telework Policy is applicable to Associate Probation Officers (APOs), Probation Officers (POs), Senior Community Corrections Probation Officers (SCCPOs), Assistant Chief Probation Officers (ACPOs) and First Assistant Chief Probation Officers (FACPOs). This policy shall promote a hybrid work model consisting of a combination of work in the community, office and telework where operationally feasible.

In appropriate circumstances, an employee may be authorized or required by the employee's Chief Probation Officer (CPO) to perform job duties for all or part of a workday or workweek at the employee's residence or alternative location approved by the CPO. Telework does not include work conducted in the community such as visits to homes or places of employment of probationers, visits to homes of victims, visits to locations such as Community Justice Support Centers, community service locations, or programs and off-site training, or similar locations.

Chief Probation Officers are expected to continue to find the right balance for scheduling employees to work in the community, office, and telework in order to meet our operational needs across the state and ensure we're best positioned to fulfill our critical mission:

- I. A CPO may incorporate telework into their employees' schedule for all or part of their workweek based on the following factors:
 - a. Whether the essential functions and job duties can be performed satisfactorily through telework;
 - b. Whether the employee's work can be performed efficiently, effectively, and confidentially outside of a Trial Court location or office;
 - c. Whether the operational, space, or other logistical needs of the court or office services are best served by off-site performance of job duties;
 - d. Whether there are sufficient technological resources, including necessary safeguards to confidential information;
 - e. Whether the employee's absence from the worksite would be detrimental to office operations, overall productivity, or customer service;
 - f. Whether the employee has individual needs that may impact their ability to telework and have discussed those needs with their CPO; and
 - g. Whether the operational needs of an office, to include sufficient in-person staffing, allow for Telework.

Should an employee dispute that they meet any or all of the factors listed above and therefore should not telework, they may appeal that decision pursuant to the provisions of Paragraph VI, below.

- II. Security/Liability/Expenses Requirements:
 - a. Employees must comply with all Trial Court policies while performing telework, including, but not limited to, policies related to confidentiality of information,

Standards of Employee Conduct, Information Technology Policies, and policies Prohibiting Discrimination, Harassment and Retaliation.

- b. The Employee shall not telework from a public setting and shall only telework from a private and secure place.
 - c. The Trial Court will not be liable for any damages to the employee's property that results from telework. The Trial Court will not be responsible for operating costs, home maintenance, or any incidental costs (e.g., cost of internet, utilities, office furniture) associated with an employee's use of the employee's residence or alternative site for telework.
 - d. Employees will be covered under applicable Worker's Compensation laws if injured while performing telework. Employees are required to maintain a safe working environment, which may be subject to inspection with proper notice to the employee.
 - e. The Trial Court will not be liable for injury to others in the employee's residence or alternative telework site.
 - f. Employees will not be reimbursed for travel (time worked or mileage expense) between their residence or alternative telework site and their regular work location.
 - g. Employees may not conduct in-person work meetings at their telework location without the express written approval of the Department Head.
 - h. On an approved telework day, Employees who need to travel for a work-related assignment shall have their mileage reimbursement determined from their home or their telework location, whichever is shorter. However, Employees shall not be reimbursed for commuting between their home/ telework location and their regularly assigned office.
- III. The following duties of APOs, POs, SCCPOs, ACPOs and FACPOs may be performed via telework:
- a. Complete ORAS + OYAS assessments
 - b. Complete CMHS + TCUDS screening tools
 - c. Conduct virtual contact with probationers and children
 - d. Conduct collateral contact with treatment providers, clinicians, etc.
 - e. Complete Dispute Interventions
 - f. Complete chronological supervision notes in MassCourts
 - g. Complete case reviews in MassCourts
 - h. Run various operation reports in MassCourts
 - i. Help assemble the material from MassCourts for court sessions
 - j. Work on investigations assigned by the court
 - k. Participate in virtual court hearings
 - l. Monitor compliance with GPS/SCRAM via attenti software
 - m. Complete victim contacts

- n. Employee supervision and staff meetings
 - o. Virtual/Remote training
- IV. After consideration of I, II and III above, CPOs shall develop a plan for their department. CPOs will submit their department's plan to their Regional/Statewide Supervisor (RS/SS) for review. Any plan that does not include telework, shall be reviewed by the Deputy Commissioner for Field Services. The DC for FSD shall forward department plans that do not include telework to the First Deputy Commissioner.
- V. Telework schedules will be set every 60 days by the CPO. If an employee has any concerns or requests about the teleworking schedule for the upcoming month, the employee shall raise them as soon as practicable. All employees must be available to travel to their officially designated work location with as little notice as the same workday should an exigent circumstance arise unless the employee has received advanced approval of the CPO per paragraph VII below.
- VI. In the event that the employer wishes to revoke the telework component of the individual employee's schedule for reasons other than ongoing connectivity issues, and in the event the employee wishes to appeal the determination that they meet any or all of the criteria in Paragraph I, above, the following processes shall apply:
- a. The CPO shall provide the employee with the specific reasons in writing with 30 days advance notice of the full revocation of telework or the decision that the employee is capable of telework.
 - b. If there are emergency/ exigent circumstances, the CPO shall provide as much notice as practicable with an explanation of why less than 30 days was not provided.
 - c. Telework may not be revoked for reasons that are arbitrary or capricious.
 - d. No later than 5 work days after receiving the decision, the employee may petition for reconsideration first to the Regional/Statewide Supervisor (RS/SS) who shall consult with the Deputy Commissioner for Field Services or the First Deputy Commissioner if the DC FSD is not available, in making a decision.
 - e. No later than 5 days after receiving the reconsideration decision, the employee/ union may request a review of the revocation or decision that the employee is capable of telework pursuant to Paragraph I, above by the Assistant Chief Human Resources Office for Labor Relations, who will consult with the Chief Human Resources Office and shall make a final decision within 14 days of receiving the request.
 - f. The process is reserved for full revocation and decisions that the employee can telework (Paragraph I, above) disputes only. The employer reserves the right to modify the hybrid schedule of the employee to meet the operational needs of the

Massachusetts Probation Service subject to the internal review process outlined in IX below.

- VII. If an employee intends to telework from a location which is not within a reasonable travelling distance from their assigned work location, for example, they cannot reach their work location within the same workday, then the employee must notify and receive approval from the CPO. The CPO may reject such a request if the operational needs of the employer require the employee to be available for work on-site.
- VIII. An employee who completes field work or training and has time remaining in their day may be required to telework for the remainder of the day, regardless of the previously distributed schedule, unless the employee and CPO have a previous understanding (see (l)(f)) that telework is not a viable option for that employee or they have received a waiver from telework from the First Deputy Commissioner of Probation (IX below).
- IX. Employees who believe that telework will not be feasible for them under any circumstances should email the First Deputy Commissioner of Probation with their request to be excused from the same, along with an explanation as to why telework is not feasible. The name of any employee who has been denied a waiver from telework after making a request pursuant to this paragraph will be provided to the Union.
- X. If there is a dispute regarding telework request made pursuant to paragraph VII of VIII or resulting from modification to the hybrid schedule, the employee may request a review by the Regional/Statewide Supervisor (RS/SS) who may consult with Deputy Commissioner for Field Services and/or First Deputy Commissioner in reaching a final decision.
- XI. Employees who telework and do not have the technical capacities to work for any reason other than due to a state of emergency, or power failure not exceeding one business day, may be asked to report to their office location, be assigned other work or be approved to use appropriate accrued benefit or compensatory time. Effective November 1, 2022, Employees who are scheduled to telework when their regular work location is temporarily closed (e.g. snow day) shall telework that day or use appropriate accrued benefit or compensatory time.
- XII. The Parties agree that this policy will be a piloted for 6 months from the date of its full execution. Parties agree that they will meet periodically during the course of the pilot program to discuss issues/ concerns/ possible adjustments as necessary.

- XIII. This policy is not subject to the grievance and arbitration process in the Collective Bargaining Agreement. The reconsideration process as provided for in this policy shall be the exclusive remedy for disputes.