



The Senate of Maryland ANNAPOLIS, MARYLAND 21401

SB 421/HB 528 - State Personnel – Teleworking Programs, Policies, and Guidelines – Requirements

For too long, state employees in telework-eligible positions in State Government and at our Public Higher Education Institutions were told they could not telework. Then the pandemic hit, and thousands of state employees across Maryland proved they could keep our state and higher education campuses running while working remotely.

In 2021, the Maryland General Assembly passed [HB73/CH0696](#) which required our state government, judicial and legislative branches, and public institutions of higher education to have telework programs for their employees. This legislation also required that beginning in Fiscal 2023, telework policies would need to be negotiated where employees are covered by collective bargaining. Finally, this legislation added a requirement to track the number of state employees actually participating in telework to the annual report state agencies must file on the number of employees they have that are telework eligible – or work in jobs that have functions that can be performed remotely.

As a result of the legislation, there has been some progress with agencies softening their opposition to telework. But our public unions have not been able to successfully negotiate telework policies in state government or in higher education and this has unfortunately led to inequitable and inconsistent decision-making on who is allowed to telework and who is not. The Department of Budget & Management (DBM) publishes a list of classifications that are eligible to telework, and then individual agency heads decide if they will allow their staff to telework. These decisions are seemingly even more random in higher education.

Workers who have similar duties in one agency or campus might be allowed to telework, but workers with those same jobs in other agencies or campuses may not. Now that pandemic restrictions have largely been lifted, there are still agencies and departments that take a uniform policy stance against their staff teleworking and this inflexibility is harming state workers and is contributing to staff resignations at a time when we so desperately need to retain state workers and attract new ones to work for state government.

SB 421 fixes these equity issues by doing 4 main things –

1. Provides that telework eligibility be based on 3 factors:
 - an assessment that the job can be worked remotely
 - the employee is performing up to standard
 - the employee has passed probation, if applicable.
2. Sets some factors for consideration when evaluating an eligible employee's request to telework:
 - If the job has ever been done successfully remotely
 - If the requesting employee has ever successfully worked remotely
 - The operational needs of the unit
 - The number of employees in the unit who are already teleworking

- The possibility of a hybrid and in-person schedule
- The flexibility of the requesting employee's work schedule

3. Standardizes the telework request, approval, and termination procedures across telework policies to provide for:

- A written response back within 7 days from the appropriate official upon an employee requesting to telework
- 14 days notice from an appropriate official upon terminating a telework agreement and an explanation for the termination
- A prohibition on denying telework requests on the basis that employee is unable to work remotely when others doing the same work have been allowed to work remotely
- Established goals and expectations for the position while working remotely
- A prohibition on entering an employee's home to check up on the employee teleworking
- A requirement for telework during communicable disease outbreaks
- An ability to grieve misapplications of the telework policy

4. Consolidates telework policy negotiations under the University of Maryland System so there is one policy, instead of separate and different policies on each individual campus. Note: the request is for 1 negotiated telework policy to cover around 6,000 employees across the USM. In the executive branch, there is currently 1 (non-negotiated) telework policy that covers over 20,000 employees across state agencies.

While telework may not be for every employee, telework policies should be for every employer. In addition to helping with the [recruitment and retention of state employees](#) (pg. 42), telework has also been proven help reduce traffic and traffic accidents, and is better for the environment. Agencies also accomplish cost savings on office space energy use by allowing workers to telework. Telework in some form has existed in our state government and in higher education for many years. Pre-pandemic, it was quite limited, however, and these divisions too often fell on racial and socioeconomic lines.

SB 421 helps to ensure equity in our telework policies across government by requiring that some basic standards be in place for all telework policies. We did the same with our hiring and EEO policies, and we can do the same for telework.