

Regulation on Flexible Work Arrangements and Remote Work

I. Purpose. This regulation sets forth guidelines for all UNC Institutions for Flexible Work Arrangements and Remote Work.

II. Definitions. “Flexible work arrangements” (FWAs) are work structures that alter the time and/or place of work to accomplish work duties, either by employee request or at management’s direction. A flexible work arrangement may include:

A. Flexible Work Schedules. Flexibility in the scheduling of hours worked, such as alternative work schedules (e.g., flex time and compressed workweeks) and arrangements regarding shift and break schedules;

B. Flexible Work Hours. Flexibility in the number of hours worked, such as part-time work and job shares; and/or

C. Flexible Work Locations. Flexibility in the place of work, such as remote work from home or a designated satellite location.

III. Institution-Level Policy and Procedures

A. The decision to institute flexible work arrangements is within the discretion of the chancellor or the chancellor’s designee(s). Should a chancellor choose to institute regular and recurring flexible work arrangements, the constituent institution must implement a policy governing these arrangements for its employees within the guidelines and framework provided by this regulation.

B. Each institutional policy must facilitate flexible work arrangements where practicable while ensuring all operational needs of the University are met. Institutions may provide flexible work arrangements to any type of employee; however, the establishment of a flexible work arrangement policy does not create a guarantee, right, or entitlement to such an arrangement by any employee or groups of employees.

C. This regulation does not intend to limit the ability of faculty to work in-person and/or remotely in the course of their normal duties; however, flexible work arrangements for duties that are generally expected to be conducted on-site (e.g., teaching an in-person class or conducting lab research, artistic instruction or production, faculty advising), are subject to review and approval as defined by the institution’s flexible work arrangements policy.

IV. Requirements and Expectations. Institution-level policies and procedures regarding flexible work arrangements, particularly regarding arrangements for flexible work locations and remote work, must address the following items and conform to the following provisions:

A. Availability of Flexible Work Arrangements

1. Institutions may provide flexible work arrangements based upon the needs of the work unit as determined by school, college, and/or department leadership. These arrangements may be subject to the approval of the chancellor or the chancellor's designee(s), such as the provost's office for faculty or the central human resources office for staff.

2. The nature of the employee's work and responsibilities must be conducive to a flexible work arrangement without causing disruption to performance and/or service delivery. Management will determine allowable arrangements based on factors such as the nature of the work performed, employee productivity, employee conduct, task interdependence, federal and state laws, and operational constraints. Employees with a flexible work arrangement must be able to perform their duties free of external obligations and unreasonable interruptions.

3. Although an employee may request a flexible work arrangement, all such arrangements are provided to employees at management's discretion and direction and may be revoked at any time. Institutions may approve a flexible work arrangement concurrently with a new appointment provided that the employee is notified that there is no guaranteed right to a flexible work arrangement and that any such allowance is subject to change.

B. Establishing and Managing Flexible Work Arrangements

1. Institutional policies must include that all regular and recurring flexible work arrangements must be documented in a manner defined by the institution that outlines all the relevant terms and conditions of such an arrangement when approved. Chief human resources officers or their designees will provide standard forms or electronic equivalent for these purposes.

2. Institutional policies must affirm that the availability and terms of flexible work arrangements must be administered equitably based upon applicable factors and without regard to an employee's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, or veteran status.

3. Institutional policies must include that management must consider employee performance and conduct when granting or continuing a flexible work arrangement and that any arrangement may be provided on a conditional or trial basis. For a flexible work arrangement to be considered and maintained, the employee is expected to meet all performance expectations and conduct requirements of their current role and consistently demonstrate the ability to complete tasks and assignments on a timely basis.

4. Institutional policies must assert that, once management establishes a flexible work arrangement, it may be changed or revoked at any time. Reasons for changing or revoking flexible work arrangements can include, but are not limited to, changing business or operational needs or unsatisfactory employee performance or conduct.

Institutions must establish a minimum period of advance notice to an employee of a change to or revocation of a flexible work arrangement.

5. If a flexible work arrangement is regular or recurring, the manager should review with the employee any continuation of the arrangement at least annually. Institutions, at their discretion, may require employees to resubmit flexible work arrangement request forms to extend or modify their existing arrangements.

C. Additional Requirements for Flexible Work Locations. Institutional FWA policies must address the following issues related to flexible work locations.

1. Duty station and reasonable commuting distance.

a. The employee's designated on-site University work site is considered their duty station. Employees who are working from an alternative location may not charge mileage for travel between their alternate work location and their assigned duty station. Employees traveling for business departing from their alternate work location will be reimbursed for mileage the distance between their on-site duty station and the work destination, consistent with existing state policies.

b. Employees approved for flexible work locations are expected to be able to report to their on-site duty station within a reasonable period of time when directed due to operational needs and/or due to changes to or revocation of their flexible work arrangements. Institutional policies may define a reasonable commuting distance, and/or factors to consider when determining one, and may provide limited exceptions to the reasonable commuting distance based on operational needs. These may include but are not limited to: recruitment of those with unique or scarce skills; arrangements for faculty who teach exclusively in distance education programs; or arrival or departure of employees for a transitional period of relocation. All such exceptions must have the written approval of the chief human resources officer or designee for staff, or the chief academic officer or designee for faculty.

c. As the University is intended in part to contribute to the economy of the state, it is the University's official position that to the greatest extent practicable, the University will principally employ individuals who reside within or in close proximity to the state of North Carolina. While a defined reasonable commuting distance may cross state lines, particularly for institutions that are located close to the North Carolina border, institutions should avoid long-term flexible work arrangements for employees who reside outside a reasonable commuting distance.

2. Information and data security.

a. The security, confidentiality, and integrity of University records and information must be protected at all times in flexible work arrangements and comply with all information security requirements that would apply at the

primary work location. The senior official (chief information officer), designated by the chancellor or president under Section 1400.2 of the UNC Policy Manual for each UNC institution, and their designees, have the authority to clarify and enforce information security policy requirements and to consider and potentially make exceptions or changes for their institution.

b. The institutional policy, and/or the flexible work arrangement agreement, must include a requirement that sensitive information/data, as defined by the institution's information classification structure, must not be processed nor stored on a personally owned computer or device, but instead must be processed on institutionally owned systems, stored in approved, secure remote storage, and accessed only by secure network access technologies. As described above, authorized designees may clarify, interpret, enforce, and make exceptions to these requirements.

c. For employees with flexible work arrangements, an institution may require additional training on security policies, data handling, and general information security for remote work.

3. University property and equipment insurance.

a. Institutions must take appropriate steps to ensure that all University property used off-site as part of a remote work arrangement is used in compliance with all institutional policies governing personal use, including complying with all software and technology licensing agreements. Flexible work arrangement agreements must include an inventory of state property authorized for use from the employee's remote work location. In the event of an employee's separation from employment or the termination of a flexible work arrangement, appropriate steps must be taken to secure the return of all University property used off-site.

b. Appropriate insurance arrangements should be made for University equipment and resources located at an alternate worksite with respect to any required loss or damage. This includes reviewing information about equipment insurance with employees and ensuring that flexible work arrangement agreements specify who bears the risk of loss or damage if incurred.

4. Workers' compensation. The institutional policy, and/or the flexible work arrangement agreement, should indicate that employees working under a flexible work arrangement are covered by workers' compensation for job-related injuries that occur in the course and scope of employment. When the remote worksite is in the employee's home, however, workers' compensation does not cover injuries that are not job-related.

V. Additional Considerations. Institutional policies must be informed by relevant law and policies, related but not limited to:

A. Overtime-Eligible Employees. For overtime-eligible employees, certain activities, such as travel to and from required meetings that occur during scheduled work time, may be included as hours worked, consistent with existing state policies.

B. ADA Accommodations. Institutions will administer and determine flexible work arrangements separately from the accommodations process mandated by the ADA. Flexible work arrangements are not intended to substitute for reasonable accommodations resulting from an interactive process under the Americans with Disabilities Act (ADA) or to meet the University's ADA obligations.

C. Out-of-State Compliance Issues. Employees with remote work arrangements outside of North Carolina may be subject to the laws and regulations of other states or countries with respect to the employee/employer relationship. Institutions are required to ensure good faith compliance with such laws and regulations if granting approval for remote work arrangements outside of North Carolina.

D. Tax Implications. Employees are expected to cooperate with their institution's compliance programs for tax withholding; however, employees remain individually responsible for the payment of employee income taxes, including ensuring that sufficient taxes are remitted to taxing authorities through withholding or estimated payments.

E. Compliance with University Policies. Work performed under a flexible work arrangement remains subject to all applicable laws, policies, and regulations, as if it were performed on-site. These provisions include, but are not limited to, recordkeeping for work hours and leave, prohibitions on discrimination and workplace harassment, records retention obligations, and the North Carolina Public Records Act.

VI. Other Matters

A. Effective Date. The requirements of this regulation will be effective on the date of adoption of this regulation by the president.

B. Relation to State Laws. The foregoing regulation as adopted by the president is meant to supplement, and does not purport to supplant or modify, those statutory enactments, regulations, and policies which may govern the activities of public officials.

C. Relation to Other University Regulations and Policies. The foregoing regulation as adopted by the president is meant to supplement, and does not purport to supplant or modify, other University policies, regulations, and guidelines related to equal opportunity, free speech, and free expression.