

<p>NEW CASTLE COUNTY</p> <p>PERSONNEL POLICY</p>	<p>NUMBER 5.22</p> <p>PAGE 1 of 5</p> <p>DATE 3/21/2022</p>
<p>SUBJECT: TELECOMMUTING</p>	<p>APPROVED: </p>

OBJECTIVE: To set forth the procedures to allow eligible New Castle County “NCC” employees to telecommute for the employee’s convenience.

STATEMENT: Occasionally, alternative work arrangements in the form of telecommuting can benefit an employee. Telecommuting is available as a voluntary work alternative that may be appropriate for permanent employees whose duties include desk work with approval. Telecommuting is not an entitlement. Telecommuting requests will be considered consistent with operational needs and on a case-by-case basis solely at the discretion of the employee’s General Manager. This policy sets forth the guidelines for telecommuting. This policy supersedes all other related policies, including 5.20 “Telecommuting for Unclassified Appointed Employees of the Executive Branch”. Requests for reasonable accommodation or modified duty are not addressed by this policy and should be processed in accordance with Personnel Policies 3.23 and 4.02.

EMPLOYEE ELIGIBILITY: Departments have the discretion to decide whether an employee is a candidate for telecommuting. When evaluating a telecommuting request, department managers should consider specific position requirements, the impact on the Department, employee performance concerns, and whether the employee can perform the job duties of the position effectively while telecommuting.

Telecommuting work locations are limited to the following states: Delaware, Maryland, New Jersey, and Pennsylvania. Requests to telecommute in additional locations shall be submitted to the Office of Risk Management by the employee’s General Manager. Only employees whose job duties include desk work will be considered for telecommuting. First responders and positions that do not involve clerical duties or desk work are not permitted to telecommute.

To be eligible for consideration of a telecommuting arrangement, an employee must have completed his or her probationary period; received a satisfactory or above rating on the most recent performance evaluation and have no record of discipline resulting in suspension within the preceding twelve (12) months unless circumstances arise which require telecommuting for the continuity of operations. A request for an exception to the eligibility requirements must be submitted in writing by a General Manager to the Chief Human Resources Officer (CHRO), who shall approve or deny such requests.

While telecommuting, employees may perform only clerical/desk duties. Additionally, telecommuting arrangements must be consistent with NCC Merit System, NCC Personnel policies, and applicable collective bargaining agreements. Employees who telecommute are subject to the same conditions of employment as non-telecommuting employees, and telecommuting employees are expected to comply with all NCC policies and rules.

Requirements for in-person attendance may override telecommuting work schedules. Managers should discuss such instances with the employee (e.g., hands-on training, meetings, etc.). Expectations for timely

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completion of work to established standards, attendance at meetings, responsiveness to department management/customers, and other performance criteria are the same for telecommuting and non-telecommuting employees. Departments should apply the same performance standards to employees regardless of work location.

I. EMPLOYEE REQUESTING TELECOMMUTING

PROCEDURE TO REQUEST TELECOMMUTING: Employees who desire to telecommute for their convenience must submit a signed copy of the Telecommuting Agreement (Attachment 1 hereto) to the employee's General Manager.

DEPARTMENT REVIEW: Managers should work with the employee to evaluate the telecommuting request, considering telecommuting suitability criteria, and maintaining consistency and equity of decisions across their department/division/office. If there is uncertainty about the potential effectiveness of a proposed telecommuting arrangement, the manager may consider allowing the employee to telecommute on a pilot basis. A review period should be established, upon the completion of which, the Manager may approve or disapprove the continuation of the telecommuting arrangement. In cases where a Manager denies an employee's request to telecommute, the Manager shall document in writing the specific reasons for such denial. The General Manager shall provide the CHRO a copy of all employee requests to telecommute and the departmental approvals or denials.

NCC has the right to refuse to make telecommuting available to an employee and reserves the right to terminate a telecommuting arrangement at any time.

II. TELECOMMUTING ON A LIMITED BASIS DURING INCLEMENT WEATHER, OTHER EMERGENCY CONDITIONS, OR FOR THE EMPLOYEE'S CONVENIENCE:

In instances of inclement weather, other types of limited emergencies, or for the employee's convenience on a limited basis, eligible employees who do not otherwise have an approved Telecommuting Agreement may request to telecommute for the period of inclement weather, emergency, or convenience on a limited basis.

PROCEDURE TO REQUEST TELECOMMUTING ON A LIMITED BASIS:

An eligible employee who wishes to telecommute on a limited basis shall request of approval from his/her General Manager prior to the start of the employee's shift by email, telephone, or other approved form of communication. The requesting employee may submit such a request to his or her immediate supervisor if the General Manager has delegated the authority to approve such requests to the supervisor.

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An employee who is approved to telecommute on a limited basis shall not be required to execute a Telecommuting Agreement provided that the employee does not telecommute for more than three (3) days within a pay period. Such employees shall be expected to adhere to all applicable laws and NCC policies.

DEPARTMENT REVIEW: Managers should work with the employee to consider telecommuting as an option during inclement weather or other emergencies when NCC remains open. The General Manager may approve telecommuting in the event of an emergency condition if there is no significant negative impact to the County. NCC has the right to refuse to make telecommuting available to an employee and reserves the right to terminate a telecommuting arrangement at any time. The CHRO shall receive a copy of all requests and approvals or denials.

TELECOMMUTING AGREEMENT: A Telecommuting Agreement is a written plan outlining the understanding of, and commitment to, telecommuting as mutually agreed upon by the employee and their department, and is required for regular telecommuting arrangements. The Telecommuting Agreement must define:

- A work schedule that specifies the number of days and hours per day for telecommuting.
- The duration of the Telecommuting Arrangement.
- Responsibility for NCC telecommuting equipment.
- Circumstances requiring on-site attendance.
- Employee agreement to maintain a safe work environment.

Employees and managers shall sign and comply with the requirements of the Telecommuting Agreement (Attachment #1 hereto). The Telecommuting Agreement may be terminated in its entirety or for a period of time by the department at any time with 14 calendar days' notice, unless the employee is being investigated for a violation of law or NCC policies, an emergency, or unforeseen operational needs, in which case, it may be terminated immediately. Changes to Telecommuting Agreements may be requested by the employee for the convenience of the employee. Telecommuting Agreements are meant to be responsive to the changing needs of the workplace and should be reviewed at least yearly. When a Telecommuting Agreement is terminated, the department shall notify the CHRO.

TELECOMMUTING WORK LOCATION: Employees who are approved to telecommute shall create an appropriate work environment with a designated workspace within their residence. The employee's residence must be in Delaware, Maryland, New Jersey, or Pennsylvania. Employees must use the NCC Cisco Z3 (aka black box) or NetMotion Mobility software to connect to the office securely and access their phones to assure operations are maintained during this time. Injury resulting from unsafe work conditions at the employee's alternate work location, which is not in the control of the NCC, is the responsibility of the employee. The alternate work location is not intended to permanently replace

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the employee's assigned NCC facility work location. The employee shall continue to use NCC's address and phone number(s) for all communications and email signatures.

The employee's situs of employment remains New Castle County, Delaware. The employee is expected to report to NCC offices periodically, as may be required by the employee's supervisor. When in-person meetings are called, they will be held in NCC offices. The employee is supervised and receives work instructions by and through NCC in New Castle County, Delaware. The employee's employment and performance of work is governed by the laws of the State of Delaware, without regard to choice of law rules.

FURNISHING EQUIPMENT: NCC will not assume responsibility for operating costs, home maintenance, or other costs incurred by employees who are approved to telecommute. Examples include but are not limited to hardware/software repair, telephone equipment, service or repair, travel costs which would not otherwise be incurred, office desk or chair, broadband/internet access. Employees will be responsible for any licensing costs incurred for the installation of required software at their telecommuting work location.

WORK SCHEDULES AND TIMEKEEPING: Employees who are approved to telecommute shall work an agreed-upon schedule which shall be documented with the employee's General Manager. When working remotely, such employees must respond to telephone calls and emails as they would if working on-site. Employees shall record their time and the number of hours worked per day. Employees and managers are required to comply with all timekeeping and overtime regulations defined by state or federal law (e.g., the Fair Labor Standards Act), collective bargaining agreements, County Code, and County policies. Work schedules for employees who are non-exempt under the Fair Labor Standards Act must comply with its requirements, and all applicable Merit System Rules. Employees must obtain their manager's written approval for any alterations to their schedule, including overtime, the accrual of comp time, and flextime as defined in NCC Personnel Policies and applicable CBAs. Managers must ensure accurate recording of the employee's hours worked. For employees who are represented by a union, refer to the applicable contract language addressing hours of work, overtime, and scheduling.

REQUESTS FOR TIME OFF: Request to use Sick, Vacation, or any other accrued leave while telecommuting must be requested and approved in the same manner as when working in the office. If the employee becomes ill during scheduled hours, he/she must report those hours worked, report the time of the illness, and use Sick Leave for hours not worked.

WORKING WITH FAMILY MEMBERS AT HOME: Telecommuting generally may not be used to provide active care for a child or any other individual.

WORKERS' COMPENSATION: Consistent with law, NCC shall provide workers' compensation protection for all employees while in the course of employment within the agreed-upon location and defined work schedule. NCC assumes no responsibility for any activity, damages, or injury which is not directly

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associated or resulting from the official desk duties for which the County has no ability to exercise control. NCC assumes no liability for injuries occurring in the employee's telecommuting work location outside the agreed-upon work hours.

INCOME TAX: It will be the employee's responsibility to determine any income tax implications of maintaining a home office area. The County will not provide tax guidance, nor will the County assume any additional tax liabilities. Employees are encouraged to consult with a qualified tax professional to discuss income tax implications.

INSURANCE: As telecommuting on a regular basis may affect employees' home insurance policies, employees should inform their insurance company before commencing with a telecommuting agreement. Employees will be responsible for any resulting increase in home insurance premiums. Employees should also check that the terms of their mortgage allow for telecommuting.

NCC is not liable for loss, destruction, or injury that may occur in or to an employee's telecommuting location. This includes family members, visitors, or others that may become injured within or around the employee's home. The County assumes no responsibility for employees' real or personal property.

No NCC in-person meetings shall take place at the telecommuting location.

RELATED POLICY CONSIDERATION: Telecommuting staff must adhere to all departmental and NCC policies including, but not limited to policies regarding confidentiality of information, work schedules, work hours, use of equipment, ethics, performance, leave usage, and tracking of work hours. All time off and leave provisions under applicable policy, or the collective bargaining agreement for represented employees, continue to apply under a Telecommuting Agreement. NCC reserves the right to monitor and log, without notice, all telecommuting activity, including, but not limited to, email. Employees that are telecommuting should have no expectation of privacy in the use of County-related resources.

REQUIRED ACTION: The Chief Human Resources Officer and department general managers shall be responsible for the implementation of and compliance with this policy.

Established: 3/21/2022

Other (List specific):

I understand that I am responsible for keeping this equipment safe and secure and free from damage.

I understand that I must continue to use County's address and phone numbers for all communications and email signatures. I understand that I must report to NCC offices on the days/hours not approved for telecommuting and periodically, as may be required by my supervisor, on days that I am approved for telecommuting. I understand this may occur with very little notice. When in-person meetings are called, they will be held in County offices.

I understand that I must adhere to all departmental and County policies including, but not limited to policies regarding confidentiality of information, work schedules, work hours, use of equipment, ethics, performance, leave use and tracking of work hours.

I understand that the County reserves the right to monitor and log, without notice, all telecommuting activity, including, but not limited to, email. It is further understood that I should have no expectation of privacy in the use of County-related resources.

I understand that the County may terminate this Telecommuting Agreement at any time for any reason upon 14 calendar days' notice, except in cases of emergency, unforeseen operational need, or I am being investigated for a violation of law or County policies, in which case the County may terminate immediately.

I agree to participate in all studies, inquiries, reports, and analyses relating to this program. Employees remain obligated to comply with all County rules, practices and instructions.

I agree that my relationship with the County is centered in New Castle County, Delaware, and that the weight of my contacts with and obligations to the County are in New Castle County, Delaware. Any questions or other matters arising under this Agreement whether of validity, interpretation, performance or otherwise, and any claims related to employment of any nature, will be governed and construed strictly in accordance with the laws of the State of Delaware, without regard to choice of law rules, as though I did not work remotely from another location. I expressly consent to the jurisdiction of the courts of the State of Delaware.

I, _____, certify that I have carefully read, fully understand, and will comply with all provisions of Telecommuting Policy – Personnel Policy No. 5.22, and this Telecommuting Agreement.

Employee Signature

Date

MANAGEMENT TO COMPLETE:

The employee is eligible pursuant to the Policy. Yes ___ No ___

If not eligible, please explain: _____
Please note that a written explanation should be provided to the employee.

The employee is approved to work the following hours remotely:

Week one:
Mon: ___ Tues.: ___ Weds.: ___ Thurs.: ___ Fri.: ___

Week two:
Mon: ___ Tues.: ___ Weds.: ___ Thurs.: ___ Fri.: ___

The employee's approved telecommuting work location is: _____
Street Address

City, State, Zip Code

The duration of the telecommuting arrangement is:

Start date: _____
End date: _____

The employee has been assigned the following County issued equipment for purposes of telecommuting:

Any additional comments/notes: _____

Supervisor Signature **Date**

General Manager Approval **Date**

Copy provided to Employee on: _____ **via:** _____
Copy provided to CHRO on: _____ **via:** _____

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