

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

SOCIAL SECURITY ADMINISTRATION, OFFICE  
OF HEARING OPERATIONS

And

NATIONAL TREASURY EMPLOYEES UNION,  
CHAPTER 224

Case No. 19 FSIP 023

**DECISION AND ORDER**

This request for assistance, filed by the Social Security Administration, Office of Hearings Operation (SSA or Agency) under the Federal Service Labor Management Relations Statute (the Statute), involves bargaining over a successor collective bargaining agreement (National Agreement). There is one remaining article at issue: Article 17 – Telework.

The Social Security Administration Office of Hearings Operation (OHO) is responsible for holding hearings, issuing decisions, and reviewing post-hearing appeals for claims filed under Titles II and XVI of the Social Security Act, as amended. While OHO is headquartered in Falls Church, Virginia, and Baltimore, Maryland, OHO directs a nationwide field organization of Administrative Law Judges (ALJ) and Attorneys who conduct investigations, conduct hearings and make decisions on appealed determinations involving retirement, survivors, disability insurance and supplemental security income benefits. The National Treasury Employees Union, Chapter 224 (NTEU or Union) represents approximately 2100 bargaining unit employees across the country in this SSA organization. The majority of the bargaining unit members are Attorneys/Decision Writers (grades GS 9-13). The Attorneys draft the disability decisions for the Administrative Law Judges, represented by another union, i.e., the Association of Administrative Law Judges, IFPTE. NTEU, Chapter 224 also represents a smaller group of Paralegals and Legal Assistants (grades GS 6-12). The American

Federation of Government Employees Union represents the administrative and support staff within the SSA. The parties in this case are governed by a National Agreement that expired on June 2, 2018.

## **BACKGROUND, BARGAINING AND PROCEDURAL HISTORY**

In February 2018, the Agency provided notice to NTEU to terminate and renegotiate the parties' National Agreement. In March 2018, the parties agreed to ground rules for renegotiation of the National Agreement with term negotiations starting in July 2018. The 2014 SSA-NTEU National Agreement subsequently expired on June 2, 2018. From July 2018 through January 2019, the parties engaged in face-to-face negotiations in five 2-week sessions. Since the start of the negotiations in July 2018, and throughout the course of the five negotiation sessions, the parties were supported by the Federal Mediation and Conciliation Services (FMCS). The parties bargained at the table for approximately 40 days during a six-month timeframe (July 2018 to January 2019). During that period, the parties reached agreement on 33 of 38 articles. FMCS released the parties to the Panel in February 2019. The Agency filed a request for assistance with the Panel.

In its Panel meeting in April 2019, FSIP asserted jurisdiction over 5 remaining articles and ordered the parties to engage in the Informal Conference procedure with Member Karen Czarnecki in Washington, D.C. During the Informal Conference in June 2019, the parties successfully reached full agreement on 2 articles: Article 27 – Adverse Action and Article 28 – Grievance Procedure. The parties were unable to reach agreement on 3 articles: Article 8 – Official Time; Article 17 – Telework; and Article 34 - Duration. The parties were directed to submit Written Submissions for consideration of the three remaining articles. Both parties submitted timely submissions (attached). In October 2019, the parties provided notice to the Panel that they had jointly resolved their dispute over Articles 8 - Official Time and 34 - Duration and Termination and, therefore, withdrew those matters from Panel consideration. Accordingly, the parties only seek a Panel decision on Article 17 – Telework.

## **ISSUE AND POSITIONS OF THE PARTIES**

### **Article 17 – Telework**

The current work environment includes a 4-day a week telework pilot that was implemented in 2016, after engagement with FSIP Chairman Mary Jacksteit in a Mediation-Arbitration in 16 FSIP 069. In that case, involving this same bargaining unit, the parties bargained a reopener to the telework article in its National Agreement. With no agreement reached, the parties engaged FSIP assistance. Chairman Jacksteit was assigned to conduct a Mediation-Arbitration. The remaining issues in that case involved the number of days a bargaining unit employee could telework; telework procedures

during an emergency; and rescheduling of missed telework days. Chairman Jacksteit ordered the adoption of the 4-day telework option for some Decision Writers.

The employees currently work either 3-days or 4-days a week teleworking. The Union introduced into the record an Office of Inspector General (OIG) Report that found the Agency was able to achieve a reduction in its backlog, at the same time the parties had implemented the 4-day a week telework option. All indications are that the pilot was successful, or that having 3-day and 4-day telework has not been adverse to the Agency accomplishing its mission. Now, in this current impasse case, the disagreement is over whether the Deputy Commissioner can unilaterally terminate participation in parts or whole of the telework program.

#### Union Position regarding Telework

The Union largely proposed status quo, reflecting the current state of telework in the unit, with a few additional changes to allow a temporary suspension of the telework program or telework arrangements during weather or safety-related conditions. The Union rejected the idea that while the parties have negotiated a robust Telework article, including providing for the need to temporarily suspend the program, that the Agency should maintain the sole discretion to terminate or modify the program unilaterally. The Union argued that allowing the Agency to maintain sole discretion to make modifications defeats the purpose and right of the Union to negotiate the details of a telework program. The Union maintained that to the extent that telework is fully negotiable, the parties should complete that negotiations through this process, and be required to adhere to those terms through the life of the National Agreement, unless the parties mutually agree in the future to make modifications.

#### Agency Position regarding Telework

While the Agency has negotiated a robust telework program, the Agency seeks to maintain the flexibility to adapt the program during the life of the CBA. The Agency contended that telework, especially for Case Technicians who provide support services in the offices, has resulted in service disruptions (i.e., coverage issues) in the offices. As for the majority of the employees (i.e., Decision Writers), the Agency argued that the work is changing; it is expected that their work will be less portable. The Agency would like the flexibility to assign other (perhaps not portable) work to the employees, as needed. While the current contract provides the Agency the ability to make short term suspensions and changes to the program, the Agency seeks to make long-term and permanent changes, if and when they need to do so.

## PANEL DECISION

The contract language allows for temporary suspensions or changes to the telework program. In response to concerns raised in the Informal Conference regarding the interpretation of that language, the Union offered further clarification to make it clear that management can make temporary changes (for example, for emergencies). As for permanent changes to the program, the Telework Enhancement Act and the Labor Statute intend for the Telework program to be negotiated and any changes to the program to be negotiated with the Union. The Agency presented evidence to demonstrate that the workload for Decision Writers, due to the success of addressing the backlog, has begun to diminish. However, although the parties have been bargaining for a year, the Agency failed to present any specific program changes they are seeking to make in the bargaining unit workload that would impact eligibility under the telework program. While the Agency asserted that they "may" need flexibility to redirect other work, the Agency offered no specific to do so, or any demonstration that the other work cannot also be done while teleworking. Without any specifics, the Union has not had the opportunity to bargain over any potential changes. With the conclusion of this bargaining, going forward permanent change will need to be proposed and bargained when the contract reopens, unless the parties mutually agree otherwise. As such, the Panel orders the parties to adopt the Union's proposal, including the additional clarification providing for temporary suspensions.

## ORDER

Pursuant to the authority vested in the Federal Service Impasses Panel under 5 U.S.C. §7119, the Panel hereby orders the parties to adopt the provisions as stated above.



Mark A. Carter  
FSIP Chairman

November 14, 2019  
Washington, D.C.

15615850.1

### Attachments:

- Union Post-Hearing Submission and Rebuttal, Re: Article 17
- Agency Post-Hearing Submission and Rebuttal, Re: Article 17

NTEU is very different from the other unions associated with SSA. NTEU's bargaining unit consists of approximately 2,000 Decision Writers, and Paralegals. About 1,800 of these bargaining unit employees are Decision Writer attorneys, approximately 60 are Paralegals, and a very small amount are SCTs. On the other hand, AFGE represents approximately 5% of the Decisions Writers for SSA and also represents other positions that require significant interactions with the public. The vast majority of the NTEU bargaining unit – 90% - performs work that is 100% portable (no interaction with the public), as shown by evidence presented at the informal conference. This fact was confirmed by evidence NTEU presented showing the SSA Office of Inspector General (OIG) Acting Director stating that the Decision Writer's work is portable and he sees no reason for a decrease in telework. At the Informal Conference, NTEU presented evidence to support its proposals, while the agency, who lacked evidence, did not show a demonstrated need for its proposals.

NTEU's evidence showed that we recently requested data on the SSA-NTEU telework program. NTEU requested evidence demonstrating that telework created work-related problems. The Agency responded: "No such information exists." In 2016, Panel Chairman Mary Jacksteit ordered adoption of the management's proposal to pilot telework 4 days a week. SSA argued that piloting the fourth day of telework would allow them to gather data before considering a larger roll out, which was persuasive to Chairman Jacksteit. But SSA didn't study this and the pilot continues successfully.

NTEU's LBO proposes, in large part, to maintain the current language on Telework. Under the existing article, the large majority of employees perform regular and recurring telework of 3 or 4 days a week. SSA failed to produce any evidence that the popular telework program has a negative impact on SSA's mission. In fact, the evidence presented at the informal conference shows telework has a positive impact on SSA's mission and service to the American public. NTEU introduced an OIG report which discussed the great job OHO has done to decrease the case back log since FY 2017, the year 4 day per week telework pilot began. Additionally, Agency stats show that the DWPI – a production metric tool that measures the rate and pace of decision writing – is 104.97% when the objective is to reach 95%. NTEU showed multiple months of e-mails from Management/HQ commending the staff on reaching the Agency's goals, and showing an uninterrupted monthly reduction in the backlog. NTEU's evidence showed a \$900k cost savings in space reduction due to increased telework in one small area of the Agency dominated by NTEU bargaining unit employees. This shows that telework is not hindering the agency from meeting its mission, a point which the agency could not dispute. The SSA proposal to permit the Deputy Commissioner the discretion to make decisions on telework eligibility based on whim would simply promote inconsistent application, unfairness, favoritism, and even discrimination.

Moreover, the Telework Enhancement Act (Telework Enhancement Act of 2010, Public Law 111-292 (TEA)) and OPM guidelines state that the "intent of the laws on telework is to encourage agencies to allow employee participation in the telework program to the maximum extent possible without diminished employee performance"(Guide to Telework in the Federal Government, OPM, April 2011) based on findings that, among other things, telework (i) is an effective recruitment and retention strategy; (ii) it increases productivity by eliminating non-productive commuting time; and (iii) will increase productivity when weather and safety

## Article 17 - Telework - NTEU Statement in Support

conditions force the closure of an official duty station. NTEU's *status quo* proposal has established standards.

Despite this, SSA has proposed to grant the Deputy Commissioner with sole discretion to determine which employees should be permitted to telework without any standard. The TEA does not confer sole discretion on managers to make telework eligibility determinations and FLRA authority holds Union-proposed standards for the exercise of discretion are negotiable. Matters that are within the discretion of an agency and are not otherwise inconsistent with law or applicable rule or regulation are negotiable. See, e.g., National Federation of Federal Employees, 35 FLRA 1008, 1014 (1990); NTEU, 21 FLRA 6 (1986).

Because the Agency's proposal vests "sole discretion" with management at every level, including for frontline managers (Section 5.C), there is no grievable standard for when employees are removed from telework. In 18 FSIP 077, (2019) the Panel held that such language would "directly or indirectly deprive the Union of its ability to pursue grievances concerning telework disputes." The effect of keeping that language here would have the same impact of preventing NTEU from pursuing grievances over telework disputes. NTEU's proposal has well defined standards and gives management justification at multiple levels to prevent an employee or employees from teleworking and to remove an employee or employees from telework, while requiring them to meet the minimal standards to justify those decisions. (See NTEU's proposal at Section 3; 5.C; 6.F. and G., and Section 10). Also, OPM's Guide to Telework in the Federal Government states that denial and termination of telework "must be based on operational needs or performance in accordance with description in the law..." furthering NTEU's argument that the TEA does not vest management with sole discretion. See pg. 23 at <https://www.telework.gov/guidance-legislation/telework-guidance/telework-guide/guide-to-telework-in-the-federal-government.pdf>. Additionally, the Agency's proposal does not include the telework agreement, something required by TEA and strongly reinforced by the OPM Guidance.

The Agency's proposal also leaves decisions about whether teleworking employees can enjoy other provisions of the contract such as earning credit hours, working 5/4/9 and 4/10 work schedules, overtime at the ADS, part time schedules, and working at the ADS on a non-tour day to the complete discretion of the Deputy Commissioner. It is firmly established under Authority precedent that "matters concerning alternative work schedules are fully negotiable, subject only to the Act or laws superseding it." National Treasury Employees Union, Chapter 41 and U.S. Department of the Treasury, Internal Revenue Service, 57 FLRA 640, 643-644 (2001); NAGE, Local R1-109 and U.S. Department of Veterans Affairs, Connecticut Healthcare System, 56 FLRA 1043, 1045 (2001); National Treasury Employees Union and Department of the Treasury, Internal Revenue Service, 32 FLRA 879, 882 (1988); AFGE, Local 1934 and Department of the Air Force, Lowry Air Force Base, 23 FLRA 872, 873-874 (1986). To the extent that SSA intends to establish an AWS program that is not contained in the parties' CBA, such a program would conflict with the Work Schedules Act.

NTEU's proposal is largely *status quo*. This contract article, as modified by the prior Panel decision, has served the parties well over four (4) plus years. So well, in fact, the Agency is unable to generate a shred of evidence to support changing the *status quo*. NTEU's proposal primarily provides some modest changes to help bring it in line with the Agency's stated concerns at the

## Article 17 - Telework - NTEU Statement in Support

informal conference and to address changes created by OPM's changes to the weather and safety regulations.

To meet the agency's interest of being able to suspend telework on a larger scale and for a longer period of time than it believes the current language allows for, NTEU's LBO proposes temporary suspension or modification of telework arrangements for entire offices, groups, or classification of employees based on legitimate, demonstrated operational needs. The proposal sets forth examples for the basis of suspending or modifying telework arrangements. This language, in addition to the *status quo* language in the following areas: Section 3 (Eligibility); Section 5.C (Staff Coverage); Section 6.G (Call Backs); Section 8 (Accountability); Section 10 (Termination of Telework); and Appendix (Telework Agreement), provides the agency with everything it needs to meet its interest in suspending and terminating telework as expressed during the Informal Conference.

NTEU's LBO proposes the sharing of office space. This language was taken directly from one of the parties' MOU's that deals with the sharing of office space. The parties do not disagree with the concept of teleworking employees utilizing a shared space. However, under the Agency's proposal, all teleworking employees would be required to hotel. In other words, all of these employees would be required to find a workspace on a first-come first serve basis. This is another example of a procedure that adds uncertainty and disrupts the bargaining unit employees' ability to service the American public. NTEU's proposal would allow hoteling for employees who telework more than twice a week. For those who telework less than two (2) days per week may keep their current workstation. NTEU's LBO also allows for teleworking employees who are required to report to their official duty station, the ability to report to their teleworking location if there is no room available at the official duty station. An essential function for the majority of NTEU's bargaining unit employees is to write decisions. Such work requires an atmosphere that allows them to concentrate on drafting at least eight hours per day. If employees do not have a workstation, they are unable to efficiently serve the American public.

NTEU's LBO proposes that if the employee is not Telework ready for all or part of the workday when a weather or safety-related condition forces the closure of the ODS, the employee may be granted an equivalent amount of weather and safety leave on a case by case basis. OPM regulations generally require all employees with a telework agreement to telework if there is a weather event or some other safety-related condition. NTEU's proposal addresses a concern where employees may not have the necessary equipment or work files to perform work.

NTEU's LBO proposes that "a teleworking employee experiences a weather or other safety-related condition that prevents him/ her from safely working at his/her ADS, the employee must contact his/her supervisor as soon as practicable. The employee may be directed to travel to the employee's ODS – provided he/ she may safely travel under the circumstances – to complete his/her workday. If directed to travel during regular duty hours, he/she will receive administrative time (duty time) to do so. If the employee is not directed to report to his/her regular worksite, the employee will be granted weather and safety leave." This proposal encompasses any safety issue that prevents employees from safely performing work at the telework site. It could be that a tree fell on the telework site and power is out or the telework site is near an approaching hurricane that would require an evacuation. Under these circumstances, the employee must contact his/her supervisor as soon as practicable.

**ARTICLE 17**  
**Telework**

**Section 1 Purpose**

The OHO Telework Program permits eligible NTEU bargaining unit employees to perform Agency assigned work or other Agency approved activities at a management-approved alternate duty station (ADS). The Agency is committed to offering telework opportunities provided that the technological components and equipment are available and in place and that sensitive materials, including Personally Identifiable Information (PII), can be safeguarded. Management will make telework determinations consistent with the eligibility criteria contained in this Article, taking into account requirements of the position, performance of the employee, impact on organizational performance, and availability of appropriate technology. The agency supports the broadest use of telework by eligible agency employees to the extent that it maintains or enhances employee performance, cost savings and agency operations.

The parties agree that telework requires a collaborative effort between management and employees and that the goals of telework include fostering a positive work culture and environment that will assist OHO in maintaining a productive and high quality workforce. This program may serve as a recruitment and retention tool and allows participants the opportunity to balance work and home life demands, reduce commuting problems and contribute to a cleaner environment, improve productivity and improve employee morale.

**Section 2 Definitions**

A. Alternate Duty Station (ADS) – an employee requested and management-approved work site that is geographically convenient to the employee's official duty station (ODS). Specifically:

1. An employee's residence as reflected in his/her Telework Program Request and Agreement; or [TA]
2. Another SSA facility or office that may be closer to an employee's home and where there is space to accommodate additional agency employees. [TA]

Once the ADS is approved, the employee may only change the location of the ADS with prior management approval. [TA]

B. Official Duty Station (ODS) – the employee's official agency worksite. [TA]



- 45 C. Telework Program Request – a written application for participation in the Telework  
46 Program in which the employee describes the general and specific work  
47 assignments that the employee proposes to perform at the ADS. [TA]  
48
- 49 D. Telework Program Request and Agreement – a written agreement between the  
50 supervisor and the employee defining the employee’s obligations and responsibilities  
51 under the Telework Program.  
52
- 53 E. Portable Work - work normally performed at the employee’s ODS that can be  
54 effectively performed at the ADS. This work is part of the employee’s regular work  
55 assignment or approved special work assignments. [TA]  
56
- 57 F. Non Portable Work – Assignments that are not portable include those assignments  
58 that require face-to-face customer contact or the employee’s physical presence at  
59 the ODS. [TA]  
60
- 61 G. Core Day(s)–Day(s) of the week not eligible for telework. Core days shall be limited  
62 to no more than one core day per week.  
63
- 64 H. Scheduled Telework – An employee with an approved telework agreement teleworks  
65 on a routine, regular, and recurring basis at the ADS. [TA]  
66
- 67 I. Unscheduled Telework - An employee with an approved telework agreement is  
68 required to telework on a non-scheduled telework day at an ADS. Employee-  
69 initiated telework is not permitted. [TA]  
70
- 71 J. Episodic Telework - The employee teleworks on an occasional irregular basis at an  
72 ADS Episodic telework may include a temporary project, approved on a case-by-  
73 case basis, where the employee may work less than a full day at the ADS.  
74  
75

76 **Section 3 Eligibility**  
77

78 Participation in telework will be voluntary and employees may withdraw at any time with  
79 advance notice to their immediate supervisor. [TA]  
80

81 To be eligible to participate in Telework, an employee must meet all of the following  
82 conditions:  
83

- 84 A. Not be currently on an Opportunity to Perform Successfully (OPS) plan;  
85
- 86 B. Not currently be on sick leave restriction;  
87
- 88 C. Not be in a probationary period, first year of a 2-year trial work period, or formal  
89 training status. However, employees in formal training or in a development program  
90 will be considered on a case-by-case basis. Formal training status does not include

91 the normal progression of an employee through a career ladder. However, formal  
 92 training status may include periods when an employee needs close supervision or  
 93 regular feedback from management and/or technical mentors that cannot effectively  
 94 be accomplished at the ADS.

95  
 96 D. Not have been officially disciplined for violations of subpart G of the Standards of  
 97 Ethical Conduct For Employees of the Executive Branch for viewing, downloading,  
 98 or exchanging pornography on a Federal government computer or while performing  
 99 official government duties, **or not have been officially disciplined for being**  
 100 **absent without permission for five days in any calendar year.**

101  
 102 E. Complete appropriate agency Telework training;

103  
 104 F. Is willing to sign and abide by the conditions of the Flexiplace Telework Program  
 105 Agreement (Appendix 1) and the self-certification safety checklist (Appendix 2).  
 106 Once an employee is approved for participation in the Telework Program, it is  
 107 understood that the general and specific work assignments set forth in the Telework  
 108 Program Agreement may be changed.

109  
 110 G. Maintain at least an acceptable level of performance (e.g., successful contribution  
 111 rating);

112  
 113 H. Has sufficient portable work to be completed at the ADS; [TA]

114  
 115 I. Not be excluded from participation by law, or by government-wide rule or regulation;  
 116 [TA]

117  
 118 J. Use approved appropriate technology; and [TA]

119  
 120 K. Not have been disciplined within the preceding 12 months for misconduct that has a  
 121 nexus to Telework. This 12-month period does not apply to employees who were  
 122 terminated from Telework in accordance with Section 10 of this Article.

123  
 124  
 125 **Section 4 ODS Shared Work Space**

126  
 127 A. Employees who telework two (2) or less days per week will keep their workstation.

128  
 129 B. Employees who telework more than two (2) days per week may be required to **hotel**.  
 130 Hoteling means employees will select their workspace each day on a first-come,  
 131 first-served, basis when working at the ODS.

132  
 133 C. **Employees shall be given the opportunity to reduce their telework days to two**  
 134 **(2) or less days per week if they wish to keep their designated workspace.**

135

- 136 D. Management will ensure a workspace at the ODS includes a dock for the agency  
 137 computer, access to an agency phone, or ability to use softphones (or successor  
 138 technology), and locked storage. In hearing offices where private offices have  
 139 been and continue to be assigned to bargaining unit employees, management  
 140 will allow two (2), three (3), or four (4) professional bargaining unit employees  
 141 (including paralegal specialists) who telework more than two (2) days per  
 142 week to share a private office when working at the ODS.  
 143
- 144 E. Employees who are not required to share space may elect to move to an  
 145 unoccupied, comparable workspace prior to management designating workspaces  
 146 that will be used for sharing. Conflicts will be resolved by seniority order according  
 147 to employee time in their ODS.  
 148
- 149 F. Employees may retain their chairs when sharing space.  
 150
- 151 G. An employee whose workspace was modified or adjusted due to an approved  
 152 reasonable accommodation request will not be required to share space unless  
 153 management can reasonably accommodate the employee in a comparable shared  
 154 workspace to perform his/her assigned duties.  
 155
- 156 H. If an employee is required to report to the ODS, e.g. training, meeting, etc., and  
 157 management is unable to provide the employee with workspace to use for the  
 158 remainder of the day, the employee may return to the ADS to complete his/her  
 159 workday. The employee will receive duty time to commute to the ADS for this  
 160 purpose.  
 161

## 162 Section 5 Telework Procedures

- 163
- 164 A. Work performed under a Telework arrangement may be scheduled, unscheduled, or  
 165 episodic. [TA]  
 166
- 167 B. Requests to Participate in Telework  
 168
- 169 1. Scheduled Basis  
 170

171

172 Employees may request to participate in Telework during the months of February  
 173 and August by electronically submitting a Telework Program Request and Self-  
 174 Certification. Management will act on requests within ten (10) working days of the  
 175 close of the request period for scheduled telework. If the participant's request is  
 176 denied, management will annotate the reasons for the denial on the telework request  
 177 form.  
 178

179 Employees will not have to submit future requests once the original request is  
 180 approved unless a schedule change is requested by the employee during the  
 181 February and August timeframes; the employee needs to revise the telework request

182 and/or agreement; or the employee is otherwise directed by management.  
 183 Approving officials will re-evaluate existing schedules during the relevant six-month  
 184 request period, as appropriate.

## 185 186 2. Episodic Basis

187 Employees may request at any time to participate in episodic telework to work on a  
 188 specific project. Employees not previously approved to telework may request to do  
 189 so by electronically submitting a **Telework Program and Request Agreement and**  
 190 **a Telework Program Request and Safety Self-Certification (Exhibits 1 and 2).**  
 191 Management will act on these requests no later than five (5) working days following  
 192 receipt of the request. If the participant's request is denied, management will  
 193 annotate the reasons for the denial on the telework request form. Depending on the  
 194 nature of the project, employees may be approved to work episodic telework up to  
 195 five days per week at the ADS.  
 196

## 197 198 3. Emergencies and Other Requests

199  
 200 A. Employees with a bona fide emergency may request participation in scheduled  
 201 telework or a change in his/her telework day(s) outside the normal request times.  
 202 If approved, employees may begin participating in telework or working the newly  
 203 approved schedule at the start of the next pay period.

204  
 205 B. Management will consider non-emergency requests submitted electronically to  
 206 change a scheduled telework day or participate in telework outside the normal  
 207 request times. If approved, employees may begin participating in telework or  
 208 working the newly approved schedule at the start of the next pay period.  
 209

## 210 211 C. Staff Coverage

212  
 213 If the number of eligible employees requesting to Telework on a given workday exceeds  
 214 the coverage requirements, approval will be made based on seniority order according to  
 215 employee time in their ODS.

216  
 217 If coverage problems necessitate suspending scheduled telework agreements, it will be  
 218 accomplished in inverse seniority order according to employee time in their ODS. The  
 219 local representative will be notified as soon as practical regarding the suspension.  
 220

## 221 222 **Section 6 Hours of Work and Employee Availability**

223  
 224 Teleworkers are in a duty status when teleworking and are expected to have the  
 225 resources necessary to perform their jobs and concentrate on official duties without  
 226 interruption. Employees may not use duty time for any purpose other than performing

227 Agency-assigned work. Union officials may use official time at the ADS in accordance  
228 with Article 8.

229

230 Management is responsible for supervising work in accordance with the Fair Labor  
231 Standards Act. Article 15 of the SSA-NTEU National Agreement will apply to those  
232 employees who work at an ADS. Management may require that employees provide  
233 electronic notification to their supervisor at the beginning and/or end of their workday.  
234 **[TA]**

235 With prior management approval, employees with an approved telework agreement  
236 may earn credit hours and work daily overtime at the ADS if the employee was already  
237 working at the ADS when the period of credit or overtime begins. With prior  
238 management approval, employees with an approved telework agreement may earn  
239 Saturday credit hours and work weekend overtime at the ADS

240

241 Requests for leave will be handled in accordance with Article 16 of the SSA-NTEU  
242 National Agreement. **[TA]**

243

244

245 A. Office Closure/Early Dismissal/Late Opening

246 If there is a full day closure at the ODS, all employees with an approved Telework  
247 Program and Request Agreement are required to complete a full workday at the ADS,  
248 unless the employee requests and is approved for leave. **If the employee is not  
249 Telework ready for all or part of the workday when a weather or safety-related  
250 condition forces the closure of the ODS, the employee may be granted an  
251 equivalent amount of weather and safety leave on a case by case basis.**

252

253 In emergency, **safety-related situations resulting in office closures**, employees with  
254 approved telework agreements will telework regardless of whether the emergency,  
255 office closure occurs on a scheduled or unscheduled telework day, unless otherwise  
256 directed by management (e.g. deployed to another office, etc.). In these situations,  
257 employees may also request to use leave. **Employees required to travel to their  
258 approved telework location during regular duty hours will be granted weather and  
259 safety leave for the time required to travel home.**

260

261 If there is an early dismissal, or late opening at the ODS, and the employee is  
262 scheduled to work at their residence as the ADS, the employee is required to complete  
263 a full workday, unless the employee requests and is approved for leave. Employees  
264 with approved telework agreements on a non-scheduled telework day may be required  
265 to work all or a portion of their day at their ADS in instances of early dismissal unless  
266 the employee requests and is approved for leave. **[TA]**

267

268 If the ADS is another SSA facility, the employee must abide by the office closure, early  
269 dismissal, or late opening rules for that location. The employee may be required to  
270 report to their ODS. **[TA]**

271

272 B. Alternate Duty Station Problem(s)

273  
 274 Employees will promptly inform management of any disruptions at the ADS, e.g.  
 275 equipment failure, power outages, telecommunication difficulties, etc. that impact the  
 276 employee's ability to perform OHO assigned duties. In these situations, management  
 277 may require the employee to report to the ODS or the employee may request leave. If  
 278 directed to travel during regular duty hours, he/she may request administrative  
 279 time (duty time) to do so.

280  
 281 When a teleworking employee experiences a weather or other safety-related  
 282 condition that prevents him/ her from safely working at his/her ADS, the  
 283 employee must contact his/her supervisor as soon as practicable. The employee  
 284 may be directed to travel to the employee's ODS – provided he/ she may safely  
 285 travel under the circumstances – to complete his/her workday. If directed to travel  
 286 during regular duty hours, he/she will receive administrative time (duty time) to  
 287 do so. If the employee is not directed to report to his/her regular worksite, the  
 288 employee will be granted weather and safety leave. If the ODS is closed and the  
 289 condition(s) creating the disruption make(s) the ADS unsafe, the employee may be  
 290 granted weather and safety leave in accordance with Article 16.

291  
 292

#### 293 C. Split Days at the ADS and ODS

294  
 295 Employees may not split a regularly scheduled telework day between the ADS and the  
 296 ODS, unless the employee is required to report to the ODS or in accordance with the  
 297 Space Sharing MOU.

298  
 299

#### 300 D. Telephones

- 301  
 302  
 303  
 304  
 305  
 306  
 307  
 308  
 309  
 310  
 311  
 312  
 313  
 314
1. When working at the ADS, an employee must be accessible by telephone to his or her supervisors, clients, colleagues, and external customers during working hours, exclusive of the lunch period and break periods. Employees are only required to provide a personal phone number to their supervisory chain.
  2. The employee's break and lunch periods will be defined in the employee's Telework Program Agreement.
  3. While at the ADS, the employee is responsible for retrieving, and responding in a timely manner to voice mail left at both the ADS and the ODS. [TA]
  4. Employees will not be reimbursed for any out-of-pocket expenses related to telephone calls. [TA]

315

#### 316 E. Additional Communication Methods

317  
 318

Employees must read and respond to emails as if they were at the ODS. [TA]

319 Management may require that employees be signed into Lync or similar technology  
320 while working at the ADS. An employee's Lync indicator (or similar technology) should  
321 accurately reflect their work status.

322

323 Management may also require that employees be available via video while working at  
324 the ADS. The Agency agrees that employees will receive reasonable advance notice,  
325 normally 30 minutes, of mandatory video calls.

326

327 F. Telework Modifications/Suspensions

328

329 Reasonable advance notice, normally 24 hours if practicable, will be provided when  
330 employee(s) may be required to report to their official duty station for situations such as  
331 previously scheduled training, conferences, meetings or to perform work on a short-term  
332 basis that cannot otherwise be performed at the ADS or accomplished by telephone or  
333 other reasonable alternative methods.

334

335 The Agency may temporarily suspend or modify Telework arrangements for  
336 entire offices, groups, or classification of employees based on legitimate,  
337 demonstrated operational needs. The Agency agrees to provide at least two (2)  
338 weeks of advance notice for large scale suspensions of Telework when possible.  
339 Examples for a temporary suspension or modification of a Telework arrangement  
340 would include:

341

342 A. The employees who otherwise have portable duties are required to provide  
343 on-site office coverage;

344 B. The employees work is no longer portable;

345 C. The employees portable work has been diminished to the extent that they  
346 no longer have enough portable work to perform at the ADS. The Agency  
347 will consider reducing Telework days, instead of eliminating it all together,  
348 when the portable work has been reduced but not eliminated.

349

350 Employees may resume telework as soon as the suspension is over.

351

352 Employees may voluntarily suspend telework by notifying their supervisor in  
353 advance. Employees may resume their telework schedule by notifying their supervisor.

354

355

356

357 ~~Reasonable advance notice, normally 24 hours if practicable, will be provided when~~  
358 ~~employee(s) may be required to report to their official duty station for situations such as~~  
359 ~~previously scheduled training, conferences, meetings or to perform work on a short term~~  
360 ~~basis that cannot otherwise be performed at the ADS or accomplished by telephone or~~  
361 ~~other reasonable alternative methods. Employees may resume telework as soon as the~~  
362 ~~suspension is over.~~

363  
364 Employees may voluntarily suspend telework by notifying their supervisor in advance.  
365 Employees may resume their telework schedule by notifying their supervisor.  
366

#### 367 G. Call Backs

368  
369 Employees may be called back to the ODS in the event work issues arise which cannot  
370 be performed at the ADS or accomplished by telephone or other reasonable alternative  
371 methods. Employees are required to report to their ODS as soon as possible and no  
372 more than two hours after notification. This time is considered duty time.  
373

374 Transportation between the ADS and the ODS does not entitle the employee to  
375 reimbursement for official travel.  
376

#### 377 H. In-Lieu of Days

378  
379 If management temporarily suspends telework or calls an employee back to the ODS,  
380 the employee is not guaranteed an "in-lieu of" telework day. However, employees will  
381 be allowed to schedule an in-lieu of telework day by the end of the following workweek.  
382 If an employee is not able to schedule the in-lieu of day by the end of the following  
383 workweek due to a holiday or the employee's leave, the employee forfeits the in-lieu of  
384 day.  
385

386 Employees are also not guaranteed replacement time if a telework day falls on a  
387 holiday. However, the employee's telework day may be temporarily switched to another  
388 day with management's approval.  
389

### 390 **Section 7 Environment and Security**

#### 392 A. Work site

393  
394 If the ADS location is in the employee's residence, the employee is responsible for  
395 maintaining the ADS work site in a manner that is conducive to business and is free of  
396 hazards. The ADS work site shall include furniture/equipment deemed necessary by  
397 management to perform the employee's duties at the ADS such as a desk, chair, surge  
398 protector, locking file cabinet or similar secure storage device, etc. In addition, there  
399 must be proper lighting, power, other utilities, adequate environmental conditions, a  
400 readily accessible and working fire extinguisher, and a working smoke detector. [TA]  
401  
402



403 The employee is responsible for all operating costs, home maintenance and any other  
404 incidental costs (e.g., utilities, high-speed internet access, mortgage payments, rent,  
405 insurance, and taxes, etc.) associated with the use of the ADS. The OHO is not liable  
406 for damages to employee's personal or real property occurring during the course of  
407 performance of official duties except to the extent established by law. [TA]

408  
409 The employee does not relinquish any entitlement to reimbursement for appropriately  
410 authorized expenses incurred while conducting business for the Agency as provided for  
411 by law and regulation. [TA]

412  
413

#### 414 B. Workers' Compensation

415  
416 Teleworkers are covered under the Federal Employees' Compensation Act (FECA) and  
417 the Agency's policy and procedures concerning workers' compensation for injuries  
418 sustained while performing their official duties at the ADS. The employee will  
419 immediately notify his/her supervisor of any accident or injury occurring at the ADS in  
420 the course of performing official duties. [TA]

421

#### 422 C. Federal Tort Claims

423  
424 For purposes of the Federal Tort Claims Act, the employee's ADS is treated as an  
425 extension of the official duty station. [TA]

426

#### 427 D. Security/Safeguarding Work

428

429 Employees working at the ADS are bound by agency policies and procedures on  
430 transporting, safeguarding, disclosure and destruction of Agency information, records  
431 and data. This includes policies on protecting Personally Identifiable Information (PII),  
432 the Federal Information Security Management Act, the Privacy Act, 5 U.S.C. § 552 the  
433 regulations implementing the Privacy Act, including those at 20 C.F.R. Part 401; 42  
434 U.S.C. § 1306; and all other statutes, regulations, and Agency policies pertaining to the  
435 disclosure, retention, and electronic transmission of official records and information.

436 [TA]

437

#### 438 E. Home Inspections

439

440 Management may inspect the ADS prior to approving telework to ensure conformity with  
441 the conditions set forth in the Telework Program Request and Agreement.

442 Management may inspect the ADS with twenty-four (24) hours advance notice during  
443 the teleworker's regular core hours. Management will not inspect non-work space in the  
444 ADS. **The employee may arrange for an NTEU representative to accompany the  
445 supervisor at the inspection.**

446

#### 447 F. Agency Owned IT Equipment

448

449 Subject to the availability of resources, the Agency will provide appropriate IT  
450 equipment for teleworkers. SSA retains ownership and control of any SSA furnished  
451 hardware, software, and data and is responsible for maintaining, providing support and  
452 repairing the equipment; however, there will be no on site IT support provided in  
453 employees' homes. The employee is not responsible for costs related to maintenance  
454 of government owned equipment.

455  
456 Employees have a continuing responsibility to safeguard Government property and are  
457 responsible for the care, security and effective utilization of the Government property  
458 they use.

459  
460 Management may require that employees working at an approved ADS obtain (at their  
461 own expense) high-speed/broadband internet access sufficient to support the  
462 accomplishment of the employee's assigned duties. [TA]

463

464

### 465 **Section 8 Accountability and Evaluation of Work**

466

467 Management will evaluate work performed at the ADS in accordance with the Telework  
468 Program and Request Agreement and in accordance with Article 21 of the 2014 SSA-  
469 NTEU National Agreement. Employees are expected to complete their official duties at  
470 the ADS in the same manner as at the ODS. [TA]

471

472 Management may require employees on telework to account for their work performed at  
473 the ADS. The format and required content will be will be determined by management.  
474 [TA]

475

476

### 477 **Section 9 Employee Conduct at the ADS**

478

479 All laws, government- wide rules, government- wide regulations, and Agency policies  
480 governing employee conduct at the ODS continue to apply at the ADS including, but not  
481 limited to, the Privacy Act and the Standards of Ethical Conduct for Employees in the  
482 Executive Branch. [TA]

483

484

### 485 **Section 10 Termination from the Telework Program**

486

487 Employees may voluntarily terminate their participation in the Telework program at any  
488 time by notification to their supervisor and may reapply at the next application period.  
489 [TA]

490

491 Management retains the right to terminate an employee's participation in the Telework  
492 Program if: [TA]

493

- 494 1. The employee no longer meets one or more of the eligibility requirements  
495 contained in Section 3; or [TA]  
496  
497 2. The employee fails to comply with any of the conditions set forth in the Telework  
498 Program and Request Agreement; or [TA]  
499  
500 3. The employee fails to comply with the provisions of this article; or [TA]  
501  
502 4. There is a consistent diminishment in the employee's performance at the ADS in  
503 comparison to performance at the ODS.  
504

505 Management will normally counsel employees about specific problems, including a  
506 diminishment in performance, before removing an employee from the Telework  
507 Program. When an employee's participation in the Telework Program is terminated, the  
508 employee will be notified in writing of the reason for termination and the effective date of  
509 the termination. Management will consider individual circumstances when determining  
510 the effective date of removal from the program.  
511

512  
513 An employee, who has been removed from the Telework Program, may reapply for  
514 Telework at the first application cycle following a 6-month termination period unless  
515 otherwise prohibited by law, rule, or government-wide regulation. However, employees  
516 who successfully complete a PA may reapply for Telework immediately following the  
517 end of the 6-month termination period. Management will consider individual  
518 circumstances when considering the effective date of removal from the program.  
519

520 If a disciplinary action is reversed, the employee will normally resume telework at the  
521 beginning of the first pay period following the reversal as long as the employee meets  
522 the eligibility requirements.

EXHIBIT 1

TELEWORK PROGRAM AND REQUEST AGREEMENT

I, \_\_\_\_\_, request to participate in the Telework program. I understand, acknowledge and agree to the following terms:

The address and telephone number of my Alternative Duty Station (ADS) is:

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

1. I understand the location of the ADS cannot be changed without prior approval of management. I understand I may have only one ADS.
2. My hours of duty at the ADS will be the same as at my ODS.
3. My meal break and my breaks will be the same as at my ODS.
4. I will report my time and attendance in accordance with agency policy, procedures while working at the ADS.
5. I will request leave in accordance with Article 16 of the SSA-NTEU National Agreement.
6. While working at the ADS, I will be accessible by telephone in accordance with Article 17.
7. I will return to my ODS, as soon as possible and no more than two hours after notification, if management determines that work requirements require such action or I will request appropriate leave.
8. I understand management may temporarily suspend telework days or modify agreements e.g. changing or reducing approved telework day(s) when work requirements require such action. If management temporarily suspends or alters telework days, in lieu of days are handled in accordance with Article 17.
9. If my ADS location is my residence, I will maintain the ADS work site in a manner that is conducive to business and is free of hazards. I will have workspace that includes furniture/equipment deemed necessary to perform work at the ADS such as a desk, chair, surge protector, locking file cabinet, locking desk drawer, or similar secure storage area for official records and information. I must have and maintain

- 569 adequate workspace, proper lighting, basic telephone service, power and other  
570 utilities, adequate environmental conditions, adequate security, a working smoke  
571 detector and a readily accessible, working fire extinguisher.  
572
- 573 10. I understand I am responsible for all operating costs, home maintenance and any  
574 other incidental costs (e.g., utilities, high-speed internet access, mortgage payments,  
575 rent, insurance, and taxes, etc.).  
576
- 577 11. I agree that the agency is not liable for damages to personal or real property  
578 occurring during the course of performance of official duties except to the extent  
579 established by law.  
580
- 581 12. I understand and will follow all agency policies and procedures on transporting,  
582 safeguarding, disclosure and destruction of Agency information, records and data.  
583 This includes policies on protecting Personally Identifiable Information, the Federal  
584 Information Security Management Act, the Privacy Act, 5 U.S.C. § 552 the  
585 regulations implementing the Privacy Act, including those at 20 C.F.R. Part 401; 42  
586 U.S.C. § 1306; and all other statutes, regulations, and Agency policies pertaining to  
587 the disclosure, retention, and electronic transmission of official records and  
588 information.  
589
- 590 13. I understand that management has the right to inspect my ADS prior to approving  
591 this telework agreement, in accordance with Article 17, to ensure conformity with the  
592 provisions set forth in the Telework Program Agreement and Employee Safety Self  
593 Certification. Management may also inspect my ADS during core hours, with 24-  
594 hours' notice, after I begin teleworking. **The employee may arrange for an NTEU**  
595 **representative to accompany the supervisor at the inspection.**  
596
- 597 14. I understand all laws, rules, regulations and agency policies concerning conduct at  
598 the ODS remain in full force and effect at the ADS.  
599
- 600 15. I will notify my supervisor immediately of any accident or injury that occurs to me at  
601 the ADS in the course of performing my official duties, and I will timely complete all  
602 forms required to process an initial claim under the Federal Employees'  
603 Compensation Act.  
604
- 605 16. I understand that I will promptly inform management of any disruptions at the ADS,  
606 e.g., equipment failure, power outages, telecommunication difficulties etc. that  
607 impact my ability to perform agency assigned duties. I may be required to return to  
608 the ODS, or I may request and take leave, if approved by my supervisor.  
609
- 610 17. I understand I am in duty status when teleworking. I will have resources necessary  
611 to perform my job and will concentrate on official duties without interruption. I will  
612 not use duty time for any purpose other than performing agency assigned work or  
613 other Agency approved activities (e.g. I will not provide dependent care, engage in  
614 oversight of household maintenance, etc.).

615 18. Management may require a daily accounting of the work performed at my ADS.  
616 The format and required content will be determined by management.

617  
618 19. I understand that management may require employees who telework to share  
619 workspace (e.g., desk, cubicle, office, etc.) at the ODS in accordance with Article 17,  
620 Section 4.

621  
622 20. I completed the agency approved telework training on \_\_\_\_\_.

623  
624 21. I understand that I must be scheduled to work twice per pay period at my ODS on a  
625 regular and recurring basis to retain the locality pay rate for my ODS location [5 CFR  
626 531.602]. If my work schedule does not meet this requirement, my locality pay will  
627 be determined based on the locality pay rate for my ADS location rather than the  
628 locality pay rate for my ODS. This may result in a change in my overall rate of pay.

629  
630 22. I understand that I am required to telework on a non-scheduled day at an ADS due  
631 to a weather or safety event, unless otherwise directed by management.

632  
633  
634 I have read and I understand the eligibility conditions and requirements, employee  
635 responsibilities, the telework program agreement, and the provisions of Article 17  
636 (Telework) of the SSA-NTEU National Agreement for working at an ADS. I hereby  
637 certify that I will abide by all of these provisions while on telework and that failure to do  
638 so may result in my termination from telework.

639  
640 I understand that I will not have to submit future requests once the original request is  
641 approved unless a schedule change is requested by me during the February and  
642 August timeframes to request participation in Telework.

643  
644 I may voluntarily terminate my participation in the telework program at any time by  
645 notifying my supervisor. Management may also terminate my participation under the  
646 circumstances described in the telework program agreement, and in Article 17 of the  
647 SSA-NTEU National Agreement.

648  
649  
650  
651

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

652  
653  
654  
655  
656  
657

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Date

658 EXHIBIT 2

659

660

661 TELEWORK PROGRAM REQUEST & SAFETY SELF- CERTIFICATION

662

663

664

665 Name: \_\_\_\_\_ Component: \_\_\_\_\_

666

667 Address of the employee's alternate duty station (ADS):

668

669

670 Telephone Number: \_\_\_\_\_

671

672

673 Type of Telework:

674

675 Scheduled:

675 Episodic:

676

677

678

679

680

681

682

683

684 Specific day(s) requested for participation in telework:

685

	Monday	Tuesday	Wednesday	Thursday	Friday
First Week	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Second Week	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

686

687

688 Employee's statement of proposed work assignments at ADS:

689

690

691

692

693

694

695  
696

EMPLOYEE SAFETY SELF-CERTIFICATION:	EMPLOYEE'S RESPONSE		697 698 699 700	
By initialing the boxes to the right I self-certify that I have the following equipment and conditions required to maintain eligibility in Telework:	Working telephone		701 702	
	Office equivalent furniture		703 704 705 706	
	Locking file cabinet or desk drawer		707 708 709	
	Electrical power and adequate lighting		710 711 712	
	Working smoke detector		713 714 715	
	Working and accessible fire extinguisher		716 717 718	
	Surge protector		719 720 721	
				722

723 I have read and I understand the eligibility conditions and requirements, employee  
 724 responsibilities, the telework program agreement, and the provisions of Article 17 of the  
 725 SSA-NTEU National Agreement for working at an ADS. I hereby certify that I will abide  
 726 by all of these provisions while on telework and that failure to do so may result in my  
 727 suspension or termination from telework.

728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740

\_\_\_\_\_  
Signature of Employee Date

\_\_\_\_\_  
Approved Disapproved (reasons stated below)

\_\_\_\_\_  
Signature of Approving Management Official Date

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Sidebar to Article 17 Telework**

741  
742  
743  
744  
745  
  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757

1. There will be no diminishment in the number of Telework days that employees represented by NTEU are currently working subject to the provisions of this Article.
  
2. The Parties agree there will be ongoing discussions and information sharing on telework issues such as expanding the number of telework days. ~~the use of technology, the Agency's single device strategy, VPN, and HSPD-12 PIV systems access. NTEU may designate up to three (3) employees for these discussions which will be done via technology.~~
  
3. ~~Article 17, Section 3.G does not apply to an employee who does not receive a performance appraisal due to his/her designation as a full-time union representative under Article 8, section 5.C.1.~~

~~Sidebar to Article 17 Telework~~~~Telework Pilot for Decision Writers~~

- 758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790
- ~~1. Effective October 31, 2016, NTEU Bargaining Unit Employees (BUEs) in the National Case Assistance Centers (NCAC), National Hearing Centers (NHC), and Regional Writing Units will be allowed to Telework up to 4 days per week. Requests for the 4<sup>th</sup> day should be submitted during a Monday, October 3 to Friday, October 14, 2016 request period.~~
  - ~~2. Effective with the first full pay period effective October 2017, up to two (2) NTEU BUEs per hearing office may Telework up to 4 days per week. Requests should be submitted during the August 2017 request period. BUEs will be selected based on employee time in a hearing office.~~
  - ~~3. BUEs electing to work a 4/10 Alternate Work Schedule (AWS) may Telework a maximum of 3 days per week. BUEs electing to work a 5/4/9 AWS may Telework a maximum of 3 days in weeks they are scheduled to work 4 days and a maximum of 4 days in weeks they are scheduled to work 5 days.~~

~~Should, during the life of this agreement, AFGE represented and non-bargaining unit employees become subject to a requirement that they work on closure days if on scheduled telework, then Paragraph #4 below is implemented for the Telework Pilot for Decision Writers.~~
  - ~~4. Employees electing to schedule Telework 4 days per week and who are scheduled to work at the Official Duty Station (ODS) on a day when the ODS is closed must Telework at the ADS on that day. Therefore, employees scheduled to Telework 4 days per week must take their laptop home every day. Employees who do not have their laptop must request leave for that day. (Implementation Suspended)~~

Telework – NTEU Rebuttal

Without any shred of evidence to support its proposal, the Agency intends to disrupt the *status quo*. The Telework Enhancement Act of 2010 does not confer sole discretion on managers to make telework eligibility determinations, which the Agency's proposal still clearly does, despite the addition of "operational need" language. When an agency claims that it possesses statutory authority to take certain actions concerning that matter, the Authority examines whether the authority granted to the agency is exclusive and unfettered.<sup>1</sup>

The Agency argued that it needs flexibility to meet its mission objectives. The Agency made a claim that Decision Writers (DWs) cannot be assigned work at the beginning of the workweek because pending decisions are low.<sup>2</sup> The Agency completely disregarded the evidence NTEU introduced, specifically a 2019 OIG report<sup>3</sup> and an e-mail from the SSA Office of Inspector General (OIG) Acting Director stating that the DWs work is portable and he sees no reason for a decrease in telework.

Ninety percent (90%) of NTEU's bargaining unit consists of DWs. NTEU acknowledged that the work of SCTs may not always be portable. NTEU was willing to meet the Agency's concerns by amending its proposal to allow for suspensions of telework on a larger scale and for a longer period of time than it believes the current language allows for all employees. The Agency points to one grievance regarding SCTs, not DWs, to support its need to change the *status quo*. However, the Agency fails to point out that this case did not go to arbitration. Regardless, NTEU's proposal at 6.F fixes this problem through minimal disruption, while retaining everything else that works well for the parties.

NTEU presented evidence to show that production has increased while the agency has failed to produce evidence to show that telework hindered performance. The Agency has unquestionably met its mission and the increase in telework aided that ability. The American public has been well served by the parties' telework agreement.

The Agency also points to the recent *AFGE* decision where the Panel adopted SSA's proposal. Without context from the Agency, it must again be noted that the bargaining units are vastly different (most of *AFGE*'s unit requires public contact). Currently, the DWs work in NTEU's unit is 100% portable. If the Agency makes a determination that other duties would require employees work no longer be portable, NTEU's LBO allows suspensions and/or modifications of telework.

---

<sup>1</sup> *VA, VAMC, Veterans Canteen Serv., Lexington and NAGE Local R5-184*, 44 FLRA 162, 163-66 (1992). The Authority found that the absence of preemptive language to be a strong indication that Congress did not intend the Secretary of the VA to have unfettered discretion to set prices.

<sup>2</sup> This claim is not supported. SSA has the division of workload management that helps facilitate the transfer of cases to assist with decision writing. Offices who have a low case load or no cases often take work from office where cases are available.

<sup>3</sup> The OIG report referenced by the Agency from July 2017 at page 14 shows tasks left to SCTs *not* DWs made telework more challenging. The remainder of the report focuses on field offices, which is not part of the hearings operation component.



Article 17 Telework

The Agency is committed to telework as a component of its core mission to provide timely and quality service to the American public. The cornerstone of telework programs in the federal sector is that agencies must “ensure that telework not diminish employee performance or agency operations.” *Telework Enhancement Act of 2010*, 5 U.S.C. § 6502(b)(1). Consistent with that obligation, the Agency’s proposal maintains telework possibilities for NTEU bargaining unit employees, while providing the Agency with the flexibility necessary to adapt to workload and operational needs during the life of the term agreement.

The Agency’s experience with telework has shown that such flexibility is critical to ensure the agency has the ability to adapt to changing workloads and priorities. NTEU’s SSA bargaining unit is comprised of decision writers, lead case technicians (LCTs) and Senior Case Technicians (SCTs). Decision writers, as the name suggests, write disability decisions for the Agency’s Administrative Law Judges (ALJs). Each year, hundreds of thousands of individuals receive disability decisions drafted by NTEU decision writers. Decision writers are assigned to Office of Hearings Operations (OHO) hearing offices nationwide, at National Hearing Centers (NHCs), and National Case Assistance Centers (NCACs). Case technicians provide a variety of support services at hearing offices, including, greeting members of the public who arrive for hearing, scanning and processing mail and hard-copy hearing documentation, and providing direct, in-person assistance during a hearing in the not-infrequent event that contracted hearing-support personnel are unavailable.

Telework for case technicians can, and has, resulted in service disruptions and difficulties at OHO hearing offices. For example, in Mount Pleasant, Michigan, the Agency was required to reduce telework for NTEU legal assistants, and still suffers from coverage problems when legal assistants call out of work. Exhibit 6 Affidavit of Ruth Ellen Burns.

Agency flexibility in the telework program is necessary for decision writers as well. Under the current contract, decision writers are able to telework three (and in very limited instances four) days per week, and despite the challenges imposed in workload oversight and employee/management interaction, the agency has adapted to this work via technology and a steady stream of portable work. However, this portable work, almost exclusively comprised of cases in which ALJs have rendered decisions on disability claims and need the decision to be drafted by a writer, is not infinite. Notably, decisions pending have declined precipitously from a high of 78,754 in March of 2018 to a low of 22,464 at the end of May of 2019. See Exhibit 7 (Graph Showing Decisions Pending). Moreover, the supply of decisions pending is not uniform throughout the Agency. Numerous Hearing Offices have supplies of pending decisions so low that decision writers cannot be assigned a full week of work at the beginning of each workweek. Exhibit 8 (Showing Decision Writing Pending Days<sup>6</sup>).

---

<sup>6</sup> Decision writing pending days is a measure of how much pending work each office has. Specifically, it is a measure of how quickly an office would completely run out of decision-writing work if ALJs released no additional cases for decision writing. The ideal range is somewhere between 7-14 days. The attached report shows that SSA has 28 offices below 7 days of pending work (including 2 offices with 0 pending days) and 109 offices below 14 days pending.

As portable work decreases, the Agency may need the flexibility to redirect decision writers' efforts to other work in the very near future.<sup>7</sup> Non-portable work assignments may include writing decisions on cases that are in paper format, performing case reviews for ALJs prior to a hearing, and pre-hearing case development conferences with claimants and/or their representatives.

Accordingly, the Agency needs the flexibility to adjust the telework program where appropriate to account for shifts in workload. The Agency's proposal provides the flexibility necessary for the efficient processing of the Agency's workloads—a flexibility, based on operational need, that is greater than simply the occasional suspension of telework for individual employees or hearing offices. In fact, during the parties' informal conference/mediation, NTEU recognized and proposed the ability of the Agency to modify telework to support operational needs.

At the mediation, the Union also referenced employee desire for permanent telework stability for personal planning purposes. While the Agency strives to provide a healthy work-life balance, employee desire for permanent levels of telework cannot, and should not, impede public service or the efficiency of Agency operations by requiring telework where there is insufficient portable work or the agency needs to direct employee resources to deal with public service needs or unforeseen workloads.

Flexibility is also necessary for the Agency to address unexplained decreases in productivity that may occur. For example, in July of 2017, SSA's Office of Inspector General (OIG) released a report showing a correlation between SSA's implementation of telework and a reduction in Hearing Office productivity. Office of Inspector General, Social Security Administration, Congressional Response Report, *The Social Security Administration's Telework Program and its Effect on Customer Service*, A-04-17-50267, July 2017 (available at <https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-04-17-50267.pdf>) (last checked June 3, 2019). Ultimately, SSA needs the immediate flexibility to ensure that telework is not diminishing, or in any way negatively affecting, our core mission to provide timely and quality service to the American public.

NTEU attempted to argue at mediation that telework increases productivity. NTEU provided numerous emails from Agency officials acknowledging and thanking employees for their efforts in reducing pending decisions as evidence of increases in productivity that coincided with minimal increases in telework. However, NTEU ignored other contributing factors, such as a five-hundred person increase in the size of the bargaining unit due to additional Agency hiring, improved automation tools, the improved economy, and the Agency's increase in decision-writing productivity requirements.

The Union also argued at mediation that the prior contract language provided the flexibility the Agency seeks. However, changes to telework under the prior agreement were limited to suspensions "on a short term basis," and allowed employees to request or schedule a makeup telework day.<sup>8</sup> Agency LBO, Article 17, § F (struck-through language on line 357); § H

<sup>7</sup> From the Agency's perspective, this flexibility is preferable to other alternatives such as reducing the number of current/future decision writers.

<sup>8</sup> In fact, in a grievance challenging the reduction in Telework in the Mount Pleasant Michigan office, the Union specifically argued that article 17 does not authorize a general rotational callback, that the agreement does not

(struck through language lines 376-77). Therefore, the current contract language fails to address the Agency's need to make broader, immediate, or longer-term adjustments where required by workload or operational needs.

To the extent the Union worries that the Agency will use its flexibility to diminish telework in an arbitrary and capricious manner, the Union has ample tools to challenge such management action. Nothing in management's proposal restricts the ability of the Union to pursue a grievance or other administrative challenge. However, to address the Union's concern, SSA is modifying its proposal to restrict the Agency discretion to require that any changes to the telework program will be "based on operational need." See, Agency LBOs Article 17, §§ 3, 5C.

Lastly, we note that only a few weeks ago the Panel adopted a nearly identical telework proposal in *In the Matter of Social Security Administration and American Federation of Government Employees*, 19 FSIP 19 at 25 (May 29, 2019) (hereinafter *SSA and AFGE*). The Panel stated, "We agree that Management needs maximum flexibility to ensure that its functions can be performed in a timely and efficient manner." *SSA and AFGE*, 19 FSIP 19. Significantly, the Panel adopted the Agency's proposal in *SSA and AFGE*, even though it did not even contain the "operational need" language the Agency is proposing here.<sup>9</sup> Nevertheless, the Panel has recognized and determined that SSA needs flexibility regarding telework and that position remains true. Therefore, the Agency's proposal represents the best balance of interests for all involved stakeholders. *SSA and AFGE*, 19 FSIP 19.

---

provide for minimum staffing levels, and that employees must be allowed in-lieu of days. Exhibit. 9 (NTEU May 11, 2017 SCT Telework Grievance).

<sup>9</sup> The Panel in *SSA and AFGE* did add the language "in accordance with applicable law," related to modifications to work schedules available to employees. The Agency is adding the same language to its LBO in this matter.





**ARTICLE 17**  
**Telework**

**Section 1 Purpose**

The OHO Telework Program that permits eligible NTEU bargaining unit employees to perform Agency assigned work or other Agency approved activities at a management-approved alternate duty station (ADS). The Agency is committed to may offering telework opportunities provided that the technological components and equipment are available and in place and that sensitive materials, including Personally Identifiable Information (PII), can be safeguarded. Management will make telework determinations consistent with the eligibility criteria contained in this Article, taking into account requirements of the position, performance of the employee, impact on organizational performance, level of service provided to the American public, and availability of appropriate technology. ~~The agency supports the broadest use of telework by eligible agency employees to the extent that it maintains or enhances employee performance, cost savings and agency operations.~~

~~The parties agree that telework requires a collaborative effort between management and employees and that the goals of telework include fostering a positive work culture and environment that will assist ODAR in maintaining a productive and high quality workforce. This program may serve as a recruitment and retention tool and allows participants the opportunity to balance work and home life demands, reduce commuting problems and contribute to a cleaner environment, improve productivity and improve employee morale.~~

**Section 2 Definitions**

A. Alternate Duty Station (ADS) – an employee requested and management-approved work site that is geographically convenient to the employee's official duty station (ODS). Specifically:

1. An employee's residence as reflected in his/her Telework Program Request and Agreement; or

2. Another SSA facility or office that may be closer to an employee's home and where there is space to accommodate additional agency employees.

Once the ADS is approved, the employee may only change the location of the ADS with prior management approval.

B. Official Duty Station (ODS) – the employee's official agency worksite.

- 46 C. Telework Program Request – a written application for participation in the Telework  
47 Program in which the employee describes the general and specific work  
48 assignments that the employee proposes to perform at the ADS.  
49
- 50 D. Telework Program Request and Agreement – a written agreement, contained in  
51 PPM S650\_1, between the supervisor and the employee defining the employee's  
52 obligations and responsibilities under the Telework Program.  
53
- 54 E. Portable Work - work normally performed at the employee's ODS that can be  
55 effectively performed at the ADS. This work is part of the employee's regular work  
56 assignment or approved special work assignments.  
57
- 58 F. Non Portable Work – Assignments that are not portable include those assignments  
59 that require face-to-face customer contact or the employee's physical presence at  
60 the ODS.  
61
- 62 G. Core Day(s)–Day(s) of the week not eligible for telework. Core days shall be limited  
63 to no more than one two core days per week.  
64
- 65 H. Scheduled Telework - An employee with an approved telework agreement teleworks  
66 on a routine, regular, and recurring basis at the ADS.  
67
- 68 I. Unscheduled Telework - An employee with an approved telework agreement is  
69 required to telework on a non-scheduled telework day at an ADS. Employee-  
70 initiated telework is not permitted.  
71
- 72 J. Episodic Telework - ~~The employee teleworks on an occasional irregular basis at an~~  
73 ~~ADS An employee may request to work on Episodic telework may include a~~  
74 ~~temporary project, approved on a case-by-case basis, where the employee may~~  
75 ~~work less than a full day at the ADS. The request is subject to management~~  
76 ~~approval. It is anticipated that instances of episodic telework will be~~  
77 ~~infrequent, based upon unique workload needs of the agency, and limited in~~  
78 ~~duration.~~  
79

80  
81 **Section 3 Eligibility**  
82

83 **The Deputy Commissioner has the discretion, based on operational need, to**  
84 **determine the number of scheduled telework days, if any, eligible positions, and**  
85 **percentage of employees permitted to telework.**

86

87 **In accordance with law, the Deputy Commissioner will also have the discretion to**  
88 **determine whether teleworkers are eligible to work the following:**

- 89 • **Credit hours at the ADS**
- 90 • **A 5/4/9 or 4/40 work schedule**
- 91 • **Overtime at the ADS**
- 92 • **A part-time schedule**
- 93 • **At the ADS on a non-tour day**

94 **Participation in telework will be voluntary and employees may withdraw at any time with**  
95 **advance notice to their immediate supervisor.**

96 **To be eligible to participate in Telework, an employee must meet all of the following**  
97 **conditions:**

- 98 **A. Not be currently on an Opportunity to Perform Successfully (OPS) plan or have**  
99 **been on an OPS in the 12 months preceding the date of the request to**  
100 **telework;**
- 101
- 102 **B. Not currently be on sick leave restriction or have been counseled for sick leave**  
103 **abuse or placed on sick leave restriction in the 12 months preceding the date**  
104 **of the request to telework;**
- 105
- 106 **C. Not be in a probationary period, first year of a 2-year trial work period, or formal**  
107 **training status. Employees who previously completed a probationary period**  
108 **will be considered on a case-by-case basis. Formal training status does not**  
109 **include the normal progression of an employee through a career ladder. However,**  
110 **formal training status may include periods when an employee needs close**  
111 **supervision or regular feedback from management and/or technical mentors that**  
112 **cannot effectively be accomplished at the ADS.**
- 113
- 114 **D. ~~Not have been officially disciplined for violations of subpart G of the Standards of~~**  
115 **~~Ethical Conduct For Employees of the Executive Branch for viewing, downloading,~~**  
116 **~~or exchanging pornography on a Federal government computer or while performing~~**  
117 **~~official government duties;~~**
- 118
- 119 **E. Complete appropriate agency Telework training;**
- 120
- 121 **F. ~~Is willing to eSign~~ and abide by the conditions of the Flexiplac Telework Program**  
122 **Request and Agreement (Appendix 1) and the self-certification safety checklist**  
123 **(Appendix 2). Once an employee is approved for participation in the Telework**  
124 **Program, it is understood that management may change the general and specific**  
125 **work assignments set forth in the Telework Program Request and Agreement may**  
126 **be changed.**
- 127

- 128 G. Maintain at least an acceptable level of performance (e.g., successful contribution  
129 rating) or not be under review;  
130  
131 H. Has sufficient portable work to be completed at the ADS;  
132  
133 I. Not be excluded from participation by law, or by government-wide rule or regulation;  
134  
135 J. Use approved appropriate technology; and  
136  
137 K. ~~Not have been disciplined within the preceding 12 months for misconduct that has a~~  
138 ~~nexus to Telework. This 12-month period does not apply to employees who were~~  
139 ~~terminated from Telework in accordance with Section 10 of this Article. Not have~~  
140 ~~been disciplined under Articles 26 and/or 27 in the 12 months preceding the~~  
141 ~~date of the request to telework or while on an approved telework agreement.~~

144 **Section 4 ODS Shared Work Space**

- 145 A. ~~Employees who telework two (2) or less days per week will keep their workstation.~~  
146  
147 B. ~~Employees who telework more than two (2) days per week may be required to share~~  
148 ~~space (e.g. shared offices/cubicles, share hotelling) space with other employees~~  
149 ~~in accordance with the September 24, 2015 Space Sharing MOU. Hotelling means~~  
150 ~~employees will select their workspace each day on a first-come, first-served, basis~~  
151 ~~when working at the ODS.~~  
152  
153 C. Management will make every effort to provide employees with a ensure hotelling  
154 workspace at the ODS with an includes a dock for the agency computer, access to  
155 an agency phone including voicemail or ability to use softphones (or successor  
156 technology), and locked storage.  
157  
158 ~~The Agency agrees to make a five (5) drawer locking cabinet available from existing~~  
159 ~~office inventory to each employee sharing space. If a five (5) drawer locking cabinet~~  
160 ~~is not available, the Agency will provide a two (2) drawer locking cabinet.~~  
161  
162 D. ~~Employees who are not required to share space may elect to move to an~~  
163 ~~unoccupied, comparable workspace prior to management designating workspaces~~  
164 ~~that will be used for sharing. Conflicts will be resolved by seniority order according~~  
165 ~~to employee time in their ODS.~~  
166  
167 E. ~~Employees may retain their chairs when sharing space.~~  
168  
169 F. ~~An employee whose workspace was modified or adjusted due to an approved~~  
170 ~~reasonable accommodation request will not be required to share space unless~~

171 ~~management can reasonably accommodate the employee in a comparable shared~~  
172 ~~workspace to perform his/her assigned duties.~~  
173

174

175 **Section 5 Telework Procedures**

176

177 A. Work performed under a Flexiplace/Telework arrangement may be scheduled,  
178 unscheduled, or episodic.

179 B. Requests to Participate in Telework

180 1. Scheduled Basis

181 Employees may request to participate in ~~scheduled~~ Telework program during the  
182 months of February and August by electronically submitting a Telework Program  
183 Request and Agreement consistent with PPM S650\_1 ~~and a Telework Program~~  
184 ~~Request and Safety Self-Certification (Exhibits 1 and 2)~~. Management will act on  
185 requests within ten (10) working days of the close of the request period for  
186 scheduled telework. If the number of eligible employees exceeds the coverage  
187 requirements (or workstation availability) on a specific day, approval will be  
188 made ~~in SCD order~~ starting with the most senior based on time in the office.  
189 If the participant's request is denied, management will annotate the reasons for the  
190 denial on the telework request form.

191 Employees will not have to submit future requests once the original request is  
192 approved unless a schedule change is requested by the employee during the  
193 February and August timeframes; the employee needs to revise the telework  
194 request and/or agreement; or the employee is otherwise directed by management.  
195 ~~Approving officials will re-evaluate existing schedules during the relevant six-month~~  
196 ~~request period, as appropriate.~~

197 2. Episodic Basis

198 Employees may request at any time to participate in episodic telework to work on a  
199 specific project. Employees not previously approved to telework may request to do  
200 so by electronically submitting a Telework Program Request and Agreement  
201 consistent with PPM S650\_1 ~~and a Telework Program Request and Safety Self-~~  
202 ~~Certification (Exhibits 1 and 2)~~. Management will act on these requests no later than  
203 five (5) working days following receipt of the request. If the participant's request is  
204 denied, management will annotate the reasons for the denial on the telework request  
205 form. Depending on the nature of the assignment project, employees may be  
206 approved to work episodic telework up to five days per week at the ADS.

207

208 **3. Emergencies and Other Off Cycle Requests**

209 ~~A. Employees with a bona fide emergency may request participation in scheduled~~  
210 ~~telework or a change in his/her telework day(s) outside the normal request times.~~  
211 ~~If approved, employees may begin participating in telework or working the newly~~  
212 ~~approved schedule at the start of the next pay period.~~  
213

214 **B. Management will also timely consider non-emergency requests, submitted**  
215 **electronically, to change a scheduled telework day or participate in telework**  
216 **outside the normal request times. If approved, employees may begin**  
217 **participating in telework or working the newly approved schedule at the start of**  
218 **the next pay period.**  
219

220

221 **C. Staff Coverage Modifications**

222

223 ~~If the number of eligible employees requesting to Telework on a given workday exceeds~~  
224 ~~the coverage requirements, approval will be made based on seniority order according to~~  
225 ~~employee time in their ODS.~~

226

227 ~~If coverage problems necessitate suspending scheduled telework agreements it will be~~  
228 ~~accomplished in inverse seniority order according to employee time in their ODS. The~~  
229 ~~local representative will be notified as soon as practical regarding the suspension.~~  
230 **Management has sole discretion to change, reduce, suspend, or eliminate**  
231 **approved telework day(s) for any employee(s), office, component, or agency-wide**  
232 **due to operational needs. Management also has sole discretion to change,**  
233 **reduce, suspend, or eliminate approved telework day(s) for any employee due to**  
234 **the employee's performance.**

235

236

237 **Section 6 Hours of Work and Employee Availability**

238

239 **Teleworkers are in a duty status when teleworking and are expected to have the**  
240 **resources necessary to perform their jobs and concentrate on official duties without**  
241 **interruption. Employees may not use duty time for any purpose other than performing**  
242 **Agency-assigned work. Union officials may use official time at the ADS in accordance**  
243 **with Article 8. Telework is not a substitute for dependent care.**  
244

245 Management is responsible for supervising work in accordance with the Fair Labor  
246 Standards Act. Article 15 of the 2014 SSA-NTEU National Agreement will apply to  
247 those employees who work at an ADS.

248

249 Management may require that employees provide electronic notification to their  
250 supervisor at the beginning and/or end of their workday.

251 ~~With prior management approval, employees with an approved telework~~  
252 ~~agreement may earn credit hours and work daily overtime at the ADS if the~~  
253 ~~employee was already working at the ADS when the period of credit or overtime~~  
254 ~~begins. With prior management approval, employees with an approved telework~~  
255 ~~agreement may earn Saturday credit hours and work weekend overtime at the~~  
256 ~~ADS~~

257

258 Requests for leave will be handled in accordance with Article 16 of the 2014 SSA-NTEU  
259 National Agreement and the ~~March 27, 2014 WebTA MOU~~.

260

261

#### 262 A. Office Closure/Early Dismissal/Late Opening

263 ~~If there is a full day closure at the ODS, an early dismissal, or late opening at the ODS,~~  
264 ~~and the employee is working at their residence as the ADS, all employees with an~~  
265 ~~approved telework program agreement Telework Program Request and Agreement are~~  
266 ~~required to complete a full workday at the ADS the employee is required to complete a~~  
267 ~~full workday, unless the employee takes requests and is approved for appropriate leave.~~  
268 ~~If the ADS is a telecenter or another SSA facility, the employee must abide by the office~~  
269 ~~closure, early dismissal, or late opening rules for that location.~~

270

271 In emergency, office closure, or other unique situations (e.g. facility issues, transit  
272 strike, dignitary visit, political convention, etc.), employees with approved telework  
273 agreements will telework regardless of whether the emergency, office closure, or  
274 unique situation occurs on a scheduled or unscheduled telework day, unless  
275 otherwise directed by management (e.g. deployed to another office, etc.). In these  
276 situations, employees may also request to use leave.

277

278 If there is an early dismissal, or late opening at the ODS, and the employee is  
279 scheduled to work at their residence as the ADS, the employee is required to complete

280 a full workday, unless the employee requests and is approved for leave. Employees  
281 with approved telework agreements on a non-scheduled telework day may be required  
282 to work all or a portion of their day at their ADS in instances of early dismissal unless  
283 the employee requests and is approved for leave.

284

285 If the ADS is another SSA facility, the employee must abide by the office closure, early  
286 dismissal, or late opening rules for that location. The employee may be required to  
287 report to their ODS.

288

#### 289 B. Alternate Duty Station Problem(s)

290 Employees will promptly inform management of any disruptions at the ADS, e.g.  
291 equipment failure, power outages, telecommunication difficulties, etc. that impact the  
292 employee's ability to perform QDAR OHO assigned duties. In these situations,  
293 management may require the employee to report to the ODS or the employee may  
294 request leave. ~~If the employee is required to report to the ODS, the employee is not~~  
295 ~~guaranteed "replacement time" or an "in lieu of" telework day. However, the employee's~~  
296 ~~telework day may be temporarily switched to another day with management's approval.~~  
297 ~~If the disruption (e.g. loss of electrical service or internet connectivity at the ADS)~~  
298 ~~is through no fault of the Agency, the employee will be in a non-duty status from~~  
299 ~~the time of the disruption to the end of the scheduled workday or until the~~  
300 ~~employee reports to the ODS. The employee may request leave for the non-duty~~  
301 ~~period. However, if the ODS is closed and the condition(s) creating the disruption~~  
302 ~~make(s) the ADS unsafe, the employee may be granted leave in accordance with~~  
303 ~~Article 16.~~

304

#### 305 C. Split Days at the ADS and ODS

306 ~~Employees may not only split a regularly scheduled telework day between the ADS and~~  
307 ~~the ODS, unless when the employee is directed to do so by management required to~~  
308 ~~report to the ODS or in accordance with the Space Sharing MOU.~~

309

#### 310 D. Telephones

311 1. When working at the ADS, an employee must be accessible by telephone to his  
312 or her supervisors, clients, colleagues, and external customers during working  
313 hours, exclusive of the lunch period and break periods. Employees are only  
314 required to provide a personal phone number to their supervisory chain.  
315



- 316        2. The employee's break and lunch periods will be defined the same as at the  
317        ODS in the employee's Telework Program Agreement.  
318
- 319        3. While at the ADS, the employee is responsible for retrieving, and responding in a  
320        timely manner to voice mail left at both the ADS and the ODS.  
321
- 322        4. Employees will not be reimbursed for any out-of-pocket expenses related to  
323        telephone calls. If employees anticipate a need to place long distance or toll  
324        calls for work, they may request a government phone card for such calls.  
325
- 326        5. ~~ODAR will provide the employee with general office supplies needed to work~~  
327        ~~effectively at the ADS.~~  
328

329        **E. Additional Electronic Communications Methods**

- 330        • ~~Management may require that the employee enable a pre-programmed e-mail~~  
331        ~~reply (e.g. "Out of Office Assistant") to be sent in response to all incoming e-mail~~  
332        ~~on the day(s) that the employee is working at the ADS. Employees must read~~  
333        ~~and respond to emails as if they were at the ODS.~~  
334
- 335        • Management may require that employees use instant messaging, video, or  
336        similar technology while working at the ADS.  
337
- 338        • Employees should ensure that the instant messaging or similar technology  
339        accurately reflects their work status. Employees are expected to timely  
340        respond to instant messages from management.

341        ~~Management may require that employees be signed into Lync or similar technology~~  
342        ~~while working at the ADS. An employee's Lync indicator (or similar technology) should~~  
343        ~~accurately reflect their work status.~~

344        ~~Management may also require that employees be available via video while working at~~  
345        ~~the ADS after a one-year pilot. Employee participation in the pilot will be voluntary. The~~  
346        ~~Agency agrees to provide training on use of video and that employees will receive~~  
347        ~~reasonable advance notice, normally 30 minutes, of mandatory video calls. The~~  
348        ~~Telework Committee will monitor the pilot and provide a report to the Chapter President~~  
349        ~~and/or designee and the Agency at the conclusion of the pilot.~~

350

351

352

353 F. Telework Suspensions

354 ~~Reasonable advance notice, normally 24 hours if practicable, will be provided when~~  
355 ~~Employee(s) may be required to report to their official duty station for situations such~~  
356 ~~as previously scheduled training, conferences, meetings or other operational needs to~~  
357 ~~perform work on a short term basis that cannot otherwise be performed at the ADS or~~  
358 ~~accomplished by telephone or other reasonable alternative methods. Employees may~~  
359 ~~resume telework as soon as the suspension is over.~~

360 ~~Employees may voluntarily suspend telework by notifying their supervisor in advance.~~  
361 ~~Employees may resume their telework schedule by notifying their supervisor.~~

362

363 G. Call Backs

364 ~~Employees may be called back to the ODS when warranted in the event work issues~~  
365 ~~arise which cannot be performed at the ADS or accomplished by telephone or other~~  
366 ~~reasonable alternative methods. Employees are required to report to their ODS as soon~~  
367 ~~as possible and no more than two hours after notification. This time is considered duty~~  
368 ~~time.~~

369 ~~Transportation between the ADS and the ODS does not entitle the employee to~~  
370 ~~reimbursement for official travel.~~

371

372 H. In-Lieu of Days

373 ~~If management temporarily suspends telework or calls an employee back to the ODS,~~  
374 ~~the employee is not guaranteed an "in-lieu of" telework day. However, an employee's~~  
375 ~~telework day may be temporarily switched to another day with management's~~  
376 ~~approval will be allowed to schedule an in-lieu of telework day by the end of the~~  
377 ~~following workweek. If an employee is not able to schedule the in-lieu of day by the end~~  
378 ~~of the following workweek due to a holiday or the employee's leave, the employee~~  
379 ~~forfeits the in-lieu of day.~~

380 ~~Employees are also not guaranteed replacement time if a telework day falls on a~~  
381 ~~holiday. However, the employee's telework day may be temporarily switched to another~~  
382 ~~day with management's approval. Employees whose scheduled telework day is~~  
383 ~~affected by a holiday or leave do not receive an in-lieu-of day.~~

384

385

386

387

388 **Section 7 Environment and Security**

389

390 **A. Work site**

391

392 If the ADS location is in the employee's residence, the employee is responsible for  
393 maintaining the ADS work site in a manner that is conducive to business and is free of  
394 hazards. The ADS work site shall include furniture/equipment deemed necessary by  
395 management to perform the employee's duties at the ADS such as a desk, chair, surge  
396 protector, locking file cabinet or similar secure storage device, etc. ~~deemed necessary~~  
397 ~~by management to perform work at the ADS.~~ In addition, there must be proper lighting,  
398 power, other utilities, adequate environmental conditions, a readily accessible and  
399 working fire extinguisher, and a working smoke detector.

400

401 The employee is responsible for all operating costs, home maintenance and any other  
402 incidental costs (e.g., utilities, high-speed internet access, mortgage payments, rent,  
403 insurance, and taxes, etc.) associated with the use of the ADS. ~~The ODAR OHO is not~~  
404 ~~liable for damages to employee's personal or real property occurring during the course~~  
405 ~~of performance of official duties except to the extent established by law.~~

406

407 The employee does not relinquish any entitlement to reimbursement for appropriately  
408 authorized expenses incurred while conducting business for the Agency as provided for  
409 by law and regulation.

410

411

412 **B. Workers' Compensation**

413

414 Teleworkers are covered under the Federal Employees' Compensation Act (FECA) and  
415 the Agency's policy and procedures concerning workers' compensation for injuries  
416 sustained while performing their official duties at the ADS. The employee will  
417 immediately notify his/her supervisor of any accident or injury occurring at the ADS in  
418 the course of performing official duties.

419

420 **C. Federal Tort Claims**

421

422 For purposes of the Federal Tort Claims Act, the employee's ADS is treated as an  
423 extension of the official duty station.

424

425 **D. Security/Safeguarding Work**

426

427 Employees working at the ADS are bound by agency policies and procedures on  
428 transporting, safeguarding, disclosure and destruction of Agency information, records  
429 and data. This includes policies on protecting Personally Identifiable Information (PII),  
430 the Federal Information Security Management Act, the Privacy Act, 5 U.S.C. § 552 the  
431 regulations implementing the Privacy Act, including those at 20 C.F.R. Part 401; 42  
432 U.S.C. § 1306; and all other statutes, regulations, and Agency policies pertaining to the  
433 disclosure, retention, and electronic transmission of official records and information.

434

435 **E. Home Inspections**

436

437 Management may inspect the ADS prior to approving telework to ensure conformity with  
438 the conditions set forth in the Telework Program Request and Agreement and Safety  
439 Self-Certification Safety Checklist. Management may inspect the ADS with twenty-four  
440 (24) hours advance notice during the teleworker's regular core hours. Management will  
441 not inspect non-work space in the ADS.

442

443 **F. Agency Owned IT Equipment**

444

445 ~~Subject to the availability of resources,~~ The Agency will provide determine  
446 appropriate IT equipment for teleworkers. SSA retains ownership and control of any  
447 SSA furnished hardware, software, and data and is responsible for maintaining,  
448 providing support and repairing the equipment; however, there will be no on site IT  
449 support provided in employees' homes. The employee is not responsible for costs  
450 related to maintenance of government owned equipment.

451

452 Employees have a continuing responsibility to safeguard Government property and are  
453 responsible for the care, security and effective utilization of the Government property  
454 they use. In accordance with Agency policy, employees may be required to  
455 reimburse the Agency for failure to exercise reasonable care of Government  
456 property. Failure to exercise these responsibilities may result in termination from  
457 telework in accordance with Section 10 of this Article.

458

459 Management may require that employees working at an approved ADS obtain (at their  
460 own expense) high-speed/broadband internet access sufficient to support the  
461 accomplishment of the employee's assigned duties.

462

463

464 **Section 8 Accountability and Evaluation of Work**

465

466 Management will evaluate work performed at the ADS in accordance with the Telework  
467 Program Request and Agreement and in accordance with Article 21 of the 2014 SSA-  
468 NTEU National Agreement. Employees are expected to complete their official duties at  
469 the ADS in the same manner as at the ODS.

470

471 Management may require employees on telework to account for their work performed at  
472 the ADS. The format and required content will be determined by management.

473

474

475 **Section 9 Employee Conduct at the ADS**

476

477 All laws, government-wide rules, government-wide regulations, and Agency policies  
478 governing employee conduct at the ODS continue to apply at the ADS including, but not  
479 limited to, the Privacy Act and the Standards of Ethical Conduct for Employees in the  
480 Executive Branch.

481

482

483 **Section 10 Termination from the Telework Program**

484

485 Employees may voluntarily terminate their participation in the Telework program at any  
486 time by notification to their supervisor and may reapply at the next application period.

487

488 Management retains the right to terminate an employee's participation in the Telework  
489 Program if:

490

491 1. The employee no longer meets one or more of the eligibility requirements  
492 contained in Section 3; or

493

494 2. The employee fails to comply with any of the conditions set forth in the Telework  
495 Program Request and Agreement; or

496

497 3. The employee fails to comply with the provisions of this article; or

498

499 4. There is a consistent diminishment in the employee's performance at the ADS in  
500 comparison to performance at the ODS.

501

502 Management will normally counsel employees about specific problems, including a  
503 diminishment in performance, before removing an employee from the Telework

504 Program except in the case of serious violations. When an employee's participation  
505 in the Telework Program is terminated, the employee will be notified in writing of the  
506 reason for termination and the effective date of the termination. Management will  
507 consider individual circumstances when determining the effective date of removal from  
508 the program.

509  
510 An employee, who has been removed from the Telework Program, may reapply for  
511 Telework at the first application cycle following a ~~6-month~~ 1 year termination period  
512 unless otherwise prohibited by law, rule, or government-wide regulation. However,  
513 ~~employees who successfully complete a PA may reapply for Telework immediately~~  
514 ~~following the end of the 6-month termination period.~~ Management will consider  
515 individual circumstances when considering the effective date of removal from the  
516 program.

517  
518 If a disciplinary action is reversed, the employee will normally resume telework at the  
519 beginning of the first pay period following the reversal as long as the employee meets  
520 the eligibility requirements.

521 **EXHIBIT 1**

522

523

**TELEWORK PROGRAM AGREEMENT**

524

525

526 I, \_\_\_\_\_, request to participate in the Telework program. I  
527 understand, acknowledge and agree to the following terms:

528

529 ~~The address and telephone number of my Alternative Duty Station (ADS) is:~~

530 \_\_\_\_\_

531 ~~Address: \_\_\_\_\_~~

532 \_\_\_\_\_

533 \_\_\_\_\_

534 \_\_\_\_\_

535 ~~Telephone Number: \_\_\_\_\_~~

536

537 ~~1. I understand the location of the ADS cannot be changed without prior approval of~~  
538 ~~management. I understand I may have only one ADS.~~

539

540 ~~2. My hours of duty at the ADS will be the same as at my Official Duty Station (ODS).~~

541

542 ~~3. My meal break and my breaks will be the same as at my ODS.~~

543

544 ~~4. I will report my time and attendance in accordance with agency policy, the WebTA~~  
545 ~~MOU, and Official Duty Station (ODS) procedures while working at the ADS.~~

546

547 ~~5. I will request leave in accordance with Article 16 of the SSA NTEU National~~  
548 ~~Agreement and the WebTA MOU.~~

549

550 ~~6. While working at the ADS, I will be accessible via technology as determined by~~  
551 ~~management, including by telephone, email, instant message, video, etc. to my~~  
552 ~~supervisors, clients, colleagues, and external customers in accordance with Article~~  
553 ~~17 of the SSA NTEU National Agreement.~~

554

555 ~~7. I will, if determined necessary by management, enable a preprogrammed e-mail~~  
556 ~~reply (e.g., "out of office assistant") to be sent in response to all incoming e-mail at~~  
557 ~~the ODS;~~

558

- 559 ~~8. I will return to my ODS, as soon as possible and no more than two hours after~~  
560 ~~notification, if management determines that work requirements require such action~~  
561 ~~or I will request appropriate leave.~~  
562
- 563 ~~9. I understand management may temporarily suspend days or modify telework~~  
564 ~~agreements, e.g. changing or reducing approved telework day(s) when work~~  
565 ~~requirements require such action. If management temporarily suspends or alters~~  
566 ~~telework days, in lieu of days are handled in accordance with Article 17 I am not~~  
567 ~~entitled to "replacement time" or an "in lieu of" telework day, but may request that~~  
568 ~~management allow an alternate day be substituted. Employees whose scheduled~~  
569 ~~telework day is affected by a holiday or leave do not receive an in lieu of day.~~  
570
- 571 ~~10. If my ADS location is my residence, I will maintain the ADS work site in a manner~~  
572 ~~that is conducive to business and is free of hazards. I will have workspace that~~  
573 ~~includes, if determined necessary by management, furniture/equipment deemed~~  
574 ~~necessary to perform work at the ADS such as a desk, chair, surge protector,~~  
575 ~~locking file cabinet, locking desk drawer, or similar secure storage area for official~~  
576 ~~records and information. I must have and maintain adequate workspace, proper~~  
577 ~~lighting, basic telephone service, power and other utilities, adequate environmental~~  
578 ~~conditions, adequate security, a working smoke detector and a readily accessible,~~  
579 ~~working fire extinguisher.~~  
580
- 581 ~~11. I understand I am responsible for all operating costs, home maintenance and any~~  
582 ~~other incidental costs (e.g., utilities, high-speed internet access, mortgage payments,~~  
583 ~~rent, insurance, and taxes, etc.).~~  
584
- 585 ~~12. I agree that the agency is not liable for damages to personal or real property~~  
586 ~~occurring during the course of performance of official duties except to the extent~~  
587 ~~established by law.~~  
588
- 589 ~~13. I understand I may be required to reimburse the Agency for failure to exercise~~  
590 ~~reasonable care of Government property. Failure to exercise these responsibilities~~  
591 ~~may result in termination from telework in accordance with Section 10 of this Article.~~  
592
- 593 ~~13. I understand and will follow all agency policies and procedures on transporting,~~  
594 ~~safeguarding, disclosure and destruction of Agency information, records and data.~~  
595 ~~This includes policies on protecting Personally Identifiable Information, the Federal~~  
596 ~~Information Security Management Act, the Privacy Act, 5 U.S.C. § 552 the~~  
597 ~~regulations implementing the Privacy Act, including those at 20 C.F.R. Part 401; 42~~  
598 ~~U.S.C. § 1306; and all other statutes, regulations, and Agency policies pertaining to~~



- 599 ~~the disclosure, retention, and electronic transmission of official records and~~  
600 ~~information.~~  
601
- 602 ~~14. I understand that management has the right to inspect my ADS prior to approving~~  
603 ~~this telework agreement, in accordance with Article 17, to ensure conformity with the~~  
604 ~~provisions set forth in the Telework Program Agreement and the Employee Safety~~  
605 ~~Self-Certification. Management may also inspect my ADS during core hours, with~~  
606 ~~24 hours' notice, after I begin teleworking.~~  
607
- 608 ~~15. I understand all laws, rules, regulations and agency policies concerning conduct at~~  
609 ~~the ODS remain in full force and effect at the ADS.~~  
610
- 611 ~~16. I will notify my supervisor immediately of any accident or injury that occurs to me at~~  
612 ~~the ADS in the course of performing my official duties, and I will timely complete all~~  
613 ~~forms required to process an initial claim under the Federal Employees'~~  
614 ~~Compensation Act.~~  
615
- 616 ~~17. I understand that I will promptly inform management of any disruptions at the ADS,~~  
617 ~~e.g., equipment failure, power outages, telecommunication difficulties etc. that~~  
618 ~~impact my ability to perform agency assigned duties. I may be required to return to~~  
619 ~~the ODS, or I may request and take leave, if approved by my supervisor. If the~~  
620 ~~disruption (e.g. loss of electrical service or internet connectivity at the ADS) is~~  
621 ~~through no fault of the Agency, I will be required to take leave from the time of the~~  
622 ~~disruption to the end of my scheduled workday or until I report to the ODS.~~  
623
- 624 ~~18. I understand I am in duty status when teleworking. I will have resources necessary~~  
625 ~~to perform my job and will concentrate on official duties without interruption. I will~~  
626 ~~not use duty time for any purpose other than performing agency assigned work or~~  
627 ~~other Agency approved activities (e.g. I will not provide dependent care, engage in~~  
628 ~~oversight of household maintenance, etc.).~~
- 629 ~~19. Management may require an daily accounting of the work performed at my ADS.~~  
630 ~~The format and required content will be determined by management.~~  
631
- 632 ~~20. I understand that management may require employees who telework to share~~  
633 ~~workspace (e.g., desk, cubicle, office, etc.) at the ODS in accordance with Article 17,~~  
634 ~~Section 4.~~  
635
- 636 ~~21. I completed the agency approved telework training on \_\_\_\_\_~~  
637
- 638 ~~22. I understand that I must be scheduled to work twice per pay period at my ODS on a~~  
639 ~~regular and recurring basis to retain the locality pay rate for my ODS location [5-CFR~~

640 ~~531.602]. This requirement applies whether I am on a full-time, part-time, 5/4/0 or~~  
641 ~~4/10 schedule. If my work schedule does not meet this requirement, my locality pay~~  
642 ~~will be determined based on the locality pay rate for my ADS location rather than the~~  
643 ~~locality pay rate for my ODS. This may result in a change in my overall rate of pay.~~  
644

645 ~~23. I understand that I am required to telework on a non-scheduled day at an ADS due~~  
646 ~~to a weather or safety event, unless otherwise directed by management~~

647

648 ~~I have read and I understand the eligibility conditions and requirements, employee~~  
649 ~~responsibilities, the telework program agreement, and the provisions of Article 17~~  
650 ~~(Telework) of the SSA-NTEU National Agreement for working at an ADS. I hereby~~  
651 ~~certify that I will abide by all of these provisions while on telework and that failure to do~~  
652 ~~so may result in my termination from telework.~~

653

654 ~~I understand that I will not have to submit future requests once the original request is~~  
655 ~~approved unless a schedule change is requested by me during the February and~~  
656 ~~August timeframes to request participation in Telework if I need to revise my telework~~  
657 ~~request and/or agreement or if management directs me to do so.~~

658

659 ~~I may voluntarily terminate my participation in the telework program at any time by~~  
660 ~~notifying my supervisor. Management may also terminate my participation under the~~  
661 ~~circumstances described in the telework program agreement, and in Article 17 of the~~  
662 ~~SSA-NTEU National Agreement.~~

663

664

665

666

667

668

669

670

671

672

\_\_\_\_\_  
Employee Date

\_\_\_\_\_  
Supervisor Date

673 EXHIBIT 2

674

675

676

~~TELEWORK PROGRAM REQUEST & SAFETY SELF-CERTIFICATION~~

677

678

679

680 Name: \_\_\_\_\_ Component: \_\_\_\_\_

681

682 Address of the employee's alternate duty station (ADS):

683 \_\_\_\_\_

684 \_\_\_\_\_

685

686 Telephone Number: \_\_\_\_\_

687

688 Type of Telework:

689

690 Scheduled:  \_\_\_\_\_ Episodic:  \_\_\_\_\_

691

692

693

694

695

696

697

698

699

700

Specific day(s) requested for participation in telework:

	Monday	Tuesday	Wednesday	Thursday	Friday
First Week	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Second Week	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

701

702

703

704

705

706

707

708

709

Employee's statement of proposed work assignments at ADS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

710

EMPLOYEE SAFETY SELF-CERTIFICATION:	EMPLOYEE'S RESPONSE		711
			712
			713
			714
By initialing the boxes to the right I self-certify that I have the following equipment and conditions required to maintain eligibility in Telework:	Working telephone		715
			716
	Office equivalent furniture		717
			718
	Locking file cabinet or desk drawer		719
			720
	Electrical power and adequate lighting		721
			722
	Working smoke detector		723
		724	
Working and accessible fire extinguisher		725	
		726	
Surge protector		727	
		728	
			729
			730
			731
			732
			733
			734
			735
			736

737 I have read and I understand the eligibility conditions and requirements, employee  
 738 responsibilities, the telework program agreement, and the provisions of Article 17 of the  
 739 SSA-NTEU National Agreement for working at an ADS. I hereby certify that I will abide  
 740 by all of these provisions while on telework and that failure to do so may result in my  
 741 suspension or termination from telework.

742 \_\_\_\_\_  
 743 \_\_\_\_\_

744 Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

745 \_\_\_\_\_  
 746 Approved \_\_\_\_\_ Disapproved (reasons stated below) \_\_\_\_\_

747 \_\_\_\_\_  
 748 \_\_\_\_\_  
 749 \_\_\_\_\_

750 Signature of Approving Management Official \_\_\_\_\_ Date \_\_\_\_\_

751 \_\_\_\_\_  
 752 \_\_\_\_\_  
 753 \_\_\_\_\_  
 754 \_\_\_\_\_

**Sidebar to Article 17 Telework**

755

756

757 ~~1. There will be no diminishment in the number of Telework days that employees~~  
758 ~~represented by NTEU are currently working (i.e. employees currently teleworking 4~~  
759 ~~days per week will continue to do so).~~

760

761 ~~2. The Parties agree there will be ongoing discussions and information sharing on~~  
762 ~~telework issues such as expanding the number of telework days, the use of~~  
763 ~~technology, the Agency's single device strategy, VPN, and HSPD-12 PIV systems~~  
764 ~~access. NTEU may designate up to three (3) employees for these discussions~~  
765 ~~which will be done via technology.~~

766

767 ~~3. Article 17, Section 3.C does not apply to an employee who does not receive a~~  
768 ~~performance appraisal due to his/her designation as a full-time union representative~~  
769 ~~under Article 8, section 5.C.1.~~

770

771

772

**Sidebar to Article 17 Telework**

773

774

**Telework Pilot for Decision Writers**

775

776

~~1. Effective October 31, 2016, NTEU Bargaining Unit Employees (BUEs) in the National Case Assistance Centers (NGAC), National Hearing Centers (NHC), and Regional Writing Units will be allowed to Telework up to 4 days per week. Requests for the 4<sup>th</sup> day should be submitted during a Monday, October 3 to Friday, October 14, 2016 request period.~~

777

778

779

780

781

782

~~2. Effective with the first full pay period effective October 2017, up to two (2) NTEU BUEs per hearing office may Telework up to 4 days per week. Requests should be submitted during the August 2017 request period. BUEs will be selected based on employee time in a hearing office.~~

783

784

785

786

787

~~3. BUEs electing to work a 4/10 Alternate Work Schedule (AWS) may Telework a maximum of 3 days per week. BUEs electing to work a 5/4/0 AWS may Telework a maximum of 3 days in weeks they are scheduled to work 4 days and a maximum of 4 days in weeks they are scheduled to work 5 days.~~

788

789

790

791

792

~~Should, during the life of this agreement, AFGE represented and non-bargaining unit employees become subject to a requirement that they work on closure days if on scheduled telework, then Paragraph #4 below is implemented for the Telework Pilot for Decision Writers:~~

793

794

795

796

797

~~4. Employees electing to schedule Telework 4 days per week and who are scheduled to work at the Official Duty Station (ODS) on a day when the ODS is closed must Telework at the ADS on that day. Therefore, employees scheduled to Telework 4 days per week must take their laptop home every day. Employees who do not have their laptop must request leave for that day. (Implementation Suspended)~~

798

799

800

801

802

803

804

805

806

Agency Rebuttal to NTEUArticle 17 –Telework:

SSA's current Last Best Offer (LBO) on telework fully addresses NTEU's concern that the Agency's proposal could allow the Deputy Commissioner discretion to make telework decisions "arbitrarily." NTEU also expressed concern that this discretion would prevent it from grieving telework disputes. The Agency never proposed to permit arbitrary and capricious decision-making regarding telework or to impact the grievance process. To clarify the issue and address NTEU's concern, the Agency LBO now explicitly states that the Deputy Commissioner's discretion must be "based on operational need." This change is consistent with OPM policy and Panel Decision (18 FSIP 077) cited by the Union. In fact, the Panel in 18 FSIP 077, actually adopted the Agency's proposal that it have "sole discretion" over telework and required only that it exercise that discretion in accordance with law. The current LBO thus addresses NTEU's concerns by requiring the Deputy Commissioner exercise their discretion based on the Agency's operational needs *and* in accordance with law.

The Union states that its proposal meets the Agency's need by allowing temporary suspensions of telework. However, such temporary language is insufficient to enable the Agency to address longer-term operational needs. Additionally, OHO does not wish to address operational needs only through the blunt tool of an "all or nothing" approach of suspending telework but also needs the flexibility to adjust the number of telework days for necessary participants based upon operational needs. This flexibility provides opportunity for telework while allowing OHO to address shifting workload demands in servicing the public.

NTEU also argues that the Agency's proposal unilaterally alters the Alternate Work Schedule (AWS) programs agreed upon between the parties in Article 15 (Hours of Work). The Agency's proposal makes no changes to these programs but rather provides the Deputy Commissioner discretion regarding an employee's opportunity to participate in both an AWS and telework due to potential impact on Agency mission. Thus, employees may have to choose amongst the workplace flexibility options. The Agency added specific language recognizing its obligation to act in accordance with law in this area.

In arguing against the Agency's proposal to provide office "hoteling" for teleworkers, NTEU identifies alleged cost-savings associated with current space-sharing practices. The Agency recognizes that space sharing, *including hoteling*, offers potential savings to the Agency based on a reduction in overall real estate costs. The Agency seeks to maximize these cost-savings through the logical extension of space sharing into hoteling when such action supports operational need. It is entirely reasonable for employees who receive the benefit of telework to be flexible in their workstation seating at the Official Duty Station (ODS). The Union's proposal, however, restricts hoteling to employees who telework more than an arbitrary threshold of two days per week. The Union's proposal has no supporting rationale and places unnecessary administrative burden on the Agency to apply distinct policies based on potential changes in number of telework days based on either employee or management option. Accordingly, the Agency needs the ability to "hotel" without regard to the number of telework days. The Agency notes that NTEU has already agreed to office-space hoteling for bargaining unit employees who work a Flexible 5/4/9 or 4/10 work schedule, regardless of whether they telework. See Exhibit 1, Article 15, Section 2C. The Agency believes that it is reasonable to expect employees who do not work full time in their ODS to share space (via hoteling and other means) to reduce taxpayer costs associated with realty space occupancy and ensure the Agency can maximize efficiencies in providing timely, quality public service.

The Agency accordingly requests the Panel implement its proposal for Article 17.