

Public Defender 7th Circuit Telework Program

POLICY

Purpose:

This policy sets forth the Telework Program for the Office of the Public Defender, Seventh Judicial Circuit of Florida [Office] implementing Florida Statutes 110.171 - "State Employee Telework Program", and establishes procedures and guidelines for Office employees for participation in the Telework Program. This policy shall take effect February 1, 2019 and supersedes the previous "Public Defender 7th Circuit Telecommuter Program" signed by Chief Assistant Public Defender Ronald K. Zimmit, dated February 3, 2000, as well as any subsequent amendments to that program.

Reason for implementation of new Telework Policy:

Upon taking office in 2005, the current Public Defender of the Seventh Judicial Circuit of Florida closed the previous Telecommuter Program dated February 3, 2000, to include only those employees who had been established as telecommuters under the previous telecommuter program.

The decision to close the previous Telecommuter Program was based upon the policy determination by the new Public Defender that the smooth administration of the office, particularly in the appellate division, required physical presence of attorneys in the appellate office on a daily basis in order to insure that:

- (i) appellate records were properly used, maintained and stored;
- (ii) appellate attorneys had regular access to the legal knowledge and experience of the other appellate attorneys in the office in identifying, researching and preparing issues for briefing;
- (iii) appellate attorneys kept current on legal trends and cutting edge issues that could or should be argued in the appellate courts; and
- (iv) accountability for attorney work hours and case load management was maintained.

However, new considerations have caused a re-evaluation of this policy. They include:

- (i) advances in information technology, including the implementation of digital (“paperless”) transmission of appellate records, motions and briefs;
- (ii) advancements in case load management programs within the office that allows better oversight regarding timely filing of quality work product and monitoring of productivity;
- (iii) the recent passage of “Marsy’s Law” as an amendment to the Florida Constitution which shortens the length of the appellate and post-conviction proceedings in a criminal case to two (2) years. It is anticipated that this requirement will put a significant strain on the resources of the Office as currently staffed and budgeted, require an increase in the number of appellate attorneys employed by the Office and result in a shortage of available office space necessary to meet the challenges anticipated by the implementation of “Marsy’s Law” in the appellate context.

As a result of these considerations, the implementation of a new Telework Program is deemed necessary and appropriate to balance the previous policy considerations with the current considerations set forth above.

Definition:

Telework is a voluntary work arrangement whereby employees are permitted to perform the normal duties and responsibilities of their position at an alternate work site. Teleworkers are expected to report to the designated alternate work site on a regular basis each work day.

Policy Statements and Guidelines:

- Participation in the Telework Program is voluntary and must be mutually agreed to by the employee and the Public Defender. The Office has only one job class and position authorized for the Telework Program; the appellate attorney. The job responsibilities of the appellate attorney are amenable to performance at an alternate work site inasmuch as they include and are primarily limited to: record review, research, preparation of motions, pleadings and briefs, and telephone communication with relevant individuals, without the requirement of daily scheduled court appearances or person to person contact.

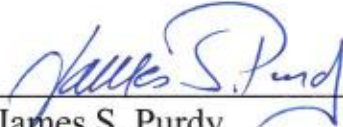
- Employee requests to Telework will be considered by the Public Defender on an individual basis so as to determine whether the specific employee has the necessary skills, needs and experience for Telework.
- Minimum Consideration for Telework requires:
 - (i) At least five (5) years of experience in the practice of law as a member of the Florida Bar or, alternatively, at least five (5) years of experience in the licensed practice of law in another state or with the federal government, and current membership in the Florida Bar, and
 - (ii) A minimum of one (1) year employment in criminal appellate practice with the appellate division of the Florida Attorney General's Office, with one of the five criminal appellate divisions within the Florida Public Defender system or as a full time appellate attorney with an Office of Regional Counsel (or comparable appellate offices for the federal government, a state government or indigent defense) or as a staff attorney for a state or federal appellate court.
- In order to establish satisfactory performance standards of the teleworker, the teleworker must be available for telephonic and e-mail communications during regular established office hours unless the teleworker is on annual or sick leave.
- Appropriate electronic information security must be created by the Office's Information Systems personnel for the operation of any electronic equipment used for the benefit of the Office by the teleworker and the teleworker must abide by all established security requirements.
- A Telework agreement or contract will be executed by the Teleworker and the Public Defender. The Telework agreement will incorporate by reference the provisions of Florida Statute 110.171 and this policy.
- Teleworkers may elect to cease their participation in the program at any time. Further, the agreement may be cancelled or revised at the discretion of the elected Public Defender, with or without cause, upon compliance with the notice requirements of Florida Statute 110.171(6)(b)&(c).

- Teleworkers will be compensated for all pay, leave and travel entitlement as if duties were being performed at the official work location.
- Teleworkers are subject to the rules and procedures as set forth in the Office of the Public Defender Manual of Personnel Rules and Office Procedures [“the Manual”], located on the Office interoffice website, and they shall be covered by worker’s compensation when in the performance of official work duties at the alternate work site. Telecommuting will not adversely affect an employee’s eligibility for advancement, pay increases, or any other employee right or benefit. However, advancement of the employee within the office may require termination of the telework status.
- Teleworkers shall verify in writing that their alternate work site provides work space that is free of safety and fire hazards and shall agree that the State of Florida and Office of Public Defender will be held harmless against any and all claims, excluding worker’s compensation claims, resulting from Office work at the alternate work site.
- No employee authorized to Telework will be allowed to conduct face-to-face State business at the alternate work site.
- An employee authorized to Telework will be responsible for any and all charges incurred by the teleworker for work space, utilities, copying, office supplies, internet access and any telephone charges incurred by the teleworker incidental to the performance of teleworker’s job responsibilities at the alternative work site.
- An employee authorized to Telework is prohibited from engaging in the private practice of law. An employee authorized to Telework is prohibited from engaging in any other gainful employment during Public Defender business hours as established by the Manual.
- The Office will provide and maintain necessary equipment and software for the teleworker at the alternate work site. The Office will not cover the cost of repair or maintenance of the teleworker’s personal equipment. When requested by a member of the administrative staff of the Office, the teleworker will provide an itemized inventory of all Office equipment in the possession of the teleworker at the alternative work site. Should any office equipment or software malfunction or become damaged, the

teleworker shall promptly notify the appellate division supervisor. Upon termination of employment or teleworker status, the teleworker shall return all Office equipment and property in proper working order to the administrative office of the Public Defender, Seventh Judicial Circuit of Florida, located at 251 N. Ridgewood Avenue, Daytona Beach, FL 32114 within 3 business days.

- Employees on a performance improvement plan shall not be eligible for teleworking.
- The Public Defender 7th Circuit Telework Program and/or this Policy may be revised or revoked at the discretion of the Public Defender consistent with the notice requirements of Florida Statute 110.171.

Policy approved this 15th day of February, 2019



James S. Purdy
Public Defender
Seventh Judicial Circuit of Florida