POLICY STATEMENT

When the need presents itself, the University of North Dakota (UND) may allow flexibility in establishing a primary place of work by employees in exempt and nonexempt positions. The decision to allow or require a remote worksite location is at the discretion of the supervisor with approval from the respective division's vice president. Approval from the associate vice president of human resources & payroll services must be sought when it requires UND to enroll in a new state for tax purposes or when establishing a worksite in a location outside of the United States.

This policy does not apply to occasional work from non-UND property, but rather for establishing a primary place of work not on UND property. It also covers temporary work assignments off UND property for greater than 30 consecutive calendar days (e.g., teaching/research abroad).

REASON FOR POLICY

A remote worksite location is sometimes necessary to meet University goals, meet customer needs, and balance personal and professional responsibilities. However, remote worksite solutions create an additional set of complexities that must be discussed and resolved prior to agreement, such as: work oversight, insurance and liability, tax compliance, payroll, state registration, safety, and security.

SCOPE OF POLICY

This policy applies to:

- President
- Vice Presidents, Deans and Associate Vice Presidents
- Directors and Department Heads
- Area Managers and Supervisors
- Faculty
- Staff

RELATED INFORMATION

Fair Labor Standards Act (FLSA) Part

http://www.ecfr.gov/cgi-bin/text-idx?SID=dc8bc2797d8cf7f1e268b96a506c1854&mc=true&node=pt29.3.516&rgn=div5
516 – Records to be Kept by Employers


[http://www.ecfr.gov/cgi-bin/text-idx?SID=dc8bc2797d8cf7f1e268b96a506c1854&mc=true&node=pt29.3.548&rgn=div5](http://www.ecfr.gov/cgi-bin/text-idx?SID=dc8bc2797d8cf7f1e268b96a506c1854&mc=true&node=pt29.3.548&rgn=div5)

**NDUS Procedure 1901.2 – Computer and Network Usage**

[https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EbKGBu_mHxhOiSGyOaBmBZcBGi-W2Xs4cOIG4D-GRWETYQ](https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EbKGBu_mHxhOiSGyOaBmBZcBGi-W2Xs4cOIG4D-GRWETYQ)

**Out of State Workers’ Compensation**

[https://campus.UND.edu/safety/resources/forms.html#d33e89-4](https://campus.UND.edu/safety/resources/forms.html#d33e89-4)

**UND IT Security Policy/Guidance**

[https://UND.edu/uit/cio/policies.html](https://UND.edu/uit/cio/policies.html)

**UND Payroll Services List of Registered States**

Contact Payroll Services (see Contacts)

### CONTACTS

Specific questions should be directed to the following:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Telephone</th>
<th>Office or Department E-Mail / Web Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Clarification</td>
<td>Human Resources &amp; Payroll Services</td>
<td>(701) 777-4126</td>
<td><a href="https://campus.UND.edu/human-resources/">https://campus.UND.edu/human-resources/</a></td>
</tr>
</tbody>
</table>
DEFINITIONS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication</td>
<td>The ways of sending information to people (e.g., Internet, intranet, e-mail, phone, fax, electronic devices, using Zoom or Teams to communicate, etc.).</td>
</tr>
<tr>
<td>Employee</td>
<td>Term includes faculty, staff, medical residents, graduate assistants, and student employees.</td>
</tr>
<tr>
<td>Fair Labor Standards Act (FLSA)</td>
<td>Established minimum wage, overtime pay, record-keeping, and youth employment standards for employees in the private sector and in federal, state, and local governments.</td>
</tr>
<tr>
<td>Remote Worksite</td>
<td>A primary place of work not on UND owned or leased property.</td>
</tr>
<tr>
<td>NDUS</td>
<td>North Dakota University System</td>
</tr>
<tr>
<td>Occasional Work</td>
<td>Infrequent, irregular, or occurring in scattered instances.</td>
</tr>
<tr>
<td>Out-of-State Workers’ Compensation Coverage</td>
<td>Coverage required for employees working outside of the state of North Dakota that must be in place at the time work begins.</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Encompassing term used in this policy document that includes manager, director, department head, and supervisor.</td>
</tr>
<tr>
<td>UND Property</td>
<td>Any property owned or leased by the University of North Dakota.</td>
</tr>
</tbody>
</table>

PRINCIPLES

Overview

Unless otherwise indicated, an employee's primary work place is located on UND property. However, UND recognizes that with expanding technology options, growing demands on employees, and increasing challenges of finding new and better ways to support the needs of the institution, flexibility in a workplace location can provide a way to manage people, time, space, and workload more effectively, efficiently, and responsively.

The decision to allow or require a remote worksite location is at the discretion of the supervisor with approval...
from the respective division’s vice president. Approval from the associate vice president of human resources & payroll services must sought when it requires UND to enroll in a new state for tax purposes or when establishing a worksite in a location outside of the United States.

**Timekeeping During Flexible Arrangements**

Exempt employees are not covered by overtime and record-keeping requirements of the Fair Labor Standards Act (FLSA). Therefore, there is inherent flexibility in work scheduling for them, but exempt employees members need to maintain regularly scheduled and approved work hours, as determined by their supervisor.

Non-exempt employees must conform to the overtime, record-keeping, and meal break provisions of the FLSA and, where relevant, North Dakota state labor law, respectively, for employees covered by those provisions. For non-exempt employees, supervisors must pre-approve all hours to be worked in excess of 40 in any workweek. Generally, a flexible work arrangement for a non-exempt employee will not result in overtime.

All employees are expected to be fully accessible during regularly scheduled and approved work hours. Requests to schedule annual leave, use sick leave, or otherwise alter the agreed upon schedule, are subject to approval by the supervisor in accordance with University policies.

**University Policies**

Employees who work remotely must adhere to all University and NDUS policies. Especially relevant are policies related to information technology, computer security, and data protection. These policies provide requirements for maintaining, securing, and achieving legal and appropriate use of the information technology infrastructure and confidential data (see Related Information).

In-person meetings with students may not take place at a remote worksite unless prior authorization is granted by the employee’s supervisor. The use of technology to conduct meetings remotely is encouraged.

**PROCEDURES**

**Remote Worksite Considerations: 100% Work Located Outside of North Dakota**

A remote worksite arrangement allows an employee to work at home or from another off-site location for a specified period of time. Either an employee or a supervisor may recognize the need for a remote worksite arrangement, however, the decision to approve a remote worksite is solely at the discretion of the University. To assess whether a particular remote worksite arrangement can be an effective tool, it is useful to consider the position, the employee, and the supervisor. Not all positions are suited for remote worksite and not all employees can work productively off-site, as remote worksite requires a certain type of skills. Though a remote worksite may be a viable option for many eligible employees, it is not a right of employment, it is an option that can be modified or revoked at any time by the University.

When a remote worksite arrangement might involve work conducted outside of North Dakota, there are additional issues to consider, such as workers’ compensation, unemployment insurance, tax, and payroll and state registration issues. It is essential for such arrangements to be carefully considered and approved in advance. For proposed remote worksite locations in states or countries where UND is not registered for payroll tax withholding and/or unemployment insurance, review of the proposed agreement by the associate vice president for human resources & payroll services is required prior to extending the employment offer or
agreement to the employee.

In the remote worksite agreement, supervisors must justify why they would allow a remote hire, and articulate why the work could be performed off-campus or outside of the state of North Dakota.

**Consider the Position**

If the specific job duties require or allow for an employee work at a remote worksite, the employee’s position description must reflect that requirement and written notification must be provided to the division's respective vice president.

If job duties do not require an employee to work from a remote worksite, the employee’s supervisor should ask the following questions regarding the position. If the answers indicate so, then remote worksite arrangements may provide a viable work option:

1. Does the position have clearly defined tasks? If yes, what are the tasks that can be accomplished off-site?
2. For position requirements that cannot be met from an off-site location, can they be assigned easily and fairly to others without overload or change in FTE?
3. Can results/productivity be measured effectively without frequent and regular in-person supervision?
4. Can the present level of customer service be maintained without undue hardship on customers, where customers may be internal or external to the department/unit?
5. Can technology (e.g., computers, fax, voicemail) be applied to help facilitate successful outcomes?
6. How are assignments to be communicated to the employee?
7. Are there sufficient resources available from the employee’s unit to support requests by the employee to participate in a remote worksite?
8. How and when does the employee need to be on-site to meet with the supervisor, co-workers, and customers?
9. How will the remote worksite arrangement affect cross-training initiatives, team-based approaches, and other such strategies?
10. Will this remote worksite arrangement have a positive effect on the unit’s morale?

**Consider the Employee**

Certain attributes will help ensure a successful remote worksite arrangement. To be eligible to initiate a request for remote worksite, the individual must be in good standing at the University and should have excellent time-management skills, and a demonstrated history of satisfactory, independent work performance.

**Consider Supervisor Responsibilities**

Individuals entering into remote worksite arrangements with people under their supervision are responsible to review work and progress with participants regularly, and provide effective and supportive feedback (such reviews should include communicating with on-site co-workers of the remote worksite employee). It is also the responsibility of the supervisor to conduct an annual evaluation of the remote worksite agreement each year during the annual evaluation period. The form for the worksite annual evaluation must be submitted to Human Resources each year.
In addition, all remote worksite arrangements must conform to the overtime, record keeping, and meal break provisions of the Fair Labor Standards Act (FLSA) and, where relevant, applicable state law, respective to employees covered by those provisions. Therefore, although nonexempt employees may be managed by results, supervisors must ensure an accurate recording of hours worked.

Consider Additional Cost and Effort

When employing an individual in a country other than the US, departments and those approving the remote worksite location must consider the additional cost and effort when reviewing a current and/or new international remote worksite location.

There is no cost to the department for establishing a UND worksite location in states where the University is not already registered to conduct business, however, there must be adequate notice to Human Resources & Payroll Services, to establish the proper protocols prior to the first day of employment.

1. To employ an individual who would work outside of the US may require a third party payroll service, costs are ongoing and vary greatly depending on the country: start-up cost begin at approximately $10,000 and go up in addition to ongoing costs of 20 percent of salary plus any fees.
   a. Cost will be billed to the department employing the individual.

Consider Workers Compensation Implications

Workers’ compensation will apply only to injuries arising out of and in the course of employment as defined by the North Dakota State Workers’ Compensation law. UND is not responsible for injuries unrelated to such work activities that might occur in the defined off-site work location or elsewhere. The employee must authorize access to appropriate officials to perform safety inspections of the remote worksite and/or to investigate a workers’ compensation claim. The designated department personnel must contact the Office of Safety to obtain assessment and advice regarding workers’ compensation, unemployment insurance, and other insurance and potential liability issues. This information, along with cost estimates, will be provided in writing to the supervisor.

For additional information, reference the workers’ compensation policy (see Related Information).

Consider Services and Equipment Needed

Authorization for any supplies and/or furniture must be approved by the supervisor and the department chair/head prior to purchase. The University may provide standard office supplies if approved by the department chair/head.

Unless otherwise specified in the remote worksite agreement, the employee will be responsible for providing furniture at the remote worksite. The University is not responsible for loss, damage, or wear of employee-owned equipment and/or furniture. Repair and/or replacement costs and liability for privately owned equipment and furniture used for remote work is the responsibility of the employee. In the event that equipment is provided by the University, such equipment shall be used by the employee exclusively for University business.

The employee agrees to take reasonable steps to protect any University property from theft, damage, or misuse. The employee agrees to report to the supervisor any instances of loss or damage to University property, or known unauthorized use or access to University systems or data. The employee is responsible for maintenance and repair of these items unless other arrangements have been made in advance and in writing with the supervisor.
The employee will return University equipment, records, and materials upon request and/or termination of the flexible work agreement. The employee may be responsible for any costs necessary to return, repair, or replace University property. If University property is not returned upon request, at the end of a remote worksite situation or upon termination, the employee (or former employee) will be responsible for all costs to replace any unreturned equipment.

If the employee is unable to meet work obligations due to equipment issues, the employee will notify their supervisor and may be required to travel to the primary worksite to perform their functions until the issues are resolved.

**Property Insurance Requirements**

The University has an insurance program to insure its property, where it is approved for use. In the case of any damaged or lost equipment, the Office of Risk Management & Insurance must be contacted as soon as possible for assistance in filing a claim. Personal property used in connection with University employment is not covered under the University policy and should be covered by homeowners or renter's insurance. The University is not liable for personal property.

**Establishing Remote Worksite Agreement Process**

1. The completed remote worksite agreement and documentation supporting the arrangement (e.g., letter of understanding or employment contract) must be routed for approval to:
   1. Department chair/dean/department head;
   2. Human Resources & Payroll Services;
   3. Associate VP for human resources & payroll services/CHRO (for the VPFO) if required to establish business in a new state or outside of the US;
   4. Office of Safety/Workers' Compensation;
   5. Appropriate area vice president; and
   6. Completed originals forwarded to Human Resources Office for records.

2. The department/unit arranges for any University equipment/property checkout. The Office of Risk Management must receive a copy of this form.

3. The supervisor and employee shall prepare and review the remote worksite agreement and discuss any remaining questions.

**Implementing Remote WorkSite**

Implementation of a remote worksite plan, including establishing workspace setup, resources and expectations is critical to a positive and productive remote work environment. Annual evaluation of the plan, in addition to review of the agreement at the end of the agreement’s term, is required.

1. After implementation, the employee and supervisor review remote worksite execution and performance on an annual basis as a part of the employee's performance evaluation. As needed, either individual may introduce modifications to the agreement to ensure that the arrangement continues to support both institution and employee objectives. The supervisor informs co-workers regularly of the remote worksite employee’s status and issues as they pertain to the remote worksite arrangement. Regular lines of communication must be kept open with the on-site co-workers of the remote worksite employee. All
parties must work continuously to resolve conflicts that may arise.

2. The employee and supervisor discuss the continuation or discontinuation of remote worksite near the end of the agreement's term. An extension of the agreement must be approved and documented by all involved parties. The supervisor and/or the division's human resources manager finalize the review of the continuation of the remote worksite agreement, or confirm its discontinuation. Final approval of the continuation is required by the appropriate division vice president.

This policy is not to be utilized as an American's With Disability Accommodation (ADA) without first properly requested an ADA accommodation through the official process with UND Human Resources. Human Resources will work with the employee and supervisor/department through the request and interactive dialogue process to discern if this is the best accommodation for the employee.

**Discontinuing Remote Worksites**

The worksite arrangement may be discontinued at any time by any party. Written notification of discontinuation or termination of a remote worksite arrangement will be provided as soon as possible to the employee, the supervisor, Human Resources & Payroll Services, and Office of Safety. The University is not required to retain an employee in a remote worksite arrangement whom the University would otherwise terminate according to University and State Board of Higher Education policies and procedures.

**RESPONSIBILITIES**

<table>
<thead>
<tr>
<th>Employee</th>
<th>• Propose and comply with the remote worksite arrangement agreement</th>
</tr>
</thead>
</table>
| Human Resources & Payroll Services | • Advise departments regarding the remote worksite policy and requirements for working out of state  
• Coordinate with appropriate UND offices and departments to set up necessary arrangements for remote worksite employees |
| Supervisor | • Establish remote worksite arrangements when it is in the best interest of the division  
• Maintain compliance with the remote worksite arrangement agreement, and ensure constant communication and review of the employees with remote worksite agreement  
• Work with their division’s HR manager regarding compliance of the policy requirements  
• Ensure that all workers’ compensation forms are completed at least three weeks prior to start |

**FORMS**

<table>
<thead>
<tr>
<th>Hybrid Work Arrangement Form</th>
<th>Contact Human Resources &amp; Payroll Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remote Worksite Agreement</td>
<td><a href="https://campus.UND.edu/human-resources/_files/docs/hr/flexplace-agreement.pdf">https://campus.UND.edu/human-resources/_files/docs/hr/flexplace-agreement.pdf</a></td>
</tr>
<tr>
<td>Remote Worksite Evaluation</td>
<td><a href="https://campus.UND.edu/human-resources/_files/docs/hr/">https://campus.UND.edu/human-resources/_files/docs/hr/</a></td>
</tr>
</tbody>
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APPENDICES

There are no appendices associated with this policy.

Attachments

No Attachments

Approval Signatures

<table>
<thead>
<tr>
<th>Approver</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jennifer Rogers: Policy Office</td>
<td>pending</td>
</tr>
<tr>
<td>Jennifer Rogers: Policy Office</td>
<td>06/2021</td>
</tr>
<tr>
<td>Jennifer Rogers: Policy Office</td>
<td>06/2021</td>
</tr>
<tr>
<td>Peggy Varberg: Associate VP for HR/Payroll/PAG Liaison</td>
<td>06/2021</td>
</tr>
</tbody>
</table>