




MANAGEMENT TRAINING

AFGE COLLECTIVE BARGAINING AGREEMENT IMPLEMENTATION

Office of Mission Support – Labor and Employee Relations

Objectives

- 
- A large target with concentric red and white rings is positioned on the left side of the slide. A single yellow dart is shown hitting the center bullseye. The target is partially obscured by a blue horizontal bar that spans the width of the slide.
- Comprehend basics of “how we got here”
 - Understand the basics of the new AFGE collective bargaining agreement
 - Implement telework and work schedule changes
 - Understand supervisory roles and responsibilities



Why We're Here

- EPA implemented [AFGE-EPA Collective Bargaining Agreement](#)
 - Effective July 8, 2019
- Changes are significant, especially in regards to managing leave, work schedules, telework and official time
- Supervisors and Managers must implement the Contract - with guidance from Labor and Employee Relations (LER)



How We Got Here

- EPA and AFGE have been in contract negotiations since 2010.
 - February 2016 – The Parties reached a tentative agreement, but AFGE rejected contract during the ratification process
- February 2016-May 2018 – AFGE and EPA were in litigation over the contract.
- May 2018 – EPA sent notice to AFGE to open the full Contract
 - May 2018 – June 2019 – EPA sent AFGE several notices requesting that AFGE negotiate with the Agency
- June 2019 – AFGE sent EPA written notice that it will not negotiate the full contract
- June 24, 2019, EPA informed AFGE that it would implement the new Contract on July 8, 2019.
- AFGE has maintained that it will not negotiate the full Contract. Therefore, given AFGE's refusal to negotiate, EPA implemented the Contract.



General Information

- Contract only impacts AFGE bargaining unit employees.
 - ▢ All non-AFGE employees (e.g., non-bargaining unit or other union employees) are not impacted by this change.
- Contract is in effect immediately
 - ▢ All EPA managers are obligated to ensure compliance.
- New [forms](#) for telework, work schedules and official time.
- [AFGE Contract Implementation Resources](#)
 - ▢ Training Materials
 - ▢ FAQs
 - ▢ Crosswalk - Old Contract vs New



CBA Articles



General Information on New Contract

- The Contract was drafted to promote an efficient and effective government:
 - ▢ Contract language is now in compliance with law and regulation
 - ▢ Several articles substantially reduce inefficiencies in management-union relations
 - ▢ Streamlines management decision making (and in many cases, makes management decisions unreviewable)



Open Your CBA!

- <https://intranet.epa.gov/ohr/emprelations/AFGE-EPA%20Collective%20Bargaining%20Agreement%20-%207-8-2019.pdf>
- Going through the CBA article-by-article
 - Encourage you to have a copy open during this training



Article 1 – Recognition and Unit Description

- AFGE was certified to represent EPA employees first in 1980
- Reiterates the statute in regards to who is represented/not represented by the union
 - Management officials
 - Confidential employees
 - Personnel work
 - National security
- AFGE must provide the Agency a list of designated Union representatives, Agency-wide
- The Agency is only obligated to deal with one Union representative for each matter.

Article 2 – Union Activities and Official Time



- Official Time Changes:
 - ▢ AFGE representatives must spend at least 75% of their paid time, each fiscal year, performing EPA business
 - ▢ AFGE has a total number of official time hours equal to the number of bargaining unit employees (7,414 as of 7/1/2019)
 - ▢ AFGE representatives prohibited from using paid official time for:
 - Lobbying activities
 - Prepare or pursue grievances
 - Represent employees before the EEOC or MSPB



Article 2 – Union Activities and Official Time (cont)

- Official Time Requests
 - ▣ ALL official time must be requested and approved in advance by immediate supervisor AND local designated authorizing official (for regions – LER/HRO, for programs – LER)
 - ▣ Official time must be requested, approved/disapproved, and reported on Agency [form](#)
 - ▣ This is necessary for both tracking (union time rate and 25% limit) and reporting (EPA required to report annually to OPM)



Article 3 – Agency Facilities

- Within 30 days, vacate all union offices, meeting spaces and bulletin boards.
- All union websites hosted on agency intranet will be removed, member emails deactivated, and associated phone numbers, conference numbers and mobile phones terminated.
- Prohibition on use of any agency equipment or systems (computers, email accounts, photo copiers, fax machines, scanners, etc.) for union activity, whether representational or not.
- Union permitted to use and reserve conference rooms for union activities to the same extent as other employees acting on behalf of non-federal



Article 4 – Union Dues

- Employees still entitled to have AFGE dues withholding through EPA systems
- Amounts shall be consistent across the Agency
- Employee allotments expire annually, and must be renewed by the employee
 - Previously, employees could only cancel during a 30-day anniversary window



Article 5 – Midterm Negotiations

- Governs the procedures for all Union negotiations required during the life of the Contract
 - ▢ E.g., office moves, reorganizations, etc.
- Establishes negotiation time limits for both the Union and Management
 - ▢ Streamlines process
 - Currently, many negotiations are conducted in weeks of back-and-forth paper proposal exchanges
 - This article significantly improves the efficiency of negotiations



Article 6 – Negotiated Grievance Procedure

- Provides Two-Step Process for Employee Grievances (no change)
- Employee grievances must be filed within 15 calendar days of event grieved (previously 30 days)
- Excludes many management decisions from grievance procedure:
 - Written notice of proposed action
 - Letters of counseling/warning
 - Performance progress reviews
 - Telework decisions
 - Awards
 - Non-selection for promotion
 - Performance improvement plans
 - Work schedule decisions
 - Employee performance ratings

Article 7 - Arbitration

- Streamlines timelines
 - ❑ Previous Contract - the Union may invoke arbitration, but never move forward with a hearing (leaving the case perpetually open)
 - ❑ Current Contract - Moving party must take timely action, or the case is withdrawn
- Bifurcation
 - ❑ Previous Contract – arbitrators hear jurisdictional issues and merit issues in same hearing
 - ❑ Current Contract – either party may separate issues, so that jurisdictional issues are heard first



Article 8 – Merit Promotion

- Vacancy Announcement Postings
 - ▢ Previous Contract – 10 work days (15 if area of consideration is broader than commuting area)
 - ▢ Current Contract – 5 calendar days (or less for positions with large applicant pools)
- Interviews
 - ▢ Previous Contract – supervisors required to interview all or no candidates
 - ▢ Current Contract - interview all, some or none



Article 9 - Leave

- All leave must be requested/approved in advance (no change)
- Emergency-type leave (e.g., day of requests)
 - ▢ Employee must notify supervisor as soon as possible, but no later than the start of duty day (previous contract was 2 hours after start of day)
- Out-of-office procedures
 - ▢ Employees are required to comply with their office's procedures – updating voicemail, email, calendars, etc.



Article 9 – Leave (cont)

- Medical certification
 - ▢ Required for any absence four or more workdays
 - ▢ Can be required for three or less when supervisor determines necessary based on:
 - Previous leave usage
 - Length of absence
 - Leave request made after employee assigned undesirable work or deadline
 - Employee denied annual leave
 - ▢ Supervisory decision to request medical certification is unreviewable



Article 9 – Leave (cont)

- Medical certification
 - ❑ Must be signed by a registered practitioner/physician
 - ❑ Must include:
 - A statement that the employee is under the care of medical professional;
 - The nature of the employee's incapacitation;
 - The impact of the incapacitation on the employee's ability to perform his/her duties; and,
 - Expected duration
 - ❑ Must be provided to supervisor within 15 calendar days of request



Article 10 – Performance

- Article does not mention Agency tiered rating structure
- Keep employees on current PARS forms (new forms may be required for 2020 performance cycle)
- Same general requirements as current rating system
 - ▢ Employees must be on a plan within 30 days of employment or reassignment
 - ▢ Requires mid-year and closeout discussion



Article 10 – Performance (cont)

- Addressing Poor Performance Significantly Updated
 - ▣ No Performance Assistance Plan required
 - ▣ Performance Improvement Plan timeframe reduced from 60 days to 30 days
 - ▣ Eliminates a lot of supervisory burdens for managing poor performance



Article 11 – Discipline

- Employees are still afforded due process and are held to the “efficiency of service” standard for disciplinary actions (no change)
- Brings disciplinary process in line with 5 CFR 752
- Includes - Letters of Reprimand, Suspensions, Demotions, Removals
- Excludes – Informal Action (Counseling, Warnings, etc.)

Article 11 – Discipline (cont)

- Letters of Reprimand
 - ▢ In eOPF for up to 3 years (previously 2 years)
- Suspensions, Removals
 - ▢ Employees entitled to:
 - Advance written notice
 - 30 calendar days for suspensions \geq 15 calendar days
 - Employee afforded an opportunity to respond
 - Opportunity to be represented
 - Written Decision



Article 14 - Duration

- Contract is in effect for 7 years unless the parties mutually agree to open
- Supersedes Previous Agreements
 - All previous agreements are now expired



Work Schedules and Telework



Article 12 – Work Schedules

- Sets national work schedule for all AFGE employees
 - ▢ Previously negotiated locally, resulting in approximately 20 different schedules across the Agency
- This is a change for EVERYONE! Depending on region/program:
 - ▢ New schedule offerings could be significantly more or less flexible than what is currently offered
- All AFGE employees must be on new work schedule no later than August 4, 2019

Work Schedule Options



- 1) Standard / Regular Work Schedule (Straight-8)
- 2) Compressed Work Schedule 5-4/9
- 3) Compressed Work Schedule 4-10
- 4) Maxiflex Work Schedule

Tour of Duty (TOD)

- The TOD is the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.
 - Example: 8:30 AM – 5:00 PM
- Regular, Compressed, and Maxiflex TODs must be between 6 AM and 6 PM.



Fixed Work Schedules

- Options
 - ▢ **Regular**
 - ▢ **Compressed 5-4/9**
 - ▢ **Compressed 4-10**
- Fixed arrival and departure times.
 - ▢ May not be without supervisory permission.
- Not eligible for credit hours.





Regular Work Schedule

- Ten 8-hour days, basic 40 hour workweek, scheduled Monday-Friday.
- Employee requests starting time (which determines stopping time) between 6 AM & 6 PM; supervisor approves.



Compressed Work Schedule- 5-4/9

- Eight days of 9 hours of work each day and one day of 8 hours of work.
- Fixed non-workday (compressed day off) must be the same day each pay period.
 - Employees may change compressed day off with prior supervisor approval.



Compressed Work Schedule- 4-10

- Four days of 10 hours of work each day.
- Fixed non-workday (compressed day off) must be the same day each week.
 - Employees may change compressed day off with prior supervisor approval.
 - Non-workday cannot be consecutive.

Work Schedule Flexibility

- Can I...
 - ❑ Switch my compressed day off?
 - ❑ Come in late and work late?



Pop Quiz!

- Dwight Schrute arrived to work 30 minutes late. He asked his supervisor, Michael Scott, if he could forgo his lunch break to make up for the time that he was late to the office. What should Michael say?





Lunch Break

- All daily tours of duty greater than six (6) hours will include at least a 30-minute unpaid lunch break.
- The lunch break must be taken between **10:30 AM and 1:30 PM**.
- **Employees cannot forgo their lunch break.**
- Adjustments to lunch breaks are authorized to allow employees more than 30 minutes, but no more than 60 minutes, at supervisor's discretion.
- Extensions of lunch breaks (irrespective of duration) are unpaid.



Maxiflex

- Maxiflex allows employees to select their own schedule within agency approved limits.
 - ▢ 80-hour bi-weekly work requirement for full time employees (and a prorated amount for part time employees) rather than a daily or weekly work requirement.
 - ▢ Permits employees to vary the number of hours worked each day AND each week.
 - ▢ Allows employees to complete the 80-hour work requirement in less than 10 workdays each pay period, and to earn credit hours for voluntary work performed in excess of 80 hours.

Elements of the Maxiflex Plan

- Tour of Duty (TOD)
 - ❑ 6:00 AM and end as late as 6:00 PM.
 - ❑ Maximum of 10 hours (10 ½ with the 30-minute lunch break)
 - ❑ Credit hours may be earned outside the TOD.
- Core Hours: 9:30 AM – 3:00 PM
- 30-Minute Variations
 - ❑ May adjust the arrival and/or departure times up to **30 minutes** without approval/notification
 - ❑ Cannot interfere with scheduled work activities
- Regular Day Off (RDO)
 - ❑ Maxiflex schedule may include one or more regular non-work days that are similar to CDOs.

Core Hours

- Employees must be present for duty or in a leave status during core hours.
- **Maxiflex: 9:30 AM – 3 PM.**





Elements of the Maxiflex Plan (cont.)

□ Earning Credit Hours

- ❑ **Maxiflex is the ONLY schedule in which credit hours can be earned.**
- ❑ Employees may earn up to 2 credit hours per workday and up to 10 credit hours per pay period, subject to advance supervisory approval.
 - Request to earn credit hours must be made to supervisor in writing and in advance.
- ❑ May be earned on weekends, subject to supervisory approval. Time bands for Saturday or Sunday are 6:00 AM –6:00 PM.
- ❑ Cannot carry over more than 24 credit hours between pay periods.



Elements of the Maxiflex Plan (cont.)

□ Using Credit Hours

- ❑ To use Credit Hours, employee submit a leave request in PeoplePlus (similar to requesting annual leave)
- ❑ Employees are accountable for keeping track of their credit hour balances from day to day, week to week, and pay period to pay period

Maxiflex and Annual Leave

- Employees on Maxiflex are often able to conserve annual leave.
- Employees and supervisors share mutual responsibility of ensuring that annual leave is scheduled in writing each leave year as necessary to prevent any loss at the end of the leave year.
- An employee's work schedule is not recognized as a basis on which annual leave can be restored.
- As a reminder, tracking and requesting annual leave is the responsibility of the employee, not the supervisor.



Maxiflex Timekeeping Requirements, Responsibilities, and Instructions



- Employees
- Supervisors



Employees

- ✓ Submit the [Maxiflex Pay Period Time Sheet](#) (MPPTS) prior to the start of the pay period.
 - ✓ The MPPTS should document planned hours of work, planned leave usage, the number of credit hours intent upon earning, etc.
 - ✓ The MPPTS must be available at any time upon supervisor request.
- ✓ Request leave and credit hours used in PeoplePlus.
- ✓ Record the time in and time out daily on the MPPTS.
- ✓ Document, at a minimum, a 30-minute unpaid lunch period when scheduled to work at least 6 hours.



Supervisors

- ✓ Modify, suspend, or terminate the employee's participation in Maxiflex when appropriate.
- ✓ Review T&A to ensure it is fully completed and properly coded for overall accuracy.
- ✓ Approve/disapprove an employee's initial requests to work a Maxiflex work schedule expeditiously, normally not longer than 14 calendar days.
- ✓ Review employees' proposed work schedules before the beginning of each pay period.
- ✓ Approve/disapprove the employee's time in People Plus.
- ✓ Discuss T&A inaccuracies with the employee, and require employees to submit corrections as appropriate.
- ✓ Approve/disapprove requests for exceptions, on a case-by-case basis, of the provisions found in the Maxiflex policy.

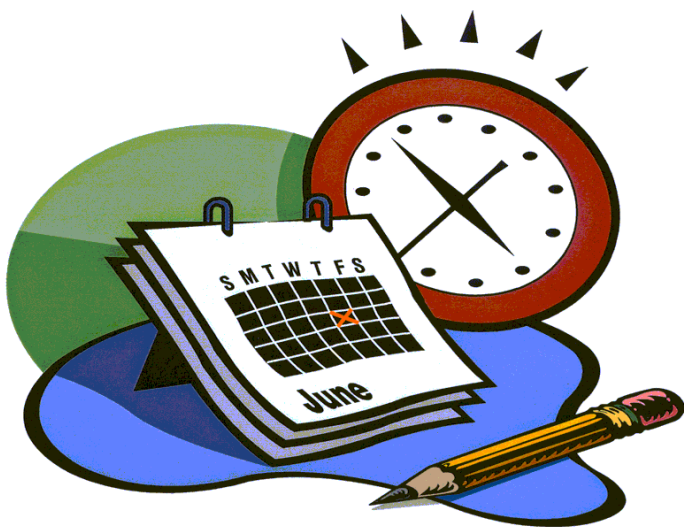
Procedures for Using Maxiflex

- Application and Documentation
 - ❑ Employees interested in participating in the Maxiflex schedule must:
 - Read the AFGE Work Schedule Article 12.
 - Submit the [Work Schedule Request Form](#) to their supervisors for approval or disapproval.
 - Submit a proposed work schedule on the MPPTS to their supervisors in advance of each pay period.
 - ❑ Employees cannot begin using Maxiflex in the middle of a pay period since the Maxiflex schedule design is based on two-week intervals.
 - ❑ Supervisor will document all work schedule approvals and disapprovals.

Procedures for Using Maxiflex (cont.)

□ Advanced Work Scheduling

- ❑ All employees on Maxiflex are subject to an advanced scheduling requirement each pay period.
- ❑ The proposed work schedule must indicate the anticipated number of hours and timeframes the employee plans to work on each day of the upcoming pay period.
- ❑ Same scheduling requirements for part-time and full-time employees.
- ❑ If the supervisor objects to all or part of a proposed work schedule, he/she should state the reason(s) for disapproval on the MPPTS and offer some alternatives, if available.



Maxiflex Scenario

- On Thursday, Kim begins working at 8 AM and is scheduled to stop working at 4:30 PM. Kim's husband calls her to say that he cannot pick up their daughter from school, so Kim leaves at 3:30 PM. Thus, Kim only worked for seven hours.



Credit Hours Under Maxiflex People Plus

- To request to EARN credit hours:
 - ▢ An email to your supervisor with supervisor response
- To request to USE credit hours:
 - ▢ Request just like leave:

Request Absence

Krysti Corbett

Enter Start Date and Absence Type before submitting or save

Enter the rest of the required fields

Absence Detail

*Start Date:

*Accrual Class:

*Absence Type: Select Absence Name ▼

Comments

Requestor Comments:

* Required Field

[View Monthly Schedule](#)

Note: In the 'Absence Type' dropdown menu, 'Credit Hours' is circled in red.

Credit Hours Under Maxiflex People Plus (cont.)



- Credit Hours Time Reporting Codes:
 - ❑ CRHRE – Credit Hours Earned
 - ❑ CHRHU – Credit Hours Used



Maxiflex in People Plus

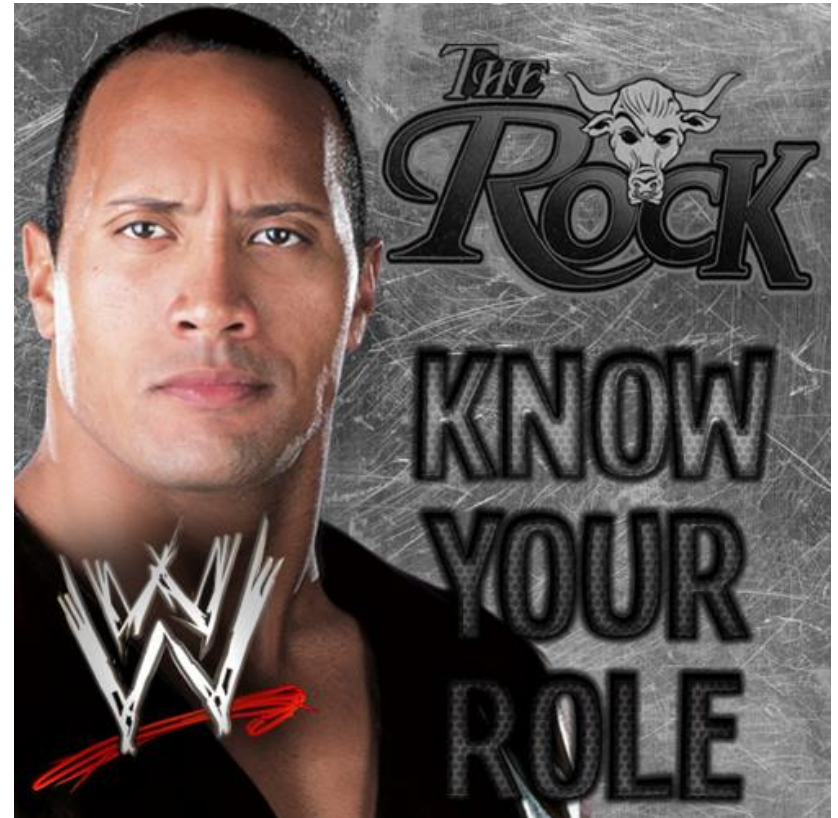
- Submitting Maxiflex time in PeoplePlus can be more challenging
 - ▢ To include daily recording of hours and leave requests
- For all questions, please refer to OCFO Resources:
 - ▢ <http://intranet.epa.gov/peopleplus/index.htm>

Key
Takeaways

Supervisor Role and Responsibilities for Work Schedules



- Approve work schedules.
- Ensure employee adherence to assigned work schedule.
- Determine when work schedule changes are needed.
- Review time and attendance records.





Remember: You've Got the Power!

- Alternative work schedule (AWS) participation is at management's discretion.
- Supervisors can require work hour adjustments to meet special work situations.
- Supervisors can terminate the employee's AWS.

Article 13 - Telework





Telework and Work Schedules

- Employees on a regular and recurring telework arrangement are expected to report to the official worksite and duty station a minimum of **four (4) days per week.**
- Compressed or Maxiflex regular days off count as a day away from the official worksite for the purpose of this requirement.
- Leave does not count toward this requirement



AFGE Telework Form

- All AFGE employees must be on new [telework forms](#) no later than August 4, 2019
- This is true even if there are no changes to an employee's current telework schedule

Eligibility

- Portable Work
- Fully Successful
- Effectiveness
- Return to Office
- Comply with Agreement
- Dependent Care
- **New Employees (change - previously 1 year waiting period for AFGE, now determined by supervisor)**





Disqualification

- Performing less than fully successful
- Disciplined for AWOL for more than 5 days in any year
- Disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer
- Disciplined for misuse of a government computer.
- Employee refused a visit by their supervisor or any other Agency official to the employee's alternative work site



Types of Telework

- Regular Telework
- Situational Telework (formerly Episodic Telework)
- Medical Telework
- Reasonable Accommodation under the Telework Program



Regular Telework

- **Regular telework may NOT exceed one day per week.**
- Employees are not permitted to conduct regular telework from outside the local commuting area.
- Maxiflex scheduled days off, compressed days off and regular telework days will count as a day away from the official worksite for the purpose of this requirement.

Situational Telework

- Telework that occurs on a non-routine, occasional, emergency, or ad hoc basis.
 - This is formerly “episodic” – the new “situational” type of telework brings EPA in line with OPM language
- Used to complete short-term special assignments or to accommodate special circumstances and must be for a defined, finite period.
- Cannot be used in a routine manner which appears to extend an employee’s regular telework schedule.
- An employee may be approved for both situational and regular telework.



Medical Telework

- Allows for the continued accomplishment of the agency work while an employee has a physician-certified medical condition, which does not affect the employee's ability to perform his or her regular work assignment at an AWL.
 - In limited circumstances, supervisors or managers may approve employees to work at an AWL that is outside the local commuting area.
- Must be supported by medical documentation.

Medical Telework (cont.)

- Not intended to be a permanent arrangement.
 - ▢ Normally, does not exceed 90 calendar days.
 - ▢ May be extended for up to three additional 90-calendar day periods (i.e., nine months) if the additional medical certification justifies such at each extension (i.e., every 90 calendar days).
 - ▢ Not authorized beyond 12 continuous months.
 - ▢ Total maximum allowable time for a medical telework agreement is 12 months within any three year period.
- Difference between Medical Telework and Reasonable Accommodation

Unscheduled Telework

- This type of telework is not scheduled in advance but is performed when the agency announces changes to its operating status, including changes to dismissal and closure procedures pursuant to the OPM and Federal Executive Board operating status announcements.
- **Any telework-ready employee must perform unscheduled telework.**
 - ❑ Unscheduled Telework/Closures
 - ❑ Late Arrivals/Early Dismissals at the Regular Office/Worksite
 - ❑ Unscheduled Telework Announced
 - ❑ Other Emergencies or Disruptions to the Regular Office/Worksite
 - ❑ General Provisions

True or False?

- If Federal offices are closed due to inclement weather, employees are not required to telework.



Modification, Adjustments and Termination



- The Agency has the unreviewable right at any time to end an employee's use of telework if:
 - ❑ the employee's performance falls below the fully successful level;
 - ❑ the employee is charged with misconduct;
 - ❑ the employee fails to comply with the terms of the employee's telework agreement; or
 - ❑ if the telework agreement no longer meets the organization's work-related needs. Participation in telework must be terminated when the employee no longer meets the eligibility criteria.

Supervisor Role & Responsibilities for Telework



- 1) Work with HR to identify positions that are eligible for telework.
- 2) Approve or disapprove new or revised requests to telework.
- 3) Review and recertify employee telework agreements every 12 months.
- 4) Ensure proper office coverage.
- 5) Oversee day-to-day telework operations, modify individual telework agreements to meet mission needs or changing circumstances, and maintain records and information necessary for evaluation of the program.
- 6) Ensure teleworker compliance with all existing security policies and procedures.
- 7) Ensure proper use of appropriate telework time reporting codes to document hours teleworked.
- 8) Monitor performance by ensuring appropriate management controls and reporting procedures are in place before employees begin telework assignments.

NOTE: Teleworkers and non-teleworkers are treated the same for the purposes of monitoring and assessing job performance; however, supervisors and managers may need to utilize different mechanisms for communicating with teleworking employees.



Conclusion

- This is going to be a challenging change for EPA – and we appreciate your support and patience as we implement the contract
- THANK YOU!
- [Additional Resources](#)
 - ▢ Training Materials
 - ▢ Crosswalk
 - ▢ FAQs for Supervisors and Managers

General Questions



If you have case specific questions, please contact your servicing Labor & Employee Relations (LER) representative