



Working Remotely - Article 12.15

Background:

During the 2021 -2023 Collective Bargaining Agreement AEE approached DAS and the agencies early on regarding working remotely, largely based on changes we have all seen and/or experienced during the Covid pandemic, at the time over the previous year and now approaching 2 years. For the most part, the DAS team was not interested in addressing AEE's proposal and delayed doing so until late in the bargaining period. Eventually DAS presented their version of a proposal on this topic, after some minor negotiations, the DAS team made it very clear they did not intend to move any further on the topic, AEE settled for Article 12.15 which addressed some aspects of remote working, but largely did not equitably address solvent aspects AEE requested (including whom would bear the additional costs of working remotely, that was largely left to the employee). Article 12.15 is primarily as it was proposed by DAS with a few revisions. The new Article 12.15 replaces the previous Letter Of Agreement (LOA) 5, Telecommuting and Teleworking. The new Remote Working/Working Remotely Article 12.15 is available at this link ([Article 12.15](#)).

Summary of Additions:

Although the new Article 12.15 is quite lengthy (seven pages); the more important aspects include:

- 1) (Sec. 1) Definitions of: central worksite, alternate worksite, and remote worksite.
 - a. Central worksite - The traditional office, official workstation or workplace.
 - b. Alternate worksite – A worksite other than the central worksite and is generally located in another state or public building.
 - c. Remote worksite – A worksite other than the central or alternate worksites. Often in the employee's home or in a mutually agreed upon location.

- 2) (Sec. 2) Where an employee's duties can be successfully performed away from their central worksite, an employee is eligible for remote work, upon agency approval. (Sec. 3) Requests to work remotely shall be considered in order of application and responded to within 30 calendar days. If an employee's request to work remotely is denied, the supervisor must provide a written response to the employee documenting the reason(s) for the denial.

- 3) (Sec. 4) No request to work remotely shall be arbitrarily rescinded. If an employee's request to work remotely is rescinded, the supervisor must provide a written response to the employee documenting the reason(s) for the rescission. Once a written explanation of the reason(s) for rescission have been provided, the employer may rescind their remote work with a minimum of 7 days advance notice. The employee may rescind their remote work with a minimum of 7 days advance notice.

4) (Sec. 5) Inclement conditions may arise in remote work locations. If utility providers experience outages that prevent an employee from working, employees may access inclement weather/hazardous conditions leave (Letter of Agreement #7), unless there is an alternate work location available.

5) (Sec. 6) The agency provides basic technology equipment and related devices necessary for the employee to perform their assigned job duties at the remote worksite. Employees will not conduct state business from personal devices subject to approval by the Chief Operating Officer.

6) (Sec. 7) Remote Work Supplies. Remote work office supplies shall be provided by the Agency. Equipment, software or supplies which are provided by the Agency for remote work shall be for the purposes of conducting Agency business only, other than to the extent allowable under the law, this Agreement, or Agency policies (e.g., utilization for Association-related activities or reasonable personal use consistent with policies).

7) (Sec. 8) Remote Worksite. Office furniture shall normally be provided by the employee working remotely. Subject to management approval, employees working remotely may access the State surplus warehouse for office furniture for their remote work location.

8) (Sec. 9) Internet Access. Employees who work outside of state-owned or leased buildings provide internet coverage, allowing for the performance of assigned duties and participation in phone conferences and virtual meetings during scheduled work hours. Internet connectivity provided through state owned equipment may be arranged upon approval of the Agency.

9) (Sec. 10) Work Location, Mileage and Travel Time. The employee's normal reporting location will remain the same. In addition, employees may be required to report to Agency or non-Agency locations for purposes such as meetings, training sessions and policy/practice coverage. Business visits, meetings with Agency customers or meetings with co-workers shall not be held at the remote worksite unless approved by the employee's supervisor. Mileage will be paid in accordance with the DAS OAM Travel Policy. Travel time will be compensated in accordance with the Fair Labor and Standards Act (FLSA).

10) (Sec. 13 d). The Parties acknowledge that nothing in this Agreement shall constitute a waiver of any Party's rights, claims or defenses with respect to mandatory subjects of bargaining and the impacts of changes to the state policy 50.050.01 Working Remotely policy. See below.

11) (Sec. 13 e) Any alleged violations of this Article may only proceed through the DAS Labor Relations Unit (Step 3) and are not arbitrable. However, any alleged violations relating to remote work denials or rescissions may have an additional review at Step 3 by an appeal panel consisting of a DAS LRU representative and a Union designee.

Intent:

The intent of this article is to provide a framework for remote working and the related working conditions as the previous Letter of Agreement LOA 5 telecommuting/teleworking did not contemplate remote working to the extent that it has become common place with the Covid-19 pandemic. This article was also developed prior to the most recent update of DAS State HR Policy 50.050.01, Working Remotely, on December 1, 2021 and it takes precedent in the event of any conflicts which now exist.

Update - As it relates to Article 12.15 Sec. 13 d:

DAS published State HR Policy 50.050.01, Working Remotely, on December 1, 2021. AEE was given the opportunity to review a draft of this policy on November 9, 2021. On November 15, 2021, AEE informed DAS that AEE considered some aspects of the proposed policy to be mandatory subjects of bargaining and/or permissive subjects of bargaining. Portions of the policy are essentially an end run around bargaining the issues that AEE brought to the bargaining table last spring and summer which the Agencies refused to move on. AEE issued DAS a Demand To Bargain (DTB) on the Working Remotely policy on November 15, 2021, the

first session of which occurred on December 8, 2021. Updates on the DTB on this topic will be provided as they are available.

In Unity,

AEE

AEE | PO Box 13428, Salem, OR 97309 | AEE.org