

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 9 – A (3)

DATE: October 6 - 7, 2021

SUBJECT

BOR Policy 4:39 – Alternative Work Schedules & Remote Work Arrangements (First Reading)

CONTROLLING STATUTE, RULE, OR POLICY

None

BACKGROUND / DISCUSSION

The last eighteen months have demonstrated that employees can be productive and effective in a remote work setting. As a large employer, the Board of Regents needs to be prepared to provide remote work and flexibility in schedules in order to address recruitment and retention needs. The opportunities will continue to grow for individuals who currently live and work in our local communities to be employed by business from other areas of the state or nation, resulting in a broader market in which we compete for employees. It is also imperative that remote work or alternative work arrangements are managed appropriately and do not result in negative impacts on the quality of education and services that BOR employees provide to students, other employees, and the public. These factors have highlighted the need for a BOR policy to address the parameters and guidelines for appropriate use of remote work and alternative work schedules.

Items of particular note in the attached policy revisions are summarized below:

1. The policy creates broad guidelines that refer back to institutional policies and processes for determination of employee eligibility, and it makes clear that the granting of alternative work schedules and remote work are at the discretion of the institution.
2. Alternative work schedules and/or remote work cannot interfere with the efficient operation of the institution and should not impact services.
3. Remote work arrangements that result in a work location outside of the state of South Dakota must be approved by the system director of human resources. This will assist in managing compliance issues related to worker’s compensation and

(Continued)

DRAFT MOTION 20211006_9-A(3):

I move to approve the first reading of the proposed revisions to BOR Policy 4:39, as outlined in Attachment I.

unemployment insurance as well as and wage and hour law differences in varying states.

4. Out of country work locations are prohibited; however, in extraordinary circumstances exceptions to this prohibition may be granted by the system director of human resources.
5. Remote work arrangements are prohibited from serving as a substitute for childcare, personal leave, as a means of facilitating outside employment or other activities prohibited by federal, state, or local law or Board of Regents or institutional policies while on institutional work time.
6. The policy reinforces that intellectual property created in the remote work location is the property of the institution.
7. The policy addresses the fact that abuse or misuse of the work arrangement can result in disciplinary action.

IMPACT AND RECOMMENDATION

This is a first policy reading. This policy has been reviewed by Business Affairs Council, Student Affairs Council, HR leadership, and Council of Presidents and Superintendents. This policy will be reviewed by the Academic Affairs Council and Technology Affairs Council at upcoming meetings. The second reading of the policy will be reviewed by the Board for final action at the December 2021 meeting.

ATTACHMENTS

Attachment I – Revisions to BOR Policy 4:39

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Alternative Work Schedules [& Remote Work Arrangements](#)

NUMBER: 4:39

A. PURPOSE

To establish parameters around the administration of alternative work schedules and remote work arrangements for Board of Regents employees. Alternative work schedules and remote work arrangements do not change the conditions of employment. ADA accommodation requests for remote work are handled through the standard ADA Accommodation process.

~~It is the goal of the State of South Dakota and the Board of Regents to provide employees with a work environment that allows them to balance work and life activities. As an employer, the Board of Regents recognizes the need for flexibility in scheduling to provide employees the opportunity to participate in family and community activities. To achieve this goal, employees and supervisors are encouraged to use alternative work schedules when possible. Alternative work schedules must enable managers to meet program goals and provide better customer service while, at the same time, allowing employees to be more flexible in scheduling their personal activities.~~

~~Supervisors are encouraged to work with the employee and attempt to accommodate his/her scheduling requests. Alternative work schedules, however, may not be available to every employee because of customer service requirements and workload requirements. If alternate work schedules are not possible, the supervisor should explain why the request for an alternative work schedule cannot be honored. Supervisors may discontinue or temporarily suspend alternative work schedules when necessary. Alternative work schedules may also be altered if work needs change or if service is impaired. Every effort should be made to communicate a change in the work schedule prior to the change; however, the supervisor may adjust the schedule without prior notice.~~

B. DEFINITIONS

1. **Alternative Work Schedule:** A work schedule that accommodates flexible working hours or a compressed work schedule.
2. **Compressed Work Schedule:** A work schedule that that allows employees to condense a traditional workweek into an extended workday(s) based on the allotment of designated hours per week.

- 3. Flexible Working Hours:** A work schedule that deviates from the standard work schedule, this may include varying start and end times of the workday, or agreements to alter the standard break period durations.
- 4. Institution:** Black Hills State University, Dakota State University, Northern State University, South Dakota School of Mines & Technology, South Dakota State University, South Dakota School for the Blind and the Visually Impaired, South Dakota School for the Deaf, University of South Dakota, and the Office of the Executive Director.
- 5. Remote Work:** A work assignment that is performed in whole or in part at a location that is not located on property owned or controlled by the Board of Regents or its institutions, also known as telecommuting or telework.
- 6. Work Location:** The primary location in which duties will be performed by an employee.
- 7. Work Schedule:** The scheduled days and times that an employee is required to report to work, this may vary based on the employee and position requirements.

C. POLICY

1. Alternative Work Schedules and Remote Work Arrangement Parameters

- 1.1. Alternative work schedules and remote work assignments are not an entitlement of any employee.**
- 1.2. All alternative work schedules and remote work arrangements require Institutional approval and are subject to Institutional policies and procedures.**
- 1.3. Alternative work schedules and remote work arrangements must not interfere with the efficient operation of the Institution nor adversely impact the services provided to students, employees or the public.**
- 1.4. Institutions have the authority to deny, discontinue, or adjust alternative work schedules and remote work arrangements as deemed necessary and appropriate; the Institution retains the right to determine where and when work should be performed.**
- 1.5. Alternative work schedules and remote work must not cause or contribute to the need for additional staff or overtime work.**
- 1.6. This policy does not prohibit the use of intermittent or temporary flexible schedules or remote work arrangements if approved through the appropriate Institutional procedures.**
- 1.7. The denial or rescission of an employee's request for an alternative work schedule or remote work arrangement does not constitute an independent basis for a grievance.**
- 1.8. Abuse or misuse of alternate work schedules and remote work arrangements, including the failure to apply and enforce the provisions of this policy, shall be grounds for adverse employment action, in accordance with applicable Board of Regents and Institutional policy.**

2. Alternative Work Schedules

As an employer, the Board of Regents recognizes the need for flexibility in employee schedules to provide a work environment that allows employees to balance work and life activities.

- 2.1. Alternative work schedules may only be utilized if the employee can fulfill the requirements of their position(s) and the institution has appropriate coverage levels in the department.
- 2.2. Hours worked must be documented in accordance with Board of Regents and Institutional policies and procedures, state and federal laws.
- 2.3. Alternative work schedules will not alter the required number of hours an employee works or their workload, but the work will be completed in accordance with a compressed or flexible work schedule.

3. Remote Work Arrangements

- 3.1. Employees may be eligible to work remotely in either a full or part-time capacity.
- 3.2. A position will be considered as suitable for remote work if the position's primary duties can be conducted through telework, using basic telecommunications equipment and technology at a home or remote work location without adversely affecting Institutional operations or services provided to students, employees, or the public.
- 3.3. Employees who work remotely must have a remote work space, and the appropriate equipment that ensures the privacy of all confidential, trade secret, proprietary, and personally identifiable information as required.
- 3.4. Individuals who work remotely must be able to meet all required responsibilities and perform the same tasks that they would if working on-site.
- 3.5. The employee shall adhere to all SDBOR and Institutional policies, in addition to all applicable laws, at their remote work location and while on University business.
- 3.6. Remote work arrangements that result in a work location outside of the state of South Dakota must be approved by the system director of human resources.
- 3.7. Out of country work locations are generally prohibited, however, in extraordinary circumstances exceptions to this prohibition may be granted by the system director of human resources.
- 3.8. Work performed at alternative locations is considered official Board of Regents business, all work product created in the course of employment are the property of the Board of Regents and are subject to the provisions of BOR Policy 4:34 – Intellectual Property.
- 3.9. Remote work does not impact the work schedule of the employee, hours worked must be documented in accordance with Board of Regents and Institutional policies and procedures, state and federal laws.

- 3.10. The Board of Regents assumes no liability for injury at the remote work site to any other person who would not be in the work area if the duties were being performed on the property of the Board of Regents.
- 3.11. Employees must notify their supervisor immediately of any injury occurring in the workplace and complete all requested documents. Workers' Compensation benefits will apply to injuries arising out of, and in the course and scope of employment.
- 3.12. Remote work arrangements are prohibited from serving as a substitute for childcare, personal leave, as a means of facilitating outside employment or other activities prohibited by federal, state, or local law or Board of Regents or Institutional policies while on Institutional work time.

FORMS / APPENDICES:

None.

SOURCE:

BOR March 2004; BOR December 2021