

For years, our union has pushed the State of Oregon to increase access to remote work in the Collective Bargaining Process. Management has been unwilling to negotiate language to limit supervisors' power to arbitrarily prohibit or limit remote work. During the COVID 19 pandemic there has been a cultural shift in employers' attitudes toward remote work in general. A massive living experiment has taken place across the country as many workers were forced to shift to remote work settings out of necessity to better socially distance themselves from people outside our households. This quickly proved successful and the lessons we learned through the pandemic gave our bargaining team both leverage and ideas on how to improve the remote work language in our bargaining agreement. In this agreement we better defined the process to request remote work, increased access to remote work, created better timelines for remote work requests, and strengthened the consistency of practices across agencies. This Guide is intended to orient you to the new contract language, and it will help you analyze, and process grievances related to Article 138.

Another resource we would recommend stewards and others check into before diving into this topic is the Work Reimagined website and more specifically the remote work section. You can view the whole site on the [DAS website](#). There are some links that can help give context to remote work and why it's effective. You also can see the broader list of [DAS Policies](#) as well on their site.

Steps on representing a worker wanting to work remotely

When supporting a worker, the two of you will want to check the following:

- Read the [Working Remotely Policy 50.050.01](#)
- Read the [Contract Language in Article 138](#)
- Read the [Remote Working Guidelines](#)
- Check the worker's Position Description. Make sure it is updated. If it does not reflect currently assigned duties use Article 85 and request it be updated. You will want to assess whether the job duties are suitable for full time or hybrid remote work. That is one of the requirements in the policy and the worker will need to persuade management if there is a dispute about whether the work is suitable. What duties can be done from home? Which can only be done from the office?
- They may also want to assess their [Classification Specifications](#). Check this after the Position Description if you need clarification with the overall classification. This would be particularly helpful if you were working on a potential group grievance and not an individual situation.
- Worker or supervisor may request interest in full time remote work or hybrid work options.
- These requests must be made in the Workday and responded to within 30 days and in order of application.

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- If the worker has not received a response within 30 days, you can file a grievance for them and put Article 138 as the rights violated. It would be a good idea to reach out before doing that and avoid an unnecessary grievance.
- If the worker is requesting remote work accommodation related to a medical condition, they must also follow the law and the DAS [policy for ADA](#). For ADA request meetings, workers have the right to bring a steward and the steward is on paid time for that (Article 10, Section 10) meeting. If you are representing a worker in this situation, make sure you engage with the Member Resource Center on specifics around ADA.

Steward tip! The steward can work with the manager if they are not familiar with the contract and try to avoid grievances by problem solving early and looking for solutions with the worker and manager.

Remote Work Agreements

- There are two types of remote work agreements: full time remote work, and hybrid remote work agreements.
- Full time remote agreements: All essential functions of the position are performed from an alternate workplace 100% of the time. Business needs may require the employee to come into the central or mobile workplace to perform work on a periodic basis. Work at the central workplace is generally performed less than eight occurrences a year.
- Hybrid remote work agreements: Essential functions of the position are performed from an alternate workplace, as well as at the central or mobile workplace. Work at the central workplace is generally performed at least eight occurrences a year.
- As needed remote work can be requested and approved without an agreement on file.
- Some positions are hired as full time or hybrid remote work options or requirements. These agreements are the same as requested ones in that they may be rescinded with proper notice.
- Agreements are stored in WorkDay. If you are helping a worker who already has a full time or hybrid remote work agreement, ask them to send you a copy.

Remote Work Denials

- If the worker is denied their request, it must be in writing with the reasons included. The denials cannot be arbitrary. If the worker is denied arbitrarily, you may choose to file a grievance for them and put Article 138 as the rights violated.

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- If the worker is approved a hybrid remote work agreement, but requested a full-time remote work agreement, the contract language around arbitrary denials still apply and can be grieved if you can show the denial was arbitrary. That said, you will have to persuade the Agency the work can be done with a full-time remote work agreement.
- Meeting the contract language burden of not responding arbitrarily is a fairly low bar. It means they must consider the request if a suitable job, and they can't just deny the request because of personal preference of the manager. If you and the worker believe the reasoning is inadequate you must be able to persuade the Agency. You may do that informally, or through a grievance to move forward with the conversation.

Steward tip! This article of the contract is not allowed to be arbitrated, so persuasion and compromise is key to gaining concessions during grievances to make the agreement work for both the worker and Agency. Ask the worker and employer lots of questions about what they could live with. Try to help the worker to reach an agreement with their management.

Remote Work Rescissions

- Remote work agreements can be ended at any time. The Agency is required to let the worker know why in writing and it must be for sound business reasons. Once the notice has been provided the remote work may be rescinded after a 7-day notice period.
- If an agreement is rescinded without proper notice, you may file a grievance. Prior to filing though, it may be worth trying to push them to comply with the contract language to prevent the worker from having their remote work agreement ended earlier than the contract requires.
- If an agreement is rescinded arbitrarily (without reason), you may file a grievance. Like requests, you must be able to convince the Agency to not move forward with or to reinstate a remote agreement.

Steward tip! File a grievance if you need to. If you have a strong case, you can escalate it to the DAS (step 3) level after the Agency (step 2) and supervisor responses (step 1). If you assess you do not have a strong case and feel you will not be able to get DAS to reverse the Agency decision you can withdraw the grievance.

Grievances

If you need help with filing a grievance, check out the [grievance and settlements guide](#).

Stewards Tips for Article 138 Grievances!

- You have 30 days from a remote work denial to file a grievance. If that has passed and you think it was arbitrary, the worker needs to put in a new request. If the grievance is for 1 person, you file step 1 with their supervisor. If it's a group of workers that have more than one supervisor, you file at step 2. The only time one of these grievances should start at step 3 is if it's multi-agency and these you should work closely with the Enforcement Team (MRC).
- These grievances cannot be taken to arbitration, so if you can find a resolution before or during the grievance process, do it! Arbitrary is a tough one to assess.
- It can be frustrating telling workers they don't have a grievance, or that you're not escalating their grievance, so it's helpful to learn lessons from other tests. If you need help or advice, reach out to the Enforcement Team.

2021 (new) Language

WORKING REMOTELY

Section 1. Oregon state government encourages working remotely where it is a viable option that benefits both the employee and the agency. Use of remote work options promote the health and safety of Oregonians; ensures high-quality work and optimal use of resources for agencies; ensures cultural, equity and accessibility issues are addressed in a meaningful way; and supports flexibility and work-life balance for employees. It also offers the opportunity to be more flexible in interactions with the Oregonians we serve and decreases an agency's impact on the environment. Remote work arrangements are subject to the Working Remotely State Policy (50.050.01) and the terms and conditions of this collective bargaining agreement.

Section 2. Where an employee's duties can be successfully performed away from their primary duty station, an employee is eligible for remote work, upon agency approval.

Section 3. Remote Work Requests. Requests to work remotely may be initiated by the employee and must be reviewed and approved by the employee's supervisor to ensure the position is suitable for work and meets the agency's business and operational needs, as well as those of the agency's customers and the employee.

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Section 3 (continued) - Remote work agreements must be documented through the working remotely process in the state human resources information system. Requests to work remotely shall be considered in order of application and responded to within thirty (30) calendar days.

Section 4. Remote Work Denials or Rescissions. No request to work remotely shall be arbitrarily denied or rescinded. If an employee's request to work remotely is denied, the supervisor must provide a timely written response to the employee documenting the reason(s) for the denial. If an employee's request to work remotely is rescinded, the supervisor must provide the employee with the reason(s) for the rescission in writing. Once a written explanation of the reason(s) for the rescission has been provided, the Employer may rescind the remote work with a minimum of seven (7) days advance notice. The employee may rescind their remote work with a minimum of seven (7) days advance notice. Employees who have either rescinded their remote work or had their remote work rescinded by the Employer shall be eligible to be considered for remote work in the future.

Section 5. Inclement Weather/Hazardous Conditions and Existing Remote Work Agreements. 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 123.00-18-311), unless there is an alternate work location available (Article 123—Inclement Weather/Hazardous Conditions Leave).

Section 6. Equipment. The agency provides basic technology equipment and related devices necessary for the employee to perform their assigned job duties at the remote worksite. The equipment and devices are for agency business only and must comply with the agency's desktop security and maintenance policies and practices. Employees will not conduct state business on the following personal equipment: phones, computers, laptops or other information storing devices. Exceptions are subject to the approval of the state Chief Operating Officer. Additional technology and devices may be provided to the employee at the discretion of the agency or in accordance with the Americans with Disabilities Act (ADA).

Employees who work remotely will enter all assets (equipment, office furniture, etc.) provided to them in the state human resources information system.

Section 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.

Section 8. Remote Worksite. Office furniture shall normally be provided by the employee working remotely. Subject to management approval, employee's working remotely may access the State surplus warehouse for office furniture for their remote work location.

The employee maintains a safe remote workspace. The employee must immediately report to the supervisor any injury that occurs during work hours. The state is not responsible for loss, damage, repair, replacement or wear of personal property.

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Section 9. 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).

Section 10. Expectations and Goals. Remote work employees and their managers will develop a clear set of expectations and goals for the work to be performed on remote work days. Employees will review and acknowledge the State of Oregon Employees Working Remotely Acknowledgement Form in the state human resources information system.

Section 11. Training. Appropriate training will be provided for participating managers and employees.

Section 12. Other Provisions. These provisions are applicable to all Sections listed above.

(a) Call back and overtime will be handled as outlined in the applicable provisions of this collective bargaining agreement.

(b) Since supervisors must continue to be in a position to evaluate employee performance, certify the accuracy of time sheets and attendance records, and perform a variety of other supervisory responsibilities, employees should anticipate that, in addition to being supervised pursuant to normal office procedures, there will also be the possibility that they will receive telephone calls at the mobile number employees have designated in their remote work arrangement.

(c) In the event of a work stoppage, remote work arrangements utilized by represented employees shall be suspended.

(d) Any alleged violations of this Article may only proceed through the DAS Labor Relations Unit (Step 3) and are not arbitrable.

(e) Members will waive no right to Union representation as enumerated in this collective bargaining agreement or as guaranteed by the law.

Other Resources

[Remote Work Agreement](#)

[Example Grievance for Guide](#)