

The University of Baltimore

II-6.3 - Policy on Out-of-State Work for Staff and Faculty Employees

Approved on by President Schmoke on August 13, 2024

I. Purpose

This policy is enacted pursuant to the University System of Maryland Policy on Out-of-State Work for Employees, USM VI-6.20. The purpose of this policy is to set forth reasonable requirements for approving exceptions to the general expectation that all University of Baltimore employees shall perform their work from within the state of Maryland. Where such exceptions are made, it is the goal of this policy to avoid or properly mitigate the risk to UBalt and to its faculty and staff.

II. Policy Statement

The University of Baltimore (“UBalt”) is part of the University System of Maryland, and an agency of the state of Maryland. While UBalt primarily conducts its educational, service, and research activities within Maryland, certain roles may necessitate that employees in those roles perform their work in locations beyond state borders. Approval for such out-of-state work must comply with this policy.

III. Applicability

This Policy applies to all employees who seek to regularly perform work outside of the state of Maryland either as a Telework/Hybrid Worker or Remote Worker. This Policy is not intended to apply to occasional, approved work-related travel, including international travel for global field study, conferences, or other professional endeavors. However, UBalt will not approve an international Remote Work Location. An employee who lives outside of Maryland and commutes to campus to complete all of their work is not considered an out-of-state worker.

IV. Definitions

A. Remote Worker– An employee whose work duties can be performed effectively from *entirely* off-campus locations and is designated by the department as a Remote Worker. A Remote Worker can be required to report to UBalt work locations for business reasons.

B. Telework/Hybrid Worker - An employee whose work duties can be performed effectively from a combination of on- and off-campus locations. On-campus work schedule is determined based on department needs. Most faculty are considered Telework/Hybrid Workers. A Telework/Hybrid Worker may or may not have designated workspace on campus.

C. Remote Work Location – A work location other than a UBalt work location from which a Telework/Hybrid Worker or Remote Worker performs their duties. Remote Work Location is most often the employee’s home. International Remote Work Locations are not permitted. Out-of-state Remote Work Locations must be approved pursuant to this policy.

D. Out-of-State Worker – An Employee who has been approved to perform work outside of the state of Maryland as either a Remote Worker or Telework/Hybrid Worker (sometimes referred to as Out-of-State Remote Worker or Out-of-State Telework/Hybrid Worker, as appropriate throughout this Policy).

V. Procedure for Obtaining Approval to be an Out-of-State Worker.

- A.** A request for approval to be an Out-of-State Worker shall begin with the faculty or staff member making the request to the Dean or Division Head, as appropriate.
- B.** Requests will be reviewed by the Office of Human Resources in accordance with the criteria set forth in Section VI below. The Office of Human Resources may consult with deans, vice presidents, the CFO, the Provost, legal counsel, and/or outside consultants, as appropriate in considering the request.
- C.** The CFO (or the Provost for positions in Academic Affairs) will respond to the request in writing within 30 days of the request submission date.
- D.** Employees shall not engage in out-of-state work prior to receiving written approval to do so from the CFO (or the Provost for positions in Academic Affairs), with the exception of those employees working out-of-state as of the effective date of this policy. Employees working out-of-state as of the effective date of this policy will follow the review process set forth in Section IX.A. below.
- E.** An approval to work out-of-state is not permanent. UBalt, at the discretion of the CFO, Provost or their designee, may rescind or modify approval to be an Out-of-State Worker.
- F.** Employees may appeal a denial of a request to be designated an Out-of-State Worker or a rescission of such designation to the President. All appeals must be in writing and shall set forth the basis for the appeal. Appeals must be submitted within 30 days of the employee's receipt of a decision denying a request or rescinding a previous approval to be designated an Out-of-State Worker. The President's decision is final.

VI. Decision-Making Criteria for Approval to be an Out-of-State Worker

- A.** Approval as an Out-of-State Remote Worker may be appropriate under the following circumstances:
 - 1.** Where a position requires a highly specialized body of knowledge for which UBalt has experienced retention and recruitment challenges; or
 - 2.** To retain employees in operationally critical positions where the benefit of retaining the employee exceeds the cost (direct and administrative) for administering out-of-state work; and
 - 3.** The request is not subject to denial for reasons set forth in Section VII.A. below.
- B.** Approval as an Out-of-State Telework/Hybrid Worker may be appropriate under the following circumstances:

1. Employees who regularly work in the State of Maryland may telework from the District of Columbia or one of the following states that are contiguous to Maryland: Pennsylvania, Virginia, Delaware, and West Virginia. As employment law and regulatory requirements may change from time to time, approval of telework from one of these states/district is conditioned upon the University's ability to meet all requirements.
 2. Out-of-State telework from other states may only be approved under the circumstances set forth in section VI.A. above.
- C. A completed Out-of-State Work agreement must be in place for all approved out-of-state work.

VII. Requirements, Guidelines, and Bases for Denial of Requests to be an Out-of-State Worker

- A. Requests to be an Out-of-State Workers may be denied under the following circumstances:
1. UBalt cannot meet the legal or regulatory requirements of the Remote Work Location or doing so is cost prohibitive.
 2. State or local laws of the Remote Work Location would entitle the employee to fringe benefits that are not available to state of Maryland employees (e.g., mandated accrual of sick leave or other leave at a rate higher than provided by the state of Maryland/University System of Maryland).
 3. The circumstances of the out-of-state work create administrative or financial burdens for UBalt;
 4. UBalt cannot obtain workers' compensation insurance in the other state or to do so creates a financial burden for UBalt;
 5. The wage and hour, payroll, or mandatory leave benefit requirements of the Remote Work Location would require UBalt to administer special programs; or
 6. For any other good cause identified by the CFO or Provost or designee.
- B. The CFO (or Provost for positions in Academic Affairs) may impose conditions upon the approval to be an Out-of-State Worker to mitigate administrative burdens and legal and financial risks.
- C. The school or division within which the requesting employee's position resides shall be responsible for any UBalt expenses associated with administering the out-of-state work or complying with any legal or regulatory requirements associated with the out-of-state work.
- D. UBalt and each approved Out-of-State Worker must enter into an Out-of-State Work Agreement.

VIII. Equipment, Policy, and Work Site Provisions

- A. Each department must request appropriate technology from the Office of Technology Services for each Out-of-State Worker.

- B.** Employees are responsible for security and safekeeping of all items furnished by UBalt and must return equipment immediately upon separation from employment.
- C.** Employees are responsible for ensuring they have a suitable workspace in their Remote Work Location. Employees are responsible for maintaining their remote worksite, including furniture, personal equipment, necessary utilities, and internet service.
- D.** Out-of-State Workers remain subject to all applicable UBalt and USM policies.
- E.** An employee is expected to protect UBalt records from unauthorized disclosure or damage and comply with all UBalt policies, requirements, and applicable laws and regulations regarding disclosure of UBalt information.
- F.** Staff and faculty with additional permissions (supervisory, advisory) should use a UBalt workstation, UBalt VPN, or connect to a UBalt virtual desktop to perform those duties.
- G.** Staff or faculty that are accessing PII, personnel records, all student records under the Family Educational Rights and Privacy Act (FERPA), and all medical documentation pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy laws should use a UBalt workstation, UBalt VPN, or connect to a UBalt virtual desktop.

IX. Implementation

- A.** Employees working out-of-state as of the effective date of this policy must be considered for approval under the conditions of this policy. Those employees will be notified within 30 days of the effective date of this policy whether they will be approved as Out-of-State Workers pursuant to this policy. Where the employee is not approved, the employee will be required to comply with the work conditions imposed by UBalt to continue in the position. Employees may appeal a denial of designation as an Out-of-State Worker pursuant to Section V.F. above.
- B.** Due to the administrative and financial burdens associated with certain out-of-state work, there may be a delay in the initial approval of Out-of-State Workers following implementation of this policy. There may also be a limit to the capacity of UBalt to approve Out-of-State Workers both initially and on an ongoing basis.