
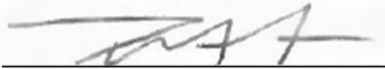


<b>POLICY TITLE: RESIDENT REMOTE WORK</b>		<b>PAGE <u>1</u> OF <u>10</u></b>
<b>POLICY NUMBER: 25.7 (AF)</b>		
<b>CHAPTER 25: WORK OPPORTUNITIES</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT of CORRECTIONS</b>  <b>Approved by Commissioner:</b> 	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VIII</b>
	<b>EFFECTIVE DATE:</b> <b>January 31, 2025</b>	<b>LATEST REVISION:</b>

**I. AUTHORITY**

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

**II. APPLICABILITY**

All Departmental Adult Facilities

**III. POLICY**

It is the policy of the Department to allow residents to have meaningful remote work opportunities that offer realistic job experience and promote self-sufficiency. Allowing residents to work remotely for approved employers supports their ability to earn fair compensation, which in turn enhances their capacity to pay victim restitution, fines and fees, family support, and taxes. This approach also aids in financially preparing residents for successful reentry into the community and reducing dependence on social welfare systems. By fostering these opportunities, the Department is committed to supporting residents' successful reintegration while also offering valuable benefits to employers.

**IV. DEFINITIONS**

1. Compensation – for the purposes of this policy, compensation includes wages, salary, stipend, payment for a limited position or other monetary compensation.
2. Core programs – programs identified by a resident’s Unit Team as necessary to address high risk and criminogenic needs areas specific to the resident, e.g., education, substance use disorder treatment, domestic violence program, cognitive behavioral therapy, problematic sexual behavior treatment, etc.
3. Limited position – for the purposes of this policy, a job that lasts less than three (3) months, only involves an honorarium, or is a position as a board member.
4. Remote work – (also known as telecommuting), for the purposes of this policy, a type of flexible working arrangement that allows a resident to work for an employer in the community from the MDOC facility at which they reside.

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## VI. ATTACHMENTS

Attachment A:	<a href="#">Request to Search the Internet for Remote Work</a>
Attachment B:	<a href="#">Remote Work Review and Approval Form</a>
Attachment C:	<a href="#">Application to Work Remotely</a>
Attachment D:	<a href="#">Remote Work Agreement and Conditions</a>

## VII. PROCEDURES

### Procedure A: Resident Remote Work, General

1. This policy does not apply to a resident who is assigned a facility paid job that involves the use of a computer and/or internet access as set out in Department Policy (AF) 24.10, Resident Use of Computers and/or Access to the Internet.
2. A general population resident may be approved for remote work as an employee with an approved employer in accordance with this policy and as such is not considered an employee of the Maine Department of Corrections (MDOC).
3. An employer shall not be approved unless they follow non-discrimination practices in hiring, compensation, and other relevant matters and make decisions without regard to actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age, familial status, whistleblower activity, genetic information, marital status, previous assertion of a claim or right under the Maine Workers' Compensation Act or receipt of an order of protection under Title 19-A, section 4007 or Title 19-A, section 4110.
4. Unless the job is a limited position, a resident who obtains a remote work job may not hold a facility paid job unless an exception is granted by the facility Chief Administrative Officer, or designee.
5. Computers used for remote work shall be purchased by the Department. These computers shall be connected to the Department's education network and shall not be connected to the Maine State Government Office of Information Technology (OIT) network or other private networks.
6. Computer eligibility and use shall be governed by Department Policy (AF) 24.10, Resident Use of Computers and/or Access to the Internet.

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7. MDOC shall not hold any proprietary interest in work product(s) created by a resident by virtue of the fact that the work is conducted on computers and technology provided by the MDOC, or for any other reason.
8. Residents who are currently working remotely when this policy takes effect must submit an application in accordance with this policy.

**Procedure B: Eligibility Requirements**

1. A resident is not allowed to work remotely if:
  - a. the resident’s current crime, past convictions, or pending charges involve computers, e.g., financial fraud, computer pornography, human trafficking, identity theft, cybercrime, terrorism, etc.;
  - b. the resident is prohibited from accessing the internet, prohibited from using an electronic device, or there is a similar prohibition by a condition of administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, or parole, including any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a revocation that was, is, or will be served during the current time in custody (in other words, a condition related to a sentence that the resident was, is, or will be serving during the current time in custody), or a current return from supervised community confinement.
2. A resident is not allowed to work a remote job:
  - a. that involves access to Health Insurance Portability and Accountability Act (HIPAA) information;
  - b. that involves access Criminal Justice Information Services (CJIS) information;
  - c. if the resident has a sex offense criminal conviction, that involves working for a school or school district or other employer where the resident may have access to information about children; or
  - d. for which the resident does not have the qualifications required for the position.
3. To be eligible for remote work, a resident must meet the following eligibility requirements:
  - a. a minimum of a high school equivalency or has an exemption approved by the facility Department’s Director of Education, Staff Development & Training, or designee;
  - b. served at least thirty (30) days of the term of imprisonment in the facility where they will be working remotely;
  - c. be a general population resident;
  - d. has completed or is actively participating in assigned core programs and is currently case plan compliant and if not yet completed an assigned core program the resident has been approved by the Unit Team (UT) to complete the core program(s) while working remotely;
  - e. has not been found guilty of a disciplinary violation involving computer use and/or access to the internet;

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- f. has not been found guilty of a Class A or B disciplinary violation within ninety (90) days of submitting the application and must not have a Class A or B disciplinary report pending at the time of submitting the application;
- g. be eligible to use a computer and eligible to access the internet:
  - 1) pursuant to Department Policy (AF) 24.10, Resident Use of Computers and/or Access to the Internet; and
  - 2) is issued a laptop other than a loaner laptop or has access to a computer designated for remote work by the Department; and
- h. agrees to and signs the necessary attachments pursuant to this policy.

**Procedure C: Community Programs Coordinator Responsibilities**

1. The facility Community Programs Coordinator (CPC), or other staff designated by the facility Chief Administrative Officer, shall oversee the facility’s remote work program and is responsible, but not limited to, the following:
  - a. to serve as the primary liaison to employers who are participating or interested in participating in the remote work program and maintain contact information for all employers;
  - b. to ensure that employers are:
    - 1) aware of and compliant with all requirements of the remote work program;
    - 2) notified when residents cannot perform remote work, e.g., lockdowns, a resident is terminated from the program, or in the hospital, etc.; and
    - 3) periodically followed-up with regarding a resident’s performance and/or changes in responsibilities.
  - c. to ensure that a resident has two (2) forms of identification acceptable for employment purposes (driver’s license, official state identification, or identity verification form and a social security card, birth certificate, or certified application for a social security card) or a current passport before applying for remote work;
  - d. to ensure that the resident signs the necessary attachments pursuant to this policy;
  - e. to maintain copies of all remote work applications, agreements, and related documentation;
  - f. to maintain a list of all current residents who are employed in remote work, their job positions, the start and end dates of their employment, if applicable, and their employers; and
  - g. to ensure the remote work program is assessed on an ongoing basis to address any issues that may arise and make recommendations to the facility Chief Administrative Officer and other appropriate staff to improve the process, practice and policy.

**Procedure D: Approval Process for a Resident to Work Remotely**

1. There are three (3) steps that a resident must be approved for in order to work remotely, which are:

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- a. Step 1: approval by the Unit Team (UT) to use the internet to search for remote work on approved sites, such as the Dept. of Labor, Indeed, ZipRecruiter, Monster Jobs, etc., if needed;
  - b. Step 2: approval by the UT to submit an application to a potential employer of resident remote workers or to an employer that already employs resident remote workers; and;
  - c. Step 3: approval by the facility Chief Administrative Officer, or designee, for the resident to accept an offer of employment.
2. Approval for the resident to complete any step may be withdrawn at any time for any reason at the complete discretion of the Commissioner, or the Chief Administrative Officer, or their designees.

**Step 1: approval by the UT to use the internet to search for remote work on approved sites**

1. The approval for a resident to search for work on the internet includes:
  - a. submission of a completed Request to Search the Internet for Remote Work (Attachment A) by the resident to their UT;
  - b. a review by the UT, who shall approve or not approve based on the following: the eligibility requirements, public safety, related risk factors, victim considerations, completion or active participation in assigned core programs;
  - c. after review, the UT:
    - 1) may approve the request;
    - 2) may approve the request with stipulations; or
    - 3) may deny the request; and
    - 4) shall document the decision on the Remote Work Review and Approval Form (Attachment B).
2. If approved by the UT to search for remote work on the internet, the Community Programs Coordinator (CPC), or other designated staff, shall:
  - a. ensure the resident signs the Resident Computer Use and/or Internet Access Agreement (Attachment A to Policy 24.10) (with the box allowing a search for remote work checked); and
  - b. forward the Review and Approval Form and the above signed form to the Department's Director of Education Technology, or designee.
3. Once the Director of Education Technology, or designee, has received the above forms, they shall enable technology so the resident can search for remote work.
4. The resident shall not be allowed to create any web presence, e.g., Linked In. The resident shall not be allowed to engage in any proactive communication to employers unless authorized by the facility Chief Administrative Officer, or designee.

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**Step 2: approval by the UT to submit an application to a potential employer of resident remote workers or to an employer that already employs resident remote workers**

1. If the resident identifies a job for which the resident would like to apply, the resident shall submit to the UT a completed Application to Work Remotely (Attachment C), which shall include the name and contact information of the employer and a description of the position.
2. After review, the UT:
  - a. may require a review of the resident’s application to the employer before its submission; and
    - 1) may approve the Application to Work Remotely;
    - 2) may deny the Application to Work Remotely; and
    - 3) shall document the decision on the Remote Work Review and Approval Form (Attachment B).
  - b. If approved to submit an application, the resident shall:
    - 1) truthfully answer any and all questions on the application; and
    - 2) disclose to the employer that they are currently an incarcerated resident.
3. If the employer requests a job interview, the CPC, or other designated staff, shall make suitable arrangements.

**Step 3: approval by the facility Chief Administrative Officer, or designee, for the resident to accept an offer of employment**

1. If the resident receives an offer of employment from the employer and remains eligible, the CPC, or other designated staff, shall determine whether persons with whom the resident is likely to have contact if they are employed in that position are prohibited from contact with the resident.
2. If there are prohibited contacts, the CPC, or other designated staff, shall notify the resident that they must submit an application for a different position or to a different employer where they will not have contact with prohibited contacts.
3. The CPC, or other designated staff:
  - a. shall document their findings pertaining to prohibited contacts, if any, on the Review and Approval form: and
    - 1) if there are no prohibited contacts, the CPC, or other designated staff, shall forward the form to the CAO, or designee; or
    - 2) if there are prohibited contacts and the resident has not submitted a new application, the form shall not be forwarded past this step.
4. Prior to making the decision on whether to authorize the resident to accept the offer of employment, the Chief Administrative Officer, or designee, shall consult with the Department’s Director of Victim Services, or designee.

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5. The Director, or designee, may request the Chief Administrative Officer, or designee, to postpone the decision until the victim, if any, of the crime(s) for which the resident was, is, or will be serving the sentence during the current time and custody is notified of the proposal that the resident be allowed to be employed in the remote work position and is given the opportunity to provide input.
6. The Chief Administrative Officer, or designee, shall document their decision on the Remote Work Review and Approval Form (Attachment B) and forward the form to the Unit Manager (UM), or designee, who shall inform the CPC and the resident of the decision and ensure the decision is documented in the Department's resident and client records management system.
7. If approved for remote work, the CPC, or other designated staff, shall schedule a virtual meeting, if possible, or otherwise by telephone, with the CPC, the employer, and the resident, to discuss the terms of work to include:
  - a. work hours, compensation, and process to set up direct deposit for compensation;
  - b. that computers used for remote work are purchased by the Department and will be connected to the Department's education network and cannot be connected to the employer's network or other private networks;
  - c. data protection measures to prevent a resident from accessing sensitive information;
  - d. any computer software necessary for the resident to fulfill the duties of their position;
  - e. other security and confidentiality expectations;
  - f. MDOC's monitoring procedures;
  - g. facility-based contacts such as who to reach out to in the event of a technology problem or an issue with the resident's conduct;
  - h. inherent situations that may be encountered in a correctional environment, e.g., a facility lockdown that may prevent the resident from working; and
  - i. other appropriate items.
8. If the employment is finalized, the CPC, or other designated staff, shall notify the Director of Education Technology, or designee, and the facility Service Center staff with the following information:
  - a. resident's name and MDOC #;
  - b. employer's name and contact information;
  - c. start date of employment; and
  - d. the planned end date of employment, if known.
9. The Director of Education Technology, or designee, shall enable technology so the resident can perform the remote work during the planned period of employment.
10. Compensation shall be processed and deductions made in accordance with Department Policy 2.12, Resident Accounts, including deductions for room and board while working remotely.

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## **Procedure E: Employer Responsibilities**

1. An employer who hires a resident for remote work is required to:
  - a. follow non-discrimination practices;
  - b. verify the resident's eligibility with the facility's CPC, or other designated staff, before offering the position;
  - c. provide a job description and details of compensation to the CPC, or other designated staff, and update as changes occur;
  - d. agree to allow monitoring of the resident while working;
  - e. agree to reporting requirements, including providing updates on work performance and any incidents related to remote work;
  - f. ensure that appropriate Workers' Compensation insurance coverage is in place for the resident;
  - g. pay for the cost of any ergonomic or adaptive equipment necessary for a resident's computer or workstation, which must pass security requirements; and
  - h. if the resident resigns or is terminated from employment, notify the CPC, or other designated staff.
2. All monetary compensation shall be directly deposited by the employer into the resident's MDOC account.
3. The employer shall not be allowed to give non-monetary compensation to a resident working remotely, except as set out below.
4. All expenses incurred while participating in remote work are the responsibility of the employer.
5. The employer must be flexible in dealing with facility lockdowns and the impact that may have on a resident's ability to work remotely.
6. The employer may offer a resident remote worker benefits such as:
  - a. health insurance for dependent coverage only and not to support their own personal healthcare needs;
  - b. life insurance;
  - c. retirement plans; and
  - d. vacation, sick, PTO, etc.
7. Regarding compensation, an employer must:
  - a. pay the resident by direct deposit to the resident's facility account;
  - b. pay the resident employed remotely the same wage as their non-incarcerated counterparts that work in the same role, have the same tenure, etc.;
  - c. comply with all applicable state and federal labor laws, including those related to wage and hour regulations;

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- d. unless paying for a limited position, the employer must classify the resident as a W-2 employee; and
- e. adhere to standard payroll practices, including any required State and Federal deductions.

**Procedure F: Resident Responsibilities**

1. Prior to beginning to work remotely, a resident is required to sign the:
  - a. Remote Work Agreement and Conditions (Attachment D); and
  - b. Resident Computer Use and/or Internet Access Agreement (Attachment A to Policy 24.10) (with the box allowing remote work checked).
2. A resident who is employed remotely shall:
  - a. be aware of the limits of their training and capabilities and not perform work outside the boundaries and scope of their expertise;
  - b. not perform outside the scope of the job description for the position for which they are employed;
  - c. resign from any facility-based work assignment if the remote work is anticipated to last at least three (3) months; and
  - d. file State and Federal tax returns annually.
3. A resident shall pay for obligations, including, but not limited to, victim restitution and room and board, from their compensation.

**Procedure G: Termination of Employment**

1. If applicable, the employment for a remote work position shall end when the planned period of employment ends, unless extended by agreement of the resident, the employer, and the CAO, or designee.
2. A resident who is employed remotely may resign from their job at any time for any reason by giving written notice of their resignation to their employer and to the facility's Community Programs Coordinator (CPC), or other designated staff, who shall notify the Director of Education Technology, or designee.
3. The resignation shall take effect two (2) weeks after receipt by the employer and the facility's CPC, or other designated staff, unless the resident receives permission from the CPC, or other designated staff, for the resignation to take effect sooner. The resignation shall not have any negative consequences for the resident.
4. An employer may terminate a resident who is working remotely from their employment for any reason allowed by Federal and State law and shall notify the CPC, or other designated staff, who shall notify the Director of Education Technology, or designee.
5. The facility Chief Administrative Officer, or designee, shall terminate a resident who is working remotely from their employment:
  - a. if the resident is charged with any new crime;
  - b. is no longer in general population;

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- c. is found guilty of a disciplinary violation;
  - d. violates any of the conditions set out in the Remote Work Agreement and Conditions (Attachment D), regardless of whether MDOC staff or the employer requested or encouraged the resident to commit the violation; or
  - e. if there exists any reason for which a resident may be terminated from any work assignment as set out in Department Policy (AF) 25.1, Resident Work Opportunities.
6. A resident may be terminated from their remote work employment at any time for any reason at the complete discretion of the Commissioner, or the Chief Administrative Officer, or their designees.
  7. If a resident is terminated from their remote work employment by the Commissioner, or the Chief Administrative Officer, or their designees, they shall notify the Director of Education Technology and the CPC, or their designees.

**Procedure M: Appeals**

1. A resident may appeal a decision to deny or withdraw approval to search for remote work, apply for remote work, or accept an offer for a remote work position or a decision to terminate them from a remote work position by the facility Chief Administrative Officer, or designee, by sending a letter to the Deputy Commissioner, or designee, via the U.S. Postal Service.
2. In order to be reviewed, the appeal letter must be postmarked within fifteen (15) days of when the decision was received by the resident.
3. If an appeal is timely, after reviewing the case with the facility Chief Administrative Officer, or designee, the Deputy Commissioner, or designee, shall decide the appeal within fifteen (15) days after receiving the appeal. When it is sent to the resident, the decision on the appeal (or notation that the appeal was not timely) shall be marked as “legal mail” and processed as such at the facility where the resident is housed.
4. Upon review of the appeal, the Deputy Commissioner, or designee, may:
  - a. approve the decision; or
  - b. reverse the decision.
5. The Deputy Commissioner, or designee, shall provide a copy of the appeal and the response to the appeal to the facility Chief Administrative Officer, or designee, who shall then document the response in the Department’s resident and client records management system.
6. The Deputy Commissioner, or designee, is the final authority on an appeal (i.e., there is no further administrative level of appeal).

**VIII. PROFESSIONAL STANDARDS**

None

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