



STATE OF NEW JERSEY

In the Matter of Model Telework
Pilot Program, State Executive
Branch Employees

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2022-2443

Order Establishing Pilot Program

ISSUED: APRIL 6, 2022

At its meeting on April 6, 2022, the Civil Service Commission established the attached Pilot Program to provide for a Model Telework Program for State Executive Branch Employees for a period of one year. It is noted that proper notice to and consultations with affected negotiations representatives have taken place in accordance with *N.J.A.C. 4A:1-4.3(e)*. The attached Model Telework Program for State Executive Branch Employees shall become effective July 1, 2022 and expire on June 30, 2023.

ORDER

Therefore, it is ordered that the Model Telework Pilot Program for State Executive Branch employee be effective from July 1, 2022 and expire on June 30, 2023.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6th DAY OF APRIL 2022

Deirdre' L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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Attachment

c: All Executive Branch State Departments
Governor's Office of Employee Relations
Division of Agency Services

STATE OF NEW JERSEY**MODEL PILOT TELEWORK PROGRAM GUIDELINES – 4.6.22****OVERVIEW**

The COVID pandemic required a worldwide shift to partial or full telework for many sectors of government and the economy. The State of New Jersey shift to telework for several months beginning in March 2020 demonstrated that the state workforce is capable of effectively working from home. In many divisions throughout the state, employee productivity increased during this time period. As a result of the worldwide shift, many governments and private sector companies are continuing to offer telework as a benefit to their employees. In order to stay competitive and attract top talent as well as take advantage of increased productivity, New Jersey will establish a pilot telework program for the Executive Branch. This pilot will provide the state the opportunity to evaluate specific elements of a telework benefit to determine the most effective long-term program.

The goal of the State of New Jersey Model Pilot Telework Guidelines (“Guidelines”) is to ensure continued access to public services provided by State government while maintaining a productive working environment for State employees for the duration of the pilot program. Not all employees can perform their duties remotely. However, the practical experience of the past two years, during which time employees with a wide range of functions worked remotely, demonstrates that a telework program can be successfully implemented on a broad scale.

MODEL TELEWORK GUIDANCE

Appointing authorities shall institute a robust pilot telework program which takes into consideration operational needs while ensuring eligible employees have access to the program. Operational needs are the sole discretion of the appointing authority.

Such pilot programs may not allow for more than two (2) days of remote work in a calendar week. These Model Guidelines are intended to serve as guidance and provide minimum standards for appointing authorities in crafting internal telework policies to support and implement this pilot program, which shall be in effect for one year from the effective date of 07/01/2022.

The Guidelines authorize State appointing authorities to permit certain employees to telework while delivering services to the Executive Branch and meeting organizational goals. Where feasible, telework provides employees with an opportunity to perform their usual work duties at home, or at another approved off-site location, no more than two days a week. The Guidelines require employees to replicate their workday by being available and accessible by both telephone and computer during specified hours that they are teleworking as delineated in their telework agreements.

Appointing authorities shall provide a written plan for their telework program for approval to the Chair/CEO of the Civil Service Commission or the Chair/CEO’s designee on or before 06/01/2022. Appointing authorities may not implement a telework program until their plan has been approved. Prior to submitting telework plans for approval, appointing authorities shall consult with relevant

union representation where applicable. The Chair/CEO of the Civil Service Commission or the Chair/CEO's designee shall approve the Appointing authorities written plans no later than 07/01/2022. Telework programs submitted by authorities not subject to the Civil Service Act at N.J.S.A. Title 11A shall be approved or denied by the Governor's Director of Authorities following review and recommendation of the policy by the Civil Service Commission, no later than 07/01/2022.

SCOPE

These Guidelines apply to all full- and part-time employees in the classified, unclassified and senior executive service and State authorities and boards subject to the Civil Service Act at N.J.S.A. Title 11A whose specific job responsibilities are conducive to the telework option. State boards and authorities not subject to N.J.S.A. Title 11A may choose to participate in this pilot program. Colleges and universities may choose to utilize these Guidelines when crafting their own telework programs.

DEFINITIONS

Alternative Worksite – A location in an employee's home, designated by the employee as the location they will use to perform their official duties, or another location approved by the appointing authority.

Official Reporting Location – The location to which an employee reports when the employee is not working at an Alternative Worksite or in the field.

Telework – Performance of official duties at an Alternative Worksite.

Reasonable Accommodation – Approved regular telework to enable a disabled employee to perform their essential duties. Requests for reasonable accommodations must be approved through established ADA/Human Resources channels by the employee's appointing authority.

TELEWORK PROVISIONS

General Parameters

Appointing authorities should ensure they have the ability, where applicable, to track compliance with scheduled working hours. For instance, if appointing authorities track attendance through an internal recording system including but not limited to a timekeeping system, they should ensure that the same or comparable system is available for employees to access remotely. Appointing authorities must maintain a record of when employees are working in the Official Reporting Location and when they are teleworking.

Employees and appointing authorities shall undergo a process to determine eligibility and accessibility of telework. This includes an application for a specific telework schedule which, once approved, will be the employees schedule for the duration of the pilot. Managers reserve the right to adjust employees' telework schedules based on operational need with as much advanced notice as possible. Similarly, managers reserve the right to direct an employee scheduled for telework to report to the employee's Official Reporting Location in circumstances deemed necessary by the appointing authority to fulfill its mission. Such circumstances include but are not limited to meeting staffing and/or workload requirements, attending meetings, receiving work assignments, training, traveling, accounting for absences of other employees, emergency situations, or other situations deemed necessary by the

appointing authority. The appointing authority shall give the employee as much notice as possible of the need to report to the Official Reporting Location.

If emergent circumstances occur at an employee's Alternative Worksite that impact the employee's ability to perform official duties, the employee shall immediately notify the appointing authority. In such an emergent situation, the appointing authority may direct the employee to report to the Official Reporting Location or approve appropriate paid leave or leave-without-pay.

An employee requesting telework shall submit a signed agreement crafted by the appointing authority that documents the terms and conditions of participation in the pilot telework program. Employees may request in writing to change their recurring telework schedule during the pilot telework program. When considering such requests, appointing authorities must evaluate whether and to what extent such changes would impact the operational needs of the appointing authority.

All employees participating in this pilot program shall successfully complete telework training created by the Civil Service Commission prior to being approved to participate in the program as prescribed by their appointing authority. Telework policies shall include the source and general parameters of the required training.

Eligibility

Positions suitable for telework include positions with duties that are portable and can be performed effectively and efficiently outside the Official Reporting Location. This means that contact with other employees and clients can be efficiently managed through zoom or similar platforms, telephone or email communications. In addition, the employee must have access to necessary reference materials through web-based platforms, photocopying, faxing, or electronic transfer of documents, and will not violate any law, regulation or policy. Employees must also be able to perform their duties securely, protecting the confidentiality of information and data.

Therefore, employees must meet the following criteria in order to be approved for participation in their appointing authority's remote work pilot program:

- The appointing authority's performance evaluation system reflects the employee's ability to meet minimum performance expectations;
- The employee is not currently subject to ongoing performance-based corrective action;
 - For example, employees on a Performance Improvement Plan are not eligible for telework.
- Job duties can be successfully performed remotely;
- Performance expectations can be successfully achieved remotely;
- Specialized equipment or references materials are available remotely;
- Classified or sensitive information can be securely accessed remotely;
- Information Technology systems can be securely accessed remotely;
- Employees can undertake training remotely;
- Adequate supervision can be provided remotely;
- The operational needs of the appointing authority allow for employees' job duties to be performed remotely;
- The amount of direct customer contact required for employees does not render telework prohibitive; and

- Remote work can be performed consistent with the New Jersey First Act, N.J.S.A. 52:14-7 (L. 2011, C. 70).

Employees must engage in the following process in order to be eligible for participation:

- Complete the designated eligibility application;
 - This application shall serve as employees' self-certification for the duration of the pilot program unless employee job functions change at any time. In the event of a change in duties, employees must submit a new application and self-certify as to eligibility.
 - Submission of this application is an agreement between the employee and the appointing authority's designee that the employee will meet all telework expectations outlined in a written performance evaluation.
 - This application shall include a selection of preferred recurring telework day(s). The employee's preference is not a guaranteed approval of the schedule. Schedules will be offered and approved by the appointing authority based on operational need as determined by the appointing authority. Once a schedule is approved, it can only be modified by a reapplication process.
 - The application shall include a telework self-assessment designed by the appointing authorities for employees to gauge their own effectiveness working remotely during the pilot program. Employees should seriously consider the factors laid out in the self-assessment in conjunction with their job duties and their appointing authority's work expectations. Appointing authorities are encouraged to include the following sample self-assessment categories and questions to facilitate this process:
- General Telework Principles
 - Are you comfortable working alone for the number of days you have requested to telework?
 - Will you miss the social interaction of your workplace?
 - Are you willing to be flexible about the telework arrangement to respond to the needs of your supervisors, your workgroup, and your work?
- Self-Management
 - Do you have the ability to do work with minimal/reduced direct supervision?
 - Do you have organized work practices that facilitate successful telework?
 - Do you have good planning skills?
 - Do you have effective time management skills such that you are able to consistently meet schedules and deadlines?
 - Will you commit to being available and focused on your work during your scheduled working hours?
 - Attempts to schedule telework in lieu of utilizing accrued time to address personal issues including but not limited to vacations, sick days, medical appointments, etc. may result in revocation of remote work.
- Technology
 - Do you feel comfortable with the technologies that will be needed to successfully telework?
 - Are you willing to learn any and all new technologies required to successfully telework?
- Communication
 - Do you have the ability to ensure good communication with your supervisors, coworkers, contacts, and the public you serve?
 - Will you return emails, calls, and other messages in a timely manner?
 - Will you ask clarifying and/or confirming questions of your supervisors when assigned a

new project, or when encountering an issue that needs further guidance?

- Appropriate Space
 - Is the telework office space conducive to getting your work done effectively?
 - Is the telework office space safe such that you feel comfortable working in the environment?
 - Is the telework space secure such that classified or sensitive information can be maintained in accordance with the appointing authority's policies regarding data security as well as the Statewide Information Security Manual?
 - Are dependent care (i.e., childcare, eldercare, pet care, or care of any dependent adults) arrangements in place such that you can effectively complete your work?
 - Will you be distracted in your telework office space (e.g., by children, family, friends, television, cellphones, drop-ins, deliveries, solicitations, or other responsibilities)?
- Notes of Interest
 - Allow a space in the self-assessment for additional employee thoughts and concerns regarding the effectiveness of their telework, as well as the appointing authority's policies and processes as laid out in their pilot programs.
 - Employers may require employees to provide documentation to ensure conformance with safety and security standards within the Alternative Worksite.
- Complete mandatory telework training prior to the beginning of the telework program as verified and recorded by the appointing authority or their designee. Failure to complete mandatory telework training is grounds for revocation of telework.
- Human Resources personnel will work with employee supervisors to confirm that employees meet the eligibility criteria as certified by employees;
 - If supervisors and employees disagree as to eligibility, supervisors shall identify in writing to Human Resources personnel which criteria they feel the employees do not meet.
 - In such cases, employees may request a consultation to be held between the employee, supervisor, and Human Resources personnel regarding the disputed eligibility. Union representation may not be denied to an employee in such a consultation.
 - If employees are denied participation in the telework program, they have the right to grieve such denials in accordance with N.J.A.C. 4A:2-3.3.
 - Appointing authority designees inclusive of managers retain discretion to make adjustments to employees' schedules based on operational needs. Employees do not have the right to appeal schedule adjustments.
- Human Resources personnel shall make a recommendation regarding employees' eligibility to the appointing authority's senior leadership designee;
- The appointing authority's senior leadership designee shall review the recommendation and make the final determination as to employee eligibility.

Data Security

Appointing authorities shall consult with their internal Information Technology office/s when developing a telework policy regarding any security issues related to the use of computing equipment and software. Compliance with licensing agreement terms and agreements for use of all software owned by the State is required. Each appointing authority's internal information security unit is to maintain an inventory of State-owned office equipment, software, and supplies located at the teleworker's Alternative Worksite.

Employees may perform State business on personal devices in compliance with the provisions of their pertinent telework policy with the permission and/or at the direction of their appointing authority only.

The Statewide Information Security Manual (SISM) addresses the administration, access, usage, maintenance, and security of State data. The sensitivity of the information must dictate the level of security precautions required. When teleworking, employees shall be mindful of State rules regarding **sensitive information**, a term used to describe any information which requires protection from unauthorized access or disclosure. Sensitive information includes, but is not limited to, **personally identifiable information (PII)**, information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

State employees remain bound by the Uniform Ethics Code, Plain Language Guide, and any applicable appointing authority supplemental ethics codes while working remotely. In accordance with State ethics rules, State employees may not disclose or use information not generally available to the public except in connection with their official duties. Specifically, State employees shall not willfully disclose to any person, whether or not for pecuniary gain, any information not generally available to members of the public that they receive or acquire in the course of and by reason of their official duties. In addition, State employees shall not use for the purpose of pecuniary gain, whether directly or indirectly, any information not generally available to members of the public that they receive or acquire in the course of and by reason of their official duties. Therefore, teleworking employees must exercise a higher degree of care when discussing, reviewing, or working with such information at their Alternative Worksite.

Employees who are provided with portable information assets including, but not limited to laptop computers, tablets, smart phones, removable media, etc., are responsible for the physical security and condition of these information assets. When an information asset is allocated to an employee, the employee assumes temporary custodianship of the asset. Appointing authority information assets issued to employees and contractors shall remain the property of the issuing appointing authority. Portable information assets shall not be left in an unattended vehicle. Whenever possible, portable information assets displaying sensitive information should be positioned so that the screen cannot be viewed by others.

Records/information created and stored in the course of State government business—including records in both electronic or paper form created in an Alternative Worksite —are public records. Therefore, these records are subject the State's public records retention/disposition law and Open Public Records Act. This is inclusive of records created on both State-issued and personal devices. Employees should dispose of any duplicated documents safely and in accordance with their appointing authority's telework policy.

In-person work-related meetings with colleagues and clients shall NOT be conducted in the Alternative Worksite when teleworking. Such meetings may be conducted from the Alternative Worksite only via telephone or a video conferencing platform, as supported/approved by the appointing authority's IT function. Any in-person meetings must be scheduled at an approved meeting place such as a State agency's office site and/or the employee's Official Reporting Location.

Performance Evaluation

Performance requirements for teleworking employees are the same as those for non-teleworking employees. Nothing in an appointing authority's telework agreement shall affect the appointing authority's right to assign work or make reasonable requests to ascertain the status of work assignment(s) in accordance with applicable laws, rules, the needs of the appointing authority, or operational goals.

An appointing authority's telework policy shall not impede operations or delivery of services and must not decrease productivity. In order to ensure continued operational integrity, appointing authorities must include the following criteria in their pilot telework policies:

- Supervisors must provide regular, concrete performance feedback to employees who engage in telework including but not limited to written assessments of employee progress and productivity via the Performance Assessment Review (ePAR) or other applicable evaluation methods and/or systems;
- Within the first 45 days of an employee's authorization to work remotely, supervisors and employees must have an in-person meeting, in addition to and separate from any regularly scheduled performance evaluations, in their regular workplace to discuss performance and any modification of performance expectations necessary to reflect the required criteria for continued remote work;
 - Supervisors must, in the timeframe prescribed by their appointing authority's telework policy, alert employees in writing to any tasks and/or expectations that may differ from their normally defined tasks and/or expectations due to telework. Failure of a supervisor to adhere to this requirement may result in revocation of the supervisor's authorization to telework.
 - Except in cases of delay caused by supervisors, failure to attend this in-person meeting within the prescribed timeframe may result in revocation of the employee's remote work.
- Supervisors must establish and provide timetables and deliverables, as appropriate, for the completion of tasks which are performed in whole or in part by the teleworking employee; and
- Supervisors must continually monitor and assess the teleworking employee's job performance and report findings to senior management as necessary or required.

Remote work may be revoked at any time during the pilot program if employees are not successfully meeting performance expectations, failing to comply with their telework agreements, and/or scheduling telework in lieu of utilizing accrued time to address personal issues. Remote work may also be revoked based on the appointing authority's operational needs, which may change over time. Prior to any such revocation, supervisors shall notify employees of any deficiencies as well as the timeframe in which such deficiencies must be effectively addressed by issuing the employee a development/corrective action plan so the employee may endeavor to meet expectations in a timely manner. Union representation shall be notified of same, where pertinent, in order for appropriate counselling to take place regarding pending revocation. Human Resources must approve any revocation following the period prescribed by the development/corrective action plan. Employees who are able to demonstrate that they have met expectations in a timely manner following this counseling shall not have their remote work authorization revoked.

Equity and Accessibility

Employees are responsible for an Alternative Worksite that is safe and ergonomically suitable. Appointing authorities must specify any equipment or technology access the employee will need to telework and whether it will be employee or employer provided. In the event of equipment failure or service interruption, the employee must notify the appointing authority immediately to discuss alternative assignments or other options. Employees scheduled to telework during State-mandated weather delays, early dismissals, or workplace closures shall be required to telework during the time prescribed by the change in schedule.

Appointing authorities are encouraged to update policies regarding telework equipment to ensure that all available steps are taken to provide eligible employees with the tools and technology needed to successfully telework. Appointing authorities should, at a minimum:

- Review and update policies reflecting access to telework equipment;
- As resources allow, work with technology procurement personnel to acquire additional equipment as needed with the goal of maximizing the pool of eligible telework participants;
- When replacing equipment, work with technology procurement personnel to ensure new equipment has sufficient telework capabilities to the maximum extent possible;
- Devise strategies for telework equipment-sharing programs when resources do not allow for the procurement of additional equipment; and
- Survey employees to determine telework capability as it pertains to remote resources including but not limited to internet and computer equipment in order to determine the portion of the appointing authority's workforce with adequate remote internet access necessary to perform their job duties successfully via telework.
 - Internet accessibility remains the responsibility of the employee when determining eligibility to work remotely. However, as resources allow, appointing authorities should acquire internet access tools like Wi-Fi hotspots to facilitate telework capability in households that do not otherwise have internet access. These employees may request use of such available resources for the sole purpose of telework.
 - Misuse of state technology resources will result in revoking access to those resources. This includes repeated failure to return shared technology resources.
 - Appointing authorities must determine prior to the implementation of telework what resources will be needed to facilitate a robust telework program.

Telework policies must also address equitable considerations regarding employees who are ineligible for remote work because of the nature of their job duties. Appointing authorities should make available flextime schedules and/or alternative work programs for these employees when operational needs allow it. Appointing authorities should not make these programs available to employees who participate in their pilot telework program. Appointing authorities have the right to deny or revoke flextime or AWP benefits for employees who are approved for telework.

All flextime/AWP plans must continue to be submitted for approval to CSC as they are in the normal course. If an appointing authority does not have an approved plan, or the existing plan is amended, the authority must submit a plan to CSC in conjunction with the submission of the telework plan for approval.

Employees may request telework as a Reasonable Accommodation pursuant to existing state and federal law including but not limited to the Americans with Disabilities Act and the New Jersey Law

Against Discrimination. Appointing authorities shall review such requests as they would in the normal course.

Balancing Work and Family Needs

Telework arrangements are for the performance of official duties. Employees participating in telework must follow applicable appointing authority standards relating to ethics guidelines and confidentiality requirements, regardless of where their official duties are performed. Teleworking is not a substitute for childcare or dependent care. Employees participating in telework must continue to make arrangements for child or dependent care to the same extent as if the employee was working at an Official Reporting Location. It is permissible for a caregiver to be present at the Alternative Worksite to take care of dependents while the employee is teleworking.

If a situation arises wherein an employee participating in telework must attend to child or dependent care at the Alternative Worksite during scheduled work hours, the employee shall immediately notify their supervisor and arrange to take paid or unpaid leave or make other arrangements in a timely manner.