

MEMORANDUM

DATE:

TO: Civil Service Commission

FROM: Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs

B-1

SUBJECT: Telework Rule Adoption

Submitted for the Commission's approval is a Notice of Adoption to promulgate new rules, *N.J.A.C. 4A:6-7 et seq.*, Telework Program: State service, in accordance with *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided April 6, 2022); *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided July 20, 2022); *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided June 7, 2023); and *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided May 22, 2024) and amend *N.J.A.C. 4A:6-2.5*, Hours of Work, and *N.J.A.C. 4A:6-2.7*, Alternative Workweek Programs: State service, to ensure consistency with the proposed new rules. Ninety-three comments were received during the comment period with the large majority expressing support for the proposed rules and/or suggesting minor changes. Based on the comments, and as explained in the Notice of Adoption, technical changes are proposed for new rules *N.J.A.C. 4A:6-7.5* and *N.J.A.C. 4A:6-7.6*. Additionally, an agency-initiated clarification of *N.J.A.C. 4A:6-7.5(a)* is proposed. No other changes are recommended.

Recommendation: Adopt the new rules and amendments.

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Leaves, Hours of Work, and Employee Development

Adopted New Rules: N.J.A.C. 4A:6-7

Adopted Amendments: N.J.A.C. 4A:6-2.5 and 2.7

Proposed: May 5, 2025, at 57 N.J.R. 865(a).

Adopted: __, 2025, by the Civil Service Commission, Allison Chris Myers,
Chairperson.

Filed: __, 2025, as R.2025 d.__, **with non-substantial changes** not requiring
additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 11A:6-24.

Effective Date: __, 2025.

Expiration Date: August 25, 2029.

Summary of Hearing Officer Recommendations and Agency Responses:

A public hearing was held at 10:00 A.M. on June 9, 2025 in the Civil Service Commission Room, Trenton, New Jersey. Hari Sundar, Regulatory Officer, Civil Service Commission, served as hearing officer. Tonya Hodges, CWA District 1, and Adam Liebttag, CWA Local 1036, made comments at that time. Their comments are incorporated within the written comments below. The hearing officer made no recommendations. The record of the public hearing is available for inspection in accordance with applicable law by contacting Nicholas F. Angiulo, Director, Division

of Appeals and Regulatory Affairs, Civil Service Commission, PO Box 312, Trenton, New Jersey 08625-0312.

Summary of Public Comments and Agency Responses:

The following is a summary of the timely comments received by members of the public and the responses of the Civil Service Commission (Commission). Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Clorissa Torres, Senior Technician, Management Information Systems, Department of Transportation
2. Jonathan McGowan, Technician, Management Information Systems, Department of Transportation
3. Robyn Copley, Senior Technician, Management Information Systems, Department of Transportation
4. Mark Fortin, Administrative Analyst 4 Information Systems, Department of Agriculture
5. Dina Napolitano, Investigator 2 Taxation, Department of the Treasury
6. Dylan Frampton
7. Monika Palkowski, Investigator 2 Taxation, Department of the Treasury
8. Maryellen Mignano, Auditor 2 Taxation, Department of the Treasury
9. Tom Petrykiewicz, Conferee 1 Taxation, Department of the Treasury
10. Arianna Mecca

11. Marilyn Walter, Administrative Analyst 3 Information Systems, Office of Information Technology
12. Chelsea Leifels, Family Service Specialist 2, Department of Children and Families
13. Samantha Tippie, Paralegal Technician 1, Department of Children and Families
14. Lori Carlin, Senior Clerk Typist, Department of Children and Families
15. Nicole Jones, Principal Clerk Typist, Department of Children and Families
16. Jennifer Ambis, Family Service Specialist 1, Department of Children and Families
17. Dawn Smith, Principal Clerk Typist, Department of Children and Families
18. Patricia Albino, Program Support Specialist 2, Assistance Programs, Department of Children and Families
19. Jessica H.
20. Loren Toto
21. Steve Angelini
22. Michele Marion, Paralegal Technician 2, Department of Children and Families
23. Alisha McGuire, Management Assistant, Department of Human Services
24. Melissa Brennan, Program Support Specialist 1 Assistance Programs, Department of Human Services
25. Melissa Helmstetter

26. Michael L. Brennan, Senior Correctional Police Officer, Department of Corrections
27. Jessica Forte, Family Service Specialist Trainee, Department of Children and Families
28. Elena Ramos, Senior Clerk Typist, Department of Children and Families
29. Rhonda Graham, Department of Human Services
30. Christina Rapolas, Secretarial Assistant 3, Non-Stenographic, Department of Education
31. Stephen Melnykevich, Supervising Family Service Specialist 2, Department of Children and Families
32. Raelyn Anastasio, Analyst Trainee, Department of Human Services
33. Lianna Vasquez, Program Support Specialist 1 Assistance Programs, Department of Human Services
34. Toni DeGregorio, Program Specialist Trainee, Department of Human Services
35. Jennifer Chiaramida, Education Program Development Specialist, Department of Education
36. Robert Somes
37. Matthew McLain
38. Krysten Woodside, Program Support Specialist 2 Assistance Programs, Department of Children and Families
39. A self-described former employee of the Department of Health

40. Vincenza Barone, Head Clerk, Department of Children and Families
41. Kyle Higgins, Family Service Specialist 2, Department of Children and Families
42. Angela Lockwood, Family Service Specialist 1, Department of Children and Families
43. Yaritza Nieves, Clerk Typist, Department of Children and Families
44. Alexandra Ucal, Family Service Specialist 2, Department of Children and Families
45. Kim Cervantes
46. Erica Walker, Head Clerk, Department of Children and Families
47. Kristi Zeigler-Dawicki, Program Support Specialist 3 Assistance Programs, Department of Children and Families
48. Janine Barranger, Program Support Specialist 2 Assistance Programs, Department of Children and Families
49. Chris Hammarberg, Program Specialist 1, Department of Health
50. Courtnee Giles, Program Support Specialist 2 Assistance Programs, Department of Children and Families
51. Dawn Frasier, Senior Clerk Typist, Department of Children and Families
52. Erin Doyle
53. Kirsten Posselt, Nursing Consultant, Department of Health
54. Diane Leonhardt, Head Clerk, Department of Children and Families
55. Jacqueline Sarnecki, Principal Clerk Typist, Department of Children and Families

Families

56. Rita Goncalves, Senior Clerk Typist, Department of Children and Families
57. Ira Karlick, Claims Examiner Unemployment & Disability Insurance,
Department of Labor and Workforce Development
58. Valerie Hearn, Program Support Specialist 2 Assistance Programs,
Department of Children and Families
59. Judy Diaz-Roberts, Senior Unemployment Insurance Clerk, Department of
Labor and Workforce Development
60. Andrew Reese and Anna Lascurain, on behalf of the IBEW Local 33
61. Matthew D. Knoblauch
62. Deborah Rose
63. Julie, a self-described New Jersey State employee
64. Jessica Pultro, Contract Administrator 2, Department of Children and
Families
65. Damari Solis, Secretarial Assistant, Non-Stenographic, Department of
Labor and Workforce Development
66. Michael Toto, a self-described New Jersey public employee
67. Tara M. Baldwin, CPA, Manager, WilkinGuttenplan
68. Denise Rodriguez, Administrative Assistant, Board of Public Utilities
69. Jimarli Figueiredo, Administrative Assistant 3, Board of Public Utilities
70. Mastroti Jinarli
71. Rustin Maitland, Esq.

72. Evelyn Beltran, Claims Examiner Unemployment & Disability Insurance,
Department of Labor and Workforce Development
73. Marlies Duke, Claims Examiner Unemployment & Disability Insurance,
Department of Labor and Workforce Development
74. A self-described New Jersey taxpayer
75. Anita Kwarteng, Claims Examiner Unemployment & Disability Insurance,
Department of Labor and Workforce Development
76. Vanessa Caraballo
77. Jeff Marino, Supervisor 1 Unemployment Benefits, Department of Labor
and Workforce Development
78. Tonya Hodges; Adam Liebttag; and CWA District 1, CWA Local 1031, CWA
Local 1032, CWA Local 1033, CWA Local 1036, CWA Local 1037, CWA
Local 1038, and CWA Local 1040 on behalf of 5,633 of their members
79. Christopher Possessky, Administrator, Employee Relations, Department of
Community Affairs
80. Mark Miller
81. Joseph Traum
82. Cobaltkeywest
83. Gypsy Leo
84. Steven Prichard, Manager 2 Information Processing, New Jersey
Department of Transportation
85. Hon. Michael J. Blee., J.A.D., Acting Administrative Director of the Courts,

Judiciary

86. Dean Bryson

87. Scott McGill, Manager 1 Vocational Rehabilitation Services, Department of
Labor and Workforce Development

88. A self-described New Jersey State employee

89. Jean Public

90. Masked Mom NJ

91. William Gumulak, Chief of Security, New Jersey Water Supply Authority

92. Jordan Weisinger, Executive Assistant 2, Department of Health

93. Yaniris Rodriguez

1. COMMENT: The commenters indicated that the ability to telework is valuable in many respects. For example, the commenters stated that the program improves work-life balance; has financial and environmental benefits; and assists the State with retention. They expressed their support for the continuation of the telework policy on a permanent basis. Some commenters, while similarly highlighting the benefits of the program, also expressed support for an expansion of the program, such as by allowing more than two remote days per week or relaxing the requirement that employees deemed eligible to simultaneously participate in their appointing authority's telework program and Alternative Workweek Programs (AWPs) must maintain a schedule whereunder they work no more than one day of telework during the week they are using their AWP day. (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 16, 18, 19, 20, 21, 22, 24, 25, 26, 29, 30, 32, 33, 35, 36, 37, 39, 40, 41, 42, 44, 45, 48, 49, 52, 53, 57,

59, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78)

RESPONSE: The Commission appreciates the comments. However, the Commission deems the current scope of the telework program, as expressed in the rules, appropriate at this time. The Commission finds that the rules strike an appropriate balance between in-person and remote work.

2. COMMENT: The commenter fully supports making telework and AWP options permanent. She also supports the updates that clarify how telework applies during bad weather or emergencies and the rules that help new employees understand when they can join AWP. (11)

RESPONSE: The Commission appreciates the comments.

3. COMMENT: The commenters expressed their support for continued telework and stated that clerical and administrative staff should be given the opportunity to work remotely. (13, 14, 15, 17, 22, 23, 28, 31, 38, 43, 46, 51, 54, 55, 56, 58)

RESPONSE: The Commission notes that the telework program rules include specific provisions regarding program eligibility and procedures available to employees, which may include clerical staff, to challenge telework eligibility denial, adjustment, or revocation. Those procedures, not the notice-and-comment process, are the appropriate forum to adjudicate individual issues.

4. COMMENT: The commenter states that she has been a State employee for five months and has yet to be given a telework day. She states that the day she began working in her new role, the State changed telework capabilities for new hires and altered the regulations to permit one remote day after six months of employment and

two remote days after one year. She maintains that new hires should not be expected to wait a year for the remote days their peers have already received, while still being required to uphold the same workload. (27)

RESPONSE: The Commission notes that the telework program rules include specific provisions regarding program eligibility and procedures available to employees to challenge telework eligibility denial, adjustment, or revocation. Further, the rules clarify when eligible new employees shall be permitted to participate in telework.

5. COMMENT: The commenters note their support for the continuation of telework and for the requirement for appointing authorities to create an AWP. The commenters maintain that these measures are important to retain Deputy Attorneys General, whom the IBEW Local 33 union represents. (60)

RESPONSE: The Commission appreciates the comments.

6. COMMENT: The commenter takes issue with the provision stating that in the event an employee participating in their appointing authority's telework program is unable to perform their duties remotely on the day of a curtailment, the employee shall immediately notify their appointing authority and make alternative arrangements in a timely manner. The commenter requests that this provision be removed because there are no alternative arrangements to be made under the circumstances, and it would be unfair to make the employee use leave time. (79)

RESPONSE: The provision states that "alternative arrangements" are to be made. This contemplates that a dialogue will occur between the employee and the appointing authority to explore options, which may include the use of general

emergency/closing leave if appropriate in the employee's particular situation.

7. COMMENT: The commenter notes his concern that the rules do not account for the situation where an employee has finished the working test period, but the employee's supervisor believes that the employee still requires close supervision. (79)

RESPONSE: The rules provide that the employee is to be permitted to participate in telework and/or AWP after the successful completion of the working test period if eligible. The employee who has successfully completed the working test period must still satisfy the eligibility criteria in order to be approved to telework.

8. COMMENT: The commenter seeks guidance on how appointing authorities are to proceed until their telework plans under the proposed rules are approved. (79)

RESPONSE: As noted in the rule proposal, prior to approval of a telework plan pursuant to new subchapter 7, the Model Telework Pilot Program remains in effect.

9. COMMENT: The commenter suggests that the reference to the New Jersey First Act is redundant because one must already be in compliance with that law to be employed in State government. He asks that this part of the rules be expounded upon. (79)

RESPONSE: The purpose of the reference to the New Jersey First Act is merely to affirm that telework must be performed consistent with the New Jersey First Act.

10. COMMENT: The process found in proposed N.J.A.C. 4A:6-7.4(a)2 to revoke telework is very stringent. The commenter calls for a mechanism whereby telework may be revoked immediately for issues unrelated to performance, such as discipline, misconduct, or violation of the policy. (79)

RESPONSE: The Commission deems the process appropriate and consistent with principles of progressive discipline. The Commission notes that an appointing authority may immediately suspend an employee if justified. See N.J.S.A. 11A:2-13 and N.J.A.C. 4A:2-2.5.

11. COMMENT: The proposal provides that subject to approval by the Governor's Office, appointing authorities may only designate additional telework days in a calendar week in emergent circumstances. The commenter asks that this provision be changed to allow appointing authorities to designate additional days and *thereafter* notify the Governor's Office. In the alternative, the commenter asks that a mechanism be put in place to allow for a quick review and approval from the Governor's Office. (79)

RESPONSE: The Commission finds that obtaining prior approval is the appropriate course of action. Appointing authorities, in their discretion, may wish to approach the Governor's Office to consult over appropriate means of communication.

12. COMMENT: Participation in both telework and AWP should not be permitted. (79)

RESPONSE: The Commission stands with the policy decision to allow participation in both programs. However, it notes that participation in both programs is to be consistent with the operational needs of the appointing authority, which has the sole discretion to determine if employees are eligible to simultaneously participate in both programs.

13. COMMENT: The commenter states that the rules should also address situations

other than curtailments of State operations due to weather. (80)

RESPONSE: The rules address other situations. See N.J.A.C. 4A:6-2.5 (referencing other adverse situations) and N.J.A.C. 4A:6-7.5(c) (referencing public health emergencies, health and safety concerns, and other emergent operational needs).

14. COMMENT: It is punitive to require those approved for telework to telework during a curtailment of State operations when those not approved would go on leave. (80)

RESPONSE: The Commission disagrees and reiterates that the referenced provision allows for greater functioning of the State during adverse situations for those employees who have the ability to telework.

15. COMMENT: The proposal does not meaningfully address limited curtailments such as delayed openings or early dismissals. The commenter asks, for example, whether an employee who is sent home early has to telework to make up the entire period of dismissal or whether commuting time would be factored in. (80)

RESPONSE: Whether an employee scheduled to work in-person on the day of a delayed opening or early dismissal is required to telework before arriving at the official reporting location, or after leaving it, would be for the Governor's Office to determine. Those already scheduled to telework on such days would telework subject to the provisions of N.J.A.C. 4A:6-2.5(a)1.

16. COMMENT: The rules should specify that when an employee is required to telework during a curtailment per N.J.A.C. 4A:6-2.5(a)1, those telework days are in addition to the regularly scheduled telework days. The rules should provide that

when inclement weather is anticipated, any telework-approved employee who has the necessary resources may opt to telework for the full day without impacting previous telework days. (80)

RESPONSE: N.J.A.C. 4A:6-7.5(c) already indicates that subject to Governor's Office approval, appointing authorities may designate "*additional* telework days in a calendar week" in emergent circumstances including inclement weather.

17. COMMENT: The rules should address the need for employees to receive management notice on their last in-person day preceding a curtailment of the need to telework a full day so that they may bring needed equipment and documentation home. (80)

RESPONSE: N.J.A.C. 4A:6-2.5(a)1 in effect places employees who are approved for participation in their appointing authority's telework program on notice that they may be required to telework, regardless of whether they were scheduled to work in-person or remotely on the day of the curtailment.

18. COMMENT: The rules fail to recognize that resources needed to telework may not be available during a curtailment if those resources are shared (by, for example, a spouse that teleworks on different days) or that other factors might be implicated (for example, childcare may not be available on those days). (80)

RESPONSE: Per N.J.A.C. 4A:6-2.5(a)1, in the event that an employee participating in their appointing authority's telework program is unable to perform their duties remotely on the day of a curtailment, the employee is to immediately notify the appointing authority and make alternative arrangements in a timely manner.

19. COMMENT: The rules do not address telework locations impacted by the same factors that caused the curtailment, creating a hardship whereby the employee is called on to address obstacles that the State is unable to address. (80)

RESPONSE: The Commission disagrees. Per N.J.A.C. 4A:6-2.5(a)1, the Governor, in consultation, is to determine whether an inclement weather or other adverse situation would still allow employees who are approved for participation in their appointing authority's telework program to telework during the curtailment of State operations. In the event that an employee participating in their appointing authority's telework program is unable to perform their duties remotely on the day of the curtailment, the employee shall immediately notify their appointing authority and make alternative arrangements in a timely manner.

20. COMMENT: The provisions on telework during a curtailment conflict with the data privacy provisions of N.J.A.C. 4A:6-7.6. For example, those provisions could be interpreted to force an employee to always bring home more documents than otherwise necessary to address the speculation of a curtailment in the near future. (80)

RESPONSE: The Commission disagrees that there is a conflict. Under N.J.A.C. 4A:6-7.6(b), teleworking employees must exercise a high degree of care when discussing, reviewing, or working with non-public information acquired in the course of official duties at their alternative worksite. This obligation remains if the employee is teleworking during a curtailment under the provisions of N.J.A.C. 4A:6-2.5(a)1.

21. COMMENT: The term "alternative arrangements" in N.J.A.C. 4A:6-2.5(a)1 is

undefined and thus arbitrary and capricious. It allows appointing authorities to impose punitive measures such as use of the employee's own benefit time. (80)

RESPONSE: The Commission disagrees that "alternative arrangements" is inappropriately vague. Rather, the language is intended to allow for an appropriate solution that accounts for the employee's specific circumstances. As already noted earlier, measures other than having employees use their personal benefit time are not precluded. The Commission also disagrees that use of personal benefit time is punitive.

22. COMMENT: The rules should permit telework in lieu of driving a State vehicle to the official reporting location since an employee may have field assignments closer to home; permit telework when an employee is taking a partial day off for sick leave such as in the case of a medical appointment; and permit additional telework days in cases where an employee is sick but can continue to work from home (e.g., an asymptomatic individual). (80)

RESPONSE: The Commission affirms that not allowing more than two days of telework in a calendar week within a telework plan is appropriate. See N.J.A.C. 4A:6-7.2(d)2. Notwithstanding this provision, an employee could seek telework through the reasonable accommodation process. See N.J.A.C. 4A:6-7.2(f). The Commission also observes that employees may be able to schedule field assignments or medical appointments for their telework days.

23. COMMENT: Regarding N.J.A.C. 4A:6-2.5(a)1, "alternative arrangements" is too vague to allow employees to have adequate notice of their expected responsibilities.

The commenter suggests that the provision should end after the words “appointing authority.” In the alternative, it could be revised to provide that employees will be treated in the same manner as employees not approved for participation in telework for the duration of time that they are unable to perform their duties and be permitted to use general emergency/closing leave. (81)

RESPONSE: The Commission disagrees that “alternative arrangements” is inappropriately vague. Rather, the language is intended to allow for an appropriate solution that accounts for the employee’s specific circumstances. The term “alternative arrangements” contemplates that a dialogue will occur between the employee and the appointing authority to explore options, which may include the use of general emergency/closing leave if appropriate in the employee’s particular situation.

24. COMMENT: Non-unionized employees should not be allowed to telework. It is ridiculous that a Commissioner, Director, or even Assistant Director can spend up to two days a week away from the office. The commenter questions how they can lead and be effective managers. (82)

RESPONSE: The Commission disagrees that telework should be restricted to unionized employees only. The rules appropriately reflect that the standard for suitability for telework is that the duties are portable and can be performed effectively and efficiently outside the official reporting location, not one’s union membership or lack thereof. Managers may telework so long as they are able to meet the eligibility criteria.

25. COMMENT: “The Governor, or their designee,” N.J.A.C. 4A:6-2.5(a), is not correct grammar. There is only one person at a time who holds that office. Write “[t]he Governor, or his or her designee.” (82)

RESPONSE: The Commission disagrees. Use of “their” in this context to refer to a noun of unknown gender is appropriate. Moreover, use of “their” does not render the provision unclear.

26. COMMENT: Writing “allow” in N.J.A.C. 4A:6-2.5(a)1 is incorrect word usage, and the sentence needs a rework. (82)

RESPONSE: The sentence need not be rewritten as the commenter offers no alternative and the provision is clear.

27. COMMENT: The commenter questions whether the emergency telework referenced in N.J.A.C. 4A:6-2.5(a)1 counts toward the two previously approved telework days. (82)

RESPONSE: No. See N.J.A.C. 4A:6-7.5(c).

28. COMMENT: N.J.A.C. 4A:6-2.6, Flexitime programs: State service, requires amendment since it has language that contradicts the new subchapter 7 on the telework program. (82)

RESPONSE: The Commission disagrees that the flexitime and new telework rules conflict.

29. COMMENT: The commenter asks for the difference between a “transferred” employee, N.J.A.C. 4A:6-2.7(c), and a promoted employee or one who changes titles. The commenter also asks whether an AWP-approved employee who is then promoted

would have such approval suspended for 120 days following the promotion. (82)

RESPONSE: Transfers are discussed in N.J.A.C. 4A:4-7. N.J.A.C. 4A:1-1.3 defines demotions, lateral movements, and promotions. Concerning the commenter's hypothetical, if the promoted employee is not a new or transferred employee, the amendment to N.J.A.C. 4A:6-2.7(c) does not apply to that individual. Rather, such individual's continued eligibility for AWP would be governed by the first sentence of N.J.A.C. 4A:6-2.7(c) (appointing authority may limit participation in an AWP to selected groups of job titles, work units and/or work locations to accommodate operational needs).

30. COMMENT: The two approved telework days should not be consecutive days. Options should be Monday and Wednesday; Tuesday and Thursday; Friday and Tuesday; or Monday and Thursday. (82)

RESPONSE: The Commission believes that the rules appropriately leave approval of telework schedules to individual appointing authorities. See N.J.A.C. 4A:6-7.3(c)1.

31. COMMENT: The definition of "[a]lternative worksite" should be changed to "a location designated by the employee as the location they will use to perform their official duties when not at their official reporting location, and as approved by the appointing authority." The definition of "[o]fficial reporting location" should carry more importance than just not being the alternative worksite. (82)

RESPONSE: The Commission deems the current definitions workable and appropriate.

32. COMMENT: The commenter asks whether an appointing authority with a

telework plan approved under the prior authorization needs to submit a new request for approval. The commenter questions what happens to existing telework approvals. (82)

RESPONSE: Each appointing authority shall provide a written plan for its telework program for approval of the Chairperson, or designee, by 60 days after the effective date of this rulemaking. N.J.A.C. 4A:6-7.2(d). As already noted, prior to approval of that telework plan, the Model Telework Pilot Program remains in effect.

33. COMMENT: The commenter questions if the reference to 20 days in N.J.A.C. 4A:6-7.2(d)1ii means 20 working days or 20 calendar days. (82)

RESPONSE: “Days” means calendar days unless otherwise specified. N.J.A.C. 4A:1-1.3.

34. COMMENT: N.J.A.C. 4A:6-7.2(d)2 should be revised to provide that a telework plan may not allow for more than two days of telework in a calendar week for employees who are covered by union representation. For employees who are not covered by union representation, a telework plan may not allow for more than one day of telework in a calendar week. Assistant Directors, Directors, Assistant Commissioners, etc., should be in the office and not working from home as much as unionized employees. (82)

RESPONSE: The Commission disagrees. Non-unionized and higher-level employees may be eligible for two days of telework per week, subject to the rules.

35. COMMENT: Referencing N.J.A.C. 4A:6-7.3(b)1, the commenter asks for the definition of “ability to meet minimum performance expectations” as this is not

defined in the Electronic Performance Assessment Review System. (82)

RESPONSE: The Commission refers the commenter to N.J.A.C. 4A:6-5.1, which addresses Performance Assessment Review (PAR) ratings.

36. COMMENT: N.J.A.C. 4A:6-7.3(b)2i is not necessary because it repeats N.J.A.C. 4A:6-7.3(b)2. (82)

RESPONSE: The Commission disagrees. While N.J.A.C. 4A:6-7.3(b)2 references “ongoing performance-based corrective action[s],” a general term, N.J.A.C. 4A:6-7.3(b)2i merely highlights one specific type of such action, performance improvement plans (PIPs). The provision contemplates that there may be ongoing performance-based corrective actions, distinct from PIPs, at issue.

37. COMMENT: N.J.A.C. 4A:6-7.3(b)4 should use language found on PAR forms. (82)

RESPONSE: N.J.A.C. 4A:6-7.3(b)4 provides that one of the criteria for telework eligibility is that performance expectations can be successfully achieved remotely. The Commission finds this language appropriate.

38. COMMENT: N.J.A.C. 4A:6-7.3(b)10, a telework eligibility criterion, should be revised to provide that “effective,” as opposed to “adequate,” supervision can be provided remotely. (82)

RESPONSE: The provision merely reflects that a sufficient level of supervision can be provided to the remote employee. The Commission finds the language appropriate.

39. COMMENT: Referring to N.J.A.C. 4A:6-7.3(d), the commenter asks about workers’ compensation when someone is working at the alternative worksite. (82)

RESPONSE: The Commission does not administer the workers’ compensation laws.

40. COMMENT: Referring to N.J.A.C. 4A:6-7.3(e)1, the commenter states that “among,” rather than “between,” should be used. (82)

RESPONSE: Use of “between” is appropriate and not confusing.

41. COMMENT: Referring to N.J.A.C. 4A:6-7.3(g), the commenter asks what a “promoted” employee is. (82)

RESPONSE: The provision does not mention “promoted” employees.

42. COMMENT: Referring to N.J.A.C. 4A:6-7.4(a)1, the commenter asks if the reference is to 45 calendar days or 45 workdays and if “regular workplace” means the official reporting location. (82)

RESPONSE: “Days” means calendar days unless otherwise specified. See N.J.A.C. 4A:1-1.3. The “regular workplace” referenced in the provision is the official reporting location.

43. COMMENT: Referring to N.J.A.C. 4A:6-7.4(b)1, the commenter states that “among,” rather than “between,” should be used. (82)

RESPONSE: Use of “between” is appropriate and not confusing.

44. COMMENT: The commenter questions the absence of any reference to one’s immediate supervisor in N.J.A.C. 4A:6-7.5(b) and N.J.A.C. 4A:6-7.6(f) and contends that too many phone calls would go to the appointing authority and there would be no checks and balances when submitting timesheets. The commenter suggests that the language be changed to provide that notice may be provided to the appointing authority or designee. (82)

RESPONSE: The Commission agrees that the language of N.J.A.C. 4A:6-7.5(b) and

N.J.A.C. 4A:6-7.6(f), as originally proposed, was unduly restrictive in requiring that notice be provided to the appointing authority strictly. To provide some flexibility, the Commission will clarify these provisions to indicate that the employee shall provide the required notice to the appointing authority or the appointing authority's designee. Since the changes would simply permit an appointing authority to indicate a designee to receive the referenced notice, the changes do not significantly enlarge or curtail the scope of the rule and its burden; enlarge or curtail who or what will be affected by the rule; or change what is being prescribed, proscribed, or mandated by the rule. See N.J.A.C. 1:30-6.3(f)3. As such, the changes are not substantial so as to require reproposal.

45. COMMENT: Referring to N.J.A.C. 4A:6-7.7(b), the commenter asks whether an employee can be in both telework and flexitime programs and whether they can be in all three programs. He also questions what core hours are for telework. (82)

RESPONSE: N.J.A.C. 4A:6-7.7(b) provides that for employees who are ineligible for telework because of the nature of their job duties, appointing authorities shall permit employees to participate in an AWP and/or flexitime program if they are eligible and operational needs allow it. The provision does not purport to categorically bar an employee from participating in both telework and flexitime or telework, flexitime, and AWP. Core hours are established by appointing authorities.

46. COMMENT: Anyone who is a manager or higher should be required to report in-person five days per week. Anyone in senior leadership should be in the office to run the day-to-day functions. Managers, Directors, Assistant Commissioners, Executive

Directors, etc., should not be allowed to work remotely. They are not in protected Civil Service positions. Directors are resorting to virtual meetings rather than holding any in-person staff meetings. (83)

RESPONSE: The Commission does not agree that telework should be available only to non-management employees. The rules appropriately reflect that the standard for suitability for telework is that the duties are portable and can be performed effectively and efficiently outside the official reporting location. Management employees may telework so long as they are able to meet the eligibility criteria.

47. COMMENT: The commenter states that some employees have expected compensation for printing work-related material at home. The commenter suggests that language be added to state that any expenses incurred by the employee in the course of fulfilling remote work obligations, including but not limited to internet service, office supplies, equipment, printing, paper, and ink, shall be the sole responsibility of the employee. (84)

RESPONSE: The rules already reflect that internet accessibility remains the responsibility of the employee when determining eligibility for telework. N.J.A.C. 4A:6-7.3(b)8. The Commission believes that whether reimbursement is available to employees for other expenses such as those the commenter mentions is appropriately left to appointing authorities to determine.

48. COMMENT: Since parts of the Judiciary are also subject to N.J.S.A. Title 11A, the commenter seeks clarification that new N.J.A.C. 4A:6-7, Telework Program: State Service, applies exclusively to the Executive Branch. (85)

RESPONSE: The Model Telework Pilot Program had been instituted for State Executive Branch employees. See, e.g., *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided April 6, 2022). As noted in the rule proposal, the Commission proposed new N.J.A.C. 4A:6-7 in order to codify the pilot program and implement a telework program for State Executive Branch employees. Further, the rules themselves indicate that State appointing authorities shall permit employees who meet the eligibility criteria set forth in this subchapter to telework while delivering services to “the Executive Branch” and meeting organizational goals. See N.J.A.C. 4A:6-7.2(c). As such, the Commission confirms that new N.J.A.C. 4A:6-7 applies to the Executive Branch only

49. COMMENT: The commenter requests confirmation that N.J.A.C. 4A:6-2.7, Alternative workweek programs: State service, does not apply to the Judiciary because it infringes upon the Judiciary’s independent authority over court administration and personnel matters. See N.J.S.A. 2B:11-5; *Thurber v. City of Burlington*, 191 N.J. 487 (2007). Instead, the Judiciary should retain the independent authority to determine whether it can sustain and implement an AWP. Further, a four-day workweek is incompatible with court operations and would create unreasonable operational hardship for the Judiciary. (85)

RESPONSE: N.J.S.A. 2B:11-5a provides that subject to the Judiciary’s rights to create new unclassified positions and make unclassified appointments under court rule, and with the exception of employees of the Administrative Office of the Courts under N.J.S.A. 2A:12-2, and certain positions in the centralized Clerks Offices under

subsection b. of N.J.S.A. 2B:13-1 or N.J.S.A. 2B:13-13, the Judiciary's personnel practices shall be governed by the State Government Services provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder. Additionally, in the decision cited, the Court determined that in Thurber's case, she was "serving in a career service position and entitled to the protection of the Civil Service Act" *Thurber*, 191 N.J. at 501. Additionally, N.J.A.C. 4A:6-2.1(b) provides that in State service, N.J.A.C. 4A:6-2 applies to all employees in the career, senior executive or unclassified service. As such, the Commission submits that N.J.A.C. 4A:6-2.7 applies to at least some Judiciary staff members. Nevertheless, even with the proposed amendments to N.J.A.C. 4A:6-2.7, the Judiciary retains discretion to determine its operational needs as reflected in the language of the rule.

50. COMMENT: First, allowing everyone to telework does not work. Every employee does not fit into the office/desk job model. The commenter states that he sees employees approved for telework who admit that all they do remotely is check Teams to see if anyone needs anything. No consideration is given to the efficiency and productivity of telework. Second, supervisors, who want to do telework, are kind of obligated to approve subordinates for telework, and some freely admit that they do not know what their workers are doing remotely. There should be clearer designation for employees that are eligible. Not all programs and offices are alike. Not all jobs and tasks can be performed remotely. Lastly, better checks need to be established on the teleworking employees. The workers have all the power with management having little or no voice. (86)

RESPONSE: The rules acknowledge that not every position may be suitable for telework. See N.J.A.C. 4A:6-7.3(a) and (b). Additionally, the Commission disagrees that supervisors are under an obligation to approve telework. See, e.g., N.J.A.C. 4A:6-7.3(e)1 (supervisor may disagree as to employee's eligibility). Concerning checks on remote employees, nothing in an appointing authority's telework program shall affect its right to assign work or make reasonable requests to ascertain the status of work assignments in accordance with applicable laws, rules, the needs of the appointing authority, or operational goals. N.J.A.C. 4A:6-7.4(a). If the commenter has witnessed specific problematic behavior involving specific individuals, he may wish to bring these concerns to the attention of his appointing authority so that action may be taken as appropriate pursuant to N.J.A.C. 4A:6-7.4, Performance expectations, revocations of telework eligibility, and adjustments of telework schedule.

51. COMMENT: Telework should be discontinued. (87)

RESPONSE: As noted in the rule proposal, the Commission has found it appropriate to promulgate the telework rules to codify the program.

52. COMMENT: The telework program is extremely abused and not regulated well by management. (88)

RESPONSE: The commenter may wish to bring these concerns to the attention of the specific appointing authority involved so that action may be taken as appropriate pursuant to N.J.A.C. 4A:6-7.4.

53. COMMENT: The commenter opposes telework for any public employee. The telework situation is fake because the weather is not the same across the State. The

workweek should be Monday to Friday, 40 hours per week. It costs 20 times what it costs in other states to build a road in New Jersey due to our unions. (89)

RESPONSE: As noted in the rule proposal, the Commission has found it appropriate to promulgate the telework rules to codify the program. Concerning weather, per N.J.A.C. 4A:6-2.5(a), the Governor, in consultation, determines whether a period of inclement weather or other adverse situation requires the curtailment of State operations and services and whether emergency procedures need to be implemented. This determination is to include whether the curtailment shall be Statewide, regional, specific to one or more facilities, or limited in some other manner. Other remarks contained in the comment are outside the purview of this rulemaking.

54. COMMENT: The commenter opposes the idea of telework for State employees. She complains that the comment period ended on Independence Day and that only a 60-day comment period was provided. She questions whether the decision to adopt these rules should be voted on by the people and wonders whether this rulemaking is being done in avoidance of the Legislature given that bills were introduced to prohibit remote work for State employees, namely New Jersey Senate Bill 4057 and New Jersey Assembly Bill 5243. The commenter claims to have been on the phone with high-level executive State employees who were cutting their lawn or watching their children or grandchildren. The remainder of the comment largely consists of complaints regarding the operation of group homes for the developmentally disabled and the Department of Human Services. (90)

RESPONSE: The Commission has statutory authority to adopt rules for the

implementation of hours of work. See N.J.S.A. 11A:6-24. As noted in the rule proposal, the Commission has found it appropriate to promulgate the telework rules to codify the program. Providing a 60-day comment period that ended on Independence Day was permissible under Administrative Procedure Act rules. See N.J.A.C. 1:30-3.3(a)5 (60-day comment period to qualify for exception to rulemaking calendar requirement) and N.J.A.C. 1:30-5.4(d) (contemplating comment period that ends on postal holiday). To the Commission's knowledge, the referenced bills have not become law. Concerning the employees who were allegedly using telework time to address personal issues, the commenter may wish to bring these concerns to the attention of the relevant appointing authority so that action may be taken as appropriate pursuant to N.J.A.C. 4A:6-7.4. The remainder of the comment is beyond the purview of this rulemaking.

55. COMMENT: Since 2020, telework program participants have worked from home approximately 100 days per year. Annual financial savings to individuals participating in the program is indisputable. Worksite essential employees should receive retroactive compensation in addition to hourly pay differentials going forward. (91)

RESPONSE: The comment is outside the purview of the instant rulemaking.

56. COMMENT: The commenter states that while sitting on a wage and hour modernization board, he discussed how to convert successful interviews to hires but currently there are limits on what can be discussed and advertised in terms of compensation and benefits. The commenter suggests that a Frequently Asked

Questions sheet be created with average cost savings for State benefits and wage performance, such as telework for commuting, but also a monetary conversion for paid time off (PTO) at a few salary ranges, health benefits, and prior performance of wage enhancements by year (with no guarantee) to private sector employment. The flat rate paid to information technology and other skilled professionals is higher in the private sector, but those figures generally exclude benefits like PTO and health and do not take into consideration average wage gains for employees over a time series. (92)

RESPONSE: The comment is outside the scope of the instant rulemaking.

57. COMMENT: The commenter seeks information regarding the public hearing held on June 9, 2025. (93)

RESPONSE: See the Summary of Hearing Officer Recommendations and Agency Responses above.

Summary of Agency-Initiated Changes:

The amendment to N.J.A.C. 4A:6-7.5(a) as originally proposed did not address the situation where an employee who is scheduled to telework and who, based on the nature of their duties, normally works in the field is directed to work for emergent operational reasons in the field, rather than at the Official Reporting Location. Thus, the Commission is clarifying the new rule to account for such field employees.

Federal Standards Statement

The adopted new rules and amendments are not subject to any Federal

requirements or standards. Therefore, a Federal standards analysis is not necessary.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

4A:6-7.5 Emergent circumstances

(a) A supervisor may direct an employee scheduled for telework to report to the employee's Official Reporting Location ***or the field*** for emergent operational reasons, including, but not limited to, situations where the emergent work cannot be performed remotely, unanticipated staffing and/or workload requirements, attending emergent meetings, receiving work assignments that cannot be received remotely, emergent training needs, emergent travel needs, accounting for absences of other employees, or other emergency situations. The appointing authority shall give the employee as much notice as possible of the need to report to the Official Reporting Location ***or to the field***. If an employee is required to report to an Official Reporting Location ***or to the field*** on a telework day for an emergent operational reason, the employee and management will make every effort to reschedule telework to a different day within the same week.

(b) Should emergent circumstances occur at an employee's alternative worksite that impact the employee's ability to perform their duties, responsibilities, or assigned tasks, the employee shall immediately notify their appointing authority ***or the**

appointing authority's designee*. In such an emergent situation, the appointing authority may direct the employee to report to the official reporting location or approve paid leave or leave without pay, as appropriate.

(c) (no change from proposal.)

4A:6-7.6 Data privacy

(a) (no change from proposal.)

(b) (no change from proposal.)

(c) (no change from proposal.)

(d) (no change from proposal.)

(e) (no change from proposal.)

(f) Employees are responsible for maintaining 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 ***or the appointing authority's designee*** immediately to discuss alternative assignments or other options.

1. (no change from proposal.)