

## Statewide Telecommuting Pilot Program

### I. Policy Statement

The State of New York is closely monitoring an outbreak of respiratory illness caused by COVID-19 that was first detected in Wuhan City, Hubei Province, China and which continues to expand. Infections of COVID-19, most of them associated with travel from Wuhan, are also being reported in a growing number of international locations, including the U.S. The U.S. reported the first confirmed instance of person-to-person spread with this virus on January 30, 2020. New York confirmed its first cases of person-to-person spread with this virus March 3, 2020 and is taking precautionary steps to contain the spread of this virus.

Recommendations for the use of work at home and telecommuting arrangements are an important component of a multi-layered strategy to prevent sustained spread of COVID-19 in New York State, especially among the state workforce. This program strikes a balance between ensuring government can continue to function, while providing appropriate precautions for state employees to prevent the spread of illness.

This is a temporary Statewide Agreement creating a Pilot Statewide Telecommuting Program (Pilot Program) due to public health concerns presented by the Coronavirus. The parties agree that where management determines it to be operationally feasible or necessary, telecommuting shall be assigned or approved consistent with this Agreement to the greatest extent possible.

All current contract provisions remain in effect for those employees who volunteer or are mandated to participate in telecommuting projects, except as they may be modified by written agreement between GOER & CSEA.

### II. Definitions

Telecommuting is an alternate work arrangement that allows employees to conduct all or some of their work away from the official work site. Telecommuting under this agreement may be up to five days per week.

Telecommuters are employees who have been approved to participate in the Telecommuting Pilot Program.

Official Work Site is the employee's State-provided workstation. This is the employee's usual and customary work address.

Alternate Work Site – A location away from the State provided work site where the employee is authorized to conduct business. This location must meet all criteria set forth in this document and be approved by the telecommuter's supervisor or another manager with appropriate authority.

**Set Schedule** – Required customary hours and days worked in a pay period.

**Telecommuting Application** – An application form, promulgated by management, and completed by the employee requesting to become an approved telecommuter.

**Telecommuting Work Plan** – A document completed by the telecommuter, in whatever format specified by management, for each telecommuting day. The work plan provides important information about each telecommuting day including hours worked, and work performed. Multiple telecommuting days may be included on a single work plan. The work plan must be signed by the telecommuter and the supervisor/manager.

### III. **Enrollment**

#### **Mandated Participation**

1. Where management mandates participation, an employee shall have 24 hours from notice of such ordered participation to appeal to the agency head or their designee.

#### **Telecommuting Application**

The following steps must be completed to request participation:

1. The employee must submit a Telecommuting Application to their supervisor/manager.
2. The supervisor/manager will review the employee Telecommuting Application to make an *initial* determination whether an employee meets the criteria within 48 hours.
3. Application will be sent to HR for final approval which will be provided within 48 hours of receipt. Any denial will be in writing.

#### **Employee Appeal Process**

1. If an employee's application is disapproved or if an employee wishes to contest mandated telecommuting, they may appeal to the agency head or designee in writing within 24 hours of the denial.
2. The appeal shall state the reasons for disagreement with management's determination and a decision on the appeal shall be rendered within seven (7) calendar days stating the reasons for the decision if denied.

3. Any denials of applications for telecommuting are not grievable under any Collective Bargaining Agreements.

#### IV. Guidelines for Participation

The following are general guidelines for the employees participating in the Telecommuting Pilot Program.

1. Employees must comply with all NYS and agency laws and rules required at the official work site when telecommuting. Failure to abide by all rules and laws may result in exclusion from Telecommuting Pilot Program and/or administrative action, including disciplinary action.
2. Employees must complete a telecommuting training before any telecommuting is permitted.
3. All assigned duties will be performed in a manner consistent with applicable agency rules, policies, practices, collective bargaining agreements, and ethical standards.
4. Telecommuting is not an employee entitlement. Full discretion to either approve or disapprove an application or work plan for telecommuting rests solely within the discretion of the agency, but applications should be widely granted so long as they are consistent with operational need. Employee performance in a telecommuting setting will be one factor considered in approval of telecommuting work plans. In some cases, employees approved for Pilot Program participation may not have a particular work plan approved, in which case the manager can allow the employee to revise and resubmit the work plan or direct the employee to report to their Official Work Station for the period covered by the at-issue work plan. An individual's participation in the Pilot Program can be suspended or cancelled at the agency's sole discretion with 48 hours' advance written notice to the employee.
5. Telecommuting is not operationally feasible for all job functions. The agency determines which job functions are eligible to participate in this program. Such a decision by the agency is final and cannot be appealed.
6. Once a Telecommuting application has been approved, participation and start dates may be subject to equipment availability.
7. Official work site coverage may be among the considerations made by

management when making telecommuting decisions.

8. Telecommuters will treat telecommuting days like regular workdays and will be expected to maintain a regular work routine while telecommuting.
9. Managers may require telecommuters to have a set telecommuting schedule.
10. The approved set schedule is determined by management based on operational needs and specified on the approved workplan.
11. A telecommuter is required to report to the official work site upon management's request at anytime. A telecommuter may request to charge leave accruals in lieu of returning to the official work site. Such requests will be reviewed in accordance with all normal standards governing use of leave accruals.
12. Telecommuters must be available via all required methods of communication throughout the workday. Should a telecommuter not be available through official channels, the Agency will contact the telecommuter via their personal contact information provided in the Work Plan.
13. Telecommuters may be required to forward their official work site phone to the phone that will be used while telecommuting.
14. In-Person meetings at the telecommuter's alternative work site are *prohibited*. This restriction does not preclude a telecommuter from participating in phone or web-based meetings from their alternate work site.
15. Upon 24 hours' written notice to the employee and union representative, management may access the Alternate Work Site to review safety concerns, data security concerns or to inspect or retrieve State-issued equipment.
16. All attendance rules and call-in procedures apply when telecommuting, however, management shall have the right to establish attendance and call-in procedures in the work plan sufficient to meet operating needs.
17. Employees must safeguard all passwords used in connection with Agency

service files or programs and ensure sensitive information is protected.

18. Temporary, Seasonal, Part-Time and Probationary employees may be allowed to telecommute with HR approval.

## **V. Work Hours**

Telecommuters will work their approved workday (including overtime when appropriate and authorized). Telecommuters must request time off in advance and submit all leave requests as currently required. All current laws, regulations, contract provisions and standard work rules apply.

When telecommuters are required by management to report to the official work site on a scheduled telecommuting day, there is no expectation that the telecommuter will be granted a substitute telecommuting day in return. However, with flexibility as a key component of the program, at the discretion of the Division Director/Designee, a scheduled telecommuting day may be changed within the same pay period. If a telecommuter is required to report to their official work site, they will not be reimbursed for travel, nor may they be paid for travel.

Unless otherwise directed, telecommuters will not be excused from work when a directed departure is issued through the Governor's Office of Employee Relations for the official work site. Conversely, if an emergency occurs at the alternate work site and the telecommuter is unable to work at the telecommuting site that day or if the telecommuter is unable to, for any reason, continue working during their scheduled hours, the Supervisor/Manager may direct the telecommuter to come to the official work site or grant authority to charge accruals.

While telecommuting, an employee of the State of New York is considered to be acting within the course and scope of employment when engaged in job-related activities during the telecommuting schedule and at the telecommuting site.

## **VI. Equipment and Supplies**

The Agencies will not provide telecommuters equipment to telecommute. The Agencies will not provide desks, chairs, file cabinets, or other office related furniture. The use of an employee's personal computer may be dependent on the use of **Virtual Desktop Infrastructure (VDI) or Virtual Private Network (VPN) or Access to Email, OneDrive and/or SharePoint via Outlook Web Access**, all of which may require an RSA token. Management will determine which connection mechanism is appropriate based on operational need.

**Telecommuters using personal devices will receive instruction on how to obtain VDI, VPN and/or an RSA token. These must be tested before telecommuting can begin.**

Minimal office supplies may be provided by the agency and should be requested during

the telecommuter's in-office work period. Supplies will not be shipped to the alternate work site. Any out-of-pocket expenses incurred for supplies, equipment, food, commuting, etc. will not be reimbursed.

The telecommuter must have an internet connection with bandwidth that is appropriate for conducting official business without disruption. The telecommuter is responsible to secure and pay for an internet connection. The agency will not reimburse internet costs. The telecommuter is responsible for having a phone for all work-related calls.

If an assigned RSA hard token or other work item is lost or stolen, the telecommuter must immediately notify their Supervisor/Manager and refer to the agency's usage agreement for portable Media and End User Devices and complete all steps outlined within the policy/procedure.

When the Telecommuting Pilot program agreement ends, the employee must return the RSA hard token, if applicable, and any supplies issued on their next workday unless otherwise specified by management.

Employees will not incur any financial liability for lost, stolen or damaged State equipment unless found to be negligent following investigation of the circumstances of the damage or theft.

## VII. Agency Policies/Security of Information

Any Agency information possessed by the telecommuter cannot be shared with or made available to any other individuals.

Telecommuters must ensure that Agency records and information are secure and not maintained in a way that would make them available to any other individuals. Telecommuters are responsible for adhering to all State and Agency policies, procedures and standards concerning use of computer equipment and the security of data/information while telecommuting. These policies, procedures and standards can be found in the Policies and Procedures section of the Agency Intranet or on the ITS website. Individuals must also comply with the following policies and standards:

- **NYS-P03-002: Information Security Policy**  
[https://its.ny.gov/sites/default/files/documents/nys-p03-002\\_information\\_security\\_policy\\_4.pdf](https://its.ny.gov/sites/default/files/documents/nys-p03-002_information_security_policy_4.pdf)
- **NYS-P14-001: Acceptable Use of Information Technology Resources Policy**  
[https://its.ny.gov/sites/default/files/documents/nys-p14-001\\_acceptable\\_use\\_of\\_information\\_technology\\_resources\\_6.pdf](https://its.ny.gov/sites/default/files/documents/nys-p14-001_acceptable_use_of_information_technology_resources_6.pdf)
- **NYS-S14-009: Mobile Device Security Standard**  
[https://its.ny.gov/sites/default/files/documents/nys-s14-009\\_mobile\\_device\\_security\\_4.pdf](https://its.ny.gov/sites/default/files/documents/nys-s14-009_mobile_device_security_4.pdf)
- **NYS-S14-012: Bring Your Own Device (BYOD) Standard**  
[https://its.ny.gov/sites/default/files/documents/nys-s14-012\\_bring\\_your\\_own\\_devicebyod\\_0.pdf](https://its.ny.gov/sites/default/files/documents/nys-s14-012_bring_your_own_devicebyod_0.pdf)

- **NYS-S14-010: Remote Access Standard** [https://its.ny.gov/sites/default/files/documents/nys-s14-010\\_remote\\_access\\_1.pdf](https://its.ny.gov/sites/default/files/documents/nys-s14-010_remote_access_1.pdf)

Unauthorized access to or disclosure of agency information or systems must be immediately reported to the telecommuter's supervisor/manager. Such unauthorized access or disclosure, including the release of confidential information or the personally identifiable information of Agency staff or customers, which happened due to the telecommuter's neglect, will be addressed through administrative actions.

Telecommuters must protect and safeguard files, documents, equipment and other materials transported back and forth between the official work site and the alternate work site. Telecommuters shall protect Agency records and documents from unauthorized disclosure or damage and shall comply with all Agency policies and procedures regarding such matters.

Telecommuters must also take the following specific precautions:

- a. Only take confidential information offsite when authorized by their supervisor.
- b. Do not transmit confidential information from work e-mail to personal e-mail addresses or text messaging services (e.g. icloud.com, aol.com, yahoo.com or g-mail.com).
- c. Securely store all hard copy documents or office media so that others cannot access it.
- d. Do not communicate confidential information where others can listen.
- e. Place documents requiring destruction in Confidential/Sensitive destruction bins located at the official work site.

Telecommuters will be required to take appropriate action to protect the items from damage or theft.

- Loss or theft of equipment must immediately be reported to the telecommuter's supervisor/manager.
- Any suspected data breach containing sensitive data must immediately be reported to the telecommuter's supervisor and the telecommuter must complete Unusual Incident Report.

Under no circumstance may Agency data or information be transferred to or stored on

any personal devices. Under no circumstance may the telecommuter allow agency issued equipment to be used by any other person however agencies will not necessarily provide agency issued equipment to telecommute unless they determine that they can do so. Telecommuters must log off and secure any computer being utilized to conduct official business when not in use.

Management will not access or otherwise use any personal information on an employee's personal device.

**VIII. Program Dates**

This program will take immediate effect for a period of 2 months upon signature of the State and the Union. It can be extended upon agreement by both parties. This Pilot Program can be cancelled by the State in its sole discretion with one-week advance written notice to the union.

  
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For the State

03/13/2020

  
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For CSEA

3/13/2020