



Governor's Office of Employee Relations

ANDREW M. CUOMO
Governor

MICHAEL N. VOLFORTE
Director

MEMORANDUM

June 18, 2021

TO: Directors of Human Resources (HR)

FROM: Michael Volforte 

SUBJECT: State Agency and Authority In-Person Presence & Telecommuting Program

Consistent with Governor Cuomo's June 15, 2021 [announcement](#) that the State's COVID-19 restrictions for most commercial and social settings were lifted as 70 percent of adult New Yorkers have received the first dose of the COVID-19 vaccination, GOER is issuing this memorandum to provide updated guidance to all State agencies and authorities on in-person work and telecommuting.

Since June 2020 when State agencies and authorities developed and implemented their specific reopening plans in accordance with the State's COVID-19 health guidance, agencies and authorities have engaged and returned employees to in-person work. In fact, over 90 percent of the State's workforce is currently reporting in-person to work on a full- or part-time basis.

Now, with New York's progress in vaccinations and nation-leading decline in new COVID-19 cases, it is time for agencies and authorities to re-engage their employees and plan for a return to normal operations by no later than September 7, 2021. Specifically, State agencies and authorities are directed to follow these provisions as they increase in-person presence within their workplaces:

Now through July 2, 2021

- Agencies and authorities will inform employees immediately that the statewide telecommuting program will expire on July 2.
- After July 2, agencies and authorities may resume their own specific telecommuting programs that existed prior to the COVID-19 public health emergency. For agencies and authorities that did not have their own specific telecommuting programs prior to the public health emergency or had telecommuting programs that no longer meet

their operational needs, agencies and authorities may adopt and use the statewide telecommuting program provisions while they work to develop their own specific program that meets their needs.

- Agencies and authorities should develop their own specific telecommuting programs that meet their operational needs, to the extent that they do not already have them in place or are not relying upon the provisions of the expiring statewide telecommuting program. All agencies and authorities must have their own specific telecommuting program reviewed by GOER and in effect by no later than July 31, 2021.
- Agency and authority telecommuting programs should be developed in consultation with the unions that represent their employees. Agency and authority telecommuting programs are subject to GOER review before implementation and such plans must be consistent with the State's revised guidance on in-person work. At a minimum, agency and authority telecommuting programs must take into account the following parameters:
 - Obligations for reasonable accommodations as required under the Americans with Disabilities Act (ADA) and Human Rights Laws (HRLs). The Department of Civil Service's Office for Diversity and Inclusion should be consulted on questions regarding reasonable accommodations.
 - Temporary COVID-19 specific accommodations for employee issues (e.g., child or elder care) that are outside the scope of ADA/HRLs, where reasonable and do not adversely impact agency or authority operations. Agencies and authorities must have a written policy in place for such temporary COVID-19 specific accommodations, including a requirement that (1) documentation is maintained by agency HR for each employee who is granted a COVID-19 specific accommodation and (2) the specific non-ADA/HRLs issue that the employee is seeking to have accommodated.
 - Requirement of employee work plans and work performance monitoring.
 - Provisions on the appropriate notice and period of time when individuals can be told to return to in-person work (e.g., the office) from their telecommuting arrangement.
 - Set expiration dates for telecommuting arrangements and periodic review of extensions of arrangements.
- Agencies and authorities will distribute the attached *Revised Guidance for State Agencies and Authorities during the COVID-19 Public Health Emergency* to all

employees reporting in-person to work for their review, affirmation, and file with the agency's human resources (HR) office.

- A copy of all employee affirmations must be kept on file with each agency's and authority's HR office by July 9, 2021, or no later than three (3) business days after an employee returns to in-person work (e.g., from telecommuting, vacation, leave).

July 2, 2021 through September 7, 2021

- Agencies and authorities must work toward returning employees to in-person work at an increased frequency (i.e., ideally, full time, but at a minimum several days per pay period). Increased in-person presence in the workplace will be governed by the attached *Revised Guidance for State Agencies and Authorities during the COVID-19 Public Health Emergency*.
- Agencies and authorities will continually implement increased in-person workplace presence, in accordance with the State's guidance and consistent with their GOER-reviewed agency-specific telecommuting programs.

September 7, 2021 through Remainder of 2021

- Agencies and authorities will return to pre-pandemic, in-person workplace presence with limited exceptions that are consistent with their GOER-reviewed specific telecommuting program.
 - COVID-19 specific accommodations for employees (e.g., child or elder care) are expected to be removed from specific telecommuting programs following appropriate notice and engagement with affected employees. Reasonable accommodations will still be in effect, pursuant to ADA/HRLs.

Agencies and authorities shall maintain regular contact with their respective union representatives to keep them apprised of plans to increase frequency of in-person work, as well as to evaluate and address concerns that are raised. This contact includes briefing union representatives on any ongoing or updated health protocols that your agency or authority adopts consistent with the *Revised Guidance for State Agencies and Authorities during the COVID-19 Public Health Emergency*.

As employees return to the workplace on a more frequent basis, agencies and authorities must remain mindful of keeping employees safe, in accordance with the revised guidance, and update any safety plans as needed, as well as any contractual requirements regarding schedule changes, split schedules, or alternative work schedules, including any applicable hardship provisions, of the various collective bargaining agreements.

As agencies and authorities increasingly return employees to the workplace, they should also be aware of the following resource information for employees as it pertains to childcare. Information on childcare opportunities, which is not exhaustive, is available

through the Office of Children and Families website at <https://ocfs.ny.gov/programs/childcare/looking/>. For those employees who work close to one, there are multiple New York State Network Child Care Centers, supported by the State and our public employee unions. A list of those centers is available at <https://goer.ny.gov/system/files/documents/2021/01/network-child-care-center-flyer-12.21-accessible.pdf>.

For additional information regarding increasing in-person workplace presence for your employees, please contact your GOER representative. Thank you.