

## **Implementation Bulletin Pilot Statewide Telecommuting Programs for M/C, CSEA, PEF and UUP-Represented Employees**

### **Overview**

The State of New York is responding to an outbreak of respiratory illness caused by COVID-19 that was first detected in Wuhan City, Hubei Province, China and which continues to expand. New York confirmed its first cases of person-to-person spread with this virus March 3, 2020 and is taking active measures to contain the spread of this virus.

Telecommuting arrangements are an important component of a multi-layered strategy to prevent sustained spread of COVID-19 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.

The State has entered into agreements with CSEA, PEF and UUP that create a Pilot Statewide Telecommuting Program (Telecommuting Pilot Program) due to public health concerns presented by the Coronavirus. This Pilot Program also applies to M/C employees. Where management determines it to be operationally feasible or necessary, telecommuting shall be assigned or approved for employees represented by these unions to the greatest extent possible.

Wherever existing agency/facility/campus telecommuting programs conflict with Telecommuting Pilot Program guidelines, the Pilot Program guidelines control for the duration of the Pilot Program. **There is no need to re-enroll current telecommuters with the new form.** Similarly, if you already have a telecommuting application and enrollment process that is working, you can continue to use it. If you do not have an established telecommuting program, please use the attached application form. Any pre-existing telecommuting programs will revert to their regular guidelines upon expiration of the Pilot Programs.

### **Definitions**

Telecommuting -- an alternate work arrangement that allows employees to conduct all or some of their work away from the official work site. Under the Telecommuting Pilot Program, Employees may telecommute any number of days per week, up to and including full-time, based on operating needs.

Official Work Site -- 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.

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

Telecommuting Work Plan – A document completed by the telecommuter, in a format specified by the telecommuter's supervisor, 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.

## **Participation**

Employees may be assigned to telecommute where such assignment meets operating needs and reduces opportunities for transmission of COVID-19. Where management mandates participation, an employee shall have 24 hours from notice of such ordered participation to appeal to the agency/facility/campus head or their designee (see appeal process below).

Employees may also request to participate on a voluntary basis. During the term of this Telecommuting Pilot Program, such requests should be granted to the greatest extent possible. In order to request to participate, the employee must submit a Telecommuting Application to their supervisor/manager. The supervisor/manager will review the employee Telecommuting Application to make an *initial* determination whether an employee meets the criteria within 48 hours. Application will be sent to the Director of Human Resources or their designee(s) for final approval which will be provided within 48 hours of receipt. All responses will be in writing.

Once a Telecommuting Application has been approved, participation and start dates may be subject to equipment availability.

Telecommuting is not an employee entitlement and is not operationally feasible for all job functions. Management determinations as to which job functions are eligible for telecommuting are final and cannot be appealed. Full discretion to either approve or disapprove an application for telecommuting rests solely with management, but applications should be widely granted so long as they are consistent with operating need. An individual's participation in the Pilot Program can be suspended or cancelled at management's sole discretion with 48 hours' advance written notice to the employee.

Employee Appeal Process -- If an employee in a job function deemed eligible for

telecommuting by management has their telecommuting application disapproved or if an employee wishes to contest mandated telecommuting, they may appeal to the agency/facility/campus head or their designee in writing within 24 hours of the denial. The appeal shall state the reasons for disagreement with management's determination. A decision on the appeal shall be rendered by the Director of Human Resources or their designee(s) within seven (7) calendar days stating the reasons for the decision if denied.

Denials of applications for telecommuting under the Telecommuting Pilot Program are not grievable under any collective bargaining agreements.

### **General Guidelines**

Employees must comply with all NYS and agency/facility/campus laws, rules, and guidance required at the official work site when telecommuting. Failure to abide by all rules, laws, and guidance may result in exclusion from Telecommuting Pilot Program and/or administrative action, including disciplinary action.

Employees must complete a telecommuting training if one is provided before any telecommuting is permitted. This includes, but is not limited to, training in the use of any software required for remote access, data security procedures, and any necessary orientation to the process of submitting work plans.

Telecommuters are responsible for submitting work plans regardless of whether they are participating on a voluntary basis or assigned to participate by their supervisor/manager. The work plan provides important information about each proposed 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. Employee performance in a telecommuting setting should be one factor considered in approval of telecommuting work plans. In some cases, employees approved for Telecommuting 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.

Telecommuters will treat telecommuting days like regular workdays and will be expected to maintain a regular work routine while telecommuting. Managers may require telecommuters to have a set telecommuting schedule that is specified on the work plan. Telecommuters will work their entire 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 rules governing employee work schedules apply.

A telecommuter is required to report to the official work site upon management's request at any time. 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. 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 management, 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.

Telecommuters must be available via all required methods of communication throughout the workday. Should a telecommuter not be available through official channels, the management will contact the telecommuter via their personal contact information provided in the Work Plan.

Telecommuters may be required to forward their official work site phone to the phone that will be used while telecommuting.

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.

Unless otherwise directed, telecommuters will not be excused from work when a directed departure is issued 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.

Employees must safeguard all passwords used in connection with agency/facility/campus service files or programs and ensure sensitive information is protected.

Temporary, seasonal, part-time and probationary employees may be allowed to telecommute with HR approval.

### **Equipment and Supplies**

The employer will not provide telecommuters durable equipment such as desks, chairs, file cabinets, or other office related furniture. Similarly, the employer will not be able to provide a laptop or other similar device to all telecommuters. 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 any necessary software and/or an RSA token. These must be tested before telecommuting can begin.**

Minimal office supplies may be provided by the employer 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.

Generally, 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. In limited instances, telecommuting assignments that do not require an internet connection may be available. Where such assignments meet operating needs they can be made/approved.

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

### **Agency Policies/Security of Information**

Any agency/facility/campus information possessed by the telecommuter cannot be shared with or made available to any other individuals.

Telecommuters must ensure that official 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, agency, facility, university or campus 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, facility, university or campus Intranet or on the ITS website.

Unauthorized access to or disclosure of official 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, facility, university or campus 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 official records and documents from unauthorized disclosure or damage and shall comply with all established 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 any required documentation of the suspected breach.

Under no circumstance may official 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.

### **Program Dates**

The Telecommuting Pilot Program is effective as of March 17, 2020 and shall run through May 14, 2020. It can be extended upon agreement between the State and participating unions. This Pilot Program can be cancelled by the State in its sole discretion with one-week advance written notice to participating unions.