

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Leaves, Hours of Work, and Employee Development

Proposed New Rule: N.J.A.C. [4A:6-7 et seq.]

Authorized By: Civil Service Commission, Allison Chris Myers, Chairperson.

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

Calendar Reference: [See Summary below for explanation of exception to calendar requirement.]

Proposal Number: PRN 2025-___.

A **public hearing** concerning the proposed new and amended rules will be held on:

June 9, 2025, at 10:00 A.M.

Civil Service Commission Room

44 South Clinton Avenue

Trenton, New Jersey 08625-0312

Please call Erika Barash at (609) 690-8049 if you wish to be included on the list of speakers.

Submit written comments by July 4, 2025, to:

Nicholas F. Angiulo, Director

Division of Appeals and Regulatory Affairs

Civil Service Commission

PO Box 312

Trenton, New Jersey 08625-0312

Rule.comments@csc.nj.gov

The agency proposal follows:

Summary

The Civil Service Commission (Commission) is proposing a new rule at N.J.A.C. [4A:6-7] in order to implement a telework program for State Executive Branch employees. The Commission is also amending N.J.A.C. 4A:6-2.5 to clarify telework rules during inclement weather or other adverse situations and amending N.J.A.C. 4A:6-2.7 to require appointing authorities to establish alternative workweek programs and specify when a new or transferred employee may participate in such programs.

As background, the COVID-19 pandemic required numerous Executive Branch employees to shift to partial or full telework. As a result of this experience, it was demonstrated that the State workforce can work effectively at home. In this regard, many divisions throughout the State saw employee productivity increase during that time. As many other government and private sector employers also experienced increased productivity, they continued to offer telework as a benefit to their employees after the most acute effects of the pandemic began to wane. To stay competitive and to attract top talent, as well as to take advantage of increased employee productivity, a Model Pilot Telework Program for State Executive Branch Employees (Model Pilot Telework Program) was approved for a period of one year,

ending on June 30, 2023. *See In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided April 6, 2022) (order establishing program) and *In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided July 20, 2022) (order amending program).

Accounts of the Model Telework Pilot Program received by the Commission were generally positive. For example, the Commission's Center for Learning and Improving Performance conducted a Mandatory Human Resource Officers Survey and a New Jersey Model Telework Pilot Program Experience for Employees and Supervisors Survey to assist in determining the program's progress. The overall feedback from these surveys was positive. In addition, the Commission entered into a Memorandum of Agreement with the Communications Workers of America (CWA), which provided for, among other things, meetings with the CWA prior to the proposal of formal telework rules and meetings with the Department of Children and Families and the Department of Law and Public Safety. The Commission convened a meeting with other interested State employee unions to discuss teleworking provisions. Further, the Commission received comments from CWA members on the need for a permanent and expanded telework policy.

Therefore, the Commission extended and continued the Model Telework Pilot Program in order to facilitate formal rulemaking procedures. *See In the Matter of Model Telework Pilot Program, State Executive Branch Employees* (CSC, decided June 7, 2023); *In the Matter of Model Telework Pilot Program, State Executive Branch*

Employees (CSC, decided May 22, 2024) (additional orders amending program). The Commission is now promulgating a rule, proposed new N.J.A.C. [4A:6-7], Telework program: State service, to codify the program into Title 4A of the New Jersey Administrative Code. The structure of the program generally mirrors the telework guidelines developed when the Model Telework Pilot Program was established and the subsequent amendments to the Pilot Program, as the Commission has found the Pilot Program to be effective as outlined above. Prior to approval of a telework plan pursuant to this rule, the Model Telework Pilot Program remains in effect.

Subchapter 7 sets forth the telework program for State Executive Branch employees, following the structure of the Pilot Program. The subchapter sets forth definitions; general program provisions; program eligibility; performance evaluations, adjustments, and revocations of eligibility; emergent circumstances; data privacy; provisions pertaining to telework and alternative workweek/flexitime programs; and challenges to telework eligibility denial, adjustment, or revocation. Proposed subchapter 7-2(b) includes the language “Operational needs are at the discretion of the appointing authority.” As a minor departure from the Pilot Program, the Commission is deleting the word “sole” in this instance to better align with existing Commission rules.

The proposed amendments to N.J.A.C. 4A:6-2.5 and N.J.A.C. 4A:6-2.7 are summarized below.

N.J.A.C. 4A:6-2.5 is proposed for amendment to include, within the

determination as to 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, an assessment as to whether the inclement weather or other adverse situation would still allow telework-approved employees to telework during the curtailment of State operations. This amendment would allow greater functioning of the State during periods of inclement weather for those employees who have the ability to telework.

N.J.A.C. 4A:6-2.7 is proposed for amendment to require appointing authorities to establish alternative workweek programs and to specify when a new or transferred employee may participate in such programs.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement of N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new and amended rules are expected to have a positive social impact as they will offer employees greater workplace flexibility and work-life balance; help the State stay competitive with other government and private sector employers in attracting and retaining top talent; and take advantage of increased employee productivity due to, for example, fewer interruptions and distractions when teleworking.

Economic Impact

As the proposed rulemaking largely codifies the existing Model Telework Pilot Program, most of the potential costs to the State or savings for teleworking employees have already been realized. The provision of any equipment or technology access an employee will need to telework may raise costs to the State, however it is likely that most employees that have the ability to telework have already been furnished with the necessary equipment to do so pursuant to the Pilot Program. Teleworking employees can expect to continue to realize the personal cost savings that come with teleworking, such as reduced commuting expenses.

Federal Standards Statement

The proposed new and amended rules are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not necessary.

Jobs Impact

It is not anticipated that any jobs in State service will be generated or lost if the proposed new rule and amended rules are adopted. The proposed new and amended rules would permit eligible State Executive Branch employees to telework for a certain number of days per calendar week; require appointing authorities to establish alternative workweek programs; and specify when a new or transferred employee may participate in alternative workweek programs. By continuing to offer telework to eligible employees, it is anticipated that the State will continue to remain a competitive employer in the labor marketplace, and will be able to retain more

skilled and productive public servants.

Agriculture Industry Impact

It is not anticipated that there will be any agriculture industry impact as the proposed new and amended rules concern telework and alternative workweek programs for State Executive Branch employees.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed new and amended rules will have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new and amended rules will regulate employment in the public sector.

Housing Affordability Impact Analysis

Since the proposed new and amended rules concern telework and alternative workweek programs for State Executive Branch employees, they would have no impact on the number of housing units or the affordability of the same, or the average costs associated with housing in New Jersey.

Smart Growth Development Impact Analysis

Since the proposed new and amended rules concern telework and alternative workweek programs for State Executive Branch employees, they would have no impact on smart growth or on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated these proposed new and amended rules and determined that they will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the amended rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. HOURS OF WORK

4A:6-2.5 Inclement weather or emergency conditions: State service

(a) The Governor or [his or her] their designee, in consultation with the Office of Emergency Management, shall determine whether a period of inclement weather or other adverse situation requires the curtailment of State operations and services and whether emergency procedures need be implemented.

1. This determination shall include **1)** whether the curtailment shall be Statewide, regional, specific to one or more facilities, or limited in some other manner; **and 2)** whether the 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. If the determination is made that employees are able to telework during the curtailment, employees who are approved for participation in their appointing authority's telework program are required to telework regardless of whether they were scheduled to work in-

person or remotely on the day of the curtailment. In the event that an employee participating in their appointing authority's telework program is unable to perform their duties, responsibilities, and assigned tasks remotely on the day of the curtailment, the employee shall immediately notify their appointing authority and make alternative arrangements in a timely manner.

2. The Office of Emergency Management shall notify all State departments and agencies, and appropriate media outlets, when the curtailment of State operations and services and/or an Essential Employee Attendance Plan are to be implemented.

(b) For purposes of this section, the following definitions shall apply:

1. "Essential Employee Attendance Plan" shall mean that portion of a department or agency's procedures for operating during a period of inclement weather or other adverse situation that explains the responsibilities, requirements, and expectations of essential attendance employees in the event that the Governor determines that a period of inclement weather or other adverse situation requires the curtailment of State operations or services.

2. "Inclement weather or other adverse situation" shall mean an actual or imminent change in the weather or an actual or imminent change in other conditions or circumstances that is serious enough to disrupt all or a portion of the functions of State government.

(c) Each State department and agency shall annually review its criteria for the

designation of essential attendance employees and, based on these criteria, update its roster of such employees. Employees so designated shall be notified no later than October 31 of each year of this designation and shall at that time be provided with a copy of the department or agency's Essential Employee Attendance Plan. The Plan shall include the responsibilities, requirements, and expectations of such employees in the event that a period of inclement weather or other adverse situation requires the curtailment of State operations or services.

1. Each State department and agency shall provide the Civil Service Commission and affected union representatives with its updated roster of essential attendance employees no later than November 15 of each year. The Civil Service Commission shall make this information available to the Office of Emergency Management.

(d) An essential attendance employee who is required to work in accordance with an Essential Employee Attendance Plan shall be compensated at the regular rate of pay for such work. See N.J.A.C. 4A:3-5 for overtime compensation for work performed by non-exempt employees in excess of the regular workweek.

4A:6-2.7 Alternative workweek programs: State service

(a) Appointing authorities [may] **shall** establish alternative workweek programs, such as a four day workweek, to accommodate operational and/or employee needs.

(b) A program may be developed for year-round use or for a specific portion of

a year.

(c) An appointing authority may limit participation in an alternative workweek program to selected groups of job titles, work units and/or work locations to accommodate operational needs. **If eligible, a new or transferred employee shall be permitted to participate in an alternative workweek program after the successful completion of the working test period. If eligible, a new or transferred employee who is not subject to a working test period shall be permitted to participate in an alternative workweek program 120 calendar days after the effective date of appointment.**

(d) Civil Service Commission assigned workweeks for affected titles, for example, 35 or 40 hours, shall be retained.

(e) Appointing authorities shall develop, subject to approval by the Chairperson or designee, appropriate sick, vacation, and administrative leave schedules for employees participating in an alternative workweek program.

(f) Since employees in an alternative workweek program have a longer or shorter workday than employees on a five day workweek schedule, a time differential exists on holidays. This differential shall be equalized in a manner determined by the appointing authority. If a holiday occurs on an employee's regular day off, he or she shall be granted an additional day off consistent with operational needs.

(g) Establishment, modification, or termination of an alternative workweek program shall not become effective without the approval of the Chairperson or

designee. Requests for these actions must be submitted at least 30 days in advance of the proposed effective date to the Civil Service Commission and shall include the same items listed in N.J.A.C. 4A:6-2.6(d).

(h) An appointing authority may authorize a complete or partial temporary suspension of the alternative workweek program if required by operational needs. Within 10 days of the suspension of the program, the appointing authority shall submit to the Chairperson or designee a fully detailed justification and specify the duration of the suspension.

(i) Appointing authorities should consult with affected negotiations representatives concerning alternative workweek programs before implementation.

(j) A description of an appointing authority's alternative workweek program shall be made available to employees upon request.

(k) Overtime compensation for employees in alternative workweek programs shall be regulated in the same manner as for all other employees, except as specified in N.J.A.C. 4A:3-5.3.

Full text of the proposed new rule follows:

SUBCHAPTER 7: TELEWORK PROGRAM: State Service

4A:6-7.1 Definitions

(a) The following words and terms, when used in this section, shall have the following meanings:

1. "Alternative Worksite" means 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.

2. “Official Reporting Location” means the location to which an employee reports when the employee is not working at an Alternative Worksite or in the field.
3. “Telework” means the performance of official duties at an Alternative Worksite.
4. “Reasonable Accommodation” means a modification to an employee’s work environment that is made pursuant to existing State and federal law, including but not limited to the Americans with Disabilities Act and the New Jersey Law Against Discrimination. Requests for reasonable accommodations must be approved through established ADA/Human Resources channels by the employee’s appointing authority.

4A:6-7.2 General Provisions

- (a) Pursuant to N.J.S.A. 11A, this rule applies to employees in the career, unclassified, and senior executive services. State boards and authorities not subject to N.J.S.A. 11A may choose to follow this rule. This rule does not apply to State colleges and universities, though they may consult this rule if establishing their own telework programs.
- (b) Each appointing authority shall institute a telework program that takes into consideration operational needs while ensuring eligible employees have access

to the program. Operational needs are at the discretion of the appointing authority.

- (c) State appointing authorities shall permit employees who meet the eligibility criteria set forth in this rule to telework while delivering services to the Executive Branch and meeting organizational goals.
- (d) Each appointing authority shall provide a written plan for its telework program for approval to the Chairperson or designee, within 60 days of the adoption of this rule, or, if a new appointing authority is established, within 90 days of the effective date of the appointing authority's creation. An appointing authority may not implement a telework program until its plan has been approved by the Chairperson or designee. The plan submitted for approval by the appointing authority shall identify any changes to the terms of the appointing authority's telework plan in effect prior to the submission of the plan. Prior to submitting telework plans for approval, appointing authorities shall: 1) provide a copy of its proposed telework plan to the relevant union representative(s) at least 20 calendar days prior to submission to the Chairperson or designee; and 2) if received in time by the appointing authority within 20 days following the submission to the relevant union representative(s), submit the union's comments and any response by the appointing authority to the union(s)' comments, including an updated telework plan, as part of their submission to the Chairperson or designee.

1. A telework plan may not allow for more than two days of telework in a calendar week.
 2. An appointing authority must track and maintain a record of when employees are working in the Official Reporting Location and when they are teleworking.
- (e) The Chairperson or designee shall review the appointing authority's written plan to assess if it complies with this rule. The Chairperson or designee shall also review any union comments to an appointing authority's telework plan and any appointing authority responses to those comments. Within thirty (30) calendar days from the date of the plan's submission, the Chairperson or designee shall issue a decision, approving or requiring modifications to the plan. If the Chairperson or designee orders modifications to the plan, the appointing authority shall incorporate the modifications within fourteen (14) calendar days of receipt of the Chairperson or designee's decision and shall provide a copy of the revised plan to the Chairperson or designee and to the applicable union(s).
- (f) 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.

4A:6-7.3 Telework Program Eligibility

- (a) 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 video conferencing or similar platforms, telephone or email communications. In addition, employees 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.
- (b) Employees must meet the following criteria in order to be approved for participation in their appointing authority's telework program:
 - 1. The appointing authority's performance evaluation system reflects the employee's ability to meet minimum performance expectations;
 - 2. The employee is not currently subject to ongoing performance-based corrective action.
 - i. Employees on a Performance Improvement Plan are not eligible for telework.
 - 3. Job duties can be successfully performed remotely;
 - 4. Performance expectations can be successfully achieved remotely;
 - 5. Specialized equipment or reference materials are available remotely;

6. Classified or sensitive information can be securely accessed remotely;
 7. Information technology systems can be securely accessed remotely;
 8. Internet accessibility remains the responsibility of the employee when determining eligibility to telework;
 9. Employees can undertake training remotely;
 10. Adequate supervision can be provided remotely;
 11. The operational needs of the appointing authority allow for employees' job duties to be performed remotely;
 12. The amount of direct customer contact required for employees does not render telework prohibitive; and
 13. Telework can be performed consistent with the New Jersey First Act, N.J.S.A. 52:14-7 (P.L. 2011, c. 70).
- (c) Employees must complete the designated eligibility application in order to be eligible for participation in the telework program. Submission of this application is an agreement between the employee and the appointing authority that the employee will meet all telework expectations. That application will include:
1. A selection of preferred recurring telework days. 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 needs as determined by the appointing authority.

2. A telework self-assessment designed by the appointing authority for employees to gauge their own effectiveness teleworking. 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.
 3. Information provided by the appointing authority that documents the terms and conditions of participation in the telework program.
- (d) An appointing authority may require employees to provide documentation to ensure compliance with safety and security standards within the Alternative Worksite.
- (e) An appointing authority's Human Resources personnel shall work with supervisors to confirm that employees meet the eligibility criteria as certified by employees. All determinations as to whether an employee meets the criteria to participate in an appointing authority's telework program, as well as the terms and the level of participation in the program, shall be based on an individualized assessment of an employee's job duties and the employee's ability to satisfy the criteria for performing their duties via telework, except in those instances when, based on operational needs, the appointing authority concludes that an entire group of employees in a job title(s) are unable to perform their duties remotely, such as direct care workers.
1. If a supervisor and employee or entire group of employees in a job title

disagree as to eligibility, supervisors shall identify in writing to Human Resources personnel the specific criteria they believe the employee(s) does not meet. In such cases, the employee(s) may request a consultation to be held between the employee(s), supervisor, and Human Resources personnel regarding the disputed eligibility. The employee(s) shall have the right to union representation at the consultation.

2. Human Resources personnel shall make a recommendation regarding the employee's or group of employees' eligibility to participate in the telework program to the appointing authority's senior leadership designee.
3. The appointing authority's senior leadership designee shall review the recommendation and make the final determination as to the employee's or group of employees' eligibility.
4. If senior leadership determines the employee or group of employees is eligible to participate in the telework program, the decision shall set forth the terms of the employee's telework benefit, including the days per week the employee will telework, whether the employee will also participate in an Alternative Workweek Program (AWP), and any other terms that will be part of the employee's telework benefit. Appointing authorities shall have the sole discretion to determine if employees are eligible to simultaneously participate in the telework program and

AWP.

5. If the appointing authority's senior leadership determines that the employee or group of employees is not eligible to participate in the telework program, the decision shall set forth, in writing, the specific reasons that the employee's or group of employees' job duties cannot be performed remotely without interfering with the operational needs of the appointing authority.
 6. If the stated specific reasons and operational needs an employee's or group of employees' telework eligibility was denied changes, the employee or group of employees may request in writing to their appointing authority that it reconsider the employee's or group of employees' eligibility for participation in the telework program.
- (f) Employees must complete mandatory telework training prior to the beginning of the telework program as verified and recorded by the appointing authority or designee. Failure to complete mandatory telework training is grounds for revocation of telework.
- (g) If eligible, a new or transferred employee shall be permitted to participate in telework and/or AWP after the successful completion of the working test period. If eligible, a new or transferred employee who is not subject to a working test period shall be permitted to participate in telework and/or AWP 120 calendar days after the effective date of appointment.

4A:6-7.4 Performance Expectations, Revocations of Telework Eligibility & Adjustments of Telework Schedule

(a) Performance requirements for teleworking employees shall, in general, be the same as those for non-teleworking employees. Nothing in an appointing authority's telework program shall affect the appointing authority's 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. An appointing authority's telework program 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 telework plans:

1. Within the first 45 days of an employee's authorization to telework, 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 telework.
2. Telework may be revoked at any time 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. 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 consultation to take place regarding pending revocation. An appointing authority's 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 telework authorization revoked.

3. If participation in the telework program is revoked based on an employee receiving an unsatisfactory final performance assessment review, and if that rating is appealed and reversed, the employee's participation in the telework program shall be restored.

(b) Telework may also be revoked or an employee's telework schedule may be permanently or temporarily adjusted based on an appointing authority's operational needs, which may change over time.

1. If a supervisor and employee or entire group of employees in a job title disagree as to the revocation or adjustment, supervisors shall identify

in writing to Human Resources personnel the specific reasons and operational needs of the appointing authority that necessitates the revocation or adjustment. In such cases, the employee(s) may request a consultation to be held between the employee(s), supervisor, and Human Resources personnel regarding the disputed revocation or adjustment. The employee(s) shall have the right to union representation at the consultation.

2. Human Resources personnel shall make a recommendation regarding the employee's or group of employees' revocation or adjustment to the appointing authority's senior leadership designee.
3. The appointing authority's senior leadership designee shall review the recommendation and make the final determination as to the employee's or group of employees' revocation or adjustment. Senior leadership must indicate, in writing, the operational needs that informed the revocation or adjustment.
4. If senior leadership determines the employee's or group of employees' revocation or adjustment should be made, the decision shall set forth, in writing, the specific reasons and operational needs of the appointing authority that necessitated the revocation or adjustment.
5. If the appointing authority's senior leadership determines that operational needs do not necessitate a revocation or adjustment to the

employee's or group of employees' telework schedule, the employee(s) shall maintain their current telework schedule.

6. If the stated specific reasons and operational needs an employee's or group of employees' telework eligibility was revoked or their telework schedule was adjusted changes, the employee or group of employees may request in writing to their appointing authority that it reconsider the revocation of the employee's or group of employees' telework eligibility or the adjustment to the employee's or group of employees' telework schedule.

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 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. If an employee is required to report to an Official Reporting Location 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. 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) Subject to approval by the Governor's Office, appointing authorities may only designate additional telework days in a calendar week in emergent circumstances. Emergent circumstances may include, but are not limited to, (1) a public health emergency, as defined in N.J.S.A 26:13-2, that necessitates the closure of an Official Reporting Location; (2) health and safety concerns that necessitate the closure of an Official Reporting Location including, but not limited to, inclement weather, natural disasters, riots, fire, nuclear accidents, systems breakdown, and building and facility-related problems, and (3) any emergent operational need that limits the ability of some or all of the appointing authority's employees to work at their Official Reporting Location.

4A:6-7.6 Data Privacy

- (a) 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.

- (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.
- (c) Employees who are provided with portable information assets, such as laptop computers, are responsible for the physical security and condition of these 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.
- (d) Records created and stored in the course of State government business, including records in both electronic and paper form created in an Alternative Worksite, are public records. Therefore, these records are subject to the State's public records retention/disposition law and the Open Public Records

Act. This is inclusive of records created on both State-issued and personal devices.

- (e) 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 or similar platform, as supported/approved by the appointing authority's information technology function. Any in-person meetings must be scheduled at an approved meeting place such as a State agency's office site or the employee's Official Reporting Location.
- (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 immediately to discuss alternative assignments or other options.

- 1. Misuse of State technology resources will result in revoking access to those resources. This includes repeated failure to return shared technology resources.

4A:6-7.7 Telework & Alternative Workweek Programs

- (a) Any appointing authority without an existing Alternative Workweek Program (AWP) shall create one. Appointing authorities must allow employees who are

eligible for both AWP and the telework program to avail themselves of both programs so long as participation in both programs is consistent with the operational needs of the appointing authority. Appointing authorities shall have the sole discretion to determine if employees are eligible to simultaneously participate in the telework program and AWP. Such determination is not appealable. Employees deemed eligible to simultaneously participate in their appointing authority's telework program and AWP must maintain a schedule whereunder they work no more than one day of telework during the week they are using their AWP day, except as provided under N.J.A.C. 4A:6-7.5.

- (b) 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. See N.J.A.C. 4A:6-2.6 and N.J.A.C. 4A:6-2.7.

- 1. All AWP and Flexitime Program plans must continue to be submitted for approval to the Chairperson or designee as they are in the normal course. If an appointing authority does not have an approved plan, or the existing plan is amended, the appointing authority must submit a plan to the Chairperson or designee in conjunction with the submission of the telework plan for approval.

4A:6-7.8 Challenges to Telework Eligibility Denial, Revocation, or Adjustment

(a) An employee who is denied participation in the telework program or who has their participation in the telework program revoked or adjusted may challenge such actions only as follows.

1. A denial of a request for telework as a Reasonable Accommodation or a revocation or adjustment of telework as a Reasonable Accommodation may be challenged via a complaint filed with an appointing authority's Equal Employment Opportunity/Affirmative Action Officer. See N.J.A.C. 4A:7-3.2.
2. A denial of a request for telework or the revocation or adjustment of telework claimed to be an act of reprisal may be challenged using the appeal procedures established for such claims. See N.J.S.A. 11A:2-24 and N.J.A.C. 4A:2-5.2.
3. A denial of a request for telework or the revocation or adjustment of telework that does not implicate (a)1 or 2 above may only be challenged in accordance with grievance procedures specified in N.J.A.C. 4A:2-3.3-3.7. With respect to an appeal of a denial, revocation, or adjustment of telework based on operational needs filed with the Commission pursuant to N.J.A.C. 4A:2-3.7, the Commission must uphold the determination of the appointing authority unless it finds the appointing authority's determination to be an abuse of discretion. Appellants must meet all other criteria pursuant to N.J.A.C. 4A:2-3.7.