STATE OF NEW JERSEY

In the Matter of Matthew Marthaler, Department of Community Affairs	:	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2026-2004	:	Administrative Appeal

ISSUED: September 23, 2026 **(NFA)**

Matthew Marthaler, Regulatory Officer 2, Department of Community Affairs (DCA), challenges DCA's Telework Policy.

Initially, the Civil Service Commission (Commission) notes that per *N.J.A.C.* 4A:6-7.8, appeals under the Telework Program may only be made by an employee who is denied participation in the telework program, or who has their participation in the telework program revoked or adjusted. As none of those circumstances apply to the appellant in this matter, his appeal would normally be dismissed. Nonetheless, since the issue in this matter involves the Commission's interpretation of its own rules, the appellant's appeal will be entertained.

Boiled down to its essence, the appellant contends that a portion of DCA's Telework Policy improperly conflicts with the Telework Program outlined in *N.J.A.C.* 4A:6-7.1, *et seq*.[1] Specifically, he indicates that the DCA's policy states:

> During State-mandated workplace closures, employees who are approved for telework are required to telework on days that they usually report to their Official Reporting Location, unless otherwise directed. For example, Employee A has telework on Thursdays and Fridays. The Governor mandates that State offices will be closed on a Monday for

[1] It is noted that, as outlined in *N.J.A.C.* 4A:6-7.2(e), the DCA's Telework Policy was reviewed and approved by a Commission designee as consistent with Telework Program rules.

> inclement weather. Employee A must telework on Monday. If employees in this situation are unable to perform the duties of their job, they must contact their supervisor/manager for instructions.

He argues that the above provision is in conflict with *N.J.A.C.* 4A:6-7.5(c), which provides that "[s]ubject to approval by the Governor's Office, appointing authorities may only designate additional telework days in a calendar week in emergent circumstances." His main objection is that since the above section indicates that only upon approval from the Governor may an appointing authority designate additional telework days, the DCA's policy usurps the power of the Governor as it does not account for such approval. He also argues that *N.J.A.C.* 4A:6-2.5 requires the Governor or designee to indicate when curtailing State operations during inclement weather or other adverse situations to specify whether employees scheduled to be in office those days are required to telework.

CONCLUSION

The full text of *N.J.A.C.* 4A:6-7.5(c) states:

> (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:
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> 1. A public health emergency, as defined at *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.

Upon its review, the Commission finds that, while the section above is arguably inartful in its drafting,[2] the clear intent of *N.J.A.C.* 4A:6-7.5(c) is to permit an appointing authority to have employees who are in a telework program, telework when possible on "in office" days, where, for example, inclement weather compels the Governor to close State offices. The Commission does not read the rule to provide the Governor's Office jurisdiction over an appointing authority's request to designate

[2] For example, a clearer initial sentence would be: "Appointing authorities may only designate additional telework days in a calendar week under emergent circumstances approved by the Governor's Office."

additional telework days under the circumstances outlined in subsections (1), (2), or (3). Such an interpretation is illogical. In this regard, neither the Commission, nor a Commission rule, has the authority to compel the Governor to act on a request from a Civil Service appointing authority that is subject to Civil Service rules. Additionally, the Commission has no unilateral authority to close State offices for any reason, as such jurisdiction resides with the Governor or a designee. Further, the Telework Program rules specifically give the Commission, not the Governor's Office, the authority to review and approve an appointing authority's telework policy under *N.J.A.C.* 4A:6-7.2(e). As such, the only reasonable interpretation is that the portion of the rule referencing the Governor's Office approval, can only be properly applied to subsections (1), (2), or (3). Correspondingly, the Commission finds that the DCA's Telework Policy is not in conflict with the above section. The Policy refers to "State-mandated workplace closures." Such closures can only be ordered by the Governor or a designee.

N.J.A.C. 4A:6-2.5 states:

> (a) The Governor, or 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 to be implemented.
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> 1. This determination shall include whether the curtailment shall be Statewide, regional, specific to one or more facilities, or limited in some other manner; and 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.

The appellant does not point to any specific circumstances where the imposition of an additional telework day was imposed without the Governor or a designee indicating that such a designation was permitted. Absent such, the Commission assumes that along with each such designation by the Governor or designee, such a determination has been made and communicated appropriately to appointing authorities. Moreover, similar to the analysis under *N.J.A.C.* 4A:6-7.5(c), the Commission finds DCA's Telework Policy is not in conflict with *N.J.A.C.* 4A:6-2.5 as its reference to "State-mandated workplace closures" presupposes that the Governor or designee has made an appropriate determination under 4A:6-2.5. More importantly, the Policy's indication that "employees who are approved for telework are required to telework on days that they usually report to their Official Reporting Location, *unless otherwise directed* (emphasis added) allows for a circumstance where the Governor's determination under *N.J.A.C.* 4A:6-2.5 does not indicate that in office employees would be required to telework. Accordingly, the Commission denies the appellant's appeal challenging the DCA's Telework Policy.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 23RD DAY OF SEPTEMBER, 2026



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