



Office of Information Technology Services

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Office of Information Technology Services Policy	No: ITS-P10-003
ITS Policy: Telecommuting	Updated: 12/06/2023
	Issued By: NYS Office of Information Technology Services Owner: Administration

1.0 Purpose and Benefits

Telecommuting is designed to support a workforce strategy that optimizes productivity and performance, regardless of work site, when feasible and practicable. This policy defines the New York State Office of Information Technology Services' (ITS) Telecommuting Program and the rules under which it will operate. The ITS Telecommuting Program is intended to provide the following benefits:

- Maintain an agency culture that supports employee flexibility and mobility.
- Provide work/life balance and leverage work capacity to enhance performance.
- Promote resiliency during work site disruptions, including modified and suspended operations.
- Contribute to a cleaner environment, reducing operational and transportation costs and travel time.
- Sustain the recruitment and retention of a high-quality workforce by providing a supportive and productive work environment.

2.0 Authority

*Section 1 of Executive Order No. 117*¹, established January 2002, charges the State Chief Information Officer with overseeing and supervising the management and operations of ITS. *Section 102(2) of the State Technology Law* gives the Director of ITS responsibility for the administration of ITS. Details regarding this authority can be found in NYS ITS Policy, [NYS-P08-002 Authority to Establish Enterprise Information Technology \(IT\) Policies, Standards and Guidelines](#).

¹ All references to Executive Order 117 refer to that which was originally issued by Governor George E. Pataki on January 28, 2002 and continued by Executive Order 5 issued by Governor Eliot Spitzer on January 1, 2007, Executive Order 9 issued by Governor David A. Patterson on June 18, 2008, Executive Order 2 issued by Governor Andrew M. Cuomo on January 1, 2011, and Executive Order 6 issued by Governor Kathy Hochul on October 8, 2021.

3.0 Scope

This policy applies to ITS employees.

4.0 Information Statement

Telecommuting is an alternate work arrangement that allows employees to conduct some of their work away from their official work site. ITS's policy is to support telecommuting where it is reasonable to do so based on the agency's mission and operational needs.

The Telecommuting Program is completely voluntary. Every application will be considered on an individual basis. ITS reserves the right to unilaterally approve, deny, modify, revoke, or suspend any individual's participation in this program pursuant to procedures outlined in Section 4.3.5. Telecommuting is not operationally feasible for all job functions. The Bureau Director, or designee, determines which job functions are eligible to participate in this program. Determinations as to which job functions are eligible for telecommuting are final and cannot be appealed.

This program will sunset on June 30, 2024 but can be extended at the discretion of ITS. ITS will comply with any current or future obligations under collective bargaining agreements regarding telecommuting, including meeting with union representatives prior to the termination of the Telecommuting Program if required by the applicable collective bargaining agreement.

4.1 Types of Telecommuting

Event Driven – Occasional telecommuting arrangement that is infrequent and not regularly scheduled, which is approved or directed by the Division Executive, or their designee.

Regularly Scheduled – Routine telecommuting arrangement with a set schedule.

Exceptions – A telecommuting arrangement that exceeds 50% of the telecommuter's regularly scheduled work hours in a pay period and requested on a temporary and ad-hoc basis. These requests will be evaluated on a case-by-case basis.

4.2 Eligibility

All ITS employees may be eligible for the Telecommuting Program if the employee meets the following criteria:

1. Must be deemed to have satisfactory performance, as evidenced by a number of factors, including but not limited to a satisfactory performance evaluation, satisfactory work product and time and attendance record, and a lack of recent disciplinary history or formal and informal counseling;
2. Have work tasks or functions which do not require a continued presence at their official work site;
3. Work performance can be quantified (e.g., number of cases closed, number of telephone calls answered, number of customers/clients assisted, completed

- percentage of power point project), measured, and/or evaluated;
4. Employee's productivity will not decrease when performing tasks at the Alternate Work Site;
 5. Additional work will not be generated for co-workers, nor will shifts change, due to the employee telecommuting;
 6. Permissible resources can be easily transported between the employee's official work site and the Alternate Work Site; and,
 7. Will not violate any confidentiality agreement, policy or compliance obligation that may prohibit records or information from being removed from or accessed outside of their official work site.

Probationary employees may be allowed to telecommute with supervisor approval.

4.3 Request Process

An employee cannot begin telecommuting until the requirements set forth in this section are complete.

4.3.1 Training

Employees are required to take the ITS Telecommuting Program and How to Work Remotely trainings prior to applying for telecommuting. Supervisors/managers of employees applying for telecommuting must also take these trainings before reviewing or accepting applications. ITS reserves the right to periodically modify the training requirements.

4.3.2 Application

Employees must submit a telecommuting application to be eligible for telecommuting.

The direct supervisor, with the approval of the second-level supervisor, has full discretion to either approve or deny an application for telecommuting. If denied, the employee may appeal the decision in writing as outlined in [Section 4.4](#).

The supervisor may require an employee to submit a new telecommuting application if the employee leaves the current position or program area or if the employee's job duties or function significantly changes.

4.3.3 Renewal

Telecommuters are required to retake the ITS Telecommuting Program training, How to Work Remotely training, and submit a new telecommuting application by July 1 annually, which marks the beginning of each new telecommuting period, to continue telecommuting.

4.3.4 Work Plan

The supervisor will use the telecommuter's performance program, if applicable, in conjunction with current work assignments to define the performance and work productivity expectations for telecommuting days. The supervisor and telecommuter must discuss assignments and expectations (the "work plan") in advance of telecommuting and meet regularly to assess productivity and performance; adjustments to assignments and expectations should be made on

an ongoing, as-needed basis. The supervisor shall ensure that the work plan is captured in writing in advance of, or no later than the start of, the telecommuting period, and accessible to both the supervisor and the telecommuter. The telecommuter must provide documentation of all work performed while participating in this program upon supervisor request.

In addition to the above, for probationary employees, supervisors must include expectations for work deliverables, processes for training and coaching during telecommuting days, methods of observation or review of work performed including feedback, and frequency and expectation of in person check-ins in the work plan.

Supervisors are expected to provide ongoing feedback and monitor telecommuters closely, including evaluating completed work products for continued participation.

If productivity or performance on a telecommuting day is unsatisfactory, the supervisor/manager should complete the HR-304 Unsatisfactory Telecommuting Report Form, noting if there are issues with a telecommuter's productivity, responsiveness, workspace compliance, technology issues, or other reasons.

4.3.5 Revocation of Telecommuting Agreement

A supervisor may request the termination of a telecommuter's agreement to the second-level supervisor at any time based on:

- Productivity/performance issues
- Unresponsiveness during telecommuting
- Private workspace non-compliance
- Unresolvable technology issues
- Change in job functions
- Other operational needs

When a supervisor would like to remove an approved telecommuter from the Telecommuting Program for the above reasons, they must:

1. Notify the employee in writing of the revocation up to thirty days in advance of the anticipated cessation of telecommuting.
2. Complete the HR-305 Revocation of Telecommuting Authorization Form.
3. Have the approved telecommuter return to their official work site.
4. Not approve any additional telecommuting days and/or revoke prior approved telecommuting days.

Individual telecommuting agreements may be suspended or terminated for any other reason at any time by the agency with thirty days' notice where feasible and consistent with agency operating needs. The telecommuter may suspend or withdraw from telecommuting with two weeks' notice to the supervisor unless a shorter time period has been mutually agreed to.

Employees who have been removed from the Telecommuting Program may reapply for participation no sooner than six months from the date of removal.

4.4 Appeal Process

If an employee has their application denied, the employee may request a review by the Telecommuting Appeal Board within five (5) business days of receipt of the denial. The Telecommuting Appeal Board shall consist of a representative from the ITS Division of Legal Affairs, ITS Office of Administration, and ITS Human Resources.

The employee will receive instructions through their ITS email on how to engage in the appeal process.

- Requests must be made in writing to its.sm.Administration@its.ny.gov within five (5) business days of the denial.
- Requests must contain information regarding why the employee disagrees with the determination, along with any new information for the Appeal Board to consider.
- Appeals will generally be heard within ten (10) business days of receipt.
- Employees will be notified in writing of the Appeal Board's determination.

Denials of applications for telecommuting under the Telecommuting Program are not grievable under any collective bargaining agreements. The employee may submit a new application six (6) months after the date of the appeal denial or earlier as determined by their supervisor.

4.5 Reasonable Accommodations

Reasonable Accommodations are available to employees as required under the Americans with Disabilities Act (ADA) and NYS Human Rights Laws (HRL). Telecommuting may be offered as a Reasonable Accommodation pursuant to Reasonable Accommodations for Disabilities and Pregnancy Related Conditions (ITS-P19-004) and Reasonable Accommodations for Religious Observance or Practices (ITS-P19-003). To submit a request for a Reasonable Accommodation, please submit the appropriate application to Accessibility@its.ny.gov:

- Application to Request Reasonable Accommodation or a Disability or Pregnancy-Related Condition
- Application to Request Reasonable Accommodation of Religious Observance or Practice

4.6 Expectations

Employees must continue complying with all Federal and State laws, rules, regulations, and state and agency policies during this program as they would at their official work site. Failure to abide by all laws, rules, regulations, and state and agency policies may result in exclusion from telecommuting and/or administrative action, including disciplinary action. All assigned duties will be performed in a

manner consistent with applicable ITS rules, policies, practices, collective bargaining agreements, and ethical standards.

4.6.1 Schedule

The number of permissible telecommuting days for each employee will be determined by the current work demands/assignments as well as operational needs and collective bargaining agreements but will not exceed 50% of the telecommuter's regularly scheduled work hours in a pay period.

- Exceptions within a single pay period require written approval of both the direct supervisor and second-level supervisor and shall be requested through the supervisor to the second-level supervisor.
- Exceptions that last longer than a single pay period must have written approval from the direct supervisor and second-level supervisor, in addition to written approval from ITS Human Resources.
- Exceptions required because of office space moves will be initiated by the ITS Office of Administration's Space Planning Unit. These exceptions are voluntary and any employee who does not wish to telecommute 100% will be assigned a temporary work site until a permanent location is identified.

Telecommuters will treat telecommuting days like regular workdays and will be expected to maintain a regular work schedule and routine while telecommuting (including overtime when appropriate and authorized in advance). The same attendance rules and call-in procedures apply when telecommuting. Official work site coverage will be among the considerations made by the employee's supervisor when making telecommuting decisions. Seniority may be used as a factor in the approval of a telecommuting day.

Supervisors shall require telecommuters to have a set telecommuting schedule. The approved set schedule is determined by the employee's supervisor based on operational needs. Any request for a change in an approved set schedule or telecommuting day must be submitted to the supervisor in advance.

A telecommuter is required to report to their official work site upon their supervisor'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 the supervisor 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 supervisor, a telecommuter may change a scheduled telecommuting day within the same pay period. If a telecommuter is required to report to their official work site, they will not be reimbursed for travel.

Telecommuters must be available via all required methods of communication throughout the workday. Where feasible, the telecommuter should use an ITS issued device, or approved software to conduct official business. Telecommuters

may be required to forward their official work site phone to the phone that will be used while telecommuting. The telecommuter may need to utilize a personal phone for work-related calls. ITS will not reimburse phone or data plan costs. All long-distance calls must be made on an ITS-issued device, be for an official work purpose and done with the prior approval of the employee's supervisor and the Chief Financial Officer.

Unless otherwise directed by ITS, telecommuters will not be excused from work when a directed early departure or office closure 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 the scheduled hours, the supervisor may direct the telecommuter to report to the official work site or grant appropriate charge to leave accruals.

4.6.2 Equipment and Supplies

ITS may provide telecommuters the necessary equipment and software, within reason, to telecommute. ITS will not provide desks, chairs, file cabinets, or other office-related furniture. The use of an employee's personal device (for example, desktop, laptop, tablet, etc.) requires the use of Virtual Desktop Infrastructure (VDI), Virtual Private Network (VPN), or access to email, OneDrive, and/or SharePoint via Outlook Web Access, all of which require multifactor authentication. The supervisor will determine which connection mechanism is appropriate based on operational need and the availability of resources. Telecommuters using personal devices must request, receive, and test any necessary software and authentication token prior to telecommuting. ITS will not be responsible for any hardware issues that may occur on personal devices because of the program. Telecommuters are responsible for keeping their personal devices functioning. The ITS Service Desk cannot answer calls and/or respond to tickets that are related to personal device hardware issues.

Minimal office supplies such as writing paper and utensils may be provided by ITS and should be requested during the telecommuter's in-office work period as supplies will not be shipped to the Alternate Work Site. Out-of-pocket expenses will not be reimbursed.

The telecommuter is responsible for securing and paying for an internet connection. ITS will not reimburse internet costs. The telecommuter must have an internet connection with bandwidth that is appropriate for conducting official business without disruption.

If assigned equipment or any component thereof is lost, stolen, or destroyed the telecommuter must immediately notify the supervisor and refer to the [ITS Acceptable Use of Information Technology Resources Policy \(NYS-P14-001\)](#), completing all steps outlined within the policy. The supervisor may require telecommuters to report to the official work site or charge leave accruals.

When the telecommuting agreement ends or is terminated, the employee must return all equipment and supplies issued on their next workday, unless otherwise

specified by the supervisor.

4.6.3 Alternate Work Site

The Alternate Work Site must be located within New York State or within a geographic location proximate to the work site such that the employee can report to the worksite within a reasonable period of time when required by the supervisor, unless otherwise approved by the Chief Information Officer, or their designee, following approval from the employee's supervisory chain up to and including the Division Executive. A telecommuter must notify the supervisor if the Alternate Work Site changes during the course of the telecommuting period.

Supervisors should consider the following factors when approving a request to telecommute from an Alternate Work Site outside of New York State:

1. The length of time necessary for the telecommuter to report on-site on short notice;
2. The nature of the telecommuter's duties within the unit; including, but not limited to, the impact of the telecommuter's off-site presence on operations;
3. The impact of events requiring an on-site presence, within the unit's responsibilities, on ITS operations;
4. The frequency of occurrence of events, within the unit's responsibilities, requiring an on-site presence;
5. Whether the telecommuter resides in a border state (i.e., New Jersey, Connecticut, Massachusetts, Vermont, or Pennsylvania).

The telecommuter is responsible for arranging a dedicated private workspace at the Alternate Work Site. The workspace must have:

1. Equipment and supplies appropriate to conduct official business.
2. Appropriate means of communication to complete the job duties.
3. Appropriate security measures to safeguard confidential information that the telecommuter will have access to as part of the telecommuter's job duties.
4. A safe work environment.

With cause, ITS may access the Alternate Work Site for reasons such as safety and security concerns or to retrieve state records or property. ITS will provide the telecommuter with notice of the reason for, and the date of, the visit at least 48 hours in advance unless agency management determines there are exigent circumstances requiring less notice in which case as much notice as feasible will be provided.

Telecommuters cannot invite third parties to their Alternate Work Site for purposes of conducting official business.

ITS is not liable for conditions at the Alternate Work Site which are found to violate

local ordinances or regulations, or state or federal regulations or laws.

An employee is considered to be acting within the course and scope of employment when engaged in job-related activities; therefore, Workers' Compensation benefits will apply to injuries arising out of, and in the course of, employment, regardless of whether the injury occurred on or off ITS premises. If an injury occurs while an employee is performing assigned duties at the Alternate Work Site under a telecommuting agreement, the employee is to follow established reporting procedures to report the injury and for filing a Workers' Compensation claim. The telecommuter must notify their supervisor immediately. The telecommuter will complete the ITS Accident Reporting Form and call the Accident Reporting System (ARS) at (888) 800-0029 to report the work-related injury. All claims for work-related injuries at the Alternate Work Site shall be subject to review and acceptance by the Workers' Compensation Board and the State Insurance Fund.

4.7 Security

Telecommuters are responsible for adhering to all ITS policies and standards concerning the use of computer equipment and the security of data/information while telecommuting or while in transit between work sites, including but not limited to the [ITS Acceptable Use of Information Technology Resources Policy \(NYS-P14-001\)](#). These policies and standards can be found on Inside Edge.

Telecommuters are also responsible for protecting state data and information from unauthorized disclosure and to safeguard files, documents, and equipment at all times. Security incidents, including actual or suspected security compromises, must be immediately reported to the telecommuter's supervisor and the telecommuter must abide by and follow the procedures outlined in [ITS' Cyber Incident Reporting Procedures](#). A compromise of information security, including the unauthorized disclosure of confidential information or the personally identifiable information of ITS staff or customers/clients, which occurred due to the telecommuter's neglect or violation of applicable ITS or state policy, will be addressed through appropriate administrative action.

Under no circumstance may state data or information be transferred to or stored on any personal devices. Telecommuters cannot allow an ITS issued device to be used by any other person not otherwise authorized to use the device for the purposes of conducting official state business. Telecommuters must log off and secure any computer being utilized to conduct official state business when not in use.

Telecommuters must also take the following specific precautions:

1. Only take confidential information offsite when authorized in advance by their supervisor.
2. Do not transmit confidential or other information from work e-mail to personal e-mail addresses (e.g., aol.com, yahoo.com or gmail.com).
3. Securely store all records and information so that others cannot access it.
4. Do not communicate confidential information where others can listen.

5. Place documents requiring destruction in ITS Confidential/Sensitive destruction bins located at the official work site.
6. Safeguard all passwords used in connection with ITS files or programs.

Management will not access or otherwise use any personal information on an employee's personal device without express written consent from the employee.

5.0 Compliance

This policy shall take effect upon publication. Compliance is required with all ITS policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is required.

ITS will comply with any current or future obligations regarding telecommuting set forth in applicable collective bargaining agreements.

Failure to comply with any of the rules, policies and standards set forth in the official telecommuting documents or failure to cooperate in an investigation related to this telecommuting program may result in administrative action, including revocation of telecommuting privileges.

6.0 Definitions of Key Terms

Except for terms defined in this policy, all terms shall have the meanings found in <http://www.its.ny.gov/glossary>.

7.0 Contact Information

Submit all inquiries and requests for future enhancements to the policy owner at:

Administration
Reference: ITS-P10-003
Swan Street Bldg., Core 4, Floor 1
Albany, NY 12220
Telephone: (518) 402-5082
Email: its.sm.Administration@its.ny.gov

ITS technology policies, standards, and guidelines may be found at the following website: <https://its.ny.gov/policies>.

8.0 Revision History

This policy shall be reviewed at least once every two years to ensure relevancy.

Date	Description of Change	Reviewer
04/13/2010	Original policy	CIO/OFT

Date	Description of Change	Reviewer
03/21/2011	Updated link to HR-39 form, duration of pilot information, and format	CIO/OFT
06/30/2011	Scheduled review	CIO/OFT
09/19/2012	Revised – format/logo only	CIO/OFT
04/22/2014	Revised	ITS
04/01/2015	Scheduled Review	ITS
03/19/2015	Revised for content and language. Posted to the InsideEdge.	ITS
03/28/2016	Revised for content and language. Posted to the InsideEdge.	ITS
03/31/2017	Revised for content and language. Posted to the InsideEdge.	ITS
03/13/2018	Revised for content and language. Posted to the Inside Edge	Human Resource Services
05/28/2019	Updated template and revised scope and authority.	Human Resource Services
01/24/2020	Edited contact information for ITS OGS merger	OGS Human Resources Management
08/18/2021	Revised to reflect changes in the telecommuting program.	Administration
08/20/2021	Updated telecommuting application link to new electronic form.	Administration
06/06/2022	Revised to reflect changes in the telecommuting program.	Administration
07/05/2023	Revised to reflect changes in the telecommuting program.	Administration
12/06/2023	Revised to reflect changes in the telecommuting program.	Administration

9.0 Related Documents

[State Agency and Authority In-Person Presence & Telecommuting Program, Memorandum of Agreement between Governor's Office of Employee Relations, and Public Employees Federation, contained in the PS&T Services Unit Agreement](#)

Telecommuting Application

HR-304 Unsatisfactory Telecommuting Report

HR-305 Revocation of Telecommuting Authorization