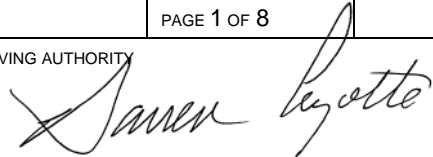
 Department of Corrections and Community Supervision DIRECTIVE	TITLE Telecommuting Program		NO. 2227
			DATE 10/05/2023
SUPERSEDES	DISTRIBUTION A	PAGES PAGE 1 OF 8	DATE LAST REVISED
REFERENCES (Include but are not limited to) Americans with Disabilities Act; Directive #2810	APPROVING AUTHORITY 		

- I. **PURPOSE:** The purpose of this directive is to outline the procedures and parameters of the Department's Telecommuting Program.
- II. **POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to support telecommuting where it is reasonable to do so based upon the agency's mission as well as operational and programmatic needs, without adversely affecting the delivery and quality of the services provided.
- Management's determinations as to which job titles and functions are eligible for telecommuting are final and those determinations cannot be appealed.**
- III. **ELIGIBILITY**
- A. The program is open to employees who are represented by the Public Employees Federation (PEF), the Civil Service Employees Association (CSEA), and to Management/Confidential (M/C) employees.
 - B. Participation in the telecommuting program is voluntary.
 - C. An employee is not entitled, or have a right, to telecommute. Management reserves the right to unilaterally approve, disapprove, suspend, and/or cancel any individual's participation in this program.
 - D. Failure to comply with any of the rules, policies, and guidelines set forth in the official telecommuting documents or failing to cooperate in an investigation related to this telecommuting program, may result in administrative action.
 - E. The following guidelines and conditions apply:
 1. Telecommuting participation must be approved by the applicable Division Head, Deputy Superintendent for Administration (DSA), Bureau Chief (BC), or Chairperson to the Board of Parole, with *final* approval by the Director of Personnel after consultation with the Deputy Commissioner with oversight of the program area.
 2. Participation in the program is limited to DOCCS employees who are represented by PEF or CSEA, and to M/C employees.
 3. Participants must be capable of working independently with little supervision and must have been in good standing during the two years immediately preceding their request to telecommute, or, in cases where the employee has less than two years of service, must have been in good standing during their total length of employment at DOCCS.

Probationary employees and employees serving in traineeships must have completed half of their minimum probationary period or traineeship in their current title to be considered for participation.

Factors which may indicate that an employee is currently in good standing for participation in this program include, but are not limited to, having satisfactory performance evaluations, satisfactory time and attendance, no formal counseling, or notices of discipline, within two years prior to the date of the application to telecommute.

4. Temporary and part-time employees are eligible to participate, with approval.
5. Management has the discretion to limit the maximum number of days permitted for telecommuting. Management must consider the impact that telecommuting may have on the participating employees, non-participating employees, and supervisors. If approved, telecommuting days shall not exceed two days per week.
6. If an employee is approved to participate in another alternate work schedule (e.g., compressed work week), they cannot participate in the telecommuting program.
7. Managers shall require telecommuters to have a set telecommuting schedule, which must be approved by management based on operational needs and shall be specified on the telecommuting work plan.
8. Seniority may be used as a factor in the approval of a telecommuting day when there is no distinction between the employee's job duties and operational needs.
9. Participation may be restricted due to security or accessibility limitations based upon program requirements or New York State (NYS) information technology infrastructure. Exceptions to current program and information technology, security, and accessibility are subject to approval of the Director of Personnel in consultation with the Department's Chief Information Officer.
10. Once a telecommuting application has been approved, participation and start dates may be subject to software equipment availability. Telecommuters must request, receive, and test the VDI or VPN applications and RSA token prior to telecommuting, and outside regular work hours.
11. Each Division is responsible for assisting in administering the telecommuting program, with guidance from the Central Office Bureau of Personnel. The Division Head, DSA, BC, or Chairperson will route and track applications, approvals and denials, telecommuting schedules, work plans, telecommuting reports or documentation, and maintain operational protocols, as required.
12. The same attendance rules and call-in procedures, outlined in the Department's various attendance and leave directives, apply when telecommuting.
13. Telecommuting is not a substitute for child or family care. Employees are expected to make arrangements for such care so as to not adversely impact telecommuting workflow and productivity.
14. Management will require an employee to submit a new telecommuting application if they leave their current position or program area or if their functions significantly change.

15. Employees must comply with all NYS laws, regulations, and rules during this program that they would abide by at the official work site. Failure to abide by all rules and laws may result in exclusion from telecommuting and/or administrative action, including disciplinary action.
16. All assigned duties will be performed in a manner consistent with applicable DOCCS rules, policies, practices, collective bargaining agreements, and ethical standards. Performance expectation and standards will not change, except to address circumstances that may be unique to working away from the official work site. Performance evaluations will be based upon the employee's regular work assignments and productivity. Performance expectations must be clear, objective, and consistent with those of employees in the official work site.
17. Any request for a telecommuting arrangement as a request for reasonable accommodation, under the Americans with Disabilities Act (ADA), should be made by contacting DOCCS' Office of Diversity and Inclusion (ODI) for Reasonable Accommodation.

IV. PROCEDURE: The following represents the various aspects that require consideration *prior* to recommending approval of a telecommuting agreement, as well as the guidelines for participation and eligibility:

A. Telecommuting Assessment

1. Telecommuting is not feasible for all job functions or for all employees. Certain employees will not be approved to participate in this program based on their duties and/or work performance.
2. Upon receipt of a telecommuting application, the Division Head, DSA, BC, or Chairperson must determine if the position appears appropriate for telecommuting and if the employee and supervisor(s) are likely to be successful participants in the program.
3. Worksite/office coverage will be among the considerations reviewed by management when making telecommuting determinations. [Form #2227A](#), "Telecommuting Assessment Questionnaire," is available to help determine if telecommuting would be the right fit for the employee and/or the job function prior to the submission of an application for approval.

B. Work duties or assignments that lend themselves to being ideal for telecommuting are those that:

1. Can be measured.
2. Do not require continued presence at the job location.
3. Can be accomplished at the alternate worksite without adversely affecting the delivery and quality of services.
4. Will not put an undue burden on, or increase the workload of, other office staff.
5. Require relatively little face-to-face contact with office staff or the public.
6. Emphasize thinking tasks, such as research, analysis, writing, and programming.
7. Require resources which can be easily transported between the employee's worksite and the telecommuting site.

8. Do not provide clerical support within the office setting (i.e., answering phones, filing, scanning, and/or copying documents).
 9. Do not require supervision of staff who are in training or being mentored.
- C. Rules and Expectations of Telecommuter
1. Work Hours and Time Off
 - a. All current laws, rules, regulations, contract provisions, and standard work rules apply.
 - b. Employees will work a normal workday and any existing overtime requirements, such as prior supervisor approval, remain applicable to telecommuting.
 - c. Employees shall request time off in advance and submit all leave requests as currently required by DOCCS policies as outlined in various Department attendance and leave directives.
 - d. When employees are required by management to be in the office on a scheduled telecommuting day for the purposes of attending a meeting or similar event requiring attendance in person, there is no expectation that the employee will be granted a substitute telecommuting day in return.
 - e. A partial day of telecommuting may be allowed, with prior approval. If telecommuters become ill during the scheduled work hours on a telecommuting day and require unscheduled sick leave, they must contact their supervisor and use sick leave accruals for the balance of the hours not worked. In all instances, [Form #1202](#), "Report of Unscheduled Employee Absence or Tardiness", must be completed.
 - f. Telecommuting participants will not be excused from work due to emergency dismissals at their official worksite unless there is a direct impact upon work being performed by the employee at their telecommuting worksite. If an emergency occurs, which renders the employee unable to work at the telecommuting site, the supervisor shall direct the employee to come to the worksite or grant appropriate leave.
 - g. Employees must notify their supervisor as soon as possible if an emergency affects their ability to complete scheduled work activity.
 2. Communication and Access to Employee
 - a. **Telecommuters must remain at their assigned work location during scheduled work hours.** If feasible and with supervisory approval, the employee's assigned work telephone number shall be forwarded to the employee's alternate worksite while telecommuting.
 - b. The telecommuter must be available via all required methods of communication throughout the workday. The telecommuter must be available to promptly respond to emails and be reachable by phone throughout scheduled work hours.

- c. The direct supervisor must notify other staff, as appropriate, that an employee is telecommuting to ensure they can communicate with the telecommuter on important matters prior to and during the telecommuting day(s).
3. Equipment and Supplies
 - a. If approved for a telecommuting assignment, the Division Head, DSA, BC, or Chairperson will advise their Designated Data Processing Liaison (DPL) to complete a request form via the State Office of Information Technology Services (ITS) ticketing system, to arrange for the issuance of an RSA token (fob) and detailed instructions on how to connect via remote access.
 - b. Participants will not receive State-issued equipment (i.e., laptops); therefore, employees must utilize personal laptops and/or desktops to participate and must have high-speed internet service at their telecommuting workspace. DOCCS will not provide reimbursement for internet connectivity. Likewise, all ongoing electric or other costs incurred as a result of telecommuting will be the responsibility of the telecommuter.
 - c. Minimal office supplies will be provided by the Department and should be requested and obtained during the telecommuter's in-office work period. Out-of-pocket expenses for supplies normally available in the office will not be reimbursed.
 - d. In the event of communications and/or equipment difficulties, telecommuters shall promptly contact their supervisor and the ITS Help Desk to report the situation. If the technical difficulties persist or interfere with work assignments, or if there is a system shutdown, telecommuters will consult with their supervisor regarding how best to proceed (i.e., charging time accruals, alternate assignments, reporting to work at the office for the remainder of the day).
 4. Telecommuting Workspace
 - a. It is the employee's responsibility to designate a defined workspace with appropriate equipment, supplies, and adequate means of communication for the performance of job duties. DOCCS will not provide the telecommuter office equipment such as a desk, chairs, file cabinets, etc. The employee is responsible for maintaining this workspace in a safe condition free from hazards that might present a danger. DOCCS is not liable for conditions at the telecommuting worksite which are found to violate local, state, or federal ordinances.
 - b. If an employee elects to change an established telecommuting worksite location, it must be approved by the employee's supervisor and the employee's workplan must be updated to reflect the new approved worksite.
 - c. Staff who are telecommuting are required to engage in work in an acceptable environment which is free of distraction and provides them with privacy/confidentiality. **This work environment must also be situated to allow for the employee to report to their official worksite upon request.**

- Telecommuting while traveling and/or on vacation does not meet these standards and is not permitted. When traveling and/or on vacation, a telecommuter, like any other employee, must charge appropriate accruals.
- d. Work related meetings in the employee's home are not permitted when the employee is telecommuting. This does not preclude a telecommuter from participating in phone/web-based meetings with employees in other divisions or agencies.
 - e. The employee must notify the supervisor immediately and adhere to DOCCS' procedure for reporting an accident or injury whenever it occurs during performance of job duties and a designated individual determined by DOCCS' Director of Personnel may inspect the employee's telecommuting workspace. The telecommuter will be given 48 hours notice, where practical and consistent with operational needs of the Department, prior to the inspection.
5. Agency Policies/Security of Information
- a. Telecommuters are responsible for adhering to all DOCCS' policies, procedures, and standards concerning the use of computer equipment and the security of data/information while telecommuting including, but not limited to, Directive #2810, "Information Security Policy." All data is to be kept private and confidential. Under no circumstances should DOCCS' data/information be stored on an employee's own personal device.
 - b. Computer online services use non-secure media which can be monitored or intercepted by outside parties; therefore, DOCCS employees are restricted from printing any Departmental records on their personal equipment. The impact of that restriction must be considered by management when determining an employee's eligibility to participate.
 - c. Telecommuters must also take the following specific precautions:
 - (1) Do not transmit any information from work email to personal email addresses, social media, or text messaging services.
 - (2) Only take confidential information offsite when authorized by their supervisor.
 - (3) Securely store all hard copy documents or office media so that others cannot access it.
 - (4) Do not communicate confidential information where others can listen.
 - (5) Must place documents requiring destruction in confidential/sensitive destruction bins located at the official worksite.
 - d. Breaches in security must be immediately reported to the telecommuter's supervisor. A breach of information security, including the release of confidential information or the personally identifiable information of DOCCS staff, incarcerated individual, or releasee, which happened due to the telecommuter's neglect, will be addressed through administrative actions.

V. APPLICATION PROCESS

- A. The employee must submit [Form #2227B](#), "Telecommuting Program Application," requesting approval to telecommute, through supervisory channels to their Division Head, DSA, BC, or Chairperson.
- B. The supervisor will complete [Form #2227A](#), consider the telecommuting application, and forward it to the Division Head, DSA, BC, or Chairperson, with a recommendation for approval/disapproval. **To ensure the consistent application of the rules and to assist in the monitoring of the program, the supervisor must provide a detailed justification supporting the recommendation so the validity of the recommendation can be assessed.**
- C. The Division Head, DSA, BC, or Chairperson will review the application, assessment questionnaire, and supervisor's recommendation, then complete a final recommendation for submission to the Director of Personnel.
- D. The Director of Personnel will approve/disapprove all applications after consulting with the appropriate Deputy Commissioner and notify the Division Head, DSA, BC, or Chairperson of the final decision, who will then notify the supervisor and the employee. **The decision of the Director of Personnel marks the final determination for that application and there will be no appeal process if reason for the denial is that the job function is deemed ineligible; however, an employee may re-apply through supervisory channels *no sooner than six months from the date of the denial.***

VI. EMPLOYEE APPEAL PROCESS: If an employee in a job function deemed eligible for telecommuting by management has their telecommuting application disapproved for reasons unrelated to their job title or function (i.e., work performance concerns, unsatisfactory time and attendance, etc.), they may appeal to the Division Head/BC/DSA/Chairperson in writing within five calendar days of the determination. The appeal will be sent to the Deputy Commissioner for Administration and shall state the reasons for disagreement with management's determination. A decision on the appeal shall be rendered by the Deputy Commissioner for Administration within ten calendar days from receipt, stating the reasons for the decision.

Denials of applications are not grievable under any collective bargaining agreement.

VII. TELECOMMUTING WORKPLAN USE AND REVIEW

- A. [Form #2227C](#), "Telecommuting Program Workplan," is a formal arrangement between the telecommuter and the direct supervisor that includes the date(s) telecommuting will occur, a description of the work which is consistent with the employee's job duties to be performed, and alternative work, should the planned work be accomplished early.
- B. The Director of Personnel or designee shall periodically request review of the workplan journals to ensure that the policy is being adhered to. Documentation of all work performed while participating in this program must be provided upon supervisor/manager request. Failure to adhere to the workplan requirement of the program may result in the termination of the telecommuting agreement.
- C. If approved to telecommute, the employee must submit a completed workplan to their supervisor on no less than a weekly basis, allowing the supervisor sufficient time to review, as outlined below:

1. Prior to the telecommuting shift, the employee requests permission to telecommute on a particular workday(s) by submitting a proposed workplan which includes planned tasks and estimates of amount of time for each task to their supervisor. If the supervisor is not available to review the workplan, the request should be forwarded to the next level supervisor available.
 2. Workplans must be submitted to the supervisor/manager in advance, except in the case of an unforeseen emergency, so that supervisors may authorize as soon as practicable.
 3. The use of email instead of [Form #2227C](#) requires advance approval of the employee's supervisor. If approved, the email must include all of the information required on [Form #2227C](#), including the telecommuting dates, telecommuting work hours, the address of the alternate work location, and the hours and days provided on the telecommuting workplan and application.
- D. The supervisor will review the workplan, approve or disapprove the requested telecommuting event(s), and return the workplan back to the employee. If the workplan is not approved, the employee is required to report to the worksite as usual or, if time allows, modify the workplan and re-submit for approval. If the workplan is approved, the employee may telecommute as requested.
- E. The employee will update their workplan accordingly during and after the telecommuting assignment, noting the results of planned work and any unplanned work that occurs. At the completion of each telecommuting event, the employee will forward the updated workplan to their supervisor, either electronically or hard copy, for their review and assessment. Together, the employee and their supervisor will assess the results/outcome noting any variances identified.
- F. All completed workplans must be retained by the supervisor either electronically or by paper file, until the telecommuting agreement ends.

VIII. TERMINATION OF INDIVIDUAL TELECOMMUTING AGREEMENTS: All Telecommuting Agreements will end six months from the date they commenced or were extended. At that time, management, in consultation with the Director of Personnel, has the discretion to extend the current agreement or to require the telecommuter to submit a new application for approval. Telecommuting Agreements may also be suspended/terminated:

- A. Immediately at any time by DOCCS management.
- B. By the telecommuter with 30 calendar days notice to the employee's supervisor.
- C. When mutually agreed between the supervisor and the employee.
- D. When there is a change in duties or reporting responsibility during the telecommuting arrangement. Each telecommuting arrangement may be terminated when there is a significant change in duties or unit operations.