



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT

Office of Labor Relations

December 28, 2021

GENERAL NOTICE NO. 2021-08

TO: Labor Relations Designees

RE: Telework Arbitration Award

Attached is the Arbitration Award regarding the Final Telework policy. The Arbitrator decided the single unresolved issue in the Union's favor. The Union's last best offer below, is the final language pertaining to the cap:

An employee may request telework schedules of any amount the individual employee believes to be consistent with job duties and operational needs. All such requests shall be reviewed and granted, denied, or modification suggested in accordance with the procedures and standards of this policy, except that the determination of an agency to refuse to grant telework above an amount that would provide one day per workweek at the worksite shall not be subject to arbitration under this policy.

Notwithstanding the ambiguity of the language, the Arbitrator determined that it was made understandable by the Union's clarification in its brief. He was persuaded by the Union's argument that the State's language although clear, could undermine the agreed-upon language and the SEBAC 2017 Cross-Unit Agreement. Since SEBAC had made billions of dollars in concessions as part of SEBAC 2017, this was part of the quid-pro-quo. Agencies should continue the review of telework applications, with the understanding that any modifications or denials, that require employees to be in the workplace more than one day per week is subject to challenge. Notwithstanding the Union's right to challenge, management retains the rights and prerogatives of public management:

Such rights include but are not limited to establishing standards of productivity and performance of its Employees; determining the mission of an Agency and the methods and means necessary to fulfill that mission, the appointment, promotion, assignment, direction and transfer of personnel; the suspension, demotion, discharge or any other appropriate action against its Employees; the relief from duty of its Employees because of lack of work or for other legitimate reasons; the establishment of reasonable work rules; and the taking of all necessary actions to carry out its missions in emergencies.

To that end, the standard for review supports management's exercise of these reserved rights:

The arbitrator, in rendering a decision, will uphold the state's determination to deny or modify a telework request if management has demonstrated that approving the application would have a material negative impact on service delivery to internal or external customers, clients, consumers or the general public. The arbitrator shall not be empowered to direct the Employer to hire additional staff or accrue additional overtime costs, nor shall the arbitrator be empowered to substitute his/her judgement for management's judgement as to which directly provided services

may be performed through other than in person contact. Any remedy awarded shall only be prospective.

No matter the outcome, we were always cognizant of the fact that there would be challenges to any denials, modifications, or other restrictions on telework. While there is an 80% theoretical cap, the other elements for approving or denying telework requests remain. They are tools that should be used in making decisions on each application.

I have also attached the final agreement with the awarded language included.

Labor Relations Designees with questions concerning this request should contact the Office of Labor Relations via email to Tammy.Kowalski@ct.gov. All others should contact their Central Personnel Office.

S. Fae Brown-Brewton

Fae Brown-Brewton
Undersecretary for Labor Relations