

STIPULATED AGREEMENT

This Stipulated Agreement (Agreement) is entered into between the State Employees Bargaining Agent Coalition (SEBAC) and the State of Connecticut (State) to resolve issues related to telework policies that apply to certain executive branch state employees.

WHEREAS, SEBAC is a coalition of various state employee unions whose members include employees of many state agencies; and

WHEREAS, in or about July 2017, SEBAC and the State entered into an agreement known as SEBAC 2017 which was duly approved by the General Assembly, and which included a provision calling for SEBAC and the State to “create policy and policy guidance to agencies regarding telework policies and implementation thereof”; and

WHEREAS, the Office of Labor Relations (OLR), a division within the Connecticut Office of Policy and Management (OPM) is the Governor’s designated representative, through the Secretary of OPM, for collective bargaining matters for state employees in certain executive branch agencies; and

WHEREAS, in or about July 2019, the State and SEBAC, under the authority of the SEBAC 2017 Agreement, began an Interim Telework program, which allowed certain state employees to apply for permission to telework no more than 50% of the work week; and

WHEREAS, in or around March 2020, in response to the COVID-19 pandemic, many state employees were directed to telework up to 100% of their time for health and safety protection

WHEREAS, on or about May 13, 2021, Governor Lamont sent an email to certain state employees, advising of a plan for certain state employees to return to a “new normal work environment”, and

WHEREAS, on June 16-17, 2021, the parties entered into an agreement entitled Telework Transition Period Agreement (Transition Agreement) which covered employees for whom OLR is the Governor’s designated representative for purposes of collective bargaining; and

WHEREAS, on June 28, 2021, the OPM Secretary McCaw and Chief Operating Officer Geballe sent a letter to Executive Branch Agency Heads, regarding State Employees Return to the Worksite, and

WHEREAS, on or about July 2, 2021, SEBAC filed a grievance under the parties’ collective bargaining agreement and a prohibited practice charge pursuant to section 5-274 of the Connecticut General Statutes, SPP-34,432; and

WHEREAS, on July 6, 2021, SEBAC filed a civil action against the State of Connecticut, Docket No. HHD-CV21-6144245-S, in the Connecticut Superior Court alleging, in essence, that the State was failing to comply with certain terms in the Transition Agreement, and that SEBAC and its members would be irreparably harmed during the pendency of the grievance and prohibited practice charges; and,

WHEREAS, SEBAC and the State (collectively referred to as “the parties”) wish to fully and finally resolve issues arising from such civil action, grievance and charge.

NOW THEREFORE, the parties agree as follows:

1. Except as provided herein, during a 60 (calendar) day period that begins on August 3, 2021, each eligible state employee will be allowed to telework on the schedule that was in effect during the period that began in March 2020 and ended on July 1, 2021.
 - a. The term “eligible state employee”, as used throughout this Agreement, means those employees who have teleworked during the pandemic telework period beginning in or around March 2020 ending on July 1, 2021, but does not include those who were given alternate assignments or those in hazardous duty covered positions.
 - b. The parties agree that, throughout the duration of this entire Agreement, agency heads and managers shall maintain the ability to require in-office or field presence because of specific work priorities which require such presence on a day or days the employee would otherwise be teleworking.
 - c. Those eligible state employees who returned to in-office work prior to July 1, 2021, or between July 1, 2021, and the effective date of this Agreement, may choose to maintain their current work schedule or revert to the pre-July 1, 2021, schedule, subject to the caveats above.
 - d. The parties further recognize and agree that job duties and agency operational needs may have changed in recent months due to the lifting of certain COVID-related restrictions, resulting in the need for a modification of eligible state employee telework schedules to accommodate such agency operational needs (e.g., schools and courts re-opening). In doing so, they may adjust schedules, such as days of the week which differ from the pre-pandemic telework weekly schedules. Adjustments to the amount of available telework will be made where consistent presence at the work site or in the field is now required because of the reopening of in-person operations which were suspended during the pre-July 1, 2021, period.
 - e. Eligible state employees demonstrating difficulty maintaining acceptable performance/production levels set by management may be required to return to the workplace. Performance/production issues resulting in a revocation of telework shall be subject to review under the grievance procedure of the applicable collective bargaining agreement. In such arbitration, which will be expedited the state will bear the burden of proving or demonstrating performance or production issues by clear and convincing evidence.
2. During the period that begins at the expiration of the 60-day period referenced in paragraph 1 herein and ends on December 31, 2021, the parties agree that:
 - a. Eligible state employees will be allowed to telework 50% of their scheduled work hours per pay period, or such lesser amount as the employee may request subject to the caveats

in paragraph 1(a), (d) and (e) above. If there are competing requests over a particular telework schedule, they will be resolved on the basis of state service seniority.

- b. Individual eligible state employees may request telework schedules that exceed 50% in the event the individual employee believes it to be consistent with job duties and operational needs. In such case, agency heads, at their discretion, may approve employee telework schedules that exceed 50% if, in the opinion of the agency head, following review of such request and the input of the employee's supervisors or managers, job duties and operational needs support such action. The Governor maintains discretion to direct a return to higher levels of telework consistent with his emergency powers as set forth in Public Act 21-5.
 - c. The parties further agree that in the event that an agency head denies an eligible state employee's request for telework in excess of 50%, the decision of the agency head is final, and SEBAC will waive any right to challenge such decisions.
 - d. For the duration of this Agreement which will terminate on December 31, 2021, unless otherwise modified by agreement of the parties, eligible state employees may request authorization to telework in excess of 50% if such employee, or a member of the employee's household, is "COVID-fragile". The term "COVID-fragile" means a person who is at a higher risk for severe illness from COVID-19 because of a serious underlying medical condition. Such employees may be required to submit medical documentation to human resources to assure that the request is consistent with this standard. Such requests will be approved if the employee's is able to successfully perform the essential duties of the job remotely consistent with the caveats in 1(a) and (d) above."
3. The parties agree that they will promptly begin negotiations in a good faith effort to reach a final telework agreement by December 31, 2021. The parties recognize and agree that in the event a final telework agreement results in an expenditure that would require an appropriation through legislative action, a request for such appropriation would be made during the 2022 legislative session. The document entitled "Structure for Reaching a Final Telework Agreement" is attached hereto and incorporated herein.
 4. Nothing in this Agreement at any time requires any employee to telework at the maximum level provided in the Agreement or prohibits any employee from any particular amount of in-office or field work, consistent with agency operational needs.
 5. If the parties are not able to successfully negotiate a final telework agreement by December 31, 2021, the State and SEBAC reserve their respective legal positions as to the State's claimed right to implement the terms of the Interim Telework Program that was in effect from July 2019 prior to the Governor's March 2020 announcement referred to herein.

6. Upon the execution of this Agreement by both parties, SEBAC will promptly withdraw the civil action, grievance and complaint referred to herein, without costs or fees to either party, and will provide the State with a release of related claims. The State will communicate directions to agency heads consistent with this Agreement. SEBAC will communicate notice to members consistent with this Agreement. The parties agree to abide by the spirit and the letter of this Agreement with respect to their communications and directives to their constituencies. Senior leadership of both parties will respect the discretion of agency heads, as informed by the employee's applications and the recommendations of supervisors and/or managers, with respect to the operational decisions concerning the granting of telework set forth in this agreement.
7. The parties agree that this Agreement will have no precedential value with respect to future negotiations and, by entering into this Agreement, neither party will be prejudiced in such future negotiations.

FOR THE STATE OF CONNECTICUT



Konstantinos Diamantis
Deputy Secretary, OPM

Date: 7/30/21

FOR SEBAC



Daniel E. Livingston
Chief Negotiator

Date: 7/31/2021

STRUCTURE FOR REACHING A FINAL TELEWORK AGREEMENT

I. Good Faith Negotiations

Promptly, following full execution of this Agreement, the State and the SEBAC shall commence good faith negotiations for a final Telework Agreement. To that end, the parties commit to meeting on regular intervals, but not less than biweekly at mutually agreed-upon times/format/location.

II. Arbitrator Selection and Hearing Scheduling

Notwithstanding good faith efforts, in anticipation of the parties reaching impasse, the parties shall select a mutually agreed-upon Arbitrator not later than August 31, 2021, to provide not less three (3) arbitration hearing dates during November 2021 to resolve the outstanding issues, which may include the following issues and such other issues as the parties mutually agree to include:

- a. What, if any, cap shall be imposed on the number of days or percentage of the scheduled work hours, during the biweekly pay period, an eligible employee may telework?
- b. Whether the State can restrict teleworking employees to use only state-issued equipment in order to ensure that certain security standards are maintained to guard the integrity of the state's Information Technology system.
- c. Whether the State must seek an appropriation from the Legislature to fund the purchase of the required equipment to support employees' ability to telework.

III. Fees and Costs

The Arbitrator, by accepting the appointment, agrees to hold the hearing under the procedures outlined in this Agreement, including the sharing of costs and fees equally between the parties. The arbitrator's fees and itemized expenses, the rental, if any, of the facilities used for the hearing and the cost of the transcript, if any, of the proceedings shall be divided equally between the parties.

If the hearing is postponed at the request of one party, the requesting party shall pay the Arbitrator's charge for the postponement, if any. If the matter is withdrawn or settled, the cancellation costs shall be divided as described above. The Arbitrator shall inform all parties of his/her cancellation policy upon appointment.

IV. Arbitrator's Authority

The Arbitrator's authority is limited to that set forth in Section 5-276(a) C.G.S. except as otherwise modified herein.

V. Pre-Hearing Procedures

No later than five (5) calendar days prior to the hearing date, each party will submit the following three items to the Arbitrator (with a complete copy to the other party):

Opening Statements: A concise written statement (no longer than five (5) double-spaced pages) setting forth the basis for their case. This statement will clearly identify the issue(s) to be decided at the hearing. With respect to each issue, the statement will set forth the pertinent facts in the case.

The Issue(s): The parties shall agree on a statement of the issue(s) under review such as those set forth above.

Exhibits: A copy of all documents that each party plans to introduce as an exhibit at the hearing. These documents must be numbered and clearly identified as State, SEBAC or Joint exhibits. It is up to each party to number and identify all exhibits submitted to the Arbitrator.

Witnesses/Affidavits: A list of witnesses, including those who will testify by sworn affidavit, shall be provided to the Arbitrator and the other party. Affidavits must accompany the witness list. Because the hearing is designed to be completed expeditiously, care and consideration must be given in deciding witnesses, and the relevance their testimony has to the issue. Affidavits should ordinarily contain the witnesses' statement of the facts and transactions that led to the instant matter. All claims and any supporting facts that are alleged must be clearly and succinctly stated, including mitigating factors. By making said claims in this forum, Grievants should be advised that it may preclude the ability to seek redress in multiple venues.

No later than 3 business days prior to the hearing, each party may submit objections to the Arbitrator pertaining to the admissibility of evidence, or the relevance of witnesses. These objections must be submitted in writing, with a copy

to the other party. The Arbitrator will rule on the objections at the start of the hearing, unless he or she determines that further information is required before ruling. Either party may request a conference call prior to the hearing to resolve evidentiary issues.

If one party fails to submit its three items by the deadline, it may request permission to submit such items out of time, and the opposing party shall then have the option of rescheduling the hearing, with the cost of rescheduling to be borne by the party which failed to submit the items on time.

If upon the Arbitrator's request, a party refuses to produce documents or witnesses under the party's custody or control, the Arbitrator may draw such inferences as he or she deems appropriate. However, the Arbitrator has no power to subpoena either documents or witnesses.

VI. Representation Rights

Each party is entitled to representation of their choosing at the hearing. The Arbitrator has no authority to impose costs or award attorney's or representative's fees to either party.

VII. Hearing Procedures

Except by the mutual written agreement of the parties, the hearing shall be closed to all persons other than the principal parties and their invited members.

At the commencement of the hearing, the Arbitrator shall state the issue(s) under review. The Arbitrator shall identify for the record all exhibits submitted by the parties, and shall rule, as appropriate, on any objections to the exhibits.

This Agreement, and the procedures outlined herein, are designed to allow both sides to present their cases fully and completely in not more than three (3) days. At the request of both of the parties, and in extraordinary circumstances only, the Arbitrator is authorized to allow additional hearing time.

Opening statements are discouraged. The written statement submitted to the Arbitrator (see section IV above) should be considered in lieu of an opening statement. If an opening statement is made, it shall not exceed ten minutes, and shall be consistent with the written statement previously submitted.

Burden of Proof/Order of Testimony. Upon the hearing, each party shall present such testimony and other evidence as it deems appropriate and as the arbitrator finds relevant to the issues presented. Evidence as to each disputed issue shall be presented first by the party presenting the demand underlying such issue. At any time prior to the issuance of the award by the arbitrator, the parties may jointly file with the arbitrator stipulations setting forth such disputed issues the parties have agreed are to be withdrawn from arbitration.

Witnesses. The testimony of all witnesses shall be given in person (including by remote technology) or by affidavit under oath or affirmation; the oath or affirmation shall be administered by a notary public or other person charged with the ability to administer the same, including the Arbitrator.

Release Time for Witnesses. State employees shall be in a without-loss-of-straight-time pay status at the hearing as prescribed by their applicable Contract.

Evidence. The Arbitrator is encouraged to take an active role in the proceedings, to limit redundant and repetitive questions and testimony, and to question witnesses him or herself as appropriate. The arbitration hearing shall not follow the formal rules of evidence. The Arbitrator shall be the sole judge of the admissibility, relevance and materiality of all evidence and testimony offered. The Arbitrator may receive and consider any evidence offered, including hearsay, but shall give appropriate weight to any objections made.

VIII. Post Hearing Procedures.

Within three (3) days after the conclusion of the hearing, the parties will simultaneously exchange last best offers. Within ten (10) days after the conclusion of the hearing, the parties may file with the arbitrator copies of their briefs including their last best offer on each unresolved issue and, where possible, estimates of the costs of resolution of each disputed issue. Unless the Arbitrator requires otherwise, said filing of briefs shall be by electronic transmission.

Immediately upon receipt of both briefs or upon the expiration of the time for filing such briefs, whichever is sooner, the arbitrator shall electronically distribute a copy of each such brief to the opposing party.

Within seven (7) days after receipt of the opposing briefs on the disputed issues or within seven (7) days after the expiration of the time for filing such briefs, whichever is sooner, the parties may file with the arbitrator copies of a reply brief,

responding to the briefs on the unresolved issues. Immediately upon receipt of both reply briefs or upon the expiration of the time for filing such briefs, whichever is sooner, the arbitrator shall electronically distribute a copy of each such brief to the opposing party.

IX. Arbitrator's Award and Opinion

Within twenty (20) days after the last day for filing reply briefs, the arbitrator shall issue an award on each unresolved issue as well as the issues resolved by the parties during the arbitration proceedings. The arbitrator shall immediately and simultaneously electronically distribute a copy thereof to each party. In making such award, the arbitrator shall select the more reasonable last best offer proposal on each of the disputed issues based on the following factors:

- The history of negotiations between the parties including those leading to the instant proceeding;
- the existing conditions of employment of similar groups of employees; the wages, fringe benefits and working conditions prevailing in the labor market;
- the overall compensation paid to the employees involved in the arbitration proceedings, including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by such employees;
- the ability of the employer to pay; changes in the cost of living; and
- the interests and welfare of the employees.
- The interests and welfare of the State employer

The arbitrator (A) shall give a decision as to each disputed issue considered, (B) shall state with particularity the basis for such decision as to each disputed issue and the manner in which the factors enumerated in subdivision (5) of this subsection were considered in arriving at such decision, (C) shall confine the award to the issues submitted and shall not make observations or declarations of opinion which are not directly essential in reaching a determination, and (D) shall not affect the rights accorded to either party by law or by any collective bargaining agreement nor in any manner, either by drawing inferences or otherwise, modify, add to, subtract from or alter such provisions of law or agreement.

The agreement or award resulting from the negotiation and arbitration process herein shall be implemented immediately upon execution and or award (as

applicable), except that the implementation of any provision requiring legislative approval shall not occur until such approval occurs.

IX. Waiver of Time Limits or Modifications.

The timing requirements established in this section that are imposed upon the parties may be waived by mutual agreement of the parties or by a ruling of the arbitrator following a timely request by any party. Any of the timing requirements established in this section that are imposed upon the arbitrator may be waived by mutual agreement of the parties. Should the arbitrator seek an extension, the parties will jointly answer “yes” only by mutual agreement, and if not, will jointly answer “no” without any indication of whether the “no” is unanimous or which party, if any, may disagree. If the day for filing any document under this Agreement falls on a day which is not a business day of the State, then the time for filing shall be extended to the next business day of the State.

For the State:



Konstantinos Diamantis
Deputy Secretary
Office of Policy and Management

Date: 07/31/2021

For the SEBAC:



Daniel E. Livingston
Chief Negotiator

Date: 07/31/2021