

# NJ ELECTION LAW ENFORCEMENT COMMISSION

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## TELEWORKING RECOMMENDATIONS

# 2021



*State of New Jersey*

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**Table of Contents**

	<b>Page</b>
I. Introduction .....	ii
II. How It Began.....	1
III. ELEC’s Response .....	2
IV. Examples-Why ELEC Needs Real Office.....	4
V. Telework May Be Here to Stay .....	4
VI. Recommendations to Enhance Current, Temporary Teleworking .....	7
VII. Recommendations for Hybrid or Permanent State Telework Program.....	7
VIII. Conclusion.....	10

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## **The Hybrid Work Week: Is the future Office...the Home?**

### **Introduction**

This is a blueprint for how New Jersey Election Law Enforcement Commission (ELEC) might move forward in the event telework becomes a permanent part of state government.

Recognizing that the nature of how work is to be conducted is changing, it needs to be emphasized that the preference of ELEC's management is that upon cessation of the pandemic, agency employees should return to the office and perform work duties in person.

Though remote working may have advantages, perhaps on a macro-societal level and in certain individual situations, on balance it is management's sense that government functions best in person and not in virtual format.

Taxpayers underwrite the cost of government, therefore deserving the best service possible. While experience gained during the pandemic has been valuable in terms of implementing a temporary telework initiative, there is no substitute for government employees delivering services face-to-face.

This is especially true at ELEC, which since its creation has taken great pride in being a service-oriented agency. Interpersonal contact improves the quality of that service.

Thus, it is the management's overall objective for ELEC employees to return to in-office work once it is determined it is safe to do so.

However, as much as it may be the desire to return to pre-pandemic normalcy of operations, it may not be possible to do so. Those charged with overseeing the management of State government may determine that government can utilize aspects of telework to its advantage as well as to the public's well-being. It may even be maintained that certain functions can be performed more effectively on a virtual level.

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Therefore, this report represents an effort by the Commission to prepare for the possibility that the State moves in a new direction and instructs agencies to establish telework plans on a permanent basis.

This plan, initiated and edited by the Executive Director and prepared by the Deputy Director, Director of Finance and Administration and with collective input from section directors, outlines those functions that can be performed remotely as effectively as in person and those functions that must be done in person to meet maximum standards of excellence.

In the event the State transitions to teleworking, the plan outlines equipment and technology upgrades that will be necessitated by teleworking as well as highlights costs associated with equipment and technology enhancements.

The plan also discusses the advantages and disadvantages of employees working remotely and contains recommendations for short term improvements that can be incorporated to better facilitate teleworking until the pandemic ends and proposals for long term operations should teleworking become a lasting feature of State government.

Finally, the report discusses additional logistical issues of permanent telework such as the implications of applying open public records rules, assuring employee accountability, determining the minimum number of days per week employees are required to be in the office, improving communications and camaraderie as virtual workers, setting forth which functions need to be performed in office, and determining the logistics and cost of digitalizing legal documents.

These and other issues are contained in this telework plan designed to ensure the Commission can effectively meet a future that includes teleworking by employees.

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## How It Began

When the COVID-19 pandemic unleashed a tsunami of office closings across America in the spring of 2020, work-from-home programs still were relatively rare.

Federal research shows about seven percent of all civilian workers had access to “flexible workplace” programs in March 2019.<sup>1</sup>

The figure was the same for state government workers but just four percent among local workers had work-from-home options.<sup>2</sup> Most of the workers eligible for this option were in management.

Office life changed almost instantaneously in March 2020 as New Jersey Governor Phil Murphy and many counterparts across the nation issued executive orders shutting down both private and public offices to try to slow the fast-spreading virus.

Executive order 107, issued by Murphy on March 19, 2020, stated in part:

“WHEREAS...I have instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible;”

Since that time, tens of thousands of state workers have performed their jobs mostly in their personal living quarters. Some have not visited their offices even one time during the entire year.

At ELEC, nearly all employees had begun working at home by March 23, 2020.

The pandemic’s impact on ELEC’s work routine was predictably dramatic. Between March 14, 2020 and March 12, 2021, ELEC employees spent 81.54 percent of their work hours at home versus 18.46 percent in the office.<sup>3</sup>

What was expected to be a short-term precaution has lasted for more than a year. Depending on vaccination rates, herd immunity levels, risks posed by more potent strains of the virus and other factors, New Jersey state government still may be months away from sounding the all-clear signal.

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<sup>1</sup> Page 147, National Compensation Survey: Employee Benefits in the United States, March 2019, issued September 2019.

<sup>2</sup> Id., Page 514.

<sup>3</sup> Chris Mistichelli, ELEC’s Director of Finance and Administration, March 18, 2021.

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“The biggest question hanging over 2021: When will the pandemic end? Our best estimate, given all the variables: September of this year....Of course, much uncertainty remains.”<sup>4</sup>

### **ELEC’s Response**

Despite the sudden, massive disruption, ELEC staff have performed admirably during the crisis under experienced executive leadership.

Though not ideal, most interactions with the public have been handled via the telephone, email or through videoconferencing.

In 2014, the Executive Director spent months working to convince Governor Chris Christie and the Legislature to approve a \$2 million special appropriation to ensure that all reports could be filed electronically. He succeeded and the move proved a godsend during the pandemic.

The agency’s recently modernized computer system enabled thousands of candidates, treasurers and lobbyists to file reports from their homes or offices instead of hand-delivering copies to ELEC offices.

The virus crisis did not prevent ELEC from publishing and distributing dozens of analytical and advisory press releases, white papers, columns, and other public information. Twice monthly, new complaints and final decisions have been released on the website just as they have in the past.

In cases where a member of the ELEC regulated community or the public visited the agency office in person to acquire lobbying badges or pick up or submit disclosure reports, a skeleton crew has been present to make the transaction and provide personal assistance. Daily in-office staffing has been limited at 15 during the crisis, however, to minimize risks. Normal staffing is 59.

Because of the pandemic, ELEC’s Commission has held online meetings the entire year using teleconferencing software. The system permits members of the public to watch the open portions of the meeting and make comments if they wish. While online meetings were necessary

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<sup>4</sup> The Kiplinger Letter, Jan. 22, 2021.

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during the pandemic, it is believed that once the epidemic has passed the public is better served with in person meetings of the Commission.

The longer the unprecedented public health threat persists, the chances that some form of teleworking will be adopted by the State increase. Though not a survey of New Jersey's state work force, the following polling data includes some of the reasons advanced by American workers for teleworking.

A survey of 242 employees in April 2020 by Clutch, when an estimated 66 percent of all US workers were teleworking due to COVID-19, "no commute" topped the list at 47 percent.

Other reasons for remote working cited by workers included more flexible schedule (43%), don't have to dress up (33%), fewer distractions/quieter space (28%), more time with roommates/family/pets (25%), and ability to personalize workspace (14%).<sup>5</sup>

A more recent survey by Morning Consult found that 72 percent prefer remote work, and 58 percent feel they are more productive laboring from the comfort of their homes.<sup>6</sup>

Of course, many also learn that home isn't always a blissful oasis. A variety of interruptions as well as complacency can make it hard to focus and create stress. Further, Internet bandwidth can be strained when an employee shares the internet with family, seriously slowing computer response time. Some who live alone may get a deeper sense of isolation.

From a management standpoint, it can be harder to monitor performance of workers when they work remotely. Less office time means less team-building, idea-sharing and mentoring and training of newer employees.

Physical distance marred by bad phone connections or software hiccups sometimes can foil collaboration. People working home may not feel as much pressure to get things done when projects are urgent.

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<sup>5</sup> <https://www.prnewswire.com/news-releases/66-of-us-employees-are-working-remotely-at-least-part-time-during-the-covid-19-pandemic-301041859.html>

<sup>6</sup> <https://morningconsult.com/return-to-work/>

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## **Examples Why ELEC Still Needs a Real Office**

Specifically at ELEC, certain services can be handled only in person while other services provide a better experience when staff are actually present in the office.

Lobbyists must visit the offices to obtain their badges. Other members of the public occasionally visit the public room to view reports or for other reasons. Media members visit for interviews or to obtain training from the deputy director on how to use ELEC's system.

While personal visits certainly are far fewer than in the past, there still are enough of them for at least one receptionist to be present during work hours.

Training sessions can be done virtually but face-to-face meetings provide a far richer experience that leads to better give-and-take and deeper understanding.

In-person ELEC meetings avoid the occasional communications hiccups and delays, offers a better experience for the public, and allows commissioners and staff to have better discussions.

Administrative staff can get work done faster and more effectively when they are in the office.

Virtual pizza Fridays on Zoom may help ease a sense of isolation during the pandemic. But they are a weak substitute compared to two dozen staff members sharing pizza in the break room during lunch as they did before the pandemic.

Without staff gathered together in the office, it is also impossible to hold virtual sendoffs for retiring staff members or occasional fun team-building in-office lunchtime gatherings like Superbowl Jeopardy.

Lawyers can far more easily do research, share ideas and opinions on cases, and prepare for litigation while present in the office.

## **Telework May Be Here to Stay**

While working traditionally in an office provides these and many other benefits, telework has become more familiar now that employees have endured months of teleworking following the initial shock of the pandemic.

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A February 12, 2021 Gallup Survey found that while a growing number of workers (39%) said they would prefer to return to their office, a (44%) said “they would want to continue working remotely because they prefer it...”.<sup>7</sup>

As suggested by the following, the private sector appears ready to embrace teleworking as a more permanent form of doing business. But is the public sector ready to do so and should it? As noted by many through the years the function of government is in many ways different than the private sector. While some form of teleworking may be adopted by government, it is not clear that it will be as extensive as in private industry.

“... the COVID-19 has brought a mass work-from-home experiment, forcing two-thirds of Americans to work remotely. In a matter of weeks, companies and employees had to adapt and get everything up and running - remotely. But is this a sustainable, new way of working for the future?

It may be, especially because the future work-from-home scenarios will be very different from the pandemic one. We are now prepared, we invested time and effort in setting up our home offices and, probably most important of all, in the post-pandemic world, children will be back at school, leaving parents to work from home undisturbed.”<sup>8</sup>

Another observation from the private sector came from this story:

“We’ve gone through a one-way door,” says Drew Houston, Founder of chief executive of the technology company Dropbox, which has spent months rethinking its offices and workplace practices. “This is a permanent shift.”<sup>9</sup>

Microsoft executive vice president Kurt DelBene echoed this sentiment as the software company starts allowing its 160,000 employees to return to their offices on March 29, 2021.

“Once we reach a point where COVID-19 no longer presents a significant burden on our communities, and as our sites move to the open stage of the dial, we view working from home part of the time (less than 50 percent) as standard for most roles.”<sup>10</sup>

In New Jersey, Governor Phil Murphy, likely in consultation with legislators, Civil Service officials and state worker unions, ultimately will decide whether New Jersey state government will make work-at-home a lasting part of its employment system.

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<sup>7</sup> <https://news.gallup.com/poll/329501/majority-workers-continue-punch-virtually.aspx?version=print>

<sup>8</sup> <https://www.talentlyft.com/en/blog/article/385/covid-19-work-from-home-stats-is-remote-work-here-to-stay>

<sup>9</sup> Chip Cutter, “The Death of the Desk?”, Wall Street Journal, January 15, 2021, Page R6.

<sup>10</sup> Lauren Hirsch, “Microsoft to Ease Workers Back to the Office Starting Next Week,” New York Times, March 23, 2021, page B4.

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So far, the governor has not announced when state workers will begin returning to their offices. He did offer a possible clue about a timeline when he said March 25, 2021 that all school districts should prepare to be open for in-person instruction this fall.

A day earlier, New York City Mayor Bill de Blasio said he expects 80,000 municipal workers to begin reporting back to their offices starting May 3. Their return will be done in phases.

“We’re going to make it safe, but we need our city workers back in their offices where they can do the most to help their fellow New Yorkers,” de Blasio said.<sup>11</sup>

The Partnership for New York City, a business group, believes half of Manhattan’s one million office workers will be back by September though “most will continue to work remotely at least part time.” As of March, only 10 percent of those workers were operating from their offices.<sup>12</sup>

In a March 2020 column, the Executive Director said he still believes that under normal conditions, “government works best for people in person.”

“For me, it is hard to imagine government operating on an entirely impersonal, virtual model. Government and politics require some personal interactions to be effective. Government exists to serve the public interest and it does so best, not through social media platforms, webinars and the internet, but through honest to goodness, face-to-face dialogue.”<sup>13</sup>

But he said he recognizes work patterns have changed, and ELEC is examining agency issues and potential solutions should hybrid work schedules become required by the administration.

Some simple, short-term recommendations can be applied to improve the current situation for workers and management working remotely.

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<sup>11</sup> Dana Rubenstein, “Mayor is Ending Remote Work for 80,000,” New York Times, March 24, 2021.

<sup>12</sup> Id.

<sup>13</sup> Jeff Brindle, “ELEC Still Doing its Job Despite the COVID-19 Crisis,” March 25, 2020, [insidernj.com](https://insidernj.com).

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More ambitious steps could be costlier and more complex. Those longer-term changes would need thorough vetting, monetary expenditures and perhaps approval from the state Civil Service Commission, state worker unions and the administration.

The following suggestions largely came from directors and employees at ELEC.

Their feedback is appreciated.

### **Recommendations To Enhance Current, Temporary Teleworking**

- More staff should be using existing Microsoft Teams software for video conferencing.
  - While all ELEC staff has access to Teams, it is mainly relied upon by information technology staff. Video conferencing is no permanent substitute for face-to-face meetings. But seeing the faces of colleagues and hearing their voices will encourage collaboration and help reduce isolation for people solely working from home. For instance, each section could hold weekly meetings to exchange ideas, give updates on projects, and foster a sense of comradery.
  - Many ELEC employees have no cameras and speakers built into their laptops or desktops. They cannot take advantage of software like Teams. ELEC should supply relatively inexpensive external video-speaker attachments to them to overcome this issue. Also, IT staff should train employees in the use of the software.
- Employees with smart-phones who haven't done so should have software installed that enables them to check their work emails.
- Extra cleaning and sanitizing may become a permanent feature of office life. Workers should continue to wipe down desks each day. ELEC may need to stock up on Lysol and Clorox wipes.
- Those working at home should be availing themselves of Microsoft Onedrive. It is an online tool for easily storing and sharing files in and outside the office. IT staff should provide training in the use of this cloud-based storage option to those who need it.
- To maintain a personal connection, IT section staff share daily morning texts that might include a picture, an emoji or brief news about their lives. Other sections may want to consider something similar.

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➤ Pending the day when ELEC workers once again can share pizza together in the community room, IT staff would like to bring back virtual pizza Fridays via Zoom.

**Recommendations For Hybrid Or  
Permanent State Telework Program**

➤ Statewide rules, rather than ELEC’s preference, may dictate the exact number of days employees can work at home. But it seems the best approach is to strike a balance. Provided a hybrid telework program is indicated by the administration, ELEC believes workers should work in the office at least three days a week and undertake work remotely during the other two days. This gives them a change of pace and lets them avoid commuting time and cost while still making the office-place the preferred location on most days.

“In June, PwC surveyed 120 U.S. company executives and 1,200 office workers to see how they felt about that future. About a third said they hope to work from home full-time. About 9 percent wanted to work from home hardly at all. The majority preferred a hybrid workplace: two to three days at home in sweatpants...refreshed with sleep, away from the stresses of office politics, then two or three days in the office, freed from the frustrating difficulties of making eye contact through a screen.”<sup>14</sup>

Also:

Doug Twyman, senior managing director at Colliers International in Woodbridge, said companies will return to the office. He said he sees them adopting a hybrid model where employees work in the office two or three days a week. “It’s all about the collaboration and the idea generation and the spontaneous nature of getting together with other people,” he said. “You can bounce ideas off of other people much more easily when you are right there.”<sup>15</sup>

➤ ELEC’s Information Technology (IT) section is seriously evaluating the possibility of replacing gotomypc.com, the current software used by employees to access their work accounts, with Windows Virtual Desktops, a cloud-based system run by Microsoft. IT Director Anthony Giancarli said switching to such software would enable the agency’s to operate with fewer computers and make it easier to work remotely for employees. ELEC would issue a laptop for work and home use. Employees then would simply log on at home the same way they would at work.

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<sup>14</sup> Sydney Trent, “Dreading or Dreaming of a Return to the Office in 2021,” Washington Post, December 27,2020.

<sup>15</sup> David P. Willis, “Back to the Office?”, Asbury Park Press, February 28, 2021, Page 1.

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➤ Employees working at home should write brief memos explaining for directors what they accomplished that day. Section directors should establish additional guideposts to measure accountability.

➤ ELEC will need to purchase laptops, printers, routers and other equipment for employees in order to facilitate their working at home. IT personnel also will need to take steps to ensure that computer devices are used securely in the home. They may need to install stronger anti-virus software or set up Virtual Private Network (VPN) connections for better security. Some workers that use two monitors at work may also require a second monitor at home. Workers will need basic supplies like printer paper. ELEC will need to rethink its requisitioning process if items are taken for home use. Perhaps employees can sign out for items they receive and commit to keep equipment in good condition.

➤ ELEC may also need to ensure that chairs, monitors, keyboards, and other equipment used at home are ergonomic designed.

➤ Another issue to consider is whether ELEC should provide smartphones for personal use and/or reimburse workers for using their smartphones for agency business.

➤ Permanently removing the barrier between work and home offices raises implications about how Open Public Records Act (OPRA) rules will apply to worked-related activities conducted at home. How will personal privacy of employees be protected while respecting the public's need to know?

➤ The pandemic has exposed weaknesses in the agency's centralized phone system. A new system is clearly necessary. If possible, it needs to be designed to better accommodate a hybrid work routine that means employees could be working in or out of offices. Transitioning to a new system would actually save taxpayer money and be less expensive to maintain than the current system.

➤ The pandemic has made it hard for the legal section to do its job. Many case documents are not digitized so it is common to see staff lawyers visit and leave lugging a carton of documents. ELEC IT staff should investigate how difficult and expensive it would be to digitize all legal section documents. Many private companies have shifted towards a near-paperless work environment. For instance, Horizon Blue

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Cross Blue Shield of NJ relies entirely on digital documents, according to a recent conversation with a top official there. He said this capability led to almost seamless transition for Horizon workers, many of whom have operated from home for more than a year. Digitizing documents would also help the review and investigations section in undertaking investigations both remotely and in the office.

## **Conclusion**

As suggested in the introduction, ELEC management looks forward to a post-covid period when government returns to pre-covid normalcy. Management's preference is to have employees return to the office and provide in-person services to a deserving public.

However, recognizing that a full return of employees to the office may not occur, given how the nature of work is changing, facilitated by the pandemic, this report highlights issues, needs and costs associated with the implementation of a hybrid-telework plan. In a word, the foregoing outlines some of the changes to be dealt with in the event of Administration guidance instructing State agencies to plan for a transition to a remote work environment. It also sets forth recommendations for implementing a hybrid work approach.