



Executive Order 2021-12 Return in Person Order Fact Sheet

*On March 5, 2021, Governor McMaster directed state agencies and institutions to expedite the return of non-essential state employees to work in person, after they had been working remotely for the past year. As a result, many South Carolina state agencies and institutions have not granted requests by state employees to continue working remotely. Through the ACLU of South Carolina's lawsuit against the Governor challenging his order, **the Governor has clarified that state agencies and institutions can permit new remote work agreements.***

What is the Governor's position on allowing non-essential state employees to continue working remotely?

The Governor has explained since requiring agencies to expedite the return of employees to work in person that "the Department of Administration's guidance specifically gives agencies the flexibility to give accommodations to address the unique nature of the pandemic and make necessary accommodations." In fact, the guidance "gave agency heads discretion to handle situations on a case-by-case basis," and did not bar new remote work agreements, but "expressly gives state agencies the flexibility to make any necessary accommodations."

According to the Governor, if state agencies do not permit new remote work agreements, "then that is between the employees and their employers."

Have state agencies permitted non-essential state employees to work remotely after the Governor's Order?

Yes. On April 15, the College of Charleston approved the ACLU of South Carolina's lead plaintiff's request for a temporary telecommuting accommodation. She is now allowed to telecommute four days per week (Monday through Thursday), through June 18. In response, the Governor explained that the approval of the new remote work authorization was proof that "the process is obviously working."

What if I asked to work remotely and my employer denied my request?

If you previously asked for a reasonable accommodation to continue working remotely and your employer denied your request due to the executive order or failed to respond, you should consider renewing your request. Your employer may find that you are eligible now that the Governor has clarified agencies' discretion. If you have not previously made a request, you may wish to make one now. If your request is still not granted, and you wish to work remotely because of a qualifying disability, your own or a family member's health condition, or because of your responsibilities as a caregiver, you may be able to take legal action against your employer. If that has happened to you, please reach out to the ACLU of South Carolina, preferably by email at intake@aclusc.org, or by leaving a voicemail at (843) 720-1423.

You can also take legal action by filing a complaint with the South Carolina Human Affairs Commission [here](#), or by calling (803) 737-7800.