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GUIDELINES FOR STATE EMPLOYEE LEAVE TIME AND STAFFING – COVID-19

As provided in Executive Order 103, the protection of the health and well-being of New Jersey residents and the State's workforce is a primary concern. It is equally important to ensure the continuous delivery of essential State services during the rapidly evolving outbreak of the novel coronavirus, COVID-19. Therefore, government operations need flexibility to address staffing capabilities to ensure essential operational needs are met. Similarly, employees require greater latitude in applicable leave time procedures to prevent further spread of the virus and to prioritize their health and the health of their immediate family members.

Thus, in accordance with Executive Order 103, which authorizes and empowers the NJ Civil Service Commission ("CSC") to promulgate rules and to waive, suspend, or modify any existing rule where its enforcement would be detrimental to the public welfare, and specifically authorizes the Commission to take appropriate steps to address the public health hazard of COVID-19, the CSC, with the approval of Governor Murphy, has issued the following guidelines:

Alterations to Existing Work Arrangements

As a general matter, State agencies, commissions, political subdivisions, and other Appointing Authorities subject to the provisions of Title 11A of the New Jersey Statutes (collectively, "Appointing Authorities") may implement flextime programs (N.J.A.C. 4A:6-2.6), alternative workweek programs (N.J.A.C. 4A:6-2.7), and adjusted daily or shift hours (N.J.A.C. 4A:6-2.8) upon approval of the CSC Chair or her designee. However, pursuant to the emergency declaration in Executive Order 103, Appointing Authorities are permitted to implement or modify flextime or alternative workweek programs and may adjust established hours of daily or shift operations without the need for prior approval. These flextime arrangements may include modifications regarding hours of work and break times. Prior to implementing a new program or a modification of an existing program, Appointing Authorities shall advise the Governor's Office of Employee Relations ("GOER"), of any anticipated modifications to hours of work or leave times so that GOER may notify affected negotiations representatives of the modifications before implementation.

Further, these Guidelines conditionally waive certain provisions in N.J.A.C. 4A:6-1.4 regarding sick leave procedures for the State service.

Applicable Leave Time Procedures

If an employee is (i) diagnosed with COVID-19, (ii) directed by a medical professional or government agency to self-isolate or quarantine due to suspicion of exposure to or diagnosis with COVID-19, and/or (iii) undergoing a period of self-quarantine or isolation pursuant to public health assessment recommendations, then the employee will not be required to utilize accumulated leave time if they provide documentation verifying the same within three work days of the initial absence. As with any documentation of an illness, the documentation should be provided to the Appointing Authority's representative or office tasked with receiving sick or FLA-FMLA leave documentation and maintaining its confidentiality under the Health Insurance Portability and Accountability Act. If an employee does not provide such documentation, then the employee will be required to utilize their own accumulated leave time.

If the absence is caused by the employee's need to care for an immediate family member who (i) has been diagnosed with COVID-19, (ii) was directed by a medical professional or government agency to self-isolate or quarantine due to suspicion of exposure to or diagnosis with COVID-19, and/or (iii) is undergoing a period of self-quarantine or isolation pursuant to public health assessment recommendations, the employee shall submit documentation verifying the family member's COVID-19-related illness, exposure, and/or quarantine period to the Appointing Authority's representative or office tasked with receiving sick or FLA-FMLA leave documentation within three days of the employee's initial absence. If no such documentation is received, the employee will be required to use accumulated leave time.

Employees who have been exposed to or diagnosed with the COVID-19 virus will not be permitted to enter the workplace until they are either medically cleared (regarding those with COVID-19) or until the expiration of the recommended 14-day period of quarantine from the point of last exposure (regarding those who were exposed).

Until further notice, employees who had previously been subjected to documentation requirements under their Appointing Authority's standard operating procedures due to excessive absenteeism or abuse of sick leave shall not be disciplined for future absences that occur as a result of their being suspected of or diagnosed with the COVID-19 virus or having to be absent to care for a family member impacted by the virus. Additionally, appointing authorities shall not use any absenteeism related to the COVID-19 virus to subject any employee to a documentation requirement for excessive absenteeism. If no documentation is received within a reasonable time to support an asserted COVID-19 related absence, an Appointing Authority may exercise its discretion in determining its response.

Example: Employee A, who is on a documentation requirement due to excessive absenteeism, calls out stating she has been exposed to COVID-19.

Three days later, Employee A provides documentation from her medical provider that she was in contact with an individual diagnosed with COVID-19 and is required to self-quarantine. In this case, no disciplinary action should be considered. Employee A's e-Cats/TALRs/Timesheet should utilize the appropriate code to reflect that she will not be charged with her accumulated leave.

School Closures

Employees who are not under suspicion of having been exposed to the virus or diagnosed with the virus but wish to stay home with a child of whom they are the parent or legal guardian due to the closure of a preschool program, elementary or secondary school, or child care center related to COVID-19, will be required to provide documentation verifying the closing. As explained more fully below, Appointing Authorities should review their current Continuity of Operations Plans (COOP) to determine if work from home arrangements can or should be accommodated for both essential and non-essential employees during the period of the closure. If a work from home arrangement cannot be accommodated, such employee will not be required to use accumulated leave during the period of the COVID-19-related closure.

If the employee is staying home to care for a child who is under suspicion of having the virus or has been diagnosed with COVID-19, the employee will be required to provide documentation from a medical professional or government agency in order for the leave time procedures outlined above to apply.

For the purposes of direct care employees, custody staff in correctional facilities, and any other employee deemed essential in accordance with N.J.A.C. 4A:6-2.5 or the Appointing Authority's COOP, if their child's preschool program, elementary or secondary school, or child care center is closed due to such things as preparation to respond to a potential outbreak or cleanings, they may be required to report to work as if the curtailment of State operations and services had been implemented.

Staffing

Appointing Authorities should be actively reviewing their current Continuity of Operations Plans, including lists of employees designated as essential. In the event of a partial or full closure of State government operations, essential employees should be notified regarding whether they are required to report to work, in accordance with their essential designation, and will be paid at their regular rate of pay. As required, representative unions should also be notified of such changes.

Appointing Authorities should also be reviewing their current COOPs to determine if requests to work from home can or should be accommodated for both essential and non-essential employees during the period of the outbreak.

In the event of staffing shortages that disrupt the usual delivery of government services due to diagnosis and/or necessity of quarantine, it may become necessary for

Appointing Authorities to reassign essential work duties to ensure continuity of operations. This potential temporary assignment of out of title work is permissible pursuant to N.J.A.C. 4A:3-3.4 so long as (1) the employee is otherwise qualified for the out of title work, (for example, if a temporary assignment requires an employee to be licensed in a particular trade, an Appointing Authority may not assign someone without such a license to perform the work), (2) the assignment is temporary in nature, and (3) the employee's normal job duties resume upon return of the absent employee(s).

Subject to the relaxation requirements of N.J.A.C. 4A:6-2.5, where appropriate, essential employees may be required to work from home under certain circumstances, at the Appointing Authority's discretion. In these circumstances, the Appointing Authority must provide all equipment, tools, and resources necessary to accommodate such work.

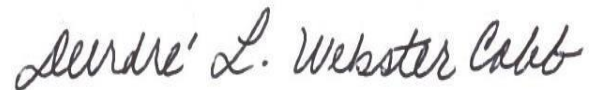
Additionally, these Guidelines relax the provisions of N.J.A.C. 4A:6-2.5 regarding curtailment of State operations and services during an emergency or adverse situation regarding the use of essential attendance employees.

Required Medical Documentation

For cases where individuals are undergoing a period of isolation or quarantine under the circumstances described above, documentation from a local, state or federal governmental agency, a medical professional, office, or hospital or proof that the employee was recently in a location where the recommendation by a governmental agency is to self- quarantine will satisfy the requirement to provide documentation. Additional forms of documentation may be permitted by the State agency, commission, or Appointing Authority following consultation with the Chair of the CSC.

For cases where individuals are caring for an immediate family member sickened by or diagnosed with COVID-19, then the employee shall submit documentation verifying the family member's COVID-19-related illness to the Appointing Authority's Human Resources Office within three days of the employee's initial absence.

If an employee is absent from work without sufficient documentation confirming diagnosis or quarantine or isolation due to exposure or potential exposure, standard leave rules apply.

A handwritten signature in cursive script that reads "Deirdre L. Webster Cobb".

Deirdré L. Webster
Cobb, Esq.
Chair/Chief Executive
Officer
New Jersey Civil Service Commission