

Are You Prepared?

Legal Issues Facing North Carolina Public Employers in Disasters and Other Emergencies

2014

Diane M. Juffras



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Contents

Introduction 1

PART 1

Preparing for a Disaster 3

Having an Evacuation Plan That Takes into Account
Employees with Disabilities 3

Pre-Screening Employees Who Will Perform
Natural Disaster Cleanup Work 5

Anticipating Employee Absences Following a Disaster or Emergency 7

Surveying Employees 7

Preparing an Emergency Chain of Command and
Lists of Essential Employees 8

Communicating the Organization and Assignment of Responsibilities 10

Deciding and Communicating Which Services Are Essential 10

Maintaining Essential Services in the Face of

Worker Absences and Shortage 11

Reassignment of Current Employees 11

Telecommuting or Working Remotely 12

Temporary Employees 13

Using a Temp Agency 13

Hiring Temporary Employees Directly 14

Independent Contractors 16

Volunteers 18

Citizen Volunteers 18

Employee Volunteers 20

Personnel Supplied through Mutual Aid Agreements 22

Retirees 22

PART 2**Compensation Issues: Application of the Fair Labor Standards Act to Emergency Situations** 25

Overtime	25
Use of Comp Time in an Emergency	26
Section 207(k) 28-Day Work Cycle Exemption	27
<i>Who Qualifies as a Law Enforcement Officer for 207(k) Purposes?</i>	27
<i>Who Qualifies as a Firefighter for 207(k) Purposes?</i>	28
Dispatchers, Emergency Medical Service Personnel, and Others with Fluctuating Workweeks	28
FEMA Reimbursement of Overtime Costs	29
Reimbursement for Straight-Time and Overtime Work Repairing Damage Caused by a Disaster	31
Nonexempt Overtime That Results from an Emergency	32
Overtime or Comp Time for Exempt Employees	32
Reimbursement of the Cost of Benefits	33
Reimbursement for the Cost of Outside Workers	33
Reimbursement for the Cost of "Backfill" Staff	33
Compensation of Salaried Employees Who Do Not Come to Work during an Emergency or Inclement Weather	34
Nonexempt Employees	35
Exempt Employees	35
<i>Absent from Work for a Full Week or More or Workplace Closed for a Full Week or More</i>	36
<i>Absent from Work for Less Than a Full Workweek while the Workplace Is Open</i>	36
<i>Workplace Closed for Less Than a Full Workweek</i>	38
A Hypothetical Situation: The City of Paradise Closes Its Offices during a Hurricane	40
Compensation for Increased Workload and Hazardous Working Conditions Caused by a Disaster	42
Compensating Temporary Employees	43
Other Fair Labor Standards Act and Compensation Issues	44
Exempt Employees Performing Nonexempt Work	44
On-Call Time	46
Increased Travel Time	47
Record Keeping	47
Recording Hours Worked Remotely	47
Destruction of Payroll-Related Records and Software Applications	48

PART 3

Issues Specific to Public Health Emergencies 49

- Mandatory Vaccinations** 49
 - Public Employers May Require Vaccination 50
 - Medical Exemptions from a Mandatory Vaccination Requirement 52
 - Religious Exemptions from a Mandatory Vaccination Requirement 54
 - Workers’ Compensation Coverage for Adverse Reactions to a Vaccine 57
- Monitoring Employee Health during a Public Health Emergency** 64
 - Taking Employee Temperatures 65
 - Employees Showing Symptoms of Illness 66
 - Exclusion of Employees: What Is a Direct Threat? 67
- Adopting a Communicable Disease Policy** 67
- Handling Absences from Work during a Public Health Emergency** 69
 - Absences Covered by the Family and Medical Leave Act** 69
 - Who Is Entitled to FMLA Leave?* 70
 - Requesting Information about an Absent Employee’s Medical Condition* 71
 - Requiring a Fitness-for-Duty Certification after a Public Health Emergency Absence* 72
 - Short-Term Disability and Workers’ Compensation Benefits during FMLA Leave* 74
 - Employees Who Are Absent but Able to Work** 75
 - Informing Other Employees of a Co-worker’s Illness** 76
 - Employees Who Refuse to Work** 77
 - Employees Covered by the State Personnel Act** 79

Conclusion 81

Introduction

North Carolina public employers face natural and man-made disasters, ranging from hurricanes, tornadoes, severe winter storms, and flooding to pandemic flu and the possibility of bioterrorism. Some of these emergencies have already occurred; others have not. And new threats arise all the time—building fires accompanied by the release of hazardous gases, chemical spills on roadways or into the environment, and the possibility of major disruptions to the power grid. Never is the demand for government services as great as in emergency situations such as these. Yet providing essential services is a daunting challenge, not only because of physical and environmental obstacles, but because government employees and their families must deal with the same issues facing the population at large. Thanks in no small part to the dedication of North Carolina’s public employees, state and local governments have maintained the continuity of essential services despite these types of hardships and uncertainty.

This book discusses the employment law issues faced by governmental employers that are specific to disasters and other emergencies. Part 1 focuses on preparing for disaster and emergency circumstances generally. Part 2 addresses compensation issues likely to arise when some employees must work many additional hours, while others cannot or will not make it to the workplace. Part 3 considers the legal issues that will be specific to public health emergencies such as an outbreak of pandemic flu or the release of a biological agent by terrorists.

Under the North Carolina Emergency Management Act, an *emergency* is “an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.”¹ The governor of North Carolina may declare a state of emergency either statewide or in particular geographic areas. A *disaster declaration* is “a gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).” The types of disaster recognized under Section 166A-19.21(b) of the North Carolina General Statutes (hereinafter G.S.) are distinguished from one another by whether a federal disaster declaration has been issued and whether the disaster is severe enough for the federal government to provide financial assistance to the area. In addition to the governor’s authority to declare a state of emergency, cities and counties may also declare states of emergency pursuant to G.S. Chapter 166A.²

Except where specifically noted, however, the discussions in this book apply to any situation in which a North Carolina governmental employer faces the actual or imminent threat of widespread or severe damage, injury, or loss of life or property, regardless of whether an official declaration has been made that such an emergency exists. When the situation is bad, the official designation is less important than the public agency’s response.

1. See N.C. GEN. STAT. (hereinafter G.S.) § 166A-19.3(6).

2. See G.S. 166A-19.22. The General Assembly also has the authority to declare a state of emergency under G.S. 166A-19.20.