

Communicable Disease Emergency

Purpose

The purpose of this policy is to outline provisions covering the following human resource areas in case of a communicable disease (e.g. pandemic influenza) or other serious public health threat that is declared by the State Public Health Director or the Governor to be a public health emergency:

- Designation of mandatory employees
 - Compensation for mandatory employees
 - Accounting for absences
 - Disciplinary action for failure of mandatory employees to report to work
 - Emergency Lay-off Provisions
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Definitions

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| Epidemic | A disease occurring suddenly in a community, region or country in numbers clearly in excess of normal. This includes the occurrence of several cases of a disease associated with a common source. |
| Pandemic | The worldwide outbreak of a serious communicable disease in numbers clearly in excess of normal. |
| Incubation period | The time, usually in days, between exposure to an illness and the onset of symptoms. |
| Isolation [Authority: GS 130A-2 (3a)] | Restriction of movement and/or action of individuals infected with a communicable disease to reduce the chance of spreading disease. |
| Quarantine [Authority: (GS 130A-2 (7a)] | Restriction of movement and/or action of individuals who are known to have been exposed to or may reasonably be suspected to have been exposed to a communicable disease and who do not yet show signs or symptoms of infection. |
| Mandatory Employees | Employees with permanent, probationary, time-limited or trainee appointments who are required to work during a public health emergency because their positions have been designated by their agencies as mandatory to agency operations during the emergency. |
| Social Distancing | Actions taken to reduce the opportunities for close contact between people in order to limit the spread of a disease. |

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Communicable Disease Emergency, Continued

Responsibility The State Health Director or the Governor has authority to declare a public health emergency.

In case of a public health emergency, the Governor has broad powers to issue an emergency order to protect the public health. Under G.S. 166A-6, the Governor may close all schools, community colleges, universities, childcare and adult day care facilities and order that no public events shall be held where large numbers of people are gathered in one physical location. The Governor may also close all non-mandatory State services and order mandatory services to remain operational.

In the absence of such an order, the agency head shall consult with local/State Public Health officials to determine the severity of the individual situation and to determine what actions shall be taken (including the closure of the agency or university). The public health authority rests with the State Health Director and each Local Health Director. (GS 130A-145) Each state agency will likewise adhere to any communicable disease orders of the State or local public health agencies to prevent transmission of a communicable disease.

Management shall inform employees and employees shall inform management of any evidence of a communicable disease that could seriously endanger the health of others in the workplace. Management shall immediately notify the local health department. Agencies have the flexibility to define this protocol within their continuity of operations plan guidelines.

Note: The most recent list of reportable diseases as compiled by the State Health Commission is found in the Administrative Code 10A NCAC 41A.0101. The list is constantly updated as new diseases emerge.

**Possible
Actions During
a Pandemic**

During a communicable disease outbreak, any of the following may occur:

- closing of one or more agencies or parts of an agency by order of the Governor,
 - closing of an agency or parts of an agency by order of the State or Local Public Health Director,
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Communicable Disease Emergency, Continued

Possible Actions During a Pandemic (continued)

- closing of an agency or parts of an agency by agreement between the State or Local Public Health Director and an agency authority, (Note: The University President or his designee may close the University of North Carolina or any of its constituent or affiliated institutions immediately, pending final communication with Public Health officials.)
- decision by the agency authority that an employee(s) should stay away from the workplace until symptoms have gone,
- isolation of an ill or symptomatic employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(3a), or
- quarantine of an exposed or potentially ill employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(7a).

The authority for public health isolation, quarantine, and other communicable disease control measures resides with the State Health Director and/or the Local Health Director (GS 130A-145) in the county of residence or their designees.

Social Distancing

In order to minimize transmission from person to person, each agency should have in place a Social Distancing Policy to implement immediately upon orders from the Governor and/or Public Health officials.

Social distancing is designed to limit the spread of a disease by reducing the opportunities for close contact between people. It can be accomplished by administrative and engineering controls.

Examples include:

- reducing face-to-face exposure by using conference calls and video conferencing;
- avoiding unnecessary travel;
 - canceling meetings, workshops, training sessions and scheduled events;
- requiring employees to work from home to reduce exposure in the workplace;
- establishing flexible working hours to avoid mass transportation, at least during peak hours;
- installing protective barriers between work stations or increasing space between workers;

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Communicable Disease Emergency, Continued

Social Distancing (continued)

- reinforcing hand washing and requiring the use of protective equipment such as hand sanitizers and masks (provided by the agency);
- scheduling employees in shifts;
- controlling access to buildings, and
- requiring asymptomatic individuals traveling to affected countries/areas not to return to work until one incubation period has passed after returning home.

An agency may choose to practice social distancing by use of alternate worksites or teleworking. Agency heads are authorized to establish immediate telework arrangements, bypassing the normal requirements, as outlined in the agency internal teleworking policy and procedures, during the declared emergency. Employees required to work shall receive regular pay.

Mandatory Employees

Each agency head shall predetermine and designate mandatory operations and designate the employees to staff these operations.

Mandatory employees may be excused from work if they are quarantined or ill, if they are required to care for a member of the immediate family who is quarantined or ill or if they are a parent (or guardian) who is required to stay home with underage children because of the closure of a day care facility, public school or eldercare facility.

The agency shall maintain a list of mandatory employees by position, including current employee name and contact information. The agency head shall develop an alternative plan for personnel in case the designated personnel are unable to work. Alternative workers may include current employees who are not designated as mandatory but who possess the skills to fill in for mandatory employees, retirees, contract workers or other temporary employees. This will be especially important in a pandemic that may last for several weeks or months.

Employees designated as mandatory personnel shall be notified of such designation and the requirement to report for, or remain at, work in emergency situations. If mandatory personnel are required to remain at the worksite for an extended period of time, the agency or university will provide adequate housing and food.

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**Failure of
Mandatory
Employees to
Report**

Individuals designated as mandatory employees may be subject to disciplinary action, up to and including termination of employment, for willful failure to report for or remain at work. Each situation will be reviewed on a case-by-case basis to determine appropriate action.

**Compensation
of Mandatory
Employees**

When an agency is closed or when management determines that only mandatory employees are required to report to work, the mandatory employees shall be granted time and one-half pay for all hours worked or all hours that the employee is required to remain on-site, subject to the availability of funds. If funds are not available, the employee shall be granted the additional half-time pay at a later date or one-half compensatory time. This provision applies to ALL employees who are exempt and non-exempt under the Fair Labor Standards Act (FLSA).

This provision does not include temporary employees under any circumstances.

Leave

Management should stress to employees that they will not be penalized for using their leave, thereby encouraging those with symptoms associated with a communicable disease to stay home so that they do not infect other employees and also recognize that employees with ill family members may need to stay home to care for them.

Quarantined by a Public Health official:

When an employee is quarantined, the employee shall be granted paid leave until the specified period of time ends or the employee becomes ill with the communicable disease, whichever comes first. This shall include employees with temporary appointments.

Employee is required by the agency to stay home:

If agency management believes that an employee has symptoms associated with a communicable disease, management may require the employee not to report to work and to use any available compensatory leave, sick leave, vacation leave or bonus leave.

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Communicable Disease Emergency, Continued

Leave (continued)

If agency is closed:

Although all efforts should be made to allow non-mandatory employees to work from an alternative location, it may not always be possible. When an agency is closed or when agency management determines that only mandatory employees are required to report to work, the non-mandatory employees who are not required to work shall be granted paid leave for up to 30 calendar days. The employee's pay shall continue at the same rate the employee would have received had the employee been working (including any shift premium pay normally received). If adjustments need to be made, they shall be made in the next paycheck after returning to work, depending on payroll deadlines for that pay period. If a non-mandatory employee elects to work when the agency is closed, the employee shall not receive additional pay.

Employees who are on prearranged vacation leave or sick leave shall charge leave to the appropriate account until the end of the scheduled days off. Also, employees on leave without pay shall continue on leave without pay until the scheduled leave without pay period ends.

If employee becomes ill:

If the employee becomes ill and it is determined to be work related in accordance with the Workers' Compensation Act, the Workers' Compensation Policy applies. If the employee is isolated or becomes ill as a result of off-the-job exposure, the Sick Leave Policy applies. The provisions of the Family and Medical Leave Policy and the Family Illness Leave Policy shall also apply.

Advisory Note: Should an employee not have sufficient sick leave available, the agency may work with the employee to advance a reasonable amount of leave or make arrangements for the employee to make up the time if the agency determines that the work situation will allow it. Time must be made up within 24 months from the occurrence of the absence. If it is not made up within 24 months, the appropriate leave shall be charged, or leave without pay.

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Verification

Employees who have symptoms of a communicable disease and are required to stay home or who are ill with the communicable disease should be cautioned not to return to work until they are sure that they are fully recovered.

Agencies may require certification of fitness to work from a health care provider.

If quarantined, it is the employees' responsibility to provide the agency with a written verification from a Public Health official

Day care or public and private school closings/Elder Care

When an agency is open but an employee, who is a parent (or guardian), is required to stay home with a child (as defined in the FMLA) because of the closure of a day care facility or a public school, the non-mandatory employee may, with approval of the supervisor, be allowed to work at home or elect to:

- use vacation leave,
- use bonus leave,
- use sick leave,
- use compensatory leave,
- take leave without pay, or
- make up time in accordance with the parameters for making up time during adverse weather. The agency may extend the make-up time to 24 months if necessary.

This also applies for eldercare.

Review of Policy Provisions

If an agency is closed for more than 30 days, the leave and compensation provisions of this policy shall be reviewed and either terminated, revised or renewed. The agency head shall determine the appropriate course of action in consultation with the Governor's Office and the State Budget Director.

Pending a decision on renewing these provisions, the employee may be allowed to take leave (compensatory, sick, vacation, bonus), if available, until a decision is made. If leave is not available, leave shall be advanced and paid back within 24 months.

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Communicable Disease Emergency, Continued

Advisory Note: For additional information about influenza, refer to the following websites:

N. C. Division of Public Health:

<http://www.epi.state.nc.us/epi/gcdc/pandemic.html>

Department of Health and Human Services

<http://www.pandemicflu.gov/plan/community/commitigation.html>

World Health Organization:

http://www.who.int/csr/disease/avian_influenza/avian_faqs/en/index.html

DOL

http://www.osha.gov/Publications/influenza_pandemic.html

Emergency Layoff

An emergency layoff is a temporary separation from payroll because funds are not available, work is not available or because of another emergency situation requiring employees to remain away from the worksite. The employer believes that the condition will change and intends to recall the employees as soon as feasible.

An emergency lay-off may be declared if the agency remains totally closed or partially closed for an indefinite period of time due to the public health emergency. The agency head shall make this decision after consultation with the Governor's Office and the State Budget Director.

During an emergency layoff, employees who are laid off are entitled to participate in the State Health Plan. State agencies shall pay the employer contribution. The agency may also pay the employee contribution for the month following the layoff, with the provision that the employees shall repay the State for any contribution made on their behalf.

An employee shall not be paid for leave at the time of the emergency lay-off; however, vacation and sick leave will continue to accrue during the lay-off to be credited to the employee's account upon return from the lay-off. If a reduction-in force should occur before the employee returns, the vacation leave accumulated while on lay-off shall be paid along with other unused vacation/bonus leave that was on hand at the time of the layoff.

Advisory Note: Should an employee resign, retire, die or be dismissed during the lay-off, all leave owed at the time of the lay-off shall be paid.

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**Emergency
Lay-Off
(continued)**

An employee will continue to receive total State service while on an emergency lay-off.

An employee may be eligible for unemployment benefits with the North Carolina Employment Security commission while on an emergency lay-off. Employees should contact the North Carolina Employment Security Commission for further details.

OTHER PROVISIONS

Hiring

During the communicable disease outbreak emergency, if new hires are needed to cover emergency operations, the agency head is authorized to execute the immediate hiring of an individual who is determined to be qualified and able to do the work by:

- waiving the posting policy,
- waiving the minimum qualifications policy, and
- waiving the hiring of relatives (nepotism) policy.

Employees hired under these conditions should be given a temporary or time-limited permanent appointment.

The agency head is also authorized to offer competitive salaries for the duration of the emergency.

**Employee
Reassignments**

The agency head is authorized to assign employees where they are most needed and compensate them accordingly for the duration of the emergency.
