



Office of State Human Resources

ROY COOPER
Governor

BARBARA GIBSON
Director, State Human Resources

Memorandum

TO: All-Agency Human Resources Director
CC: Agency Heads and Chief Deputies
FROM: Barbara Gibson, State Human Resources Director
RE: Emergency Leave Provision 4
DATE: May 19, 2020

A handwritten signature in cursive script that reads "Barbara Gibson".

Attached is Emergency Leave Provision 4, as discussed on the HR Director call today. Provision 4 goes into effect on Tuesday, May 26. Provision 3 is extended to cover Saturday, May 23 through the Memorial Day holiday, May 25.

As each of us knows, the world has changed dramatically over the past two months. I want to thank each of you for your collaboration as we all work to manage these unprecedented challenges.

Since the State of Emergency (SOE) was declared on March 10, North Carolina has provided state employees greater flexibility for paid time off due to COVID-19 than is required by the federal law or state policy. As agencies did their part to flatten the curve, they asked non-mandatory state employees to telework to the greatest extent possible. During this time, schools, daycare centers and elder care centers closed, and many employees needed flexibility to respond to these family matters. In addition, the closing of customer-facing services and move to teleworking left some employees without the ability to telework or be reassigned to alternate work. OSHR established a SOE Leave to help agencies transition state employees to telework and other unexpected adjustments during this public health crisis. During these difficult times, OSHR in collaboration with the Governor's Office on Volunteerism and Community Service (VolunteerNC) expanded Community Service Leave so that employees could help the state's hard-hit nonprofit community.

At the time SOE Leave was established in March, federal legislation (FFCRA) had not become law, although SOE Leave aligned with many of its provisions, and offered greater benefits than required by FFCRA. In mid-April, we updated Provision 3 to require that all employees (health care providers and emergency responders exempted) receive the FFCRA benefits. Agencies were informed that if employees had been denied leave for reasons covered by FFCRA from April 1 to present, retroactive corrections for such denied leave must be made to comply with the FFCRA. In April, agencies also received a tracker to document reasons for FFCRA and State of Emergency leave being taken by employees. As managers continue to document FFCRA paid leave in your agency, this tracker will be an important resource for tracking potential federal reimbursements.

Both public health and the economy continue to be state, national and global concerns. Daily, we hear of the effects that this pandemic has had on the overall economy. It is now mid-May, and we are seeing the effects of this pandemic on our state's economy. As we move forward it will be necessary to mitigate the impact of this emergency on our state budget.

As a result, OSHR has made several changes to SOE Leave so that it aligns more closely to FFCRA. Employees taking FFCRA's emergency paid sick (EPSLA) leave act or emergency family and medical leave expansion act (EFMLEA) leave will receive either 100% or 2/3rds of their regular pay, depending upon the reason for the leave. Agencies will continue to have the ability to offer leave for elder care and to employees whose work cannot be performed remotely, or for whom reasonable alternate work is not feasible. For these two non-FFCRA reasons, employees will receive 2/3rds of their regular pay. In all situations, state employees will receive benefits that equal, and in some situations exceed, federal requirements.

Please continue to provide flexibility as appropriate and encourage employees to consider lending their time and talent to help nonprofits that are struggling to serve constituents. During the Provision 4 period, employees may take up to 80 hours of Community Service Leave for COVID-19-related activities with supervisory approval.

As discussed, OSHR has developed a range of resources to assist agencies, including the Safe Return to Worksites Guidance (www.oshr-nc.gov/safe-return), which will be updated as needed. A set of informative flyers has been posted online, including new versions in Spanish. We also are finalizing FAQs and considering other approaches.

Compassion will be key in communicating Emergency Leave Provision 4 to agency employees, and I know that we can continue to count on your support to employees for the good of your agency and the state. Although this communication is specific to agency HRDs, I encourage you to pull from this message as you develop your personalized communications to explain the leave options available to your agency's employees. I know you will want to thoughtfully tailor your message to address logistics as they relate to your agency's budget, operational needs and implementation of Provision 4.