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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 and the Americans with Disabilities 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.

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 may 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 must 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 be accommodated for both essential and non-essential employees during the period of the closure. For non-essential employees, 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 remains 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.

Any employee deemed essential in accordance with NJ.A.C. 4A:6-2.5 or the Appointing Authority's COOP, including direct care employees and custody staff in correctional facilities, may be required to report to work at the discretion of the Appointing Authority notwithstanding their child's preschool program, elementary or secondary school, or child care center closure due to a COVID-19 outbreak, potential outbreak, or related cleaning.

Staffing

Appointing Authorities should be actively reviewing their current COOP, including lists of employees designated as essential. In the event of a partial or full closure of State government operations, essential employees must 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).

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.

Return to Work Following Known Exposure, Suspected and/or Confirmed COVID-19

Employees Generally
In most cases, employees who have been exposed to or diagnosed with COVID-19 will not be permitted to enter the workplace until they are either medically cleared (regarding those with COVID-19), until the expiration of the recommended period of quarantine (regarding those who were exposed), **or as otherwise directed by state or federal guidelines.**

Healthcare Facilities
In accordance with guidance published by the New Jersey Department of Health ("DOH"), which was informed by Centers for Disease Control and Prevention ("CDC") protocols, healthcare facilities may allow certain asymptomatic healthcare personnel to return to work with appropriate precautions following exposure to COVID-19. The guidance, last updated on March 30, is available here: DOH Return to Work

Appointing Authorities that operate healthcare facilities shall rely on current DOH guidance to implement policies regarding their employees' return to work following exposure to COVID-19. These policies shall supersede any portions of these Guidelines related to the ability of employees to continue to work and/or return to work following exposure or diagnosis. Appointing Authorities must submit revised or existing policies incorporating the DOH guidance to the CSC by Friday, May 1, 2020. The CSC reserves the ability to review submitted plans and require adjustments in light of amended state or federal guidance.

Critical Infrastructure Workers
Similarly, the CDC has released Interim Guidance outlining when "Critical Infrastructure Workers," who may have been exposed to COVID-19 but remain asymptomatic, are permitted to continue working. For purposes of the CDC guidance, "Critical Infrastructure Workers" is defined to include (i) federal, state, and

local law enforcement, (ii) 911 call center employees, (iii) Fusion Center employees, (iv) hazardous material responders from government and the private sector, (v) janitorial staff and other custodial staff; and (vi) workers – including contracted vendors – in food and agriculture, critical manufacturing, informational technology, transportation, energy and government facilities.

Appointing Authorities that employ critical infrastructure workers shall rely on current CDC guidance to implement policies regarding certain employees' return to work following exposure to COVID-19. These policies shall supersede any portions of these Guidelines related to the ability of certain employees to continue to work and/or return to work following exposure or diagnosis. Appointing Authorities must submit revised or existing policies incorporating CDC guidance to the CSC by Friday, May 1, 2020. The CSC reserves the ability to review submitted plans and require adjustments in light of amended state or federal guidance.

As this situation continues to develop, all Appointing Authorities must remain current on workforce-related guidance issued by the DOH and the CDC. **If additional DOH or CDC guidance is issued that contradicts or supersedes the guidance documents referenced above, the Appointing Authority must similarly update its policy.**

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, if applicable. Additional forms of documentation may be permitted by the Appointing Authority.

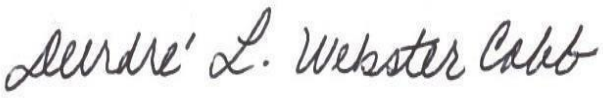
For cases where individuals are caring for an immediate family member sickened by or diagnosed with COVID-19, then the employee shall submit documentation verifying the family member's COVID-19-related illness to the Appointing Authority's Human Resources Office within three days of the employee's initial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

Cancellation of Leave

During the period of the emergency, Appointing Authorities shall permit employees to cancel their preapproved vacation and sick leave, subject to the Appointing Authorities' normal policies and procedures with respect to notification deadlines for the cancellation. Wherever possible, in order to address critical staffing issues,

Appointing Authorities shall require employees to provide advanced notice of the cancellation.



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