

# PUBLIC HEALTH EMERGENCY LEAVE

**Policy Number: 4.52**  
**Effective Date: 06/10/07**

*APPLICATION: All state employees, including employees of agencies exempt from coverage of the Virginia Personnel Act and, as noted, wage employees.*

## Policy

It is the policy of the Commonwealth to protect the health of state employees and the public and to provide continuity of services to the citizens of the Commonwealth during times of pandemic illness.

## Purpose

This policy permits or requires eligible employees to attend to the medical needs of self and immediate family members by providing up to 80 hours<sup>1</sup> of paid leave per leave year when Communicable Disease of Public Health Threat conditions as defined in Section 32.1-48.06, *et. seq Code of Virginia*, have been declared by the State Health Commissioner and Governor.

Use of this policy is intended for illness directly related to the declared communicable disease threat.

Procedures for the administration of this policy and a *sample* public health communicable disease fact sheet accompany this policy.

## Authority

This policy can be partially or fully implemented upon declaration of a Communicable Disease of Public Health Threat, in anticipation of Exceptional Circumstances, or in response to a specific incident. The Director of the Department of Human Resource Management (DHRM) or his/her designee has the authority to implement all or select provisions of this policy and to grant exceptions on an agency-by-agency basis in order to ensure use in the intended manner and to meet the unique operational requirements of any situation.

Agencies should develop written plans and/or procedures consistent with this policy to address employee communication and unique staffing and business needs.

Colleges, universities, agencies that operate residential facilities, and those that serve as members of the Virginia Emergency Response Team (VERT) must develop supplemental

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<sup>1</sup> \*80 hours of paid leave is consistent with paid leave available to eligible employees under Policy 4.17, *Emergency/Disaster Assistance* and with the recognized duration of communicable diseases anticipated by this policy.

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plans and/or procedures that address staffing and safety and health issues unique to 24/7 operations where custodial responsibility for students, patients, residents, and inmates may necessitate extraordinary measures or where employees are directly responsible for the safety and security of Commonwealth citizens during emergencies.

*The above provisions may be further defined as necessitated by public health standards and regulations.*

## **Related DHRM Policies**

- 1.35 Emergency Closings
- 1.61 Telecommuting
- 1.60 Standards of Conduct
- 1.90 Workforce Planning
- 3.05 Compensation
- 3.10 Compensatory Leave
- 3.15 Overtime Leave
- 4.10 Annual Leave
- 4.20 Family and Medical Leave
- 4.35 Leave Sharing
- 4.45 Leave Without Pay – Conditional/Unconditional
- 4.55 Sick Leave
- 4.57 Virginia Sickness and Disability Program
- 4.60 Workers' Compensation

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## ADMINISTRATIVE PROCEDURES

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#### Purpose

These procedures accompany the Public Health Emergency Leave Policy and are designed to assist agencies prior to and during Exceptional Circumstances requiring the protection of employees, customers, and the public from exposure to a communicable disease and upon formal declaration of a Communicable Disease of Public Health Threat by the State Health Commissioner pursuant to Section 32.1-48.06, Code of Virginia.

#### A. Procedures During Exceptional Circumstances

Upon the State Health Commissioner's determination of the existence of Exceptional Circumstances relating to one or more persons within the Commonwealth who are known to have been exposed to or infected with a Communicable Disease of Public Health Threat, but **prior** to any formal declaration or emergency office closing decision, state agencies must apply the following procedures:

1. Agencies will remain open for business. All employees are expected to report to work as usual.
2. Agencies must review their Continuity of Operations Plans (COOP) and revise as necessary in anticipation of widespread staffing deficiencies.
3. Employees must receive a copy of the Department of Human Resource Management's (DHRM's) Public Health Emergency Leave Policy at this time unless previously provided through standard employee communication procedures.
4. DHRM Policy 1.35, Emergency Closings, requires that all employees be designated as essential or non-essential and allows the designation to be situation-specific. Employees must be reminded of their designations and related performance expectations during Exceptional Circumstances and during a declaration of Communicable Disease of Public Health Threat.
5. Agencies must communicate with employees in a clear and timely manner to ensure that employees are aware of the status of public health concerns, the agency's COOP requirements, agency efforts to reduce the spread of, or exposure to, infection, and applicable human resource policies.

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6. Employees will be compensated according to established compensation policies and overtime regulations.
7. Telecommuting work agreements should be executed for employees who can work at alternative locations to further promote social distancing. Those with approved telecommuting work agreements should be encouraged to work off site to reduce the risk of exposure. Agencies must consider business needs to ensure that services to the public are not disrupted.
8. Agencies should consider expanding the use of alternate work schedules to reduce employee contact.
9. An agency may temporarily reassign employees to minimize critical staffing deficiencies. The reassignment must be consistent with employees' qualifications and training.
10. Employees who become ill prior to a formal declaration of Communicable Disease of Public Health Threat are subject to existing state leave policies. Managers should encourage these employees to use existing leave to attend to their medical needs.

## **B. Workplace Safety and Hygiene**

Agencies are required to implement measures that reduce the spread of communicable diseases in the workplace as recommended by the Virginia Department of Health, the Centers for Disease Control, and related Workers' Compensation policies and laws. This includes, but is not limited to, the following:

1. Formally advising employees of precautionary measures that apply to the workplace and home, including the provision of community health or online resources that offer information and assistance on communicable disease prevention, respiratory manners, signs and symptoms of the disease, and when to seek medical attention.
2. Actively encouraging employees to independently take proactive steps to protect themselves and their families.
3. Making arrangements with landlords, contractors, or cleaning staff that ensure that agency offices and facilities are cleaned using techniques and cleaning agents that reduce the spread of infection.

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## C. Procedures Upon Declaration of a Communicable Disease of Public Health Threat

1. Upon declaration and within the period of a Communicable Disease of Public Health Threat, all employees are eligible for up to 80 hours of paid leave per leave year to attend to their own medical condition and/or to care for immediate family members residing in an Affected Area.
2. At agency discretion, wage employees may also be eligible for paid leave under these conditions. Agencies have the authority to limit the number of eligible hours to less than 80 for wage employees based on critical business needs and available funding, however paid leave may not exceed the number of work hours normally scheduled per week. For example, a wage employee who normally works twenty hours per week would only be eligible for twenty hours of paid leave due to a week-long absence. Wage employees are subject to the same leave request process as other employees. (Refer to Section D.)

## D. Paid Public Health Emergency Leave

In order to qualify for paid Public Health Emergency Leave, an employee must submit the required agency leave request form to his/her immediate supervisor or to the supervisor's designee. The request should be submitted in a timely manner but must be submitted no later than the employee's return to work or upon an absence of 80 hours. Agencies should assist the employee in the completion and submission of this request.

Agencies may also stipulate that one or more of the following conditions be met in order to qualify for paid Public Health Emergency Leave:

1. The employee's primary care provider, a Public Health Official, or an Acceptable Medical Authority may be required to confirm the diagnosis of a communicable disease of public threat that requires isolation and/or medical attention for a specified period of time.
2. The employee's primary care provider, a Public Health Official, or an Acceptable Medical Authority may be required to confirm the employee's exposure to a communicable disease of public threat and recommend removal from the workplace for a specified period of time.
3. The employee's primary care provider, a Public Health Official, or an Acceptable Medical Authority may be required to confirm that an eligible member of an employee's immediate family is diagnosed with a Communicable Disease of Public Health Threat.

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4. Employees may be responsible for providing written confirmation of the diagnosis and/or isolation requirements according to clinical recommendations published by the Virginia Department of Health.
5. Recovering employees whose illness and/or isolation extends beyond 80 hours must use existing leave and/or disability policies to cover the remainder of their absences. Wage employees whose illness and/or isolation extends beyond the maximum number of paid leave hours allowed by their agency will not be paid.

## **E. Workplace Attendance**

Employees are expected to report to work as usual unless ill or as otherwise directed by the Governor, their Agency Head, or the State Health Commissioner. Failure to report to work or to perform assigned duties may result in disciplinary action.

An agency may temporarily reassign employees to minimize critical staffing deficiencies. The reassignment must be consistent with the employees' qualifications and training.

## **F. Illness in the Workplace**

Upon declaration of a Communicable Disease of Public Health Threat, agencies should direct ill employees to leave the workplace and attend to their medical needs. Time away from the job site to comply with this directive shall be applied toward the 80 hours of pre-authorized Public Health Emergency Leave. These employees are subject to the same leave request process as all other employees. (Refer to Section D.)

An employee's refusal to leave the workplace under these circumstances may result in disciplinary action.

## **G. Emergency Office Closings**

If the Public Health Threat requires the closing of an agency or agencies, employees will be compensated in accordance with Policy 1.35, Emergency Closings.

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## Glossary

### Acceptable Medical Authority

Doctors of Medicine and Surgery, Hospital Interns and Residents, Physician Assistants, and Nurse Practitioners licensed to practice in Virginia by the State Boards of Medicine or Nursing.

### Affected Area

Any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with or who are reasonably suspected to have been exposed to or infected with a Communicable Disease of Public Health Threat.

### Continuity of Operations Plan (COOP)

An emergency response plan that addresses the continuity of an agency's operations and the security of their customers and employees in the event of natural or man-made disasters or emergencies, including terrorist attacks. Executive Order 7 (2002) directed all executive branch agencies to prepare and maintain Continuity of Operations Plans.

### Communicable Disease of Public Health Threat

An illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment as described in Section 32.1-48.06, Code of Virginia.

### Designated Employees

As defined in DHRM Policy 1.35, Emergency Closings, designated employees are exempt and non-exempt employees who are required to work during an authorized closing because their positions have been designated by their agencies as essential to agency operations during emergencies. Designated employees may be required to work during times they are not regularly scheduled to work. Agencies may designate different employees as essential for different situations.

### Exceptional Circumstances

When one or more persons within the Commonwealth are known or are reasonably expected to have been exposed to or infected with a Communicable Disease of Public Health Threat as described in Section 32.1-48.05, Code of Virginia.

### Immediate Family Member

Immediate family includes parents, step-parents or persons who stood in place of the parent and performed parental duties and responsibilities; a spouse as defined by laws of the Commonwealth; children, including step-children, foster children, and legal wards; siblings, including step-siblings, residing within an Affected Area.

### Public Health Official

Public Health physicians under the supervision and management of the State Health Commissioner who are licensed to practice medicine in the Commonwealth and have expertise in public health duties, epidemiology, sanitary science and/or environmental health, including Public Health physicians at all clinical sites administered by local health departments.