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Impact of Severe Weather Conditions or Other Extraordinary Circumstances on Employee Attendance

I. OVERVIEW

The Governor's Office of Employee Relations (GOER) is issuing this memo to clarify State policy on the impact of severe weather conditions or other extraordinary circumstances on employee attendance and to summarize GOER's previous memos on the subjects of closing State offices and directed early departures.¹

Certain general principles apply:

- State policy is not to close State offices or facilities because of severe weather conditions or other extraordinary circumstances. Offices should remain open, even when services to the public are cancelled.
- Only the Governor has the authority to close State offices or facilities.
- Even if offices or facilities close, employees who provide essential services are expected to report to work or to remain at work to perform responsibilities related to the emergency itself, or to provide care to or maintain custody of clients, patients, residents, or inmates in hospitals and other facilities.
- Agencies do not have the authority to direct employees not to report to work.
- Agencies do not have the authority to direct employees to leave work, unless GOER, as the Governor's designee, authorizes a directed early departure.² In some situations, agencies

¹ See "Clarification of Policy: Closing State Offices or Directed Early Departures in Emergency Situations," Mar. 12, 1996; "State Policy – Closing State Offices / Directing Early Departures," Nov. 14, 1996.

² See *below* Section IV.

may permit employees who wish to do so to leave work early and charge the absence to appropriate leave credits.

II. REPORTING TO WORK

Severe weather conditions or other extraordinary circumstances may impact the ability of employees to report to work. Agencies are not authorized to close State offices or facilities, or to direct employees not to report to work.

Only the Governor has the authority to close State offices or facilities. A declaration of a state of emergency by the Governor does not by itself close State offices and facilities. If State offices were to close in such a situation, the closure would result from a separate action by the Governor. Unless the Governor issues a specific order directing non-essential employees whose work stations are in a specified geographic area not to report to work, employees who do not report to work because of extraordinary circumstances must charge leave credits other than sick leave.

Even when the Governor closes State offices or facilities, employees performing essential services are expected to report to work in emergencies as part of their job responsibilities related to the emergency itself, or to care for or maintain custody of clients, patients, residents, or inmates in hospitals and other facilities.

While the chief executive of a county, city, or village has the authority to declare a local state of emergency,³ that declaration does not authorize the closing of State offices or facilities. Similarly, travel restrictions imposed by local authorities do not close State offices or facilities. If an employee is absent because of a local state of emergency or travel ban, the employee is expected to charge the absence to leave credits other than sick leave.

The closing of leased space by a landlord does not by itself excuse State employee absence without charge to leave credits. When possible, the affected employees should be reassigned in accordance with agency reassignment plans. When the affected employees cannot be reassigned, or when employees do not report to work because of the closure, those employees must charge their absence to leave credits other than sick leave.

Agencies should exercise great care in both internal agency communications and media announcements when communicating during extraordinary circumstances. For example, if an agency announces to the public that it is suspending or curtailing services, the announcement should make clear that State employees are expected to report to work.

³ Executive Law, Article 2-B.

Attendance Rules

When employees have charged leave credits for absences due to their inability to report to work because of extraordinary circumstances, the agency may, after the fact, petition the State Civil Service Commission to suspend the Attendance Rules to excuse full-day absences without charge to leave credits. If the Commission approves the petition, the agency then restores the credits charged, consistent with the Commission's decision. Your agency should seek guidance from the Attendance and Leave Unit of the Department of Civil Service regarding the procedure for requesting suspension of the Attendance Rules.

Agencies can excuse reasonable amounts of tardiness without charge to employees' leave credits when an uncontrollable circumstance delays the arrival of a group of employees.⁴ However, employees who do not report for work must either charge their credits or be placed on leave without pay, as appropriate.

III. LEAVING WORK EARLY

Conditions may develop in a State office, facility, or worksite that significantly impact working conditions, or severe weather conditions or other extraordinary circumstances may raise concerns about employees' ability to travel safely when they leave work.

Agencies are encouraged to exercise appropriate judgment in approving requests from employees to leave work early because of concerns about extraordinary circumstances. Employees who request and are permitted to leave work because of such concerns before the end of their workday must charge leave credits other than sick leave.

In certain emergency situations, emergency personnel or agency management may direct employees to evacuate a State office, facility, or worksite. While emergency evacuations do not require prior authorization by GOER, they must be reported to your agency's GOER liaison as soon as possible, even in situations where the agency is not seeking a directed early departure.⁵ An evacuation order is not a directed early departure and does not by itself release employees from duty status. Agencies may not direct employees to leave work if GOER has not authorized a directed early departure.

When the agency does not initially know how long the circumstance that led to the emergency evacuation will last, the agency should instruct employees to report back at a specified time, in a specified safe location, during the workday, for further instructions. Employees who report back at the specified time are not required to charge their leave credits. Employees who do not report back must charge leave credits other than sick leave from the time of the evacuation order to the end of the work shift, even if a directed early departure is later authorized.

⁴ Attendance and Leave Manual, Section 20.3.

⁵ See below Section IV.

In very limited circumstances, a charge to sick leave may be permitted when an employee leaves work early. An agency should seek guidance from the Attendance and Leave Unit of the Department of Civil Service regarding use of sick leave in such circumstances.

IV. DIRECTED EARLY DEPARTURE

In appropriate situations, an agency may ask GOER to authorize a directed early departure for affected employees who have reported to work and who remain in duty status. Agencies cannot direct employees to leave work if GOER has not authorized a directed early departure.

A directed early departure may be appropriate when severe weather conditions exist or building problems such as fire, a loss of power, heating, air conditioning, or water, or other problems endanger the health or safety of employees. Conditions that are simply uncomfortable or inconvenient or that reduce productivity do not warrant a directed early departure.

When requesting GOER to authorize a directed early departure because of a physical condition in an office, facility, or worksite, be prepared to give your GOER liaison details about the condition and its impact on employees and agency operations, as well as when the problem is expected to be resolved. Let your GOER liaison know whether alternative workspace is available, and provide additional details about the situation as they become available.

As a last resort, GOER will authorize a directed early departure only after all other options have been considered. If GOER authorizes a directed early departure, the affected employees are not required to charge their leave credits.

The following general principles apply to directed early departures:

- Non-essential employees are covered by an authorized directed early departure if they reported to work and remained in duty status when GOER authorized the directed early departure.
- Employees deemed essential are not covered by a directed early departure. While some positions are always deemed essential, others may be deemed essential on a case-by-case basis depending on the particular extraordinary circumstance.
- Employees who did not report to work because of the extraordinary circumstances must charge leave credits other than sick leave until the end of their work shift.
- Employees who reported but left work for the day before GOER authorized the directed early departure must charge appropriate leave credits until the end of their work shift.

- The directed early departure of any group of employees does not create any right to equivalent time off for employees not directed to depart because they were not deemed adversely affected by the extraordinary circumstances or were deemed to be essential employees.
- When extraordinary circumstances continue for more than one day, employees must report to work each day and, if the agency cannot reassign them, GOER may consider authorizing a new directed early departure each day as appropriate.
- Whether and how a directed early departure authorized during one shift affects employees working shifts later that day, as well as any other questions about directed early departures in extraordinary circumstances, should be discussed with your GOER liaison.

V. AGENCY ROLE AND RESPONSIBILITIES

Each agency is expected to take appropriate steps to deal with the impact of extraordinary circumstances on employee attendance, including the following:

Planning

- Develop a reassignment plan for employees working in both State and leased buildings. Agencies are required to reassign employees whenever possible. GOER will not authorize a directed early departure unless this option has been fully explored.
- Establish specific procedures that supervisors and employees are expected to follow in the event of extraordinary circumstances. These procedures should identify who in your agency can announce a directed early departure once GOER has authorized it; what is expected in terms of reporting to work; how employees should get information from their supervisors regarding when and where to report during an extraordinary circumstance; and any special procedures for employees-deemed-essential to ensure that agency services continue for the duration of the extraordinary circumstances.
- Ensure that agency officials and managers who may be called on to respond to an extraordinary circumstance understand State policy, agency-specific procedures, and the limits of their authority.
- Inform supervisors and employees about State policy and the agency-specific procedures to be followed in extraordinary circumstances.

- Develop or update your internal agency communications system in order to convey important messages to employees and ensure appropriate coverage in extraordinary circumstances.

Acting

- Agencies should exercise great care in both internal agency communications and media announcements when communicating during extraordinary circumstances. For example, if an agency announces to the public that it is suspending or curtailing services, the announcement should make clear that State employees are expected to report to work.
- If information in a broadcast or other public announcement raises any questions, contact your GOER liaison for clarification before acting.
- Report emergency evacuations to your GOER liaison as soon as possible, even in situations where employees leaving work early is not an issue.
- Notify GOER of extraordinary circumstances that may endanger the health or safety of employees, including your assessment of any possible alternatives to a directed early departure.
- Get prior authorization from GOER for any directed early departure.

VI. QUESTIONS

Please contact your GOER liaison if you have any questions about this memo or the impact of severe weather or other extraordinary circumstances on employee attendance.

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