

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

MEMORANDUM

TO: State of Ohio Employees and Supervisors

FROM: Major General Mark E. Bartman, The Adjutant General *MES 24 Sept 15*

DATE: September 18, 2015

SUBJECT: Policy Letter # 6 - Public Safety Emergency Procedures

Purpose

To establish uniform procedures for all agencies implementing public safety emergency procedures.

General

It is the policy of the Adjutant General's Department to consistently apply this policy to all State of Ohio employees, regardless of whether they are classified, unclassified, exempt from collective bargaining, or subject to a collective bargaining agreement. Section 123:1-46-01 of the Ohio Administrative Code sets forth the payment procedures for exempt employees during weather emergencies. Bargaining unit employees should refer to their specific collective bargaining agreements.

Procedure

A. Types of Emergencies

"Emergency" is defined in section 5502.21(F) of the Ohio Revised Code as any period during which the Congress of the United States or a chief executive has declared or proclaimed that an emergency exists. This formal declaration or proclamation can be made by the chief executive of any political subdivision, including the Governor, for natural disaster, man-made disaster, hazardous materials incidents, or civil disturbance.

"Public safety emergency" is a term of art which refers to all formal declarations or proclamations which may limit a state employee's obligation to travel to and from work for a specific period of time. Such emergencies may include, but are not limited to, severe weather conditions like snowstorms. A public safety emergency declaration or proclamation can only be made by the Governor or the Governor's designee. Emergency declarations that are not public safety emergency

declarations do not affect a state employee's obligation to travel to and from work. A public safety emergency cannot be declared by an individual agency, department, or director.

The Director of the Department of Public Safety is the Governor's designee to declare a public safety emergency. The authority to declare a public safety emergency rests solely with the Governor in consultation with the Director of Public Safety.

The Director of Public Safety shall consult with appropriate state agency and local officials and gather necessary information for use in determining the need for a public safety emergency declaration. When a public safety emergency is declared, the Director of Public Safety shall communicate the public safety emergency declaration and its parameters to designated agency personnel.

B. Communicating the Public Safety Emergency

The agency head or director of each appointing authority shall designate a representative and an alternate to be responsible for receiving notice that a public safety emergency has been declared by the Director of Public Safety. All designated agency representatives should have telephone and cell phone capabilities and should be exempt employees or employees who have been designated as being expected to work during a public safety emergency. Designated agency representatives are responsible for advising all appropriate supervisors in their departments, agencies, boards, or commissions of the public safety emergency.

If an employee is uncertain as to the status of a weather emergency and/or a public safety emergency, he/she may call the Weather Emergency Voice Mail at (614) 821-9999. This phone number is operational 24 hours a day, seven (7) days a week.

C. Designating Employees

Each year, by the first day of October, all agencies must create and maintain a list of employees who are expected to work during a public safety emergency. This list should contain the names, phone numbers, and classifications of a skeletal crew of employees whose presence at the work site is critical to maintaining operations and essential office functions during any public safety emergency, such as those state employees who are essential to maintaining security, health, and safety and critical office operations.

Critical office operations vary from agency to agency depending upon agency type. Agencies with 24 hour operations and agencies with institutional, law enforcement, residential, or custodial functions will typically require more employees to maintain essential office operations than an administrative or regulatory agency. Whether

an employee is expected to be at work may depend upon the particular activities that are occurring in the agency. For example, during certain time periods in a payroll cycle, specific payroll officers may be employees whose presence at the work site is critical to processing the payroll. As such, those employees may be expected to work during the public safety emergency when those payroll processes are occurring at the agency.

Similarly, critical dates and deadlines may assist in determining those employees who should work during a public safety emergency. For example, those employees who assist with the preparation and filing of certain legal or fiscal records or those who are critical to the issuance of vital licenses and permits may be required to work during a public safety emergency since they deal with matters that are determined by specific deadlines and filing dates.

Employees who are expected to work during a public safety emergency should be advised of their designation and of the expectation that they work during public safety emergencies unless otherwise advised. However, they are not guaranteed work. Nothing in this policy prevents appointing authorities from using their discretion in sending employees home or instructing them not to report for work once a public safety emergency has been declared.

Employees who do not appear on the list of employees expected to work during a public safety emergency are excused from work and will be designated as "excused employees" for purposes of this policy.

D. Granting Leave to Excused Employees

Snow emergencies may be declared by local sheriffs in certain counties, yet no formal public safety emergency is declared by the Governor and state public offices remain open. Should this situation occur, management staff are encouraged to exercise their judgment and discretion to permit employees to use any accrued vacation, personal, or compensatory leave if such employees choose not to come to work due to extenuating circumstances caused by the county sheriff snow emergency. Employees with no or inadequate accrued leave may be granted leave without pay. Nothing in this policy prevents the Adjutant General or his delegate from using their discretion to temporarily reassign employees to indoor job duties, consistent with their job classification, so that such employees are not subjected to extreme conditions as a result of the county sheriff snow emergency. For example, an agency may reassign an individual to an indoor shift so that the employee avoids performing unnecessary road- or travel-related duties during days or shifts of especially inclement weather.

E. Compensation for employees who are exempt from a collective bargaining agreement.

- Exempt Excused Employee

Excused exempt employees who either do not report for work or who are sent home as a result of a declared public safety emergency shall be paid for those hours of work they were scheduled to work during the declared public safety emergency at their regular rate of pay.

Excused exempt employees should not normally be required to remain at work during a declared public safety emergency. Those excused exempt employees who volunteer to work during a public safety emergency are entitled to their regular rate of pay and should not receive any additional overtime compensation or compensatory time as a result of the public safety emergency.

On the rare occasion when excused employees are required to work due to the absence of an employee who is expected to work during a public safety emergency or due to another extenuating circumstance, they shall be treated the same as exempt employees who are expected to work during a public safety emergency and shall be entitled to overtime compensation or compensatory time as outlined below.

- Exempt employees who are expected to work during a public safety emergency

Employees who are expected to work during a public safety emergency must report to work regardless of the conditions.

Employees who are overtime-eligible under the FLSA and work during a declared public safety emergency shall be given a choice of overtime compensation or 1.5 hours of compensatory time for every hour worked during the public safety emergency. Employees who are overtime-exempt under the FLSA shall receive one hour of compensatory time for every hour worked during the public safety emergency. For both overtime-eligible and overtime-exempt employees, such compensation or compensatory time shall be given in addition to the employees' regular rate of pay. This compensation is governed by Directive 06-08 for overtime exempt employees, and by section 124.18 of the Revised Code and Directive 06-06 for overtime eligible employees.

Employees who are expected to work during a public safety emergency and are instructed not to report to work or are released from work during a public safety emergency shall be paid at their regular rate of pay. No additional overtime compensation or compensatory time will be granted to employees who volunteer to work after being advised to leave or not to report for work.

F. Compensation for bargaining unit employees during public safety emergencies.

- Bargaining unit employees who are excused from work during a public safety emergency.

Excused bargaining unit employees who do not report for work or are sent home as a result of a declared public safety emergency shall be paid for those hours of work that they were scheduled to work at their regular rate of pay. Excused bargaining unit employees should not be permitted to remain at work during a declared public safety emergency. On the rare occasion when excused employees are required to work during a declared public safety emergency, they shall be treated the same as bargaining unit employees who are expected to work during a public safety emergency and shall be paid at the premium rate, if any, provided under contract. (As there are slight distinctions in the state's labor agreements for premium pay during a public safety emergency, please refer to the appropriate contract for premium rates.)

- Bargaining unit employees who are expected to work during a public safety emergency.

Bargaining unit employees who are expected to work during a public safety emergency must report to work as scheduled regardless of the conditions. These employees shall be paid at the premium rate, if any, as provided under contract.

G. Scheduled Leave

In accordance with their internal policies, each agency should determine whether the employee's leave request was "pre-scheduled." Any employee who is on pre-scheduled leave during a public safety emergency shall be charged leave regardless of the public safety emergency declaration. However, if the employee's leave request was not pre-scheduled, and if the employee does not appear on the list of employees who were expected to work during a public safety emergency, the employee should receive compensation at their regular rate of pay for the hours the employee was scheduled to work during the public safety emergency, and should be charged leave for any remaining scheduled hours of work not covered by the public safety emergency declaration.

Notification and enforcement

Each agency is responsible for designating an agency representative and maintaining a list of employees who are expected to work during the public safety emergency. Each year, by the first day of October, agencies must enter into the Ohio Administrative Knowledge System (OAKS) Human Capital Management (HCM) module the names, phone numbers, and classifications of the employees who are expected to work during

the public safety emergency. Each agency must, by letter, notify its employees of that status.

Employees who are expected to work during the public safety emergency will be issued cards to facilitate their travel to and from work on state roadways and highways during a declared public safety emergency. Agency employees previously issued agency identification cards may use those cards (or other picture identification) and their agency letter designating them as employees who are expected to work during the public safety emergency. Members of the Ohio National Guard should carry their agency letter of designation and their U.S. Armed Forces Identification Card, as identification of their employee status during a declared public safety emergency.

Attachment:
Public Safety Emergency Matrix

Distribution:
A, D

Workday: Essential Employees

Emergency Delay	<i>At Work</i>		<i>En Route</i>		<i>At Home</i>	
	Bargaining Unit	Exempt	Bargaining Unit	Exempt	Bargaining Unit	Exempt
	Stay at work. Receive premium rate provided under the contract.	Stay at work. Receive OT or comp time based on FLSA status.	Report to work. Receive premium rate provided under the contract.	Report to work. Receive OT or comp time based on FLSA status.	Report to work. Receive premium rate provided under the contract.	Report to work. Receive OT or comp time based on FLSA status.

Full Day Emergency Declaration	<i>At Work</i>		<i>En Route</i>		<i>At Home</i>	
	Bargaining Unit	Exempt	Bargaining Unit	Exempt	Bargaining Unit	Exempt
	Stay at work. Receive premium rate provided under the contract.	Stay at work. Receive OT or comp time based on FLSA status.	Report to work. Receive premium rate provided under the contract.	Report to work. Receive OT or comp time based on FLSA status.	Report to work. Receive premium rate provided under the contract.	Report to work. Receive OT or comp time based on FLSA status.

**Essential employees who cannot make it to work are not authorized to work from home and must use their accrued leave time to make up for the time they were scheduled to work but did not report to work.*

Workday: Non-Essential Employees**

Emergency Delay	<i>At Work</i>		<i>En Route</i>		<i>At Home</i>	
	Bargaining Unit	Exempt	Bargaining Unit	Exempt	Bargaining Unit	Exempt
	Stay at work. Receive premium rate provided under the contract.	Send home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Send home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Send home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Stay at home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Stay at home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.

Full Day Emergency Declaration	<i>At Work</i>		<i>En Route</i>		<i>At Home</i>	
	Bargaining Unit	Exempt	Bargaining Unit	Exempt	Bargaining Unit	Exempt
	Agency to determine need.* Employees who work receive premium rate. Employees who don't work receive regular rate.	Send home. Receive regular rate of pay for house scheduled to work.	Send home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Send home. Receive regular rate of pay for house scheduled to work.	Stay at home until declared emergency is over. Receive regular rate of pay for hours scheduled to work.	Stay at home. Receive regular rate of pay for hours scheduled to work.

**Currently, agencies may make bargaining unit non-essential employees ad hoc "essential employees." A system needs to be developed to get ad hoc essentials to work since they will not have the "Essential Employee" designee cards that are currently being used.*

***These provisions are in effect regardless of whether the emergency is where the employee lives or whether the emergency is where the employee works.*

Extended Delays

- **Essential Employees.** Essential employees should be analyzed in the same manner as they are analyzed for Emergency Delays or Full Day Emergency Declarations.
- **Non-Essential Employees.** The agency should consider the amount of time the employee has remaining on their shift as compared to the cost of requiring the employee to stay or report to work. If the agency sends the employee home, the agency should not expect the employee to return and should allow the employee to liberally use any accrued leave the employee may have.

Holidays and Weekends

- **Employees Scheduled to Work on the Holiday or Weekend.** Agencies would still treat employees scheduled for work based on their essential or non-essential designation. Essential employees already scheduled for work should be treated in accordance with the procedures outlined above under the heading *Workday: Essential Employees*. Non-essential employees already scheduled for work should be treated in accordance with the procedure outlined above under the heading *Workday: Non-Essential Employees*.
- **Employees Not Scheduled to Work on the Holiday or Weekend.** Agencies should determine whether essential employees who are not scheduled to work on the holiday or weekend should be asked to work on a case-by-case basis. If the unscheduled, essential employee is asked to work on the weekend or holiday, the employee is eligible for emergency leave and/or additional emergency compensation. Non-essential employees who are not scheduled to work on the holiday or weekend should not report to work and are not entitled to any emergency leave or additional emergency compensation.