

State of Wisconsin

DOA – DIVISION OF PERSONNEL MANAGEMENT

- CLASSIFICATION AND COMPENSATION BULLETIN -

Date: April 5, 2020

Locator No: DPM-0519-CC/POL

Subject: **UPDATED:** Temporary Emergency Leave and Work Policy (During the Public Health Emergency Due to the COVID-19 Pandemic)

This is a re-issue of policy bulletin DPM-0519-CC/POL (originally issued on March 18, 2020) on Temporary Emergency Leave and Work Policy (During the Public Health Emergency Due to the COVID-19 Pandemic). Effective April 5, 2020, this policy is updated to reflect Emergency Order #12: [Safer at Home](#). The order was effective March 25, 2020.

This policy provides direction when the State of Wisconsin implements emergency COVID-19 pandemic provisions requiring social distancing of employees. The policy addresses employees performing essential functions, working remotely (telecommuting), and leave provisions when non-essential work cannot be performed remotely. The policy will stay in effect until further notice, with ongoing renewal and/or amendments as necessary and appropriate as the situation evolves.

SECTION I. QUALIFYING REASONS FOR PAID ADMINISTRATIVE LEAVE

Note: the word “emergency” was removed from the title to avoid confusion with the federal Families First Coronavirus Response Act (FFCRA) which uses the phrase “emergency paid sick leave”.

In response to the COVID-19 pandemic and the related federal and state public health emergencies, the State of Wisconsin implemented paid administrative leave provisions, effective March 15, 2020, and additional workplace flexibility options, effective March 17, 2020, to mitigate the effects of the COVID-19 pandemic throughout the State’s offices and worksites. The health of the citizens within our care and State employees is the top priority.

Effective April 1, 2020, paid administrative leave will not be available for an employee if the employee is eligible for federal leave under the FFCRA. These federal leaves include emergency paid sick leave for several COVID-19-related reasons and emergency family and medical leave expansion leave for the need to care for a child due to school or day care closure caused by the COVID-19 emergency. Refer to bulletin [DPM-0521-CC/POL](#) for more information on the federal leave options.

During a pandemic, to minimize the spread of the disease, employees may be directed to exercise social distancing strategies. Many workers will be able to perform their functions remotely (telecommuting) where possible and appropriate. Core agency operations must continue in this situation. These will be considered essential functions, and employees needed to deliver these core operations will be considered essential employees.

Some essential employees will be required to work on-site to maintain essential operations, although the State will allow as many as possible to work remotely. Some employees cannot perform their functions through telecommuting; if these functions are not essential, these employees will not be permitted to report to the workplace and will be eligible for paid administrative leave. Alternatively, employees who are not designated as essential employees may be reassigned to other functions based on operational need and capacity. The overarching goal is to keep our community safe and healthy while enabling as much of our mission-related activities to continue as possible.

The following scenarios identify the provisions for essential employees performing on-site functions, employees working remotely (both working on essential and non-essential functions), and employees responsible for non-essential functions that cannot be performed remotely. ***Regardless of any of these scenarios, employees must follow all public health guidance, including staying home and self-quarantining if sick.***

The following definitions apply to this policy:

- A. Essential Employees:** Employees with responsibilities critical to maintaining essential functions and services including those employees whose job duties include the provision or support of an emergency response, public health or direct health care, public safety function, or government facility operations, etc.

- B. Non-Essential Employees:** Employees who are engaged in non-essential functions and who are working remotely or who are not being permitted to report to the workplace due to the Safer at Home order. However, we recognize that there are critical activities that must occur at key points in time that may necessitate the use of these employees. Supervisors are expected to work with employees with these types of responsibilities, depending on the timing of emergency events, utilizing the agency's Continuity of Operations Plan (COOP).

- C. Social Distancing:** Social distancing as defined by the CDC means remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible.

SECTION II. EMPLOYEES WORKING ON-SITE (ESSENTIAL)

In the event the State of Wisconsin implements a directive requiring employees who perform essential functions to be on-site to perform these functions, the following provisions apply:

- Employees will be notified by their supervisor of their requirement to report and provide on-site work unless they have a qualifying reason (defined below);
- Qualifying reasons for not reporting may include issues directly related to the COVID-19 pandemic, those things defined and covered by the federal Family and Medical Leave Act (FMLA) and/or the Wisconsin Family Medical Leave Act (WFMLA) and/or the Americans with Disabilities Act (ADA) for the employee or the employee's eligible family member;
- When employees cannot report to their workplace, they must inform their supervisor as soon as they become aware they are unable to report; and
- Agencies are afforded the right to set further policy and/or standards specific to their employees and essential business operations.

SECTION III. EMPLOYEES WORKING REMOTELY (Essential and Non-Essential)

For employees who are telecommuting (working remotely), the following provisions apply:

- Supervisors will assess and identify the ability of their employees to work remotely based on job responsibilities and approve or deny an employee's ability to telecommute;
- If telecommuting requests are a close call (between being able to telecommute vs not), supervisors are encouraged to work with human resources to review and interpret telecommuting requests favorably for the employee due to the public health and safety considerations during the COVID-19 pandemic;
- If an employee is approved for telecommuting, job expectations will be clearly defined by the employee's supervisor and regular discussion will occur between the employee and supervisor during the period of telecommuting work;
- Supervisors will consult with their human resources contact for assistance and support with employee telecommuting questions;
- Employees approved for telecommuting will continue to receive their normal pay while telecommuting; and
- Employees who can telecommute as determined by their supervisor, but request not to do so, must submit a request to their supervisor and be approved to use their accrued leave time during their absence or be approved for leave without pay.

SECTION IV. EMPLOYEES WHO CANNOT WORK REMOTELY AND NOT PERMITTED TO WORK (Non-Essential)

Employees who are unable to work from home and are not permitted to work solely due to the Safer at Home order will continue be able to use state paid administrative leave for up to 80 hours pursuant to bulletin [DPM-0518-CC/POL](#), but only once all available federal emergency paid sick leave is exhausted. For this purpose only, paid administrative leave will be used prior to using any other available state leave or compensatory time.

Alternatively, supervisors may provide alternate work locations to ensure adequate social distancing or temporarily assign new duties to meet current needs. This would not include employees who need leave because of issues related to their own health, health of a family member, or need to provide child care due to school closures.

SECTION V. EMPLOYEES WHO CANNOT WORK DUE TO COVID-19

Employees who cannot work because of COVID-19 issues including self-quarantine, self-isolation, illness, care of an immediate family member, or child care due to school/day care closures will continue to be able to use state paid administrative leave for up to 80 hours, but only once all available federal emergency paid sick leave, emergency paid FMLA leave, and available state personal leave is exhausted or otherwise unavailable pursuant to bulletin [DPM-0518-CC/POL](#). FMLA rights and provisions will also apply in these circumstances.

SECTION VI. EMPLOYEE REASSIGNMENT

Based on emergency circumstances, employees may be reassigned to cover staffing needs to ensure essential agency operations and services are provided. These reassignments may involve work that is not part of the employee's regular functions and/or is located away from their current work unit. The following provisions will apply:

- Employee will be given information and direction about the work they are being asked to perform;
- Reassignment work will be reasonably made and consider current emergency circumstances, operational needs, and the employee's skills and abilities to the best extent practicable under the circumstances; and
- If the employee has concerns with the reassigned work, they should discuss with their supervisor and/or human resources contact.

SECTION VII. ADDITIONAL INFORMATION

[ADA and Quick Facts provided by the EEOC](#)

[FMLA Qualifying Reasons for Leave](#)

[State Paid Administrative Leave Bulletin](#)

[Telecommuting Bulletin](#)

[Federal Emergency Leave Bulletin](#)

[WFMLA Qualifying Reasons for Leave](#)

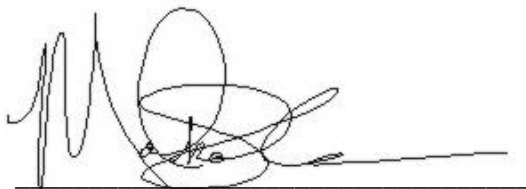
[WI Human Resources Handbook Chapter 736](#)

[Department of Labor - COVID-19 and the American Workplace](#)

SECTION VIII. REFERRAL OF QUESTIONS

Employer questions regarding the information included in this bulletin should be directed to John Wiesman by phone at (608) 266-1418 or by e-mail at john.wiesman@wisconsin.gov; or, Scott C. Thompson by phone at (608) 266-1729 or by email at scottc.thompson@wisconsin.gov.

Employees should contact their agency human resources office.



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