

Updated Guidance for City Agencies on Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 (COVID-19)

This document sets forth City leave policy with respect to City employees to mitigate the risk of the spread of Coronavirus Disease 2019 (COVID-19). This Guidance is effective March 20, 2020 and until further notice, and supersedes the guidance issued on March 7, 2020.

I. Determination of Personnel Performing Essential and Non-Essential Services during the Outbreak

Every agency shall take immediate steps to further determine and refine which services it provides that are essential during the COVID-19 outbreak and identify the employees that are necessary to ensure provision of those essential services.

A. Essential services are defined as follows in the order of importance:

1. Responding to the COVID-19 Emergency

Delivery of any service or function that is critical to the mitigation of the spread of COVID-19 and emergencies arising because of the outbreak or actions taken to mitigate the outbreak.

2. Lifesaving

The direct, in-person delivery of lifesaving services to the public.

Examples: Emergency medical services technicians and paramedics; 911 operators;

3. Life Protecting, Life Safety, Transportation, Utilities

Direct, in-person delivery of medical care to individuals in any capacity, control and care of incarcerated individuals or others under mandated or self-selected government custody of care of any interval, key personnel required to perform essential court proceedings that cannot be conducted remotely, removal / mitigation of environmental hazards, operation of mobility and transportation systems, and physical inspection or maintenance of properties and regulated public and private facilities to ensure continued public safety and public health and other maintenance, repair, and infrastructure to support lifesavings operations.

Examples: Public Health Nurse, Shelter Workers, Marine Engineer (Ferry); traffic enforcement agents

4. Workforce and Internal Service Continuity

Functions, systems, and support of critical equipment and networks that enable agency-specific and whole of government workforce productivity; revenue generation.

Examples: Information technology employees who maintain citywide and agency networks and communications, revenue operations, essential services contract administrators; city tax auditors; consumer affairs inspector

B. Non-essential services:

Agency-specific and whole of government roles, functions, and duties that are not critically essential to the continued performance of the above four categories.

Examples: records management, license processing, grant auditing

II. Application of Leave Policy to Employees Currently Providing Non-Essential and Essential Services

A. Personnel Currently Providing Non-Essential Services

Agencies shall identify employees who currently are not assigned to perform essential services, as defined in Part I of this guidance, who shall be designated employees currently performing non-essential services. Administrative and clerical office-based employees are presumptively performing non-essential services. If their presence at the worksite is necessary for the performance of an essential service, they may be designated by the Agency as an employee providing essential service. For example, an administrative employee who performs a task for an essential service that cannot be made accessible to the employee's home, may be designated as an employee currently providing essential service.

All personnel currently performing non-essential services are expected to perform work remotely. They are required to complete all work assignments which they are assigned by the Agency and which they have the technological capacity to perform at home using personal equipment or equipment provided by the agency (e.g., computer, phone, internet access). Those employees may also be re-assigned to perform essential services within their agencies or by the City in other agencies at a location other than at their home, including at emergency services administered by the Department of Education, such as Regional Enrichment Centers, food services sites, and nursing care sites for vulnerable students, as circumstances require.

Designation of an employee as performing non-essential services is temporary and may change to essential as the COVID-19 emergency develops. An employee who refuses to perform assigned work or to obtain equipment provided by the Agency to perform assigned work shall be charged accrued leave and may be subject to discipline. Agencies must make and document all diligent efforts to identify work that can be performed remotely by an employee designated as performing non-essential services. An employee designated as currently performing non-essential services who in the rare circumstance is unable to work remotely because of inadequate equipment or lack of assignment shall be granted excused leave with pay without charge to leave accruals.

B. Employees Currently Performing Essential Services

Employees performing essential services are required to work at home or other alternate location if the agency has determined that is feasible pursuant to the agency's telework plan implemented in accordance with Personnel Service Bulletin 600-3 (Temporary Citywide Telework Policy for City Employees During the COVID-19 Outbreak), dated March 13, 2020. Employees who are unable to perform essential services at home, for example field workers, must continue to work at the locations to which their agencies have assigned them.

1. Employees Performing Essential Services Who Exhibit Symptoms of COVID-19 that are not due to a pre-existing condition must stay home. Symptoms of COVID-19 are:
 - Fever (temperature above 100.4 degrees Fahrenheit or 38 degrees Celsius)
 - Cough
 - Shortness of breath (difficulty breathing)
 - Sore throat

An employee who does not exhibit those symptoms but who has been exposed to another person who is or may be infected with COVID-19 is not authorized to stay home under this policy.

2. If the employee had or may have had COVID-19, the employee must not report to work for seven days after the symptoms started or for three days after the fever has stopped, whichever is longer.¹ Such absences shall be deemed excused and the employee shall be granted leave with pay and without any charge to leave accruals. Employees should provide proof that they meet the conditions of excused leave. Documentation obtained from Teledoc or other on-line doctor's services will be accepted. Any further absence after the subsiding of symptoms, as described in this paragraph, shall be charged to sick leave accruals.
3. An employee may receive excused leave for absence due to symptoms of COVID-19 without receiving confirmation of infection only one time. Thereafter, any subsequent leave that the employee takes because the employee is exhibiting COVID-19 symptoms will be charged to accrued sick leave unless the employee provides proof of a positive test for COVID-19.
4. If an employee is exhibiting symptoms of COVID-19, the agency should instruct the employee to go home. Before instructing an employee to go home under this circumstance, the employee's supervisor or manager must notify the agency's human resources department.

¹ See "Stay Home, New Yorkers: What you need to Know about COVID-19," New York City Department of Health and Mental Hygiene (March 15, 2020) at <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/coronavirus-factsheet.pdf>

5. Effective immediately, the length of absence that requires an employee to submit required documentation upon return to work is extended from absences of more than three consecutive days to absences of more than five consecutive days.
6. Effective immediately, the City's and all Agencies' absence control procedures are suspended.