



JUDICIAL BRANCH PUBLIC HEALTH EMERGENCY POLICY

March 17, 2020

Purpose

The purpose of this policy is to address human resources issues that may arise during the widespread outbreak of a communicable disease, such as during a pandemic (e.g., COVID-19). In such an event, the Governor or State Health Director may declare a public health emergency. However, this policy shall go into effect only when directed by the Chief Justice or the Chief Justice's designee. The circumstances in which that may occur include but are not limited to a public health emergency declared by the Governor or State Health Director, or catastrophic conditions in which the Chief Justice may issue orders pursuant to inherent judicial authorities, or as provided in G.S. 7A-39.

During a public health emergency, certain essential operations of the Judicial Branch have to continue, and certain employees may be required to report to work at the discretion of the hiring authority to meet the constitutionally and statutorily mandated responsibilities of the courts.

Applicability

This policy applies to all members of the Judicial Branch.

Elected or appointed officials, such as a justice, judge, district attorney, public defender, clerk of superior court, or magistrate are non-leave earning court officials and remain on the payroll while they hold office.

Hiring authorities have discretion to assign work and designate paid administrative leave to non-leave earning assistant district attorneys, assistant public defenders, assistant capital defenders, assistant appellate defenders, assistant juvenile defenders, assistant parent defenders, and research assistants.

Definitions

Epidemic: A disease occurring suddenly in a community, region, or country in numbers clearly in excess of normal. This includes the occurrence of several cases of a disease associated with a common source.

Pandemic: The worldwide outbreak of a serious communicable disease in numbers clearly in excess of normal.





Incubation Period: The time, usually in days, between exposure to an illness and the onset of symptoms.

Isolation [GS 130A-2 (3a)]: Restriction of movement or action of individuals infected with a communicable disease to reduce the chance of spreading disease.

Quarantine [GS 130A-2 (7a)]: Restriction of movement or action of individuals who are known to have been exposed to or may reasonably be suspected to have been exposed to a communicable disease and who do not yet show signs or symptoms of infection.

Social Distancing: Actions to reduce the opportunities for close contact between people in order to limit the spread of a communicable disease.

High Risk Employee: The NC Department of Health and Human Services (DHHS) identifies those at high risk of severe illness. For example, those at risk may include:

- individuals over 65 years of age, or
- with underlying health conditions including heart disease, lung disease, or diabetes; or
- with weakened immune systems.

Authorities in General – Probable Responses to a Pandemic

Executive Branch (G.S. 130A-145): The Governor has broad powers to issue an emergency order to protect the public health. In a public health emergency, the State Health Director and local health directors in each county may issue orders to control the spread of a communicable disease. Such measures can result in quarantines; closing of public events, facilities or institutions (such as schools); and limiting of public gatherings. Public health officials could order isolation or quarantine of people who are ill or have symptoms, or who have been exposed to the disease. All of this would impact court employees and operations.

Judicial Branch (G.S. 7A-39): As a separate branch of government, in response to health emergencies or other catastrophic conditions, the Judicial Branch makes all relevant decisions governing its employees and operations. However, this policy is intended to ensure cooperation and coordination with orders by public health officials. Actions to be taken may include:

- The Chief Justice or the Chief Justice's designee may close, limit, or modify operations of the Judicial Branch.
- Some or all employees could be excluded from the workplace.





Duty to Coordinate with Health Officials, Report Diseases, and Comply with Orders

It is the intent of this policy for the Judicial Branch to coordinate with and help effectuate the orders of state and local officials in the event of a public health emergency.

Consistent with any directive issued by the Chief Justice or the Chief Justice's designee, Judicial Branch hiring authorities and employees shall adhere to any communicable disease orders of state and local public health agencies to prevent transmission of a communicable disease.

Hiring authorities shall inform employees and employees shall inform hiring authorities of any evidence of a communicable disease that could seriously endanger the health of the public or others in the workplace.

Hiring authorities shall immediately notify their local health department when they become aware of any employee having a disease on the list of reportable diseases as compiled by the State Health Commission, which is found in the Administrative Code, 10A NCAC 41A.0101 ([Reportable Diseases and Conditions](#)). The list is updated as new diseases emerge.

Social Distancing

A hiring authority may practice social distancing by:

- allowing alternative worksites or teleworking;
- allowing employees who have potentially been exposed to a person(s) identified by public health officials as a positive carrier of a communicable disease to work at alternative work locations;
- requiring asymptomatic employees who have traveled to affected countries or areas to work at alternative work locations;
- reducing face-to-face exposure by using conference calls and video conferencing;
- avoiding unnecessary travel;
- canceling meetings, workshops, training sessions, and scheduled events;
- establishing flexible working hours;
- scheduling employees in shifts;
- installing protective barriers between work stations or increasing space between workers;
- reinforcing handwashing and use of protective equipment such as hand sanitizers and masks; or
- controlling access to buildings.

Hiring authorities are authorized to establish immediate telework arrangements during a public health emergency. Telework arrangements require approval by a hiring authority. Employees must notify their supervisor or hiring authority of the work being performed and shall track time worked and leave taken





as if they were physically working in the office. Employees are required to follow their hiring authority's directives for work assignments and participation, such as WebEx and conference calls.

Returning to Work

Hiring authorities shall follow recommended guidelines from the Centers for Disease Control before allowing employees to return to work. These guidelines state employers should not "require a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as healthcare provider offices and medical facilities may be extremely busy and not able to provide such documentation in a timely way."

Ordinary Leave Policies Apply Except as Otherwise Provided

Except as expressly changed by this policy, ordinary Judicial Branch policies for the accumulation and use of sick, vacation, bonus and other leave shall apply in the event of a public health emergency:

- Employees on pre-approved leave, sick leave, leave without pay, or other leave status shall charge leave to the appropriate account until the end of the scheduled absence period.
- If an employee or immediate family member becomes ill with a communicable disease or other illness, sick leave shall be used for the time during which the employee or immediate family member is ill.
- If an employee becomes ill and it is determined to be work-related in accordance with the Workers' Compensation Act, the Workers' Compensation Policy applies.
- The provisions of the Family and Medical Leave Policy and the Family Illness Leave Policy may also apply.

Paid Administrative Leave During Declared Public Health Emergency

Paid administrative leave may be used for the following reasons:

- A hiring authority has temporarily reduced on-site staff, or an employee's work site has closed, or an employee is unable to perform job duties at an alternative location due to the nature of the job duties.
- An employee must care for an immediate family member as defined in the [Sick Leave Policy](#) (HR Manual Section 5C) during the closure of a school, daycare, respite care, or nursing facility and the job duties of the position may not be performed at an alternative location.
- An asymptomatic employee is following DHHS public health guidelines after traveling to affected countries or areas.
- An employee is considered at high risk as identified by [DHHS](#).
- An employee has potentially been exposed to a person(s) identified by public health officials as a positive carrier of a communicable disease.





- An employee is self-quarantined or is quarantined by a public health official, but is not ill from a communicable disease.
- An employee has symptoms of a communicable disease and is not allowed in the workplace due to a risk of exposing others.

Paid administrative leave is for those who earn leave in the Integrated HR-Payroll System (formerly, BEACON). Employees should enter code 9532 when using paid administrative leave, which will provide pay to the employees in the same manner as for other leave types. Hiring authorities have discretion to designate paid administrative leave to non-leave earning employees such as assistant district attorneys, assistant public defenders, assistant capital defenders, assistant appellate defenders, assistant juvenile defenders, assistant parent defenders, and research assistants following the provisions of this policy.

During paid administrative leave:

- Hiring authorities shall make every effort to enable employees to work from home, or some other appropriate location, performing their ordinary duties or some other productive work on behalf of the court system and the public, and employees are expected to continue to perform such work.
- Employees are not required to take accrued leave time and shall continue to accrue vacation and sick leave, and state service toward retirement, for at least 30 days.
- Employees will be paid at their usual rate of pay for at least 30 days.

The AOC Director shall review and approve any continuation of paid administrative leave and accrual of leave and service beyond 30 days (whether consecutive or not).

Emergency Hiring

During a public health emergency to which this policy applies, if new hires are needed to cover operations, the hiring authority, *with prior approval from the AOC Human Resources Officer*, is authorized to execute the immediate hiring of an individual who is determined to be qualified and able to do the work by:

- waiving the posting policy;
- waiving the minimum qualifications unless prohibited by law; and
- offering competitive salaries for the duration of the emergency.

