



Coronavirus (COVID-19) Legal FAQ for Educators Emergency Sick Leave

On March 27, 2020, the North Carolina State Board of Education (SBE) authorized the State of Emergency COVID-19 Sick Leave (State of Emergency Leave) policy in response to the COVID-19 pandemic. Under this policy, leave is available to employees of districts/ Local Education Agencies (LEAs), the Innovative School Districts, and regional schools, who are unable to work as a result of COVID-19.

The policy encourages public schools to provide staggered schedules, or remote and teleworking opportunities, if feasible, to “limit the spread of COVID-19, as well as allow the continuation of salary and benefits” for employees. LEAs are also encouraged to adhere to the Center of Disease Control’s and NC Dept. of Health and Human Services’ guidance on “maximizing social distancing” and taking other measures to reduce the spread of COVID-19, when requiring employees to report to work at a designated worksite.

The State of Emergency Leave is applied based upon the below definitions of employees:

1. **Mandatory Employees:** Employees who are directed by their supervisor to report to work at a designated worksite other than their personal residence at regular and specific dates and times.
 - a. Most mandatory employees are not eligible to telework or perform their duties from a remote work location.
2. **Non-Mandatory Employees:** Employees who have not been directed by their supervisor to report to work onsite at any particular date and time.
 - a. Non-mandatory employees may continue to be assigned work and are expected to telework if possible.
3. **High Risk Employees:** Employees over 65 years of age; have an underlying health condition; or a weakened immune system; or identified by state or federal health authorities as high risk, or caring for someone at high risk.
 - a. Employer shall provide teleworking opportunity if feasible for High Risk Employees.
 - b. If the employer determines that teleworking is not feasible for a High Risk Employee, they are eligible for leave under this policy.

The below information addresses educators' questions regarding the State of Emergency Leave.

1. Am I required to use a full day of leave or can I use leave in increments?

You may use leave in hourly increments, pursuant to the policy.

2. Do I qualify for the State of Emergency Leave if I was on leave prior to April 1, 2020?

Yes, if your leave started on or after March 16, 2020, as a result of a COVID-19 related illness or symptoms, or you were caring for a child or elderly dependent with COVID-19 related illness or symptoms, you may qualify. You may also qualify if you were caring for a child or elderly individual because of a COVID-19 closure of their care facility.

If you are eligible for leave, you may receive up to ninety-six (96) hours of State of Emergency Leave, which can be applied retroactively, for the period of March 16 – March 31, 2020.

3. Are substitute teachers eligible for State of Emergency Leave?

No, unless they are classified as a temporary employee, usually as a result of a long-term assignment. Contact the Advocacy Center for further guidance.

4. Is the State of Emergency Leave permanent?

No. This leave is for the period covering April 1 – April 30, 2020, however, it may be extended by the State Board of Education.

5. How do I apply for the State of Emergency Leave?

Notify your supervisor of your need for leave, in writing if feasible, and apply with your Office of Human Resources. If you are denied leave but believe you are eligible for the State of Emergency Leave under these provisions, contact the Advocacy Center for assistance.

Eligible for Leave: Mandatory Employee	Eligible for Leave: Non-Mandatory Employee
Cannot work because of childcare or eldercare needs due to COVID-19 related facility closing.	Cannot work because of childcare or eldercare needs due to COVID-19 related facility closing.
High-Risk and have not been assigned alternative telework/remote duties.	High-Risk and have not been assigned alternative telework/remote duties.
Unable to report to work to perform <i>on-site duties</i> because of COVID-19 illness, childcare or elderly care issues.	Unable to telework because they have not been authorized by their supervisor to continue to report to work because their <i>duties cannot be performed remotely AND reasonable alternate remote work is NOT feasible or productive</i> , as determined by the employer.
Reduced <i>on-site schedule</i> , per employer: employee may take leave for the remaining hours that work is unavailable onsite or remotely.	Reduced hours, part-time, or irregular schedule employees shall receive pro-rated share of leave hours.
Sick due to symptoms consistent with COVID-19, or healthcare provider has advised the employee to self-quarantine due to concerns related to COVID-19.	Sick due to symptoms consistent with COVID-19, or healthcare provider has advised the employee to self-quarantine due to concerns related to COVID-19.
Caring for a dependent (child or elderly individual) with COVID-19 symptoms or illness.	Caring for a dependent (child or elderly individual) with COVID-19 symptoms or illness.