




<b>Approved by:</b> Juan Williams, Commissioner	<b>Policy Number:</b> 12-039 (Rev. 03/13/20)
<b>Signature:</b> 	<b>Supersedes:</b> 11-052, 10-028
<b>Application:</b> Executive Branch Agencies, Human Resource Officers, Payroll Officers, and Full-Time Employees	<b>Effective Date:</b> October 16, 2014
<b>Authority:</b> T.C.A. § 4-3-1703, T.C.A. § 8-30-104, T.C.A. § 8-30-406, T.C.A. § 58-2-107	<b>Rule:</b> Chapter 1120-06

## Employee Absences Due to Declared State of Emergency

The State of Tennessee recognizes that there will be instances in which the Governor declares a state of emergency resulting from an emergency beyond local control, including weather, natural disaster, and spread of infectious disease. During these events it shall be the policy of the State to make every effort to maintain normal work hours by initiating departmental Continuity of Operations Plans (COOP) and/or Emergency Workforce Management Plans during these periods in order to continue providing necessary services to citizens of the State of Tennessee.

Conditions during the declared state of emergency may require each employee to make a personal decision regarding safety in traveling to and from the workplace. As with any unexpected absence, employees who feel that it is unsafe for them to travel should contact their supervisor using approved methods. If an employee is eligible for the Alternative Workplace Solutions (AWS) arrangement during the period of a declared state of emergency, the employee, at the manager or appointing authority's discretion may be allowed to work remotely. Employees who choose to not report to work during the time of a declared state of emergency may use accumulated annual or compensatory leave for their absence. If the employee has no compensatory or annual leave, then the time absent is charged as leave without pay. Employees who make the effort and report to work within a reasonable period should not be required to take leave for that absence. To be eligible, the employee must leave for work at his or her normal departure time in anticipation of regular arrival time.

### Closing of State Offices

In extraordinary situations, the Governor, in consultation with the Tennessee Emergency Management Agency (TEMA) and the Departments of Transportation, Safety, Health, Human Resources or other departments with critical information affecting employees, may determine that state government offices should be closed in a particular county or counties due to a declared state of emergency. Notice of the closing of state offices in specific counties will be timely, given to the local media for broadcast to the general public, forwarded to all appointing authorities, and communicated by other electronic media as appropriate. If this occurs employees, other than those listed below, shall be excused from work and granted discretionary leave with pay for any scheduled work hours. This provision does not apply to those employees who:

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- Work in 24-hour facilities
- Work on an emergency basis as required by their appointing authority;
- Participate in an AWS arrangement.<sup>1</sup>

Employees on previously approved leave during the affected period must continue to claim the approved leave and will not be eligible for discretionary leave for this time. Part-time employees are paid for hours worked and are not eligible for discretionary leave with pay.

Decisions declaring single office locations as uninhabitable buildings are made by the Commissioner of Human Resources under Policy 12-038.

Employees who work in offices shared with county offices which have been closed by order of local government will not be required to report to work and will be granted discretionary leave with pay. The appointing authority for those employees should notify the Department in writing, with a copy of official correspondence from the local government which authorized the closure, as soon as practicable after an occurrence of this type.

Employees who are required to work when their offices have been otherwise closed shall be granted compensatory time for hours actually worked during the period of closing up to their regularly scheduled hours for the workday. Hours worked in excess of regularly scheduled hours may be compensated as overtime, depending on each employee's status under the Fair Labor Standards Act. An appointing authority may grant discretionary leave with pay to executive and non-compensatory employees who are required to work during a time when state offices are closed. This discretionary leave shall be equal to the hours worked and must be taken within twelve (12) months from the time worked.

### **Primary Residence Uninhabitable**

In the event the Governor declares a state of emergency, an appointing authority may grant up to ten (10) workdays of discretionary leave<sup>2</sup> with pay to an employee whose primary residence becomes uninhabitable due to the disaster. This leave may be taken continuously or intermittently.

Agencies must, in consultation with the Department of Human Resources, establish an internal process for employees to submit requests and for the agency to evaluate employee eligibility for leave under this policy. Guidance for requests and approval can be found in Appendix 1.

### **Quarantine due to Infectious Disease**

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<sup>1</sup> See DOHR Policy 14-001 Alternative Workspace Solutions.

<sup>2</sup> See DOHR Policy 12-036 Discretionary Leave with Pay.

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In the event the Governor declares a state of emergency due to an infectious disease, an appointing authority may grant up to ten (10) workdays of discretionary leave with pay to an employee who is directed to quarantine by a health care official or provider.

Questions regarding this policy may be directed to the Agency Resource Center (ARC).

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### APPENDIX 1

*Guidelines for Granting Discretionary Leave when Primary Residence Becomes Uninhabitable.*

Agencies shall establish processes and procedures for employees to request discretionary leave in the event their primary residence becomes uninhabitable due to a natural disaster that results in the Governor declaring a state of emergency. The following guidelines are provided to assist agencies and employees under their responsibilities with respect to these requests.

For purposes of this policy, "uninhabitable" includes situations where the employee's primary residence is without power water, or sewer due to weather or natural disaster.

In creating processes and procedures pursuant to this policy, agencies should review DOHR policy 12-036, discretionary leave with pay.

Granting of discretionary leave should be allowed when the following conditions are met:

- A state of emergency is declared by the Governor in accordance with T.C.A. § 58-2-107.
- The employee's primary residence is located in the area directly related or included in the declaration.
- The employee provides formal documentation from local government, insurance company, power company, or similar entity, verifying:
  - A) The primary residence received damage as a result of the declared emergency, rendering the primary residence temporarily or permanently uninhabitable; or
  - B) The employee was forced to evacuate due to instructions from emergency management, law enforcement or other designated emergency personnel.
- The employee must use this leave within thirty (30) calendar days from receipt of notice that the leave is granted. This leave may be used retroactive to the day the primary residence became uninhabitable or the date that the state of emergency was declared, whichever occurred last. The leave may be used continuously or intermittently.