



Contract Administration

TO: Executive Board Members
Council Leaders

FROM: Debra Greenberg
Director of Contract Administration

DATE: November 17, 2022

RE: **FAQs on Extraordinary Circumstances**
Article 12.13 of the 2019-2023 PEF/State Agreement

Due to the forecasted storm, President Spence requested that I provide you with FAQs related to the Governor-declared state of emergency. **As of this writing, the Governor has NOT directed State employees not to report to work, she has just encouraged people in general to stay off the roads.** That is not the same as a directive not to report to work, and therefore, non-essential employees who stay home and are not able to telecommute and/or do not have permission to work from home will have to charge accruals for the day.

Q. What if the Governor declares a state of emergency and I am subject to a directive not to report to work by the Governor?

A. Employees subject to such a directive will not have to charge accruals for the day. However, if it is a telecommuting day, then the employee will likely be required to work unless approved to charge accruals for the day.

Q. What if I do not work in one of the geographic areas covered by a directive not to report to work, but I can't get to work because of the storm?

A. Employees who are not covered by a directive not to report to work and who cannot make it to work due to the storm will have to either charge accruals, take the day without pay, or if it is not a regular telecommuting day, the employee can request permission to telecommute/work from home for the day. Pursuant to State policy and provisions of the PEF/State Agreement, there is only one way that employees may be prospectively excused from work without charge to accruals in weather related emergency situations. The Governor must declare a state of emergency in a particular geographic area and direct non-essential employees with official duty stations in that area not to report to work. If both these criteria are satisfied, such employees are excused from charging accruals under Article 12.13(b) for their absence. *Locally declared travel bans* are not sufficient to excuse charge to accruals for weather-related absences. Employees are responsible to contact their agency and/or supervision for directions.

Similarly, directions by police to stay off the roads are not enough to excuse an absence without charge to accruals.

Q. What if I am at work and road conditions are getting so bad that I don't feel comfortable staying at work?

A. Employees who have reported for duty may be directed to leave work before the end of the workday in a *directed early departure*. If such direction is given, non-essential employees are excused from charging accruals under Article 12.13(a) of the PEF/State Agreement. Permission to leave is not enough. Employees must have received an actual direction to depart to not have to charge accruals for the early departure. Per State policy, agencies do not have authority to direct early departures. GOER must be consulted and approve directed early departures. If a non-essential employee is ordered to go home early before the end of the workday, there should be no charge to accruals for the balance of the workday. Any such employee who is required to charge accruals under these circumstances should file a grievance alleging a violation of Article 12.13(a). Otherwise, employees are expected to charge accruals for such partial day absences.

Q. What if there isn't a declared state of emergency and a direction not to report for my geographic area and I cannot telecommute?

A. The only other route for excusing full day absences without charge to accruals is application to the Civil Service Commission for suspension of the State's Attendance Rules for work locations affected by the storm. Applications to suspend the rules may only be made by management of the individual affected agencies. If the application is granted, previously charged accruals will be restored. Generally, such rules suspensions must be supported by the Governor's Office of Employee Relations (GOER).

Q. Under the circumstances indicated in the preceding question, what will PEF do to help?

A. In appropriate circumstances, PEF will formally request that the Governor's Office of Employee Relations apply to the Civil Service Commission for a regional waiver of the New York State Attendance Rules for all affected work locations. If the State seeks such a waiver, and that request is granted, time charged for storm related absences on that day will be restored. Under these circumstances, we will also encourage local leadership to advocate with their individual agencies to push GOER to pursue a regional attendance rules suspension request or, in the alternative, to pursue an agency specific request to suspend the Attendance Rules where agency specific circumstances warrant. The latter route is particularly encouraged where the agency can make the case that specific work locations were rendered inaccessible (whether due to specific road conditions, building power loss, or building closures) because of the storm.

We are keenly aware of how harsh the State's policies and rules can be for those employees affected by extreme weather emergencies and are committed to helping these employees in any way we can. If you have questions regarding the possible storm-related grievances, please contact your PEF Field Representative.

cc: Wayne Spence
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