

Q. When designating employees as critical or essential, should I use the same criteria I have used in the past when making this determination?

- A. Agencies are not bound by previous essential/non-essential employee designations. For purposes of complying with Governor Henry McMaster's March 19, 2020, Executive Order 2020-11, agencies should identify each employee by one of the following descriptors.
1. **Non-Essential Employee:** An employee whose work is not critical to the agency response to COVID-19 and is not mission-critical to the agency. These employees should not be physically reporting to work and should be given the opportunity to work from home or telecommute/work from home to the maximum extent possible and be allowed to take leave if this is not possible. Employees may use sick leave in this situation.
 2. **Essential Employee — Can Work Remotely:** An employee in this category can perform work critical to the agency response to COVID-19 and/or continuing operations of the agency but can perform their work remotely. These employees should not physically report to work.
 3. **Critical Employee:** An employee in this category is critical to the agency response to COVID-19 and/or continuing operations of the critical functions of the agency and cannot perform their work remotely. Critical employees should practice social distancing to the fullest extent possible. This may include identifying alternate work areas, holding meetings virtually and limiting the number of non-employees physically present in the agency at one time.

Q. Does Governor Henry McMaster's March 19, 2020, Executive Order apply to temporary, temporary grant and time limited employees?

- A. Yes. All employees are subject to the Executive Order.

Q. If an agency has an employee that works outside, and can practice social distancing while working, can the agency allow the employee to work?

- A. If the work being done is deemed critical in accordance with the Executive Order, then the employees may report to the site of the necessary work. However, agencies should consider what support functions may be needed to facilitate the employee's work (for example – purchasing or obtaining supplies) and whether this can be done while observing social distancing.

Q. Should agencies notify the Division of State Human Resources (DSHR) if an employee tests positive for COVID-19?

- A. Yes. This notification will allow DSHR to provide support concerning employment actions, to connect the agency to DHEC and facilitate notification of General Services for possible additional cleaning services, if necessary.

Q. Can agencies modify their hours of operations?

- A. State government is still open and providing critical services to citizens of South Carolina. Agencies should maintain normal hours of operation to the extent possible while adhering to social distancing guidelines, particularly if providing critical operations.

Some agencies have elected to close lobbies and are managing the flow of visitors into the agency office to promote social distancing while maintaining normal operational hours.

Q. Can state agencies close and operate a virtual office?

- A. It depends on the services being provided by the agency and the access needed to provide these services.

Q. What should an agency do if an employee is not considered critical and cannot work from home?

- A. Agencies are encouraged to think creatively about telework/work from home opportunities and try to identify work that can be performed remotely. If telecommuting is not possible, employees should take leave for the time they cannot work. Employees may take sick leave, annual leave, compensatory time and holiday compensatory time for the period they are not working. If an employee has exhausted their sick leave the agency may advance up to 15 days of sick leave in accordance with the State Human Resources Regulations and the agency's policies so long as the employee meets the other eligibility requirements. If the applicable agency policy allows, an agency may advance sick leave to an employee prior to the employee exhausting other types of leave.

Under no circumstances may an employee be paid for time they are not working or for which they are not taking leave.

Q. Does confidentiality of medical information apply if an employee tests positive for COVID-19?

A. Yes. If an agency becomes aware that an employee has tested positive for COVID-19, the agency should refer to [CDC](#) and [DHEC](#) guidance concerning these notifications.

Q. If county offices close related to COVID-19, will state office in those counties also close as they do for inclement weather events?

A. No. The Governor has sole authority to close state offices in relation to COVID-19.

Q. What should an agency do if an employee is exposed (or has contact with someone exposed) to COVID-19?

A. The agency should refer to guidance provided by the [CDC](#) and [DHEC](#).

Q. Have there been changes to the requirements for unemployment insurance in response to COVID-19?

A. Yes. Please refer to the Executive Order and information provided on the South Carolina Department of Employment and Workforce [website](#).

Q. Can agencies take employees' temperatures?

A. The Equal Employment Opportunity Commission has indicated that employers may take the temperature of their employees. However, agencies are cautioned against taking temperatures because an employee having or not having a fever is not a reliable determination of whether an employee has COVID-19.

Q. Can the leave pool be used for COVID-19 related absences?

A. At this point, the guidance from the IRS indicates that leave can only be taken from the leave pool if the leave is taken because the employee or a member of their family contracts COVID-19.

Q. Should employees be required to acknowledge the normal telecommuting agreement?

A. To the extent possible, yes. Agencies should, however, consider alternate acknowledgement processes. For example, the employee can acknowledge the agreement via email rather than through a physical signature.

Q. How should agencies address payment to exempt employees who are not able to work from home and who have no available leave?

- A. The rules concerning the payment of wages to exempt employees have not changed. However, agencies are urged to contact their HR Consultant before determining there are no work from home options for employees.

Q. Has the \$10,000 earnings limitation applicable to state retirees been lifted?

- A. As part of the \$45 million COVID-19 package signed by Governor Henry McMaster, retired members of the South Carolina Retirement System (SCRS) and the Police Officers Retirement System (PORS) who return to covered employment to participate in the state's health preparedness and response to the COVID-19 virus, will not be subject to the earnings limitation. This provision is in place from March 19-Sept. 1, 2020.

For additional information, including direction on how to notify PEBA that the earnings limitation should not apply to an employee, please refer to PEBA's [website](#).