



## Essential Employees Policy

### Purpose

This policy sets forth uniform rules and procedures for employees of Ohio Department of Agriculture (ODA) who are designated as essential during a public safety emergency (e.g., extreme weather conditions) and other emergency circumstances, regardless of whether they are classified, unclassified, exempt from collective bargaining, or subject to a collective bargaining agreement

### Scope

The scope of this policy includes all full-time, part-time, interim, and temporary employees of ODA.

### Background

This policy is intended to establish protocols to implement public safety emergency procedures. There are two (2) categorized types of emergencies, public safety emergency and other emergencies.

”Emergency” is defined in section 5502.21(F) of the Ohio Revised Code (ORC) as any period during which the Congress of the United States or a chief executive has declared or proclaimed that an emergency exists. This formal declaration or proclamation can be made by the chief executive of any political subdivision, including the Governor, for natural disaster, man-made disaster, hazardous materials incidents or civil disturbance.

“Public Safety emergency” is a term of art and refers to all formal declarations or proclamations which may limit a state employee’s obligation to travel to and from work for a specific period of time. Such emergencies may include, but are not limited to, severe weather conditions like snowstorms. A Public Safety emergency declaration or proclamation can only be made by the Governor or the Governor’s designee, the Director of The Ohio Department of Public Safety. Emergency declarations made by a chief executive of another governmental department or agency, other than the Governor or the Governor’s designee do not affect state employees’ obligation to travel to and from work.

### Authority

- Department of Administrative Services (DAS) Directive HR-D-11
- Ohio Administrative Code (OAC) Sections 123:1-45-01 and 123:1-46-01
- ORC Sections 5502.22 and 124.18
- OCSEA/AFSCME, Local 11 Contract Article 13.15

### Policy

It is the policy of ODA to formally implement and adhere to established labor agreements, directives, and laws regarding public safety and other emergencies.

### Designation of Essential Employees

On an annual basis by the first day of October, ODA Human Resources will create and maintain a list of essential employees who are expected to work during a Public Safety emergency. The list will contain names,



phone numbers, and job titles of identified employees. The employees are selected based on their primary job duties whose presence at the work site is critical to maintaining operations and essential office functions during any public safety emergency, such as those state employees who are essential to maintaining security, health and safety, and critical office operations. Whether an employee is expected to be at work may depend upon the particular activities that are occurring in the agency. In the event that a designated essential employee is unavailable, the Director retains the authority to request non-essential employees to report to work depending upon the emergency encountered. The request will be made as soon as practical.

Employees who are expected to work during a Public Safety emergency should be advised of their designation, and of the expectation that they work during public safety emergencies unless otherwise advised. However, they are not guaranteed work. The Director shall have sole discretion to send essential employees home or instruct them not to report for work once a Public Safety emergency has been declared.

Employees who do not appear on the list of employees expected to work during a Public Safety emergency are excused from work and will be designated as “excused employees” or “non-essential employees” for purposes of this Policy. However, nothing in this Policy prevents the Director from requesting “excused employees” or “non-essential employees” from acting as an essential employee during a time of a Public Safety emergency if a designated essential employee is unavailable.

### **Non-essential Employees**

Employees’ names which do not appear on the essential employee list are excused from work and will be designated as “excused employees” during an official Public Safety emergency as described in this Policy.

Depending on the time of day the Public Safety emergency is declared, non-essential employees would:

- a. Not report to work if the emergency was effective prior to the start of their scheduled shift;
- b. Have a delayed start time; or
- c. Be released from the work location before the end of the employee’s normally scheduled shift. If a Public Safety emergency is declared and non-essential employees are released, they should not remain at work unless otherwise advised by their supervisor or Division Chief.

If inclement weather conditions arise and a formal Public Safety emergency is not declared, non-essential employees may use accrued vacation, personal or compensatory leave upon permission from their Division Chief or as declared by the Director. Snow emergencies may be declared by local sheriffs in certain counties, yet no formal Public Safety emergency is declared by the Governor and state public offices remain open. Should this situation occur, it is in the Director’s sole discretion to permit employees to use any accrued vacation, personal or compensatory leave if such employees choose not to come to work due to extenuating circumstances caused by the county sheriff snow emergency. Employees with no or inadequate accrued leave may be granted leave without pay. It is in the Director’s sole discretion from to temporarily reassign employees to indoor job duties, consistent with their job classification, so that such employees are not subjected to extreme conditions as a result of the county sheriff snow emergency.

### **Communicating a Public Safety Emergency**

When a Public Safety emergency is declared, an announcement may be addressed on local radio and television stations. Employees may also make inquiries into the declaration of Public Safety emergencies by calling the weather emergency hotline (614) 821-9999.

It is the employee’s responsibility to know if an emergency has been declared and whether or not they are an essential employee. Essential employees are expected to communicate with their supervisor, or if their supervisor is unavailable, their Chief or Assistant Chief, to confirm the expectation of reporting for duty.



The designated agency representative from the Human Resources Division is responsible for advising all appropriate supervisors in ODA of the Public Safety emergency.

### **Compensation**

1. Essential employees
  - a. Must report to work regardless of the weather conditions unless they are specifically excused by their supervisor;
  - b. Will be charged leave time which was requested and approved in advance of the declared emergency if the employee does not work.;
  - c. Will be absent without leave if the employee fails to report to work and has not requested leave properly approved in advance of the declared emergency. Such employee may be subject to discipline;
  - d. Exempt
    - i. Employees who are overtime-eligible under the FLSA and who work during a declared public safety emergency shall be given a choice of overtime compensation or 1.5 hours of compensatory time for every hour worked during the public safety emergency;
    - ii. Employees who are overtime-exempt under the FLSA shall receive one hour of compensatory time for every hour worked during the public safety emergency. For both overtime-eligible and overtime-exempt employees, such compensation or compensatory time shall be given in addition to the employees' regular rate of pay.
    - iii. Employees who are expected to work during a Public Safety emergency and who are instructed not to report to work or are released from work during a public safety emergency shall be paid at their regular rate of pay; and
    - iv. No additional overtime compensation or compensatory time will be granted to employees who volunteer to work after being advised to leave or not to report for work.
  - e. Bargaining Unit
    - i. If a union essential employee reports to work and is released during an emergency, the employee shall be paid in accordance with the terms of the union contract.
2. Non-essential employees
  - a. Will be charged leave time which was requested and approved in advance of the declared emergency; and
  - b. Will be compensated at their regular rate of pay during declared emergencies.

### **Procedures**

- a. Employees expected to work during Public Safety emergencies will be issued cards to facilitate their travel to and from work on state roadways and highways during a declared emergency;
- b. ODA Human Resources will issue letters to essential employees designating them as employees expected to work during a Public Safety emergency; and
- c. Essential employees should carry their agency letter of designation and issued card indicating their required reporting status during declared emergencies.

### **Teleworking**



- a. Unless a previous teleworking agreement is formally approved, working from home during inclement weather is not authorized; and
- b. If a telework agreement is in place for an employee, such employee shall not be authorized for Public Safety emergency leave, or any additional compensatory time or compensation for hours scheduled during the Public Safety emergency.

**Contacts**

The Human Resources Director is available for consultation regarding this policy.

**Revision History**

Date	Description of Change
7/2015	Policy issued

