



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

EXHIBIT S to Emergency Order #29

**N.H. Department of Administrative Services, Division of Personnel,
October 5, 2020**

Pursuant to Emergency Order #29, which authorizes temporary modification of executive branch deadlines and other requirements, issued pursuant to Section 18 of Executive Order 2020-04 as modified and extended by Emergency Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, and 2020-18, the following is hereby ordered:

Continued Modification of Attendance and Leave Rules

The Division of Personnel previously adopted emergency rules in order to permit the waiver of attendance and leave requirements to provide flexibility for state employees impacted by the COVID-19 pandemic. By allowing for this extraordinary use of leave and adjustment of attendance requirements, state employees were not unduly incentivized to work when ill and possibly contagious. Accordingly, this policy allowed for the promotion of the health needs of state employees and their families and reduced risk to state employee coworkers and the general public. Accordingly, the emergency rules adopted by the Department of Personnel shall continue in force during the State of Emergency unless otherwise terminated.

The following rules shall therefore remain in effect:

PART Per 1211 EMERGENCY WAIVER OF ATTENDANCE AND LEAVE RULES

Per 1211.01 Purpose. The purpose of this part is to establish the criteria and procedures for waiving the requirements of this chapter relative to attendance and leave during an emergency situation.

Per 1211.02 Applicability. This part shall apply to:

- (a) The attendance, leave accrual, and leave usage provisions of this chapter; and
- (b) Any accrual or use of leave occurring on or after the declaration of a state of emergency in Executive Order 2020-04, issued on March 13, 2020.

Per 1211.03 Definition of "Emergency Situation". "Emergency situation" means:

(a) A natural, technological, or human made situation, condition, or set of circumstances, that has caused or is determined by the director to be likely to cause a threat to public health or safety and:

- a. Impedes or diminishes the division's ability protect public health or safety from the effects of such situation, condition, or set of circumstances;
- b. Inhibits or interrupts the continuity of services provided by the state; or
- c. Prevents the division from complying with any state or federal statute rule, regulation or order; or

(b) A period during which a state of emergency, as defined in RSA 21-P:35, has been declared by the state, pursuant to RSA 4:45, or by the federal government and during which strict application of the requirements of this chapter would result in an inability of the state create or modify

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attendance and leave requirements for the purposes set forth in such declaration without causing significant harm to state employees or the general public.

Per 1211.04 Waiver of Attendance and Leave Requirements.

- (a) The director shall waive any or all requirements of this chapter if the waiver is necessary to
- (1) Comply with the terms of any state executive order declaring a state of emergency;
 - (2) Prevent the loss of federal or other funds subject to recapture in connection with any federally declared state of emergency; or
 - (3) Prevent or mitigate financial or other harm to state employees or the general public during an emergency situation, as defined in Per 1211.03.
- (b) Any waiver under this part shall remain in effect until
- (1) The emergency situation that gave rise to the need for the waiver has been mitigated; or
 - (2) The order declaring a state of emergency, or any extension or superseding order thereof, is no longer in effect

Per 1211.05 Establishment of Emergency Attendance and Leave Requirements.

- (a) As necessary to meet the objectives in Per 1211.04(a)(1)-(3), the director shall:
- (1) Authorize employees to maintain a negative sick leave balance by allowing use of sick leave prior to accrual.;
 - (2) Grant to employees sick leave that has not been accrued in accordance with Per 1204.01, including but not limited to any leave that:
 - a. Satisfies the requirements of or is otherwise consistent with the federal Families First Coronavirus Response Act of 2020, Pub. L. 116-127, whether or not such leave is granted or used before or after the effective date of that act; or
 - b. Advances the purposes of any executive order or emergency order issued by the governor relative to a declared state of emergency;
 - (3) Grant sick leave to part-time employees; and
 - (4) Grant any other leave or otherwise modify the requirements of this chapter relative to attendance, accrual of leave, or use of leave.
- (b) The director may, if the circumstances of an emergency situation warrant, require that leave, other than sick leave, be exhausted before a negative leave balance under (a), above, can be maintained, provided that the director's decision under this paragraph shall apply categorically to all employees and shall not be applied at the director's discretion on a case-by-case basis.

Given under my hand and seal at the Executive Chambers in Concord, this 5th day of October, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.



GOVERNOR OF NEW HAMPSHIRE