



UUP COVID-19: Questions and Answers

The information below is accurate as of Monday, April 13, 2020. However, the NYS and SUNY responses to the COVID-19 pandemic continue to evolve. We will provide you with updated information as we have it.

What is UUP doing to address employee issues related to the COVID-19 situation?

At the state level, UUP is engaging in continuing discussions with the Governor's Office of Employee Relations (GOER) and SUNY to address our members' concerns, to develop solutions to challenges we are facing, and to come to agreements on terms and conditions related to SUNY's COVID 19 response. UUP's statewide officers and Labor Relations Specialists are communicating with chapter presidents and vice presidents to assist them in addressing member concerns and preparing for Labor-Management discussions to address campus-specific issues. Items we are working on include:

- Addressing health and safety issues, primarily at the SUNY hospitals, but also for our members who continue to have direct contact with students and others at the campuses.
- Fighting for additional compensation (e.g. hazard pay, overtime pay, and extra-service pay) for members on the frontlines at the SUNY hospitals, IT professionals working on IT issues for online education, and adjunct faculty doing prep work for remote instruction.
- Addressing childcare needs, primarily for essential health care staff at the hospitals.

- Working to ensure that the number of essential personnel who must report to campus is reduced to a minimum.

NOTE: The Governor has directed that non-essential state employees will continue to work from home through 11:59 PM, April 29.

- Ensuring that the state employee telecommuting agreement is working for our members.
- Ensuring that reappointment, tenure, and permanent appointment procedures are followed in a way that protects our members' professional status and health.
- Protecting the work we do in the online teaching environment, in terms of intellectual property rights, the temporary nature of COVID-19 related increases in remote instruction, and appropriate limitations on access to faculty course materials.
- Protecting the exclusivity of our work, while accepting that the use of volunteer labor is needed at the hospitals during this crisis.

What if I am absent due to a COVID-19 related quarantine? Will I need to use my leave accruals?

NYS Quarantine Leave - The governor has announced that all state employees, including UUP-represented employees, who are placed in "mandatory" or "precautionary" quarantines by state or local public health officials will not be required to charge leave accruals for all workdays within a 14-day period.

- Employees placed in "mandatory" quarantine will be placed on leave with pay for all workdays within the 14-day quarantine period, whether they are displaying symptoms or not.
- Employees placed in "precautionary" quarantine will be asked to perform work from home where possible. If not, these employees will be placed on leave with pay for all workdays in the 14-day quarantine period.

The need for mandatory quarantine must be determined by state or local public health officials. The need for precautionary quarantine may be established by direction of state or local public health officials or a treating health care provider.

Essential employees who choose to *self-isolate* in the absence of a public health-directed quarantine (mandatory or precautionary) may be required to charge appropriate leave accruals for the absence.

Federal Emergency Paid Sick Leave Act - Beginning April 1, eligible employees have access to leave without charge to accruals to address their own COVID 19-related absences under the new Federal Emergency Paid Sick Leave Act (FEPSLA). This applies to employees who are unable to work or telework for any of the following qualifying events:

- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID–19,
- The employee has been advised by a health care provider to self-quarantine (termed precautionary quarantine in New York) due to concerns related to COVID–19, or
- The employee is experiencing symptoms of COVID–19 and is seeking a medical diagnosis,

In the above situations employees are entitled to leave at the employee’s regular rate of compensation, subject to a cap of \$511 per day, not to exceed a total of \$5,110.

In lieu of partially paid FEPSLA benefits, employees may elect to use **any** available leave accruals to cover a FEPSLA-covered absence. Charge to accruals may not be used to supplement pay while using FEPSLA benefits.

More information about NYS quarantine leave and FEPSLA leave for State employees can be found at: https://www.cs.ny.gov/attendance_leave/pb20-01.pdf

Note: the FEPSLA allows employers to exclude “health care providers” from FEPSLA coverage. This exemption potentially includes anyone employed at the SUNY hospitals and academic medical centers and the Long Island Veterans Home. As of April 7, 2020, SUNY has not yet announced its position on this. We are advocating that SUNY not exclude our health care members from FEPSLA coverage. We will provide updated information as soon as we have it.

What if I need to care for a family member who is subject to a mandatory or precautionary quarantine order?

If an immediate family member is ill, employees may use up to 30 days of available sick leave credits to care for the employee’s immediate family member.

Federal Emergency Paid Sick Leave Act - Beginning April 1, eligible employees also have access to leave without charge to accruals to address COVID 19-related absences of family members under the new Federal Emergency Paid Sick Leave Act (FEPSLA). Employees who are unable to work or telework because they are caring for a family member who:

- is subject to a federal, state, or local quarantine or isolation order related to COVID–19, or
 - has been advised by a health care provider to self-quarantine (termed precautionary quarantine in New York) due to concerns related to COVID–19,
- are entitled, for the first two weeks of such absence, to leave at a rate of two-thirds of the employee’s regular rate of compensation, subject to a cap of \$200 per day, not to exceed a total of \$2,000.

In lieu of partially paid FEPSLA benefits, employees may elect to use **any** available leave accruals (e.g. sick leave, vacation time, holiday leave, compensatory time) to cover a FEPSLA-covered absence. Charge to accruals may not be used to supplement pay while using FEPSLA benefits.

More information about FEPSLA leave for State employees can be found at: https://www.cs.ny.gov/attendance_leave/pb20-01.pdf

Note: the FEPSLA allows employers to exclude “health care providers” from FEPSLA coverage. This exemption potentially includes anyone employed at the SUNY hospitals and academic medical centers and the Long Island Veterans Home. As of April 7, 2020, SUNY has not yet announced its position on this. We are advocating that SUNY not exclude our health care members from FEPSLA coverage. We will provide updated information as soon as we have it.

What if I or someone in my family becomes ill but the illness isn’t identified as COVID-19 and doesn’t involve COVID-19 symptoms?

Ordinary use of leave rules for illness of employees or their immediate family members apply.

- If an employee is ill and unable to report to work, they will need to charge sick leave credits.
- If an immediate family member is ill, employees may use up to 30 days of available sick leave credits to care for the employee’s immediate family member.

Employees who are ill, or who are caring for ill family members, who meet the Family and Medical Leave Act (FMLA) eligibility criteria, may request a FMLA leave for up to 12 weeks. More information about FMLA leave can be found at: <https://uupinfo.org/reports/reportpdf/FLWLSguide2019.pdf>

Eligible employees who are caring for ill family members also have the option of applying for NYS Paid Family Leave (PFL) to receive partially paid family leave. More information about NYS PFL can be found at:

<https://www.suny.edu/media/suny/content-assets/documents/benefits/ltd/SUNY-PFL-Policy-December-2018.GOER-edits-12.7.18.pdf>

My child's school or childcare is closed, what rights to leave to I have?

Federal Emergency Paid Sick Leave Act - Beginning April 1, eligible employees have access to leave without charge to accruals, for the first two weeks of such absence, to care for children whose school or childcare are closed under the new Federal Emergency Paid Sick Leave Act (FEPSLA). Employees who are unable to work or telework because:

- they are caring for a minor child whose school or place of care of the minor child has been closed, or because the childcare provider of such minor child is unavailable, due to COVID–19 precautions,

are entitled, for the first two weeks of such absence, to leave at a rate of two-thirds of the employee's regular rate of compensation, subject to a cap of \$200 per day, not to exceed a total of \$2,000. In lieu of partially paid FEPSLA benefits, employees may elect to use **any** available leave accruals (e.g. sick leave, vacation time, holiday leave, compensatory time) to cover a FEPSLA-covered absence. Charge to accruals may not be used to supplement pay while using FEPSLA benefits.

Emergency FMLA- Also beginning April 1, the federal Family and Medical Leave Act (FMLA) has been expanded to provide emergency FMLA benefits to families impacted by COVID 19. The expansion establishes a new category of FMLA covered leave which extends FMLA coverage to eligible employees caring for minor children because their school or childcare has closed.

Under emergency FMLA, eligible employees are entitled to up to 12 work weeks of FMLA leave between April 1, 2020 and December 31, 2020 for absence to

care for minor children due to COVID 19 related school or childcare closures.

To be eligible for this leave employees are only required to have worked for New York State for a period of 30 calendar days. The normal FMLA eligibility requirements of one cumulative year of State service and 1,250 hours prior to the qualifying event does not apply to absences for COVID-19 related leave.

The first 10 days of emergency FMLA leave may be unpaid. However, employees may choose to use any available paid leave during this period (e.g. FEPSLA leave, sick leave, vacation time, holiday leave, compensatory time).

For the remaining 10 weeks of emergency FMLA leave, employees are entitled to leave paid at a rate of two-thirds of the employee's regular rate of compensation, capped at \$200 per day and at \$10,000 for the 10-week period.

In lieu of partially paid emergency FMLA benefits, employees may charge appropriate available leave accruals (e.g. vacation time, holiday leave, compensatory time) to cover an emergency FMLA-covered absence. Charge to accruals may not be used to supplement pay while using FEPSLA benefits.

Employees using emergency FMLA are entitled to continuation of existing health benefits coverage during emergency FMLA leave and must be restored to the same or substantially equivalent position at the conclusion of the leave.

More information about FEPSLA and emergency FMLA leave for State employees can be found at: https://www.cs.ny.gov/attendance_leave/pb20-01.pdf

Additional general information about FEPSLA and emergency FMLA leave may be found at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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Is assistance available to help identify emergency childcare options?

As with other closings of Pre-K through 12 schools (such as for weather-related

closings), essential employees are generally expected to make alternative arrangements for childcare. Absent use of FEPSLA or emergency FMLA leave, UUP has been working with NYS Work-Life Services and New York State United Teachers to find expanded childcare options for members. Some sources of information include:

- <https://goer.ny.gov/network-child-care-centers>
- <https://ocfs.ny.gov/main/childcare/referralagencies.asp>

Your campus Employee Assistance Program (EAP) coordinator or UUP chapter may also have additional information about local childcare resources.

May I work from home?

UUP reached an historic pilot agreement with the state to allow employees to telecommute from alternate work locations if operationally feasible. The agreement, a two-month pilot, provides that telecommuting requests should be granted to the greatest extent possible. Employees currently defined as essential may telecommute if some or all their work can be performed from home.

Employees seeking to telecommute may be required to submit a telecommuting application to their supervisor. The agreement includes time frames for review and approval of the request and an appeal process if the request is denied. Telecommuting employees may be subject to a work plan defining their work schedule and the work to be performed while telecommuting.

SUNY is not obligated to provide computer or office equipment or provide reimbursement for internet access costs to employees seeking to telecommute but can provide necessary office supplies.

The agreement provides for the possibility that telecommuting may be mandated. However, it will not be mandated if the employee does not have the necessary computer equipment or internet access to work from the telecommuting work location.

Historically, the state and SUNY have resisted UUP efforts to negotiate a systemwide telecommuting agreement. The state's need to respond to the current pandemic has provided us with an opportunity to help protect our members' health and possibly to establish that telecommuting, where

operationally feasible, can work.

Employees interested in telecommuting should contact their supervisor or campus HR department for additional information.

If I have been deemed as an 'essential' employee may I still work from home?

Possibly. There are cases where campuses have allowed employees deemed “essential” to work from home, either entirely or at least in part. This may occur where some of the employee’s duties may be performed from home while others may still involve reporting to the work location. This might also occur either as part of an effort to split a departmental workforce to lower the number of employees physically on campus, and/or because only some of the ‘essential’ employees are physically needed on campus at any one time until circumstances change. Please talk to your supervisor if you have questions.

How can I ensure that I will be safe at work and have proper equipment to keep me safe?

Safety is of utmost importance to UUP to protect our members at hospitals, health centers and in campus positions with regular contact with the wider community while at work. We recommend several approaches:

- Actively follow the CDC and NYS Department of Health Guidelines for prevention of COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>
- Maintain recommended social distancing between co-workers, students and the public at work. If you are required to report to work and your workplace does not allow at least 6 feet between co-workers working in common workspaces, contact your UUP chapter for assistance. If you are in a high-risk category, ask your supervisor for an alternative assignment or work location. High-risk categories are found here: https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fhigh-risk-complications.html
- Ensuring that employees in healthcare settings are provided with an

adequate supply of Personal Protective Equipment (PPE) is critical to staying safe at work: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/healthcare-supply-ppe-index.html>

- If you are not given an adequate PPE supply and are in a position for which PPE is recommended, please notify your UUP chapter immediately. If the PPE you are wearing is worn out or damaged please notify your UUP chapter immediately. <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-use-faq.html>

Will I have to pay for COVID-19 testing?

The governor has directed all NYS health insurance plans to waive any employee cost sharing (such as copayments) associated with a variety of COVID-19 related medical expenses. This includes waiving any copayment for COVID-19 testing and in-network doctors' office or urgent care visits and emergency room copayments related to COVID-19 testing. This direction has also been extended to the Empire Plan and covers all HMOs available to state employees.

My doctor's office is closed or refusing to see patients with COVID-19 symptoms, or I am otherwise concerned about accessing in-person medical care or mental health counseling. What can I do?

The Empire Plan introduced a new telehealth benefit to help you access health care services remotely. LiveHealth Online lets you stay home and have a video visit with a board-certified doctor or licensed therapist on your smartphone, tablet or personal computer.

To access the telemedicine program, LiveHealth Online, enrollees must go to www.empireblue.com/nys to access the link and obtain the coupon code for telehealth visits without copayment. Enrollees should follow the instructions and provide the information requested.

Because of changes in my childcare arrangements and/or because I am currently working from home, I am not currently using my DCAA or NYS-Ride benefits. What can I do?

Dependent Care Advantage Account

Employees can stop their DCAA deductions or change their election amounts if they experience an eligible change in status. Given the current situation many employees find that a change in care provider and/or change in work schedule (for the employee or their spouse) are events that will allow them to stop or reduce their deductions. There are several reasons listed on the DCAA website, <https://goer.ny.gov/dependent-care-advantage-account> that can help employees make changes to their DCAA. Employees can submit their change online <https://goer.ny.gov/enroll-online> or over the phone, 800-358-7202.

There is no limit on the number of changes the employee can make during the year. They may stop contributions now and re-enroll over the summer or next fall with the occurrence of another change in status event, up until November 1.

Reducing or stopping DCAA payroll contributions does not impact an existing DCAA balance. Any money contributed (including the employer contribution) to DCAAs remains in the accounts for employees to use during the plan year (i.e. through December 31, 2020).

NYS-Ride

This program allows flexibility to change enrollment as needs change. Additional information is available here:

<https://participant.wageworks.com/cobrand/NYS/program-information/index.aspx>

At this time, WageWorks cannot offer refunds for March NYS-Ride orders. We understand that WageWorks and transit authorities are working on solutions for future benefit months. If employees have specific situations or questions about NYS-Ride please e-mail fsa@goer.ny.gov for additional assistance.

Does UUP have a website with COVID-19 information and resources?

Yes: <https://uupinfo.org/resources/covid19>

