



UUP COVID-19: Questions and Answers

The information below is accurate as of Wednesday, May 6, 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?

UUP is engaged in ongoing discussions with the Governor's Office of Employee Relations (GOER) and SUNY to address members' concerns and reach agreements on terms and conditions related to SUNY's COVID 19 response. UUP's statewide officers and Labor Relations Specialists are communicating with UUP chapter leaders to assist them in addressing member concerns and preparing for Labor-Management discussions on campus-specific issues. Issues include:

- Addressing health and safety issues at the SUNY hospitals and for our members who still have direct contact with students and others on campus.
- Fighting for additional compensation (e.g. hazard pay, overtime pay, and extra-service pay) for frontline members at the SUNY hospitals, IT professionals supporting the transition to remote learning, and adjunct faculty transitioning to remote instruction.
- Addressing childcare needs 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 work from home through 11:59 PM, May 15, 2020.

- Ensuring that the state employee telecommuting agreement is working for our members.

NOTE: The telecommuting agreement had been extended by agreement through close of business July 17, 2020.

- Ensuring that work disruptions during Spring and Summer 2020, do not adversely impact tenure, permanent appointment, reappointment or promotion decisions.
- Ensuring that reappointment, tenure, permanent appointment processes protect both our members' rights and the health and safety of review committee members.
- Protecting our work in the online teaching environment including our intellectual property rights, appropriate limitations on access to faculty course materials, and the temporary nature of COVID-19 related increases in remote instruction.
- Protecting the exclusivity of our work while non-bargaining unit workers assist with critical staffing shortages during this crisis.

I am a tenure-track academic and my academic research or scholarship has been severely disrupted this spring and summer. I am concerned about it impacting my tenure review. Can I get an extension of my tenure clock?

UUP and SUNY have agreed that all employees who are serving in tenure-track academic positions as of May 6, 2020 who have not yet been permanently appointed will receive an automatic one-year extension of their time to continuing appointment (also referred to as their tenure clock). This extension will not involve a move to qualified academic rank. Tenure-track academics who do not wish to have their tenure clocks extended may elect to opt out of the automatic one-year extension and be considered for continuing appointment on their original schedule. Additional information about this can be found at

I am a professional employee and am coming up for permanent appointment in the next two years. I am concerned that the impact of the COVID 19 crisis on my work may affect that review. What can I do?

UUP and SUNY have agreed that professional employees who are coming up for review in the next two years shall be granted an extension of their time to permanent appointment (or permanent appointment clock) of up to six months if requested by the employee. Such a clock stop shall be granted if requested by the employee by moving the employee to qualified professional rank for the time requested. Additional information about this can be found at _____.

I am concerned that student evaluations from this spring will negatively impact my reviews for reappointment, tenure, permanent appointment or promotion in the future. What can I do?

UUP and SUNY have agreed that any employee (whether full or part-time) who taught or provided educational support such as tutoring or counseling during the Spring 2020 semester may elect not to include Spring 2020 student evaluations, peer teaching observations, and/or curricular materials from this semester in future reappointment, promotion, or continuing appointment/permanent appointment review materials. The agreement provides that the exclusion of these materials shall not reflect negatively on the individual's review. Additional information about this can be found at _____.

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

NYS Quarantine Leave - 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 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 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.

Note: the FEPSLA allows employers to exclude “health care providers” from FEPSLA coverage. This potentially includes members at the SUNY hospitals and academic medical centers and the Long Island Veterans Home. As of May 4, 2020, we are aware that the SUNY hospitals are seeking exemption, however, the State has not yet acted on these requests. If you believe that you are eligible for and have been denied FEPSLA leave, please contact your local UUP chapter leadership for assistance.

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

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 (also called precautionary quarantine) 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.

Note: the FEPSLA allows employers to exclude “health care providers” from FEPSLA coverage. This potentially includes our members at the SUNY hospitals and academic medical centers and the Long Island Veterans Home. As of May 4, 2020, we are aware that the SUNY hospitals are seeking exemption, however, the State has not yet acted on these requests. If you believe that you are eligible for and have been denied FEPSLA leave, please contact your local UUP chapter leadership for assistance.

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

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 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 caring for ill family members also have the option of applying for NYS Paid Family Leave (PFL) to receive partially paid 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 has been closed, or because the childcare provider of such minor child is unavailable, due to COVID-19 precautions,

are entitled to two weeks of 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 may use 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.

Note: FEPSLA and emergency FMLA provisions allow employers to exclude "health care providers" from coverage. This potentially includes our members at the SUNY hospitals and academic medical centers and the Long Island Veterans Home. As of May 4, 2020, we are aware that the SUNY hospitals are seeking exemption, however, the State has not yet acted on these requests. If you believe that you are eligible for and have been denied FEPSLA and/or emergency FMLA leave, please contact your local UUP chapter leadership for assistance.

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

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 which allows employees to telecommute if operationally feasible. This agreement, originally a two-month pilot, has been extended. The new expiration date is July 17, 2020.

The agreement 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 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.

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

If I have been deemed 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 require reporting to the work location. This might also occur as part of an effort to split a departmental workforce to lower the number of employees physically on campus 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
- Governor Cuomo has issued an Executive Order which requires employers to provide essential employees who have direct contact with customers or members of the public with face coverings which must be worn in the workplace. If you are an essential employee who have direct contact with students, patients, customers or other members of the public and your campus has not provided a face covering for you to wear at work please contact your UUP chapter for assistance. <https://www.governor.ny.gov/news/no-20216-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>
- 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 been extended to the Empire Plan and 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 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 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.

My childcare provider is closed but I am still required to pay to hold my child's spot. Is this an eligible expense for DCAA?

It depends. According to the Governor's Office of Employee Relations, and the DCAA compliance team, "hold the spot" fees are potentially qualifying expenses but only after care is subsequently provided by the provider holding that spot. If the child does not return to care with that provider after the "hold the spot" fees have been paid then those expenses are not eligible. If you have questions about your specific situation, please call 1-800-358-7202 or visit the DCAA website: <https://goer.ny.gov/dependent-care-advantage-account>.

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

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