Emergency Leave: Declared Emergencies and Infectious Disease Emergencies

In response to the COVID-19 pandemic and declaration of a state of emergency in Ontario, the Ontario Government has passed legislation amending the leave provisions of the Employment Standards Act, 2000. The amended leave provisions apply to two broad categories of reasons for an employee needing to be absent from work due to the COVID-19 pandemic.

1. DECLARED EMERGENCY LEAVE

What is it?
- An unpaid leave of absence where an employee is unable to perform the duties of their position because an emergency has been declared under the Emergency Management and Civil Protection Act (EMCPA).

Who is eligible for the leave?
- Employees who are unable to work for one of the following reasons:
  1. They are subject to an order under the EMCPA.
  2. They are subject to an order under the Health Protection and Promotion Act (HPPA).
  3. They are needed to provide care or assistance to a specified individual, or
  4. Such other reasons as may be prescribed.

Who is a “specified individual” that an employee could be required to provide care or assistance to as defined under point 3 above?
- By way of example, employees who are unable to work in order to provide care to their children in light of the Government’s order closing daycares or public schools, could be entitled to take an unpaid Declared Emergency Leave.
- The full list of “specified individuals” is as follows:
  1. The employee’s spouse.
  2. A parent, step-parent or foster parent of the employee or the employee’s spouse.
  3. A child, step-child or foster child of the employee or the employee’s spouse.
  4. A child who is under legal guardianship of the employee or the employee’s spouse.
  5. A brother, step-brother, sister or step-sister of the employee.
  6. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee’s spouse.
  8. A son-in-law or daughter-in-law of the employee or the employee’s spouse.
  9. An uncle or aunt of the employee or the employee’s spouse.
  10. A nephew or niece of the employee or the employee’s spouse.
11. The spouse of the employee’s grandchild, uncle, aunt, nephew or niece.
12. A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.
13. Any individual prescribed as a family member.

How long will the leave last?

- If eligible to the leave, the leave generally ends the day the declared emergency ends.

2. Infectious Disease Emergency Leave

What is it?

- An unpaid leave of absence where an employee is unable to perform the duties of their position for a specific reason in relation to a “designated infectious disease”.

What is a “designated infectious disease”?

- Diseases caused by a novel coronavirus, including Severe Acute Respiratory Syndrome (SARS), Middle East Respiratory Syndrome (MERS) and Coronavirus (COVID-19).

Who is eligible for the leave?

- Employees who are not able to perform work for one or more of the following reasons:
  1. The employee is under individual medical investigation, supervision or treatment.
  2. The employee is subject to an order of a medical officer of health or a court under the HPPA.
  3. The employee is in quarantine or isolation or subject to a control measure, including self-isolation, that is undertaken because of information or directions issued by a public health official, qualified health practitioner, Telehealth Ontario, the government of Ontario or Canada, a municipal council or a board of health.
  4. The employer directs the employee to stay at home because of concerns that the employee might expose other individuals in the workplace to the designated infectious disease.
  5. The employee is providing care to any of the specified individuals listed above, including because of closures of schools and daycares.
  6. The employee is directly affected by travel restrictions preventing the employee from returning to Ontario.
  7. Any prescribed reason.

How long will the leave last?

- The leave generally lasts as long as the designated infectious disease(s) remain designated by regulation and an employee is unable to work because of one or more of the foregoing reasons.
BENEFITS AND PENSION

What will happen to my benefits and pension during the leaves?

- The University will facilitate the continuation of your benefit coverage throughout the duration of the leave subject to the terms of the applicable plan(s). Normal cost-sharing of premiums between you and the University will continue unless you elect to discontinue coverage temporarily during your leave.
- If you are a member of one of the University of Guelph Pension Plans, you can continue to make your required contributions to the plan as if you had been in active employment. If you do not continue to make contributions, you will not be eligible to accrue service during this period.

Are there other benefits that I may be entitled to outside of the University?

- The Federal Government announced that Canadians will be able to access the Canada Emergency Response Benefit (CERB) in circumstances where they have lost their income as a result of the economic repercussions of the health emergency or are unable earn an income because they are sick, quarantined, caring for someone with COVID-19 or have had to stop working in order to care for children who are either sick or home from school and daycare. Employees on who are on an Infectious Disease Emergency Leave who meet this criteria may be eligible for the CERB and should contact the Canada Revenue Agency, for information regarding entitlement.
- All Canadians who have ceased working due to COVID-19, whether they are eligible for Employment Insurance (EI) or not, would be able to receive the CERB to ensure they have timely access to the income support they need. Employees on an Emergency Leave may also be eligible for EI and the Federal Government has outlined the following scenarios:
  a. Individuals who are already receiving EI regular and sickness benefits as of today would continue to receive their benefits and should not apply to the CERB. If their EI benefits end before October 3, 2020, they can then apply for the CERB once their EI benefits cease, if they are unable to return to work due to COVID-19. Individuals who have already applied for EI and whose application has not yet been processed would not need to reapply.
  b. Individuals who are eligible for EI regular and sickness benefits would still be able to access their normal EI benefits, if still unemployed, after the 16-week period covered by the CERB.

ACCESSING THESE LEAVES

Do I need to provide anything to the University in order to access this leave?

- At some point, the University may require evidence reasonable in the circumstances but will not request a medical note to justify the leave.

How do I request a Declared Emergency Leave?

- Please request the leave in writing to your immediate supervisor using the Leave of Absence Request Form.