

## Frequently Asked Questions Regarding COVID-19 Public Health Threat

Revised as of March 26, 2020

Below you will find frequently asked questions that may be helpful to you as we navigate this public health crisis together as a VSU Community.

### Teleworking

- 1. At what point should employees who are eligible to telework begin doing so?**  
*VSU Administration has approved and strongly encourages teleworking for the University. It is at the discretion of each manager to determine when and if their staff can begin this option. Managers should work closely with employees to determine their teleworking needs and ensure that operations are minimally impacted.*
- 2. If an employee is symptomatic, or has had contact with someone who is symptomatic or diagnosed positive, can we require that they stay home?**  
*Yes, as long as you pay them. This employee will likely be eligible for PHEL.*
- 3. If an employee has made the University aware that they have a compromised immune system and thus an increased risk for contracting COVID-19, should telework be granted with or without medical documentation?**  
*Have a dialogue with the employee and discuss options. Telework may be one option. Other social distancing arrangements may work. The employee may wish to use personal leave.*
- 4. Due to the high demand on health care providers, will employees be allowed to return to work without proper documentation of clearance?**  
*If the employee has had a diagnosis of COVID-19, you need to be sure that the employee is no longer contagious. Documentation should be required just as you would require it for employees with other infectious viruses/diseases.*

### Public Health Emergency Leave (PHEL)

- 5. Is PHEL (Public Health Emergency Leave) active and available for faculty and staff to use if necessary?**  
***Yes. Up to 160 hours of Public Health Emergency Leave in total*** is currently available to all state employees, including classified, faculty, at-will, wage, adjunct faculty,

*graduate research assistants and hourly student workers (wage) provided they are actively employed at the time the leave is needed.*

**6. Are contract workers eligible for PHEL? If the University closes, is there any relief for contract workers?**

*Contract workers are employed by the vendor that is contracted with the Commonwealth and their compensation and benefits are determined by their employer. Agencies must avoid all actions that imply management exercise control over contract worker's essential terms or conditions of employment to include wages, benefits, hours of work, hiring, discharge, discipline, discharge, and supervisory functions. Contractors should contact their employer to address their status and options for compensation during any office closure.*

**7. How much PHEL are wage employees eligible to receive?**

*Wage employees will receive pro-rated paid leave based on the hours they are normally scheduled to work. The maximum paid leave must not exceed the maximum number of hours they would normally work each week.*

*For example: If a wage employee normally works 20 hours per week, the maximum amount of paid leave should be 20 hours per week for up to **four weeks**. When a wage employee's hours vary, use an average as the maximum. However, no one should be paid more than 29 hours per week based on the 1500-hour rule.*

**8. What can the University do if an employee has exhausted PHEL but is actively infected with COVID-19 and either has no leave as a wage employee or has exhausted their leave?**

***PHEL provides a TOTAL of 160 hours of paid leave per leave year to eligible employees. When initially invoked, PHEL was up to 80 hours. However, after further review, the Commonwealth of Virginia in consultation with the Department of Human Resource Management (DHRM) increased the total amount to 160 hours.** Full-time employees (faculty & staff) who are symptomatic or asymptomatic may use their available sick leave such as traditional sick leave or Virginia Sickness & Disability Program (VSDP) Sick Personal Leave in the event that the PHEL has been exhausted. Employees in the VSDP should file a short-term disability claim with the Reed Group if their illness exceeds seven calendar days.*

**9. Can employees use the PHEL for picking up college kids who now have to be home and away from the school?**

*This is not an appropriate use of PHEL. Employees must use their available leave balances (annual, family/personal, compensatory, overtime, or recognition leave) for*

*this specific purpose. Volunteer and School Assistance Leave is not applicable for dependent college/university students.*

- 10. As a manager, we are allowed to request documentation for use of PHEL, but if person is asymptomatic and/or can't get documentation from a doctor/facility, do they still use PHEL for the time off, or do we reclassify with some other type of leave?**

*Documentation may not be readily available. During this public health threat, use your best judgment to maintain the integrity and intent of the use of this leave. The goal is to keep employees' whole and in a pay status when at all practical. For example: an employee is out for fourteen days and tests positive for the flu versus the Coronavirus. We will not take the PHEL leave from employees in these situations. **There may be a potential for abuse but there is greater risk in not exercising this flexibility. Let's assume good faith.***

- 11. Please confirm, can PHEL be used if they have symptoms but later have no diagnosis?**

*Yes.*

- 12. Many employees are in positions that are not eligible to telework, may those employees use PHEL if there is an office closing?**

*Emergency closing leave is applicable for full-time staff who are not eligible for telework. However, the University is implementing flexibility for telework during this public health threat. Wage employees may receive the PHEL as noted in a response above if they are not able to telework. Managers are encouraged to think outside of the box when considering telework options. There may be additional updates to this response as warranted.*

### **PHEL & VSDP**

- 13. When can PHEL be used for Virginia Sickness & Disability Program (VSDP)? Can PHEL be used for the waiting period or used to supplement during the periods of 80% or 60% coverage.**

*PHEL may be used for the seven-calendar day Short-Term Disability Claim Waiting Period. If available, PHEL may also be used as income replacement to supplement for the periods of 80% and 60%. If this happens, please work directly with OHR and the Reed Group.*

**14. Will any employee who is VSDP-eligible have to use VSDP before relying on PHEL or will VSDP always be applicable after the use of PHEL?**

*Employees may use PHEL when self-monitoring while waiting for test results or after returning from travel to a high-risk area or following an exposure to COVID-19 and may not be symptomatic. VSDP claims are applicable once employees are symptomatic or have tested positive for COVID-19, whichever comes first. The Reed Group may consider claims as pending until a positive test result is confirmed or until medical documentation is received for other serious health conditions. Please consult with OHR for any additional guidance specific to your situation.*

**15. Can PHEL be use to supplement the 80% or 60% periods of VSDP coverage?**

*Yes, if an employee has any remaining hours of the PHEL, it may be used as income replacement for a short-term disability claim.*

**16. Please verify the use of PHEL before VSDP benefits are accessed. PHEL can be used for the waiting period, and then if the VSDP is approved as of the first day of PHEL use, should VSDP benefits continue as normal or PHEL should be used for the entire 160 hours and then VSDP benefits start?**

*Much like to two previous answers above, once the Reed Group approves a short-term disability claim, the period covered by the claim is considered short-term disability and any PHEL used in the interim period will be reinstated much like other leave balances are reinstated if they are used while claim approval is pending. Upon completion of the 100% income replacement period for short-term disability, the employee may use PHEL to supplement the periods of 80% or 60% as needed.*

**17. Is there any paid leave, similar to short term disability, for wage employees after they have exhausted their PHEL benefits?**

*Not at this time.*

**Childcare**

**18. Now that schools have closed for a few weeks, employees are afraid that unused funds in their Flexible Spending Account's dependent care fund will be lost if after school/day care facilities close as well. If schools are closed for longer periods of time and after school/day care facilities remain open, some employees are concerned about underestimating funds and want to contribute more. Can this be done?**

*Flexible Spending Accounts (FSA), including Dependent Care Accounts, are IRS regulated. At this time, there isn't an exception provision to allow employees to*

*change their elections due to coronavirus. However, this could change so this response will be updated accordingly.*

**19. Since schools have closed for a minimum of a two-week period and some daycare facilities have also closed, may employees bring their children to work?**

*This is not encouraged. The Governor is closing schools to contain the spread of the virus, enabling the schools to do thorough cleaning and disinfecting and allowing for any incubation periods to lapse. Bringing children into the workplace would increase potential exposure for the children and for employees. Current policy permits telework on a temporary basis if children are in the home. For those employees who are unable to telework, a reasonable amount of PHEL may be used to **locate alternative child care arrangements**. If needed, employees may also use their personal leave to supplement time off, consistent with other times when school is unexpectedly closed.*

**Compensation Considerations**

**20. In the case of an agency closure, how do agencies manage compensation for employees who cannot telework?**

*The University will follow the Emergency Office Closings Policy as you would for any type of emergency closing. Due to the nature of the closing, Wage employees are eligible to receive PHEL, if unable to telework, and will be paid based on the hours they are normally scheduled to work each week.*

**21. Can you review the 1500 hours worked for hourly/wage employees? What are the options for flexibility to allow them as many hours as possible given this situation?**

*This is not a DHRM policy neither is it a University policy. The 1500-hour maximum threshold is part of the Virginia Manpower Control Program and has serious impact on benefits eligibility under the Affordable Care Act. Hours paid to wage employees, including emergency leave hours, must be reported for ACA. Therefore, it is critical that you continue to track your hours.*

**Workers' Compensation**

**22. In relation to Workers' Compensation, how should the University respond to an employee who states they contracted the virus from a co-worker?**

*VDH has an established protocol to determine how an individual contracted COVID-19. If the University is notified by public health officials of an asymptomatic employee, it may be appropriate to file a Workers' Compensation claim and allow the case to be evaluated.*

**23. If an employee becomes infected with COVID-19 while conducting state business, would this qualify under workers' compensation?**

*If an employee contracts the virus as a result of performing their job duties, they may be eligible to receive workers' compensation. To be eligible, there will have to be documented evidence of a work exposure. However, ultimately, this will be a decision made by the Workers Compensation Commission. This may also be an OSHA reportable event.*

If we have not addressed your questions above, please reach out to [HR@vsu.edu](mailto:HR@vsu.edu) immediately, we are here to help! Be Well!!