

WEST VIRGINIA DIVISION OF PERSONNEL
EMERGENCY SITUATIONS AND INCLEMENT WEATHER POLICY
FREQUENTLY ASKED QUESTIONS

1. How will I know if I am considered an essential employee during emergency situations / inclement weather conditions (“ES/IWC”)?

Your agency head, or his or her designee, is required to maintain a list of all essential personnel and shall inform employees whether they are designated as essential. If you are uncertain as to your status, you should ask your supervisor. Note, however, that an employee’s designation may be subject to change based upon the specific nature and timing of the ES/IWC.

2. What if I don’t want to travel or am unable to travel during ES/IWC, but my workplace has not been closed?

You must request annual leave, use accrued compensatory time, or take a personal leave of absence without pay for time absent from work. Your supervisor, with approval of the appointing authority, may permit you to work from another location or work from home in lieu of taking leave. Your supervisor, at his or her discretion, may also allow a schedule adjustment as a result of ES/IWC. However, if a schedule adjustment is approved, all time lost from work shall be made up in the same work week.

3. What if I have been approved for planned annual, sick, or unpaid leave on a day in which my workplace has been closed?

Application for annual leave, sick leave, or unpaid leave serves as notice that you are unavailable to work on that day. Therefore, you are to charge leave as planned. Your situation, on that day, is not affected by the closure. If circumstances change and you are available to work you should contact your supervisor.

4. What happens if I call in and request annual or unpaid leave because I am unable to travel due to ES/IWC and then my office is closed later that day?

You should contact your supervisor for direction. If other employees are permitted to work from an alternate work location, including home, and you are able to do so it may be approved. You would still, however, be required to charge leave for the period of time prior to being approved to work from the alternate work location.

5. If I work during a day when other employees at my agency are sent home due to ES/IWC, will I receive comparable time off?

No, comparable time off is not permitted. Since all affected employees are either at work, working from an alternate location, working from home, or charging leave, you would not receive comparable time off. However, if you are eligible for overtime under the federal Fair Labor Standards Act (FLSA), and you work more than 40 hours during the work week, you may receive compensatory time off based on your agency's policy or procedure. Please note, compensatory time off under FLSA is different from comparable time off.

6. If I am instructed to report to work or return to my normal workplace at a time later than my normal starting time due to ES/IWC, am I paid for my travel time?

If you reported to work as normal, and then were instructed to work from home, work from an alternate location, or remain in on-call status, but later in the day were required to return to work, travel time is considered work time. However, if you are required to report to your normal workplace at a time later than your normal starting time, travel time is not considered work time under FLSA, and therefore, is not paid time.

7. How will I know what duties I am to perform when my normal work location is closed due to ES/IWC?

During ES/IWC, supervisors shall assign employees meaningful work assignments that may be performed from an alternate work location, including working from home. When feasible, off-site work assignments should be arranged in advance, documented, and periodically updated to ensure necessary resources are available. If the employee is unwilling or unable to complete the work assigned, he or she shall take appropriate leave.

8. What type of work can I assign to my employees when the normal work location is closed due to ES/IWC?

Employees must be assigned meaningful job-related duties. While it is acceptable to create work plans that include the use of the internet (see below), it is strongly recommended that supervisors also provide work plans that do not include the use of power/internet in case of outages. Supervisors may solicit input from employees regarding proposed projects that can be performed from an alternate work location and update the information periodically. Upon return to work, employees must provide a summary of the work performed from the alternate work location or at home.

(NOTE: Work performed from an alternate work location must be accomplished in compliance with the requirements set forth in the Executive Branch Confidentiality Agreement and other applicable privacy law, rule, or policy.)

Examples of job-related duties that may be performed from an alternate work location include:

- Normal work assignments that can be performed remotely such as checking emails, returning calls, processing transactions, etc.
- Online training related to the employee's job-duties (e.g., Division of Personnel supervisory classes, Office of Technology training, Privacy training, etc.).
- Training related to the employee's job-duties or employment using electronic media (e.g., CD, flash drive, etc.), hard-copy materials, or library resources.
- Reviewing and/or updating work-related documents such as reports, functional job descriptions, comprehensive desktop procedures, policies/procedures, statutes, agency rules, agency Continuity of Operation (COOP) plans, etc.
- Document retention and review projects.
- Projects agreed to in advance with the supervisor.

9. As an essential employee, what happens if I cannot or choose not to report to work during ES/IWC?

Essential employees who fail to report to work as scheduled during ES/IWC will be required to charge leave and may be subject to disciplinary actions as outlined by their agency policies. Under limited circumstances, essential employees may be excused from work if so directed by the Governor, appointing authority, or his or her designee.

10. As an employee of a local health department affiliated with the West Virginia Division of Personnel, how am I affected when the Governor declares closure of State offices?

Personnel directives and guidance from the Governor or his designee do not affect local health department employees. Your local health department administrator or his or her designee shall provide the department's employees personnel directives and guidance during ES/IWC in compliance with the *Emergency Situations / Inclement Weather* policy.

11. May a supervisor deny my request for annual leave during ES/IWC?

Annual leave shall be approved during ES/IWC for employees not designated as essential personnel unless approval would have an adverse impact on the agency's ability to accomplish its mission as provided in the Division of Personnel *Administrative Rule* (143CSR1). Annual leave may be approved in limited circumstances during ES/IWC for essential personnel, pursuant to the ES/IWC policy.

12. What happens if I have already reported to work and the Governor announces that employees are not required to report to their regular work location?

If your normal work location is closed after you report to work, your supervisor, with appropriate authority, may direct you to leave and work from an alternate work location (including working from home) or to remain in the workplace if circumstances are such that leaving the workplace would be unsafe. Comparable time off will not be given to employees who work during ES/IWC since all employees will either be working or charging leave. You may also request appropriate leave to relieve yourself of the obligation to remain in the workplace or perform work at the alternate workplace.

13. Am I required to follow Division of Personnel policies and my agency's policies when I work from an alternate work location?

All statutes, rules, regulations, and policies which are applicable in the normal workplace are applicable when working from an alternate work location, including working from home, or while in restricted on-call status.

14. Under what circumstances would I be placed in restricted on-call status?

You should only be placed in restricted on-call status when you cannot effectively use that period of time for personal purposes because it is anticipated that you will be required to return to the normal work location during your shift. If you are placed on restricted on-call status and are then unwilling or unable to report to work when directed, you will be required to charge leave for the period of absence, including the time you were supposed to be on restricted on-call status. If it is not anticipated that you will be required to report to the normal work location during that scheduled work day, you should be either working from an alternate work location, working from home, or charging appropriate leave but not placed in on-call status.

If employees are placed on-call and it is later determined that the normal worksite will be closed for the entire work day, employees will be removed from on-call status and supervisors are to ensure employees are notified of their obligation to work from an alternate work location, work from home, or request appropriate leave for the remainder of their work shift.