

COVID Booster Leave Incentive

§ 1. Introduction

Executive Order No. 257 (the “Executive Order”) provides up to eight hours of fully paid leave to eligible state employees who, on or before August 31, 2022, provide the agency with documentation of receiving a First Booster (as defined below) for COVID-19. The Executive Order applies to Cabinet Agencies and any other state agencies that voluntarily adopt the Executive Order’s measures.

As of April 23, 2022, there have been more than 2.6 million cases of COVID-19 in North Carolina. More than 23,400 people have died of the disease, and many others have been severely ill. Countless hours of work and personal time have been lost to COVID-19. This Policy takes measures to build resilience among Participating Agency employees against future COVID-19 infections.

People who are vaccinated and boosted against COVID-19 are less likely to become severely ill and die from COVID.¹ Booster shots protect the health of state employees, protect the health of state facility visitors and residents, and reduce lost work time due to illness.

The Executive Order and this Policy serve these goals by providing eight hours of paid leave to employees who, by August 31, 2022, have received at least one booster shot. To avoid penalizing employees who have already received boosters, and to encourage employees to receive future booster shots, the paid leave is available not only to employees who receive their first booster shot between the date this Policy is issued and August 31, but also to employees who have already received their first booster shot.

As authorized by Section 1 of the Executive Order, this Policy establishes further details to implement the leave provided under the Executive Order. It may be amended in the future after consultation with the Office of the Governor and NCDHHS.

¹ See, for example, the following studies: K. Natarajan, “Effectiveness of Homologous and Heterologous COVID-19 Booster Doses Following 1 Ad.26.CO2.S (Janssen [Johnson & Johnson]) Vaccine Dose Against COVID-19–Associated Emergency Department and Urgent Care Encounters and Hospitalizations Among Adults — VISION Network, 10 States, December 2021–March 2022,” *CDC Morbidity and Mortality Report* (Apr. 1, 2022), Table 2, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7113-H.pdf#page=19>; C. Taylor et al., “COVID-19–Associated Hospitalizations Among Adults During SARS-CoV-2 Delta and Omicron Variant Predominance, by Race/Ethnicity and Vaccination Status — COVID-NET, 14 States, July 2021–January 2022,” *CDC Morbidity and Mortality Report* (Mar. 25, 2022), Figure 2, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7112-H.pdf#page=26>.

§ 2. Definitions

Cabinet Agencies — Those agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet.

Designated Person — A person designated by Human Resources to collect documents under the Policy, treat them confidentially, provide them to Human Resources, and (if applicable) return them to the employee.

Executive Order — Executive Order No. 257.

First Booster — The first subsequent dose of vaccination administered to enhance or restore protection against COVID-19 which may have waned over time after a primary series vaccination. For most individuals, the primary series of vaccination is a 2-dose series of an mRNA COVID-19 vaccine (Pfizer-BioNTech and Moderna) or a single dose of Janssen COVID-19 Vaccine. The First Booster is the first dose after this primary series.

Note: Here are some examples of what the First Booster dose would be in several situations.

Primary series	Additional shots	First Booster
Two mRNA vaccine doses	One mRNA booster shot	The first mRNA booster shot
Two mRNA vaccine doses	Two mRNA booster shots	The first mRNA booster shot
One Janssen vaccine dose	One mRNA booster shot	The first mRNA booster shot
One Janssen vaccine dose	Another Janssen vaccine dose	The second Janssen vaccine dose

Participating Agency — A state agency, commission, board, or office which provides paid leave under this Policy for employees who have received their First Booster. Participating Agencies include all Cabinet Agencies. Participating Agencies also include any other state agencies that voluntarily adopt this Policy.

Policy — This policy on COVID-19 incentive leave for boosters.

Supplemental Leave — Leave provided under the terms of this Policy.

§ 3. Eligible Types of Employees

Supplemental Leave is available only to employees of a Participating Agency who are:

- (1) Permanent, probationary, or time-limited, and
- (2) Either (a) full-time or (b) part-time with a schedule that is at least half-time during any month from May to August 2022.

Employees who join the Participating Agency on or before August 31, 2022 may be eligible; they do not need to have been employees on the day when this Policy was issued.

Temporary employees, interns, and contractors are not eligible for Supplemental Leave. Part-time employees are not eligible for Supplemental Leave if they work less than half-time in all the months from May through August 2022.

§ 4. Provide Documentation of First Booster by August 31, 2022

To qualify for Supplemental Leave, otherwise eligible employees must submit documentation of having obtained their First Booster. (See the table in the Definitions section above about what counts as a “First Booster.”) To be eligible, the employee must provide this documentation on or before August 31, 2022. The documentation must be given to the agency’s Human Resources staff or to a Designated Person.

Employees are eligible whether or not the First Booster was administered before or after the date of the Executive Order. Both (1) employees boosted before this Policy was issued and (2) employees boosted after that date are eligible for Supplemental Leave, so long as they provide documentation of a First Booster by the August 31 deadline.

§ 5. Amount of Leave

Full-time employees who meet these eligibility requirements will receive eight hours of Supplemental Leave. Part-time employees will receive a prorated amount based on their number of hours compared to a full-time schedule. Employees are eligible only once for this Supplemental Leave, even if they receive multiple booster shots.

§ 6. Use of Leave

Supplemental Leave may be used for any purpose.

Employees shall request Supplemental Leave at least two weeks before the leave is needed, unless such notice is impractical. Agencies may refuse to provide requested leave if it would unreasonably hinder agency activity for which the employee is responsible. The supervisor or other manager may require that the Supplemental Leave be taken at a time other than the one requested, based on the needs of the agency.

§ 7. No Cash Value; Not Transferable; Expires March 31, 2023

Supplemental Leave has no cash value and cannot be converted into retirement credit. Employees shall not be paid for unused Supplemental Leave at separation. Supplemental Leave

may not be transferred to another agency, except for employees transferred by a Type I or Type II transfer authorized by law. Any unused Supplemental Leave will be forfeited by March 31, 2023 and shall not be carried into the next calendar year.

§ 8. How Workers Can Provide Documentation of Their Booster Shot

Employees shall follow their agency's process for submitting booster documentation. This may be a manual or electronic process. The documentation can be provided directly to the agency's Human Resources office, to an Information Technology system designated by the agency's HR office, or to a Designated Person.

If employees knowingly provide a false or inauthentic document under this Policy, they may be subject to disciplinary action, up to and including dismissal.

§ 9. What Participating Agencies Should Do with Booster Documentation

When staff at a Participating Agency receive this documentation:

- Authorized Human Resources staff may review the material in good faith to determine whether it appears to be valid.
 - Under this Policy, no additional research is required by the Human Resources staff member to determine whether the documentation is truthful and accurate.
 - However, the Human Resources staff member is authorized to require additional verification if the staff member has a reasonable basis to suspect that the information provided is inauthentic or fraudulent.
 - HR staff may use sampling (for example, reviewing only one out of every four documents submitted).
- Each staff member who receives those records must store them only in an agency confidential health information file that is maintained in accordance with any applicable State Records Center retention schedule. This file (including any database containing this information) must be separate from any employees' general personnel files and must be available only to Human Resources staff within the Participating Agency.
- Workers should not be asked to transmit these records through a system (like email) unless that system is encrypted or otherwise secured with limited access.
- Managers and supervisors shall not have direct access to these confidential records. However, so that managers and supervisors may implement the Policy, Human Resources

staff members shall communicate to managers and supervisors any Supplemental Leave time that has been provided to an employee under this Policy.

- Managers and supervisors may tell other workers that a particular employee is on leave, but unless the employee consents, managers and supervisors should not say that a particular employee's leave is because the employee received a booster shot.

§ 10. Scope of This Policy

This Policy automatically applies to Cabinet Agencies. It also applies to state agencies, commissions, boards, or offices that choose to adopt this Policy (either in whole or with any modifications) and participate in this incentive program. Non-Cabinet agencies may adopt this Policy by sending a letter or email to the Office of State Human Resources' Chief Deputy Director.

§ 11. Effective Date and Duration

This Policy becomes effective on the date when it is issued. It shall remain in effect until March 31, 2023, unless otherwise extended. It may be modified or rescinded by the Director of State Human Resources (for Cabinet agencies) or agency head (for non-Cabinet Participating Agencies) for any reason, including but not limited to COVID-19 developments, any additional Executive Orders, and any additional federal or NCDHHS guidance.

§ 12. Miscellaneous Terms

No Private Right of Action

This Policy is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60), or any other person.

Savings Clause

If any provision of this Policy or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Policy which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Policy are declared to be severable.

§ 13. Source of Authority

This Policy is issued independently under each of the sources of authority below:

- a) Article III of the Constitution of North Carolina and N.C.G.S. §§ 143A-4 and 143B-4, which provide that the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch.
- b) The statute providing the Governor with the power and duty to supervise the official conduct of all executive and ministerial officers (N.C.G.S. § 147-12).
- c) The statute empowering agency heads and the Director of the Office of State Human Resources to issue policies (N.C.G.S. § 143B-10(j)(3)).
- d) The authority of the agency head to establish management-approved leave for employees under State Human Resources Commission rules (25 NCAC 01E .0101) promulgated pursuant to statute (N.C.G.S. § 126-4).
- e) The authority of the agency head, under the communicable disease emergency rules (25 NCAC 01N .0408(a)) promulgated pursuant to statute (N.C.G.S. § 126-4), to review and revise state leave provisions when a communicable disease emergency lasts longer than 30 days.
- f) The authority of the agency head, under the communicable disease emergency rules (25 NCAC 01N .0410(c)-(d)) promulgated pursuant to statute (N.C.G.S. § 126-4), to offer competitive salaries for the duration of the emergency and compensate employees accordingly for the duration of the emergency.
- g) The Emergency Management Act provisions authorizing the Governor to utilize the services of state agencies in response to the emergency and utilize all available state resources as reasonably necessary to cope with an emergency (N.C.G.S. §§ 166A-19.10(b)(7) and 166A-19.30(a)(1)).
- h) The Communicable Disease Emergency Policy issued by the State Human Resources Commission pursuant to N.C.G.S. § 126-4. This Policy is adopted as Provision 9.1 under the Communicable Disease Emergency Policy, stating public health emergency response measures that Participating Agencies may implement.

§ 14. History of this Policy

Date	Version
May 4, 2022	First version