

The 8 Things to Include in Your COVID-19 Unpaid Leave Policy

written by Rory Lodge | June 22, 2021



Does your COVID leave policy comply with employment standards laws?

Since the pandemic began, all but 2 jurisdictions (Northwest Territories and Nunavut) have revised their employment standards laws to give employees [unpaid leave for absences due to COVID-19](#). The idea is to ensure that getting sick, slammed into self-isolation or shut in to care for a homebound child didn't cost employees their jobs. As with other leaves of absence, it's important for organizations to implement a [written HR policy](#) outlining how COVID leave works.

Here are 8 things such a policy should include.

1. A Name—Either COVID-19 or Emergency Leave

The first thing you need to do is decide what to call the leave that allows employees to miss time due to COVID. There are 2 basic options depending on where you operate:

- **COVID-19 Leave:** In 5 jurisdictions (Fed, AB, MB, QC, YK), the leave is temporary and applies only to the current COVID public health emergency; or
- **Emergency Leave:** In BC, NB, NL, NS, ON, PEI and SK, the leave is a permanent addition to the employment standards law that applies not just to COVID but other future public health emergencies that may force employees to miss work (in [Ontario, the leave is called Infectious Disease Emergency Leave \(IDEL\)](#))

2. Eligibility Requirements

Most forms of unpaid health and caregiving related leaves under employment standards laws require employees to have at least 3 months of continuous employment to qualify. That's not the case with COVID leave. Be sure your policy is clear that all employees are eligible for the leave regardless of how long they've been employed.

3. Leave Entitlement Triggers

Specify the conditions entitling employees to take unpaid COVID leave. Triggers are pretty much similar from province to province and include absences made necessary because an employee:

- Gets or is under investigation for COVID;
- Must self-isolate, quarantine or follow another COVID public health order or

protocol;

- Is directed by his/her employer not to work out of concern of exposing others in the workplace;
- Must care for a family member who gets or is affected by COVID, such as a school or daycare closure; and/or
- Can't reasonably get back to the province because of COVID travel restrictions.

BC's leave entitlements are the most generous in Canada and cover, in addition to the above, absences for vaccination side effects and/or special susceptibilities to COVID.

4. How Long COVID-19 Leave Can Last

The duration of COVID leave varies depending on jurisdictions:

- **Unlimited:** In BC, MB, NB, NL, NS, PEI and SK, unpaid COVID leave can last for as long as the conditions triggering the need for leave continue;
- **14 Days:** In QC, COVID leave can last up to 14 days, or 10 days under new guidelines allowing for shorter periods of self-isolation for individuals without fever for at least 48 hours or any other COVID symptoms for at least 24 hours;
- **14 Days or Unlimited:** Alberta has a hybrid rule allowing leaves of up to 14 days for self-isolation and for as long as the need for leave lasts for leave based on other grounds; and
- **4 Weeks or 38 Weeks:** Federally regulated employees can take leave of up to 4 weeks or 38 weeks, depending on the grounds for leave.

Also acknowledge the possibility that the COVID (or other non-COVID infectious disease emergency if you're in the emergency leave provinces of BC, NB, NL, NS, ON, PEI and SK) public health emergency will end while the employee is still on leave. Leave rights generally end when the emergency does, although some jurisdictions, including NB, have or may yet provide for employees currently on leave to continue for a period after the emergency.

5. Leave Notification Protocols

Establish clear procedures and timelines for employees to notify you of when they take leave. COVID leave isn't like maternity or parental leave where you can require advance notification. What you can require is notification as soon as reasonably practicable after leave begins where advance notice can't be provided.

6. Leave Verification Protocols

As with other medical and caregiving leaves of absence, you can require employees to provide documentation or other "reasonable verification" of their need to take COVID leave. But you can't provide a doctor's note or medical certification the way you can with those other leaves.

7. Employee Duty to Cooperate

Guard against [employees disappearing while they're on leave](#), leaving you to determine if they've abandoned their employment or still plan [to return](#) by requiring them to maintain contact with their supervisors while they're gone.

8. Assurance of Non-Retaliation

Any policy providing for a leave of absence required by provincial employment

standards laws should include language ensuring employees that neither the organization nor any of its managers, supervisors or representatives will discharge, threaten, penalize or in any other manner discriminate or retaliate against any employee for exercising their COVID leave rights.