



What's New in HR Law

Ontario Government Issues Order Allowing Redeployment of School Board Staff to Congregate Care Settings

May 11, 2020

Bottom Line

The Ontario Government has issued a new Emergency Order under the *Emergency Management and Civil Protection Act* (Act). The new [Order](#) permits school boards to redeploy staff in order to support the operators of congregate care settings in responding to COVID-19. In a [press release issued on May 9th](#), the Government has stressed that any redeployment of school board staff will be voluntary. As with all other Orders issued under the Act, this Order will be automatically revoked within 14 days of being issued unless renewed by the Government.

This update is for general discussion purposes and does not constitute legal advice or an opinion.

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Who can be redeployed?

The Order applies across the province of Ontario and, specifically, to district school boards. As such, any staff member of a school board could be redeployed to a congregate care setting. The Government's press release specifically notes the need for custodial and maintenance workers.

The Order does not allow school boards to take any action (i.e. redeploy any employees) contrary to a collective agreement unless the board and the employee's bargaining agent have entered into an agreement with respect to the redeployment and the redeployment complies with that agreement.

Where can they be redeployed?

The Order states school boards shall and are authorized to take redeployment measures to support "operators of congregate care settings". The Order also specifically states that the support is in the "non-clinical response" (meaning, for example, that a maintenance worker should not be redeployed to conduct COVID-19 testing).

The Order defines "congregate care settings" as:

- (a) a long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*,
- (b) a retirement home within the meaning of the *Retirement Homes Act, 2010*,
- (c) a residential group home for those with developmental disabilities,
- (d) an intervenor services residential site,
- (e) a site operated by a supportive housing provider,
- (f) a site providing residential or emergency residential services under the Violence Against Women Support Services program or the Anti-Human Trafficking Community Supports program,
- (g) a children's residence within the meaning of section 243 of the *Child, Youth and Family Services Act, 2017*,
- (h) a place of secure custody, a place of open custody, a place of open temporary detention or a place of secure temporary detention within the meaning of the *Child, Youth and Family Services Act, 2017*,
- (i) an emergency homeless shelter, or
- (j) a hospital with the meaning of the *Public Hospitals Act*; ("habitation collective")

Maintaining the Employment Relationship

While redeployed to a congregate care setting, an employee will continue to be employed by their school board. This means that a redeployed employee would continue to receive the same wages and benefits from the school board.

Public schools in Ontario remain closed until at least May 31, 2020, pursuant to a separate Order.

Eligible for Pandemic Pay

In the press release that accompanied the Order, the Government also stated that redeployed staff would be eligible for pandemic pay and emergency child care.

What else can School Boards do?

The Order also gives school boards the ability to take steps to identify priorities as well as modify and implement redeployment plans by:

- (a) redeploying staff to work in COVID-19 assessment centres;
- (b) changing the assignment of work, including assigning bargaining unit work to non-bargaining unit employees;
- (c) changing the scheduling of work or shift assignments;
- (d) deferring or cancelling vacations;
- (e) providing appropriate training or education as needed to staff and volunteers;
- (f) collecting information from staff or contractors about their ability to provide services; and
- (g) cancelling or postponing services that are not related to COVID-19

Need more information?

Contact [Darren Avery](#) at 519-435-6008 or your regular lawyer at the firm.



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