Frequently Asked Questions

Coronavirus (COVID-19)

Department of the Navy

Policy & Programs

As of 15 January 2021

Table of Contents

General 2

Staffing/Recruitment, Classification and Compensation 10

- Staffing/Recruitment 10
- Classification 13
- Compensation 15
- Evacuation and Authorized Departure 19
- Travel 29

Workforce Relations and Compensation 46

- Leave 46
- Leave – Families First Coronavirus Response Act 57
- Telework 66
- Benefits 78
- Employee Relations (other) 79
- Injury Compensation 86
- Labor Relations 88
- Performance Management - DPMAP 90
- Performance Management - MyPerformance Appraisal Tool 91
- Performance Management - Awards 93
- Awards and Recognition 94
- Non-Appropriated Fund 95

Equal Employment Opportunity 96

DOD Expeditionary Civilians 110

Where to Go for Additional Information 111

Frequently Asked Questions References 112

Note: Center for Disease Control (CDC) guidance referenced in this document is subject to change. OCHR recommends that end users of this document cross reference answers with information on the CDC website to ensure adherence to the most current CDC guidance: **https://www.cdc.gov/**

General

DON Frequently Asked Questions

1. **Q: My Command has begun using a "Screening Questionnaire" for all civilian employees presenting to enter the activity/base/workplace. The questionnaire asks whether the employee is currently sick with any of the following symptoms: (a) fever; (b) cough; (c) sore throat; (d) shortness of breath. If the answer is "yes", entry is denied. Can my command ask this question and send me home? If entry is denied, do I go on sick leave or some other type of leave?**

   A: Yes, under the current circumstances this question is allowed. On March 11, 2020, the World Health Organization (WHO) declared the coronavirus disease (COVID-19) a pandemic. A "pandemic" is a global "epidemic." While the Americans with Disabilities Act (ADA) and the Rehabilitation Act place strict limits on disability-related inquiries and medical exams, these limits must be implemented in a manner which is both consistent with the law and also with current Centers for Disease Control and Prevention (CDC) and state/local guidance for keeping workplaces safe during the pandemic.

   An employer may ask its employees if they are experiencing influenza-like symptoms, such as fever or chills and a cough or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA. If pandemic influenza is like seasonal influenza or spring/summer 2009 H1N1, these inquiries are not disability-related. If pandemic influenza becomes severe, the inquiries, even if disability-related, are justified by a reasonable belief based on objective evidence that the severe form of pandemic influenza poses a direct threat. Applying this principle to current CDC guidance on COVID-19, employers may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine if they have or may have COVID-19. Currently these symptoms include, for example, fever, chills, cough, shortness of breath, or sore throat. Under current CDC guidance on COVID-19, this also means an employer can send home an employee with COVID-19 or symptoms associated with it. An employee who reports to work sick or is sent home sick will be placed on sick leave if he or she is telework eligible, and is well enough to work; he or she may also telework. Obtaining an employee's agreement to take sick leave, annual leave, or leave without pay is preferable, but in some circumstances, similar to COVID-19, a supervisor may require an employee to use his or her sick or annual leave or place an employee in a leave without pay status pending inquiry into the employee's medical condition.

2. **Q: My Command has begun conducting temperature checks of all civilian employees entering the activity/base/workplace. If the temperature exceeds 100 degrees Fahrenheit, entry is denied. Can my command do so?**

   A: Yes, under the current circumstances conducting temperature checks is allowed. Generally, measuring an employee's body temperature is a medical examination, which would normally be restricted under the ADA and the Rehabilitation Act. If pandemic influenza becomes widespread in the community as assessed by state or local health authorities or the CDC, then employers may measure employees' body temperature. However, employers should be aware that some people with influenza, including the 2009 H1N1 virus or COVID-19, do not have a fever. Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions as of March 2020, employers may measure employees' body temperature. As with all medical information, the fact that an employee had a fever or other symptoms would be subject to ADA confidentiality requirements. An employee who reports to work sick or is sent home sick will be placed on sick leave. If he or she is telework eligible, and is well enough to work, he or she may also telework. Obtaining an employee's agreement to take sick leave, annual leave, or leave without pay is preferable, but in some circumstances, similar to COVID-19, a supervisor may require an employee to use his or her sick or annual leave or place an employee in a leave without pay status pending inquiry into the employee's medical condition.

3. **Q: My Command has begun using a "screening questionnaire" and conducting temperature checks of all civilian employees entering the activity/base/workplace. What happens if I refuse to submit to screening or have my temperature taken?**

   A: Generally, measuring an employee's body temperature is a medical examination, which would normally be restricted under the ADA and the Rehabilitation Act. If pandemic influenza becomes widespread in the community as assessed by state or local health authorities or the CDC, then employers may measure employees' body temperature. Under the current circumstances this question is allowed. On March 11, 2020, the World Health Organization (WHO) declared the coronavirus disease (COVID-19) a pandemic. A "pandemic" is a global "epidemic." While the Americans with Disabilities Act (ADA) and the Rehabilitation Act place strict limits on disability-related inquiries and medical exams, these limits must be implemented in a manner which is both consistent with the law and also with current Centers for Disease Control and Prevention (CDC) and state/local guidance for keeping workplaces safe during the pandemic.

   If you refuse to submit to a temperature check and/or screening questionnaire, you may be denied entry. If you are sent home, you may be required to telework or be asked to take sick or annual leave. If your supervisor cannot obtain your agreement to take sick leave, annual leave, or leave without pay, he or she may require you to use your sick or annual leave or place you in a leave without pay status pending inquiry into your medical condition. Refusal to submit to a screening questionnaire or temperature checks may result in disciplinary action, up to and including your removal from the federal service.

4. **Q: Are commands now required to place all employees who are at high-risk for complications from COVID-19 (e.g., 65 years or older, people with serious health conditions, etc.) on weather and safety leave?**

   A: No**.** Telework should always be the first option explored. At this point, DON is not requiring commands to place asymptomatic employees on weather and safety leave. If a high-risk employee chooses to continue working from the office, the employee may do so at their own risk.

5. **Q: May an employee accept compensated employment with a nonfederal entity while on administrative leave due to the COVID-19 pandemic?**

   A. Yes, the Office of Government Ethics has informally opined that an employee may accept compensated employment with a nonfederal entity while on administrative leave from their Federal employment due to the COVID-19 pandemic. However, that employee is still subject to all of the ethics rules and statutes. Also, the employee must comply with any supplemental agency regulations requiring prior approval for outside activities. DoD has such a requirement at 5 C.F.R. 3601.107. Source: DoD Standards of Conduct Office Advisory No. 20-01 (1 April 2020)

6. **Q: May an agency relocate employees to different worksites permanently or temporarily to maintain continuity of operations during a pandemic?**

   A: Yes. An agency has the basic right to determine where its work is performed. The agency should determine whether its basic right is modified by its other formal policies or collective bargaining agreement(s). See also, Part III-A –Accomplishing Work During a Pandemic Health Crisis.

   Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=e11d8ba3-9067-4f4b-b48e-6704c30b2748

7. **Q*:* My State has a Stay at Home Order. I am "mission essential." Can the agency require me to report for duty?**

   A: Yes. However, Commands are encouraged to maximize workplace flexibilities, including telework, whenever possible.

8. **Q: If I am asymptomatic but test positive for COVID-19, may I report to the workplace?**

   A. No. Individuals that test positive for COVID-19 should have been ordered to isolate/ quarantine by their health care provider, or by federal, state or local authority. In accordance with CDC guidance, "The decision to stop home isolation should be made in consultation with your healthcare provider and state and local health departments. Local decisions depend on local circumstances."

9. *Q New*: Are agencies required to bargain over COVID-19 vaccinations?

A. While proposals regarding the substance of agency vaccination and testing programs may be non-negotiable (i.e. whether or not the agency tests or vaccinates employees), some aspects of such programs may fall within the duty to bargain. For example, unions may advance proposals regarding procedural matters such as allowing employees administrative time to receive vaccinations provided by the agency or creating a "Continuity of Operations Plan" to be used during a health pandemic or other emergency.

DOD Frequently Asked Questions

10. Q: On March 13, 2020, President Trump declared a national emergency concerning COVID-19. How does this impact DoD civilian personnel?

A: Upon President Trump's declaration of a national emergency, the following authorities are applicable:

- Military Leave: 5 U.S.C. 6323(b) provides 22 workdays of military leave which may be given to an employee for emergency duty as ordered by the President, the Secretary of Defense, or a state governor. This leave is provided for employees who perform military duties as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.
- Reservist Differential: DoD civilian employees who are members of the Reserve or National Guard called to active duty are entitled to reservist differential payment under certain conditions. The reservist differential payment will be equal to the amount by which an employee's projected civilian basic pay for a qualifying period exceeds the employee's actual military pay and allowances allocable to that pay period.
- Robert T. Stafford Disaster Relief and Emergency Assistance Act: DoD Components may make appointments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act which allows hiring of temporary staff, experts, and consultants to provide disaster relief during emergencies declared by the President.

11. Q: Is there any guidance regarding Reasonable Accommodation requests in connection with COVID-19? Our agency started receiving several requests for 100% telework because of health reasons and social distancing.

A: Because the facts and circumstances of each request are different from one another, it is impracticable to provide broad guidance applicable to each request. DoD Components should consult their reasonable accommodation coordinator and general counsel when engaging in the interactive process. Each DoD Component's Computer/Electronic Accommodation Program (CAP) point of contact may provide additional information regarding your employee's accommodation. **For additional information regarding the CAP program, please visit: https://www.cap.mil/**

12. Q: What is the current operating status of DoD Leader Development Programs (LDPs), to include the Defense Senior Leader Development Program (DSLDP), Executive Leadership Development Program (ELDP), and Defense Civilian Emerging Leader Program (DCELP)?

A: All programs which were scheduled to execute between now and through mid-May have been postponed or cancelled. Any potential rescheduling of postponed activities is currently TBD.

Current **postponements** include:

- DCELP Cohort 11 Seminars 1b through 3b planned at Southbridge, MA
- DSLDP Cohort 2018 Seminar 3 and Graduation planned 21-24 April in Washington, DC.
- Vanguard Senior Executive Development Program planned for 3-8 May at the Bolger Center in Potomac, MD.

Current **cancellations** include:

- ELDP's deployment to the Texas National Guard planned for 11-17 April, and the deployment to Ft Bragg, NC planned for 2-8 May. These will not be rescheduled.

13. Q: How will programs planned to execute beyond mid-May be impacted?

A: At present, any postponement of future programs beyond the 60-day travel restriction is to be determined, and further decisions to either further postpone, reschedule, or cancel will be made as the situation evolves.

14. Q: What procedures should be followed to clean and disinfect a workspace previously occupied by someone who is known or suspected to have contracted coronavirus disease 2019 (COVID-19)?

A: The Centers for Disease Control and Prevention (CDC) have established guidance for the cleaning and disinfection of work areas—to include those areas previously occupied by workers who are known or suspected to have contracted COVID-19. This guidance is available at: https://www.cdc.gov/COVID-19/2019-ncov/community/organizations/cleaningdisinfection.html and https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprepare%2Fdisinfecting-building-facility.html. Use all disinfectants in accordance with the manufacturer's labeling. Additionally, the Environmental Protection Agency (EPA) lists recommended disinfectants, found at: https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sarscov-2.

15. Q: Is there a need to segregate a work area and demarcate it "off limits" when someone who is known or suspected to have contracted COVID-19 has worked in the area?

A: Segregation prior to cleaning and disinfection is necessary. When the cleaning and disinfection procedures described above are completed, demarcation of areas where the individuals previously worked is not necessary.

16. Q: What personal protective equipment (PPE) should be worn by personnel who are cleaning work spaces or conducting maintenance activities in areas previously occupied by someone who is known or suspected to have contracted COVID-19?

A: Personnel should wear gloves, face shields (if there is a risk of splash), disposable gowns or aprons, and other protection as recommended on the Safety Data Sheet of the cleaning or disinfectant product. Personnel should follow all personal hygiene requirements (e.g., handwashing, equipment doffing) after completion of work activities as recommended by CDC guidance, which may be found at: https://www.cdc.gov/COVID-19/2019ncov/community/organizations/cleaning-disinfection.html.

17. Q: Are there any special procedures workers should use if they are planning to conduct maintenance in a residence where a person who is known or suspected to have contracted COVID-19 resides?

A: If possible, delay the maintenance work. If the maintenance is necessary, the resident should be asked to remove all items that would impede the work of the maintenance personnel. The resident should clean the area of any surficial debris, dust, etc., that would impact the effectiveness of surface disinfectant used by maintenance personnel. Workers should maintain a distance of at least six feet from the resident who has contracted COVID-19. Ask that the resident remain in a separate room while maintenance is conducted. If a separate room for the resident is unavailable and the worker is unable to maintain six feet of distance from the resident during the work, appropriate protective equipment for close contact must be worn by the worker. If necessary, clean and disinfect the work area following the CDC-prescribed procedures.

18. Q: Should heating, ventilation, and air conditioning (HVAC) and air handling systems be turned off or air vents covered to prevent the spread of COVID-19 in the workplace?

A: No. Based on current data, COVID-19 is spread primarily from person-to-person through close contact (within 6 feet); thus, there is no need to shut down HVAC and air handling systems. The CDC generally recommends increasing ventilation rates and the circulation of fresh air within HVAC and air handling systems. https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html.

19. Q: The Occupational Safety and Health Administration (OSHA) requires the reporting of COVID-19 as a recordable occupational illness, pursuant to 29 CFR 1904, for those personnel who contract COVID-19 while working. Given the nature of community transmission of this illness, how can I be sure an employee contracted COVID-19 in the workplace, to satisfy OSHA recordkeeping requirements appropriately?

A: COVID-19 is a recordable occupational illness if a worker contracts the virus as a result of performing his or her occupational duties and if all of the following conditions are met:

(1) COVID-19 illness is a confirmed case according to the most recent CDC guidance (see: https://www.cdc.gov/coronavirus/2019-ncov/php/reporting-pui.html); (2) contraction of

COVID-19 is work-related, as described in 29 CFR 1904.5 (this condition will require a determination by the supervisor, who may require input from the worker's health care provider); (3) the case of illness satisfies the requirement as a recordable illness as set forth in 29 CFR 1904.7 (e.g., medical treatment beyond first aid is required, the number of days away from work meets the stated threshold). The reporting requirements are described in more detail at: https://www.osha.gov/SLTC/covid-19/standards.html.

20. Q: Can I suspend the completion of routine industrial hygiene and safety surveys required by Department of Defense Instruction (DoDI) 6055.05, "Occupational and Environmental Health," during this pandemic in order to minimize the potential spread of COVID- 19, devote maximum resources to COVID-19 response activities, and provide maximum flexibility for employees to telework?

A: Yes. To ensure maximum compliance with the CDC's social distancing guidance and DOD Components' telework arrangements, routine industrial hygiene and safety surveys may be discontinued at the discretion of the Component Designated Agency Safety and Health Official, or his or her designated representative, for the duration of the pandemic, until travel restrictions are lifted the workplace returns HPCON "0, whichever comes later."

21. Q: DoD1 6055.12, "Hearing Conservation Program (HCP)," dated August 14, 2019, requires that audiometric test environments (e.g., booths) be surveyed annually. Given the recent travel restrictions associated with the COVID-19 pandemic, many components cannot complete these annual surveys. Can we suspend this requirement for the duration of the COVID-19 pandemic?

A: Yes. The annual survey requirements specified in subparagraphs 3.8.c.(2) and (3) of DoDI 6055.12 may be suspended during the COVID-19 pandemic. These requirements should resume upon the conclusion of the pandemic, upon removal of travel restrictions or return to HPCON "0, whichever comes later."

22. Q: Spirometry (lung function) testing is required in certain occupational medicine surveillance and certification exams. Given the concern with aerosol generating procedures and COVID-19 pandemic, can spirometry be delayed until it is safe to resume?

A: Spirometry testing requires a forced expiratory maneuver which is likely to spread respiratory droplets into the air and increase the risk of COVID-19 transmission, particularly to the employees administering the spirometry examination. In accordance with the April 1, 2020 Secretary of Defense Memorandum, "Guidance to Commanders on Implementation of the Risk Based Responses to the COVID-19 Pandemic," occupational health clinics can suspend routine occupational spirometry unless medically essential, when determined by the medical activity commanding officer in order to reduce the risk of COVID-19 transmission to occupational health staff. Any suspension of services must be coordinated with supported commands.

23. Q: Some of the N-95 respirators in the pandemic stockpiles have exceeded their manufacturer's recommended shelf-life and expiration date. Should they be discarded?

A: No. Current CDC guidance addresses this issue and may be found at: https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Frespirators-strategy%2Fcontingency-capacity-strategies.html. Over time, the components of the N-95 respirator, such as the strap, may degrade, which can affect the quality of the fit and seal. The manufacturer should be contacted for additional guidance. At a minimum, use of expired respirators may be prioritized for situations where personnel are not exposed to the virus that causes COVID-19, such as for training and fit testing. Additional CDC guidance concerning stockpiled N-95 respirators that have exceeded their recommended shelf lives may be found at: https://www.cdc.gov/coronavirus/2019-ncov/hcp/release-stockpiled-N95.html

24. Q: Are there requirements to decontaminate N-95 respirators and other disposable filtering facepiece respirators (FFRs) before reuse and, if so, what are the acceptable decontamination procedures?

A: The CDC has published guidelines for the circumstances in which disposable FFRs should be reused and decontaminated, and the appropriate procedures to follow when decontamination is necessary. These guidelines may be found at: https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/decontamination-reuse-respirators.html.

25. Q: What are the authoritative sources to obtain the most relevant and current information concerning guidance for the protection of DOD employees?

A: The following list of websites that should be consulted for additional guidance on occupational safety and health considerations during the COVID-19 pandemic:

- CDC: https://www.cdc.gov/COVID-19/2019-nCoV/index.html
- OSHA: https://www.osha.gov/SLTC/covid-19/
- DoD: https://www.defense.gov/Explore/Spotlight/COVID-19/

OPM Frequently Asked Questions

26. Q: Is COVID-19 a quarantinable communicable disease pursuant to Executive Order (E.O.) 13295?

A: The Centers for Disease Control and Prevention (CDC) has determined that COVID-19 meets the definition for "severe acute respiratory syndromes" set forth in E.O. 13674. Therefore, this novel coronavirus is a "quarantinable communicable disease," as defined by E.O. 13295, as amended by E.O.s 13375 and 13674.

Additional information on quarantinable communicable diseases is available from the CDC at http://www.cdc.gov/quarantine/AboutLawsRegulationsQuarantineIsolation

27. Q: If an employee works in an occupation at risk for exposure to a quarantinable communicable disease such as COVID-19, what can he or she do to stay safe and prevent the spread of the disease to others?

A: The Occupational Safety and Health Administration (OSHA) published guidance and recommended measures to help prevent occupational exposure to COVID-19 in Federal workplaces. See OSHA's COVID-19 guidance at https://www.osha.gov/SLTC/covid-19/index.html.

See also CDC guidance: https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html.

Staffing/Recruitment, Classification and Compensation

Staffing/Recruitment

DON Frequently Asked Questions

28. Q: May EOD dates be set for new employees outside of the local commuting area?

A: EOD dates should not be set to be effective prior to 11 May 2020 for new employees outside of the local commuting area.

29. Q: What are mission essential positions?

A: A position may be designated as mission essential, consistent with the criteria described in DoD Instruction (DoDI) 3020.42, "Defense Continuity Plan Development," dated 17 February 2006, certified as current as of April 27, 2011, and any other component-unique policies or definitions.

Mission essential positions are those that are needed to ensure the continued operation of mission essential functions of an activity.

The determination of which functions are "essential" is typically a local or command decision. This decision is based on the type of work and supporting activities necessary to ensure organization or facility continuity of operations and/or completion of tasks that are considered essential to the mission.

A designated mission essential position could also be coded as E-E, NCE, or Key, or may just be mission essential (and not E-E, NCE, or Key).

DOD Frequently Asked Questions

30. Q: If a national emergency has been declared, is the hiring of military members within 180 days immediately following retirement to DoD positions waived?

A: No. Section 1111 of National Defense Authorization Act for Fiscal Year 2017 amended 5 USC 3326 by deleting the national emergency waiver exception for the appointment of retired members of the armed forces to civil service positions in or under the DoD, within 180 days immediately following retirement. Therefore, the only exceptions to the 180-day provision is an approved waiver by the appropriate authority or the position is covered by a special salary rate under 5 USC 5305.

31. Q: Is there a freeze on civilian hiring in the affected locations?

A: Yes, there is a freeze on hiring actions that involve PCS overseas. DoD Components may continue local hiring. In the United States, only candidates within the local commuting area may onboard because of DoD's restriction on official domestic travel that lasts through 30 June. As stated in the travel restriction guidance, exceptions may be granted for compelling cases where the travel is: (1) determined to be mission essential; (2) necessary for humanitarian reasons; or (3) warranted due to extreme hardship.

OCHR Policy Note*: Commands may continue to recruit in affected locations. This includes submitting Requests for Personnel Action (RPAs), posting vacancies, issuing certs, conducting interviews, making selections, etc. Until the travel restrictions change, onboarding selectees that are not within the local commuting area may not occur.*

32. Q: If an overseas Priority Placement Program (PPP) registrant has a reporting date to a position in CONUS, but is unable to report due to COVID-19 travel restrictions, what actions should be taken by the CONUS activity?

A: For CDC Travel Health Notice Level 3 countries, all permanent change of station (PCS) actions should be placed on hold until the COVID-19 travel restrictions are lifted. For CDC Travel Health Notice Level 2 countries, the DoD Component may continue with travel because travel back to CONUS is not restricted by either memoranda identified in the question above.

33. Q: If an overseas PPP registrant who is subject to COVID-19 travel restrictions has accepted a job offer through the PPP and a reporting date has not been established, what actions should be taken?

A: For CDC Travel Health Notice Level 3 countries, all permanent change of station (PCS) actions should be placed on hold until the COVID-19 travel restrictions are lifted. For travel from

CDC Travel Health Notice Level 2 countries to CONUS locations, the DoD Component may continue with travel because travel back to CONUS is not restricted by either memoranda identified in the question above. For travel from CDC Travel Health Notice Level 2 countries to another Level 2 country, the DoD Component must postpone travel for non-essential civilian personnel.

34. Q: If a PPP job offer has been tendered to an overseas PPP registrant who is subject to COVID-19 travel restrictions, but it has not yet been accepted or declined, what actions should be taken?

A: If the PPP registrant accepts the job offer, a reporting date will be established after the COVID-19 travel restrictions are lifted unless an exception is granted. If the PPP registrant declines, the DoD Component may proceed with the hiring actions consistent with the guidance above.

35. Q: If an overseas PPP registrant matches a CONUS position, should the match be worked?

A: The match should be worked in accordance with standard PPP policy, including extension of the PPP job offer. If the job offer is accepted, a reporting date will be established after the COVID-19 travel restrictions are lifted unless an exception is granted. Note that travel from a CDC Travel Health Notice Level 2 country to CONUS location is permitted, and DoD Components may commence with travel arrangements.

36. Q: If a CONUS vacancy has been committed to a PPP registrant who is unable to report due to COVID-19 travel restrictions, what options do I have to fill my vacancy?

A: The CONUS vacancy cannot be filled with another candidate on a permanent basis, however, the CONUS activity may contact the Workforce Shaping Office for approval to fill the vacancy on a temporary basis without further PPP clearance.

37. Q: What restrictions on hiring of civilian personnel exist during the COVID-19 pandemic health crisis?

A: The Secretary of Defense memorandum, "Reissuance of Department of Defense Response to Coronavirus Disease 2019 – Travel Restrictions," April 20, 2020 placed restrictions on hiring of civilian personnel. Until travel restrictions described in the memorandum are lifted or an exception granted, DoD Components are limited in onboarding only those civilian employees within the local commuting area, and civilian employees whose travel to the local community is not government-funded. However, DoD Components may continue hiring actions but must not establish an EOD date for any actions recruiting outside the local commuting area. DoD Components may also onboard civilian employees who work remote to the installation or office provided that neither the gaining organization nor new employee conducts any travel during the stop movement consistent with the Secretary of Defense memorandum, "Reissuance of Department of Defense Response to Coronavirus Disease 2019 – Travel Restrictions," April 20,

2020. Exceptions may be granted by the appropriate official, or designee, as outlined in this memorandum.

Classification

DON Frequently Asked Questions.

38. Q: What is the definition of an Emergency Essential (E-E) position?

A: IAW section 1580 of title 10, United States Code, positions are designated E-E when: (1) it is the duty of the employee to provide immediate and continuing support for combat operations or to support maintenance and repair of combat essential systems of the armed forces; (2) it is necessary for the employee to perform that duty in a combat zone after the evacuation of nonessential personnel, including any dependents of members of the armed forces, from the zone in connection with a war, a national emergency declared by Congress or the President, or the commencement of combat operations of the armed forces in the zone; **and** (3) it is impracticable to convert the employee's position to a position authorized to be filled by a member of the armed forces because of a necessity for that duty to be performed without interruption.

39. Q: Is the position description required to identify the position as E-E?

A: Yes, employees assigned to E-E positions must sign DD Form 2365 acknowledging the conditions of employment which may include the requirement to maintain certain levels of medical, security, performance, conduct, and overall fitness that make them suitable for assignment to an austere and stressful combat environment.

40. Q: What is the definition of a Key position?

A: As defined in DoD Directive (DoDD) 1200.7, "Screening the Ready Reserve," a key position is a Federal position that shall not be vacated during a national emergency or mobilization without seriously impairing the capability of the parent Federal Agency or office to function effectively.

41. Q: Is the position description required to identify the position as Key?

A: Yes, key positions are unable to be encumbered by members of the Ready Reserve, so proper identification of these on the position description is important.

42. Q: What is the definition of a Mission Essential (ME) position?

A: Mission essential functions (MEF) are described in DoD Instruction 3020.42 and other component-unique policies or definitions. They are functions that enable the Federal government to continue to provide the necessary, vital services during time of need. Employees occupying positions that are essential to Agency operations in closure situations are identified and designated by activity Commanders and Directors. Among these should also be employees that have unique or technical skills that are required by organizations for extended operations.

43. Q: Is the position description required to identify the position as Mission Essential?

A: There are no standard definitions or categories of mission essential. The determination is based on the organization's unique mission requirements and/or circumstances. Designation as mission essential may even vary according to the particular nature of an exigency. Some positions such as, but not limited to, first responders, air traffic controllers, or certain healthcare workers may be determined essential to operations in all closure situations. For these types of positions, it may be appropriate to identify it the position description. For other positions, it may not be practical to identify it on the position description because it is situational.

44. Q: Can a position have more than one designation?

A: Yes, a mission essential position could also be E-E, Key, or non-combat essential (NCE), or may just be identified as mission essential.

45. Q: Are there positions that do not meet any special position designation?

A. Yes, some positions may not meet the mission essential designation; therefore, they are not mission essential.

46. Q: What impact does this coding have on recruitment?

A: Identification of conditions of employment are required on job opportunity announcements. Identification of position requirements informs potential applicants of the nature of the position and conditions.

47. Q: If I am not required to identify a position as mission essential in the position description how does an employee know whether they are or not?

A: Employers should determine whether a position is mission essential positions as soon as practical and notify employees.

48. Q: Are there any position coding requirements in the automated personnel recordkeeping system?

A. Position designation is a required field in the position build. Absent identification in the position description, notepad, or other submitted document (e.g., recruit/fill form) the position will be coded with the default value: Position is not mission essential.

Compensation

DON Frequently Asked Questions

49. Q: Is there a delegation of authority to extend the Foreign Transfer Allowance (FTA)? Who is the approving authority?

A: If in an agency's judgment unusual circumstances cause an employee or family member to be unable to travel to the foreign post of assignment within the ten day limit, the agency may permit additional days beyond the ten allowed.

If FTA is requested in excess of the 10 days, OCHR HQ is the approving authority. Packages should be submitted with the SECDEF memo restricting travel as a substantiating document.

50. Q: If an employee is quarantined before they PCS, can their Temporary Quarters Subsistence Allowance (TQSA) be extended beyond 30 days because they are unable to leave? If so, who has the authority to approve the TQSA extension?

A: When the head of agency determines, on a case by case basis, that an extension of time is necessary due to compelling reasons beyond the control of the employee, up to an additional sixty (60) days may be authorized beyond the initial 30 days.

If TQSA extension is requested, OCHR HQ is the approving authority. Packages should be submitted with the SECDEF memo restricting travel as a substantiating document.

51. Q: Has guidance been published that addresses personal property shipping for DoD personnel impacted by the DoD Stop Movement Guidance?

A: Yes. USTRANSCOM Personal Property Advisory #20-0058 was issued on 12 March 2020. This information has been posted to the portal and includes DON specific POCs and general guidance.

52. Q: Is an employee on a flexible work schedule, including maxi-flex, entitled to night differential (pay) for work performed between 1800 and 0600?

A: Agencies must pay night pay to GS employees for those hours that **must** be worked between 1800 and 0600 hours to complete an 8-hour tour of duty. This includes designated core hours worked between 1800 and 0600 and for any regularly scheduled overtime work between those hours. Employees that **voluntarily** work during a tour of duty that includes flexible hours between 1800 and 0600 would not be entitled to night pay. 5 U.S.C. 6123(c)

A tour of duty with basic work requirements (aka "core hours") must be established for flexible schedules. 5 CFR 610.111(d).

Tour of duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek. 5 CFR 610.102

Basic work requirement means the number of hours, excluding overtime hours, which an employee is **required** to work or is required to account for by leave or otherwise. 5 U.S.C 6121(3).

Example: An employee is on a flexible schedule with an established tour of duty of M-F, 0600 to 2200, cores hours from 0900 to 1400. The employee may voluntarily work between the hours of 1800 and 2200 and would not earn night pay since the night work is voluntarily performed within an established tour of duty. Any work performed outside of the established tour of duty must be approved in advance and would entitle an employee to applicable premiums.

53. Q: If an employee is on a maxi-flex schedule and chooses to perform some of his or her work on Sunday, is the employee entitled to Sunday Premium Pay?

A: An employee under a flexible work schedule (including maxi-flex) is entitled to Sunday premium pay for up to 8 hours of his or her basic work requirement when he or she chooses to work flexible hours during a basic tour of duty that begins or ends on Sunday. However, an agency may preclude employees from working flexible hours during a basic tour of duty that begins or ends on Sunday. See Comptroller General Opinion B-245772, May 7, 1992, 5 CFR 610.111(d) and 5 U.S.C 5546(a). When an agency precludes employees from working flexible hours during a basic tour of duty that begins or ends on Sunday, those employees are not entitled to Sunday premium pay. Employees whose basic tours of duty are Monday through Saturday are not entitled to Sunday premium pay when they have not been directed to perform work on Sunday and choose to do so. Employees may also not earn Sunday premium pay when they earn or use credit hours.

54. Q: Are there efforts to propose extending lodging and meals in kind to civilians that meet the following scenario? "If I am performing temporary duty travel including return from deployment from a CDC Alert Level 3 Location, and am ordered into isolation or quarantine at a permanent duty station, what allowances am I authorized?"

A: TDY allowances for civilian employees are governed by the Administrator of General Services in the Federal Travel Regulation (FTR). There is no authority in the FTR to pay per diem at an employee's PDS. There is no statutory authority to allow GSA to amend the FTR, or grant an exception to the FTR, to allow payment of per diem, including lodging, to civilian employees at their PDS (Ref. FTR, 41 CFR Chapters 300-304).

DOD Frequently Asked Questions

55. Q: Due to COVID-19, we are concerned employees may hit the annual premium pay and aggregate pay cap. Is there any authority to waive the pay limitations?

A: Yes. While policy is forthcoming, Sections 16003 and 18110 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, March 27, 2020, both provided waivers to the premium pay and aggregate pay limitations found at sections 5547(a) and 5307 of title 5, United States Code (U.S.C.). Section 16003 allows the head of the agency to waive the premium pay limitation (5 U.S.C. 5547(a)) and the aggregate limitation on pay (5 U.S.C. 5307) for work that is primarily related to the preparation, prevention, or response to COVID-19. Section 16003 is limited to premium pay that is funded, either directly or through reimbursement, by FEMA that may be waived under this section. The waiver is effective through the end of FY 2020 and is retroactively in effect as of January 1, 2020. Section 18110 allows the head of the agency to waive the premium pay limitation (5 U.S.C. 5547(a)) and the aggregate limitation on pay (5 U.S.C. 5307) for work that is primarily related to the preparation, prevention, or response to COVID-19 without limitation to funding source. The waiver is effective through the end of FY 2020 and is retroactively in effect as of February 2, 2020.

56. Q: Do supervisors need authorization from DoD to waive the biweekly limitation on premium pay for overtime work performed related to the COVID-19?

A: No. It is not necessary for DoD to waive the biweekly limitation on premium pay for employees performing work related to the Coronavirus. Authority to waive the limitation is delegated to individuals who exercise personnel appointing authority as provided by Enclosure 3.1.a of Department of Defense Instruction 1400.25, Volume 550, "DoD Civilian Personnel Management System: Pay Administration (General).

57. Q: Can a DoD Component implement shift work? If so, what are the pay implications?

A: Yes. DoD Components may initiate a change in work schedule to allow its workforce to work shifts as a means to mitigate community transmission of COVID-19. In doing so, DoD Components should consult with their human resources office to evaluate entitlements to premium pay (e.g. night pay), scheduled and unscheduled overtime, and other compensation requirements. A change to shift work may also need to be adjusted in the Component's time and attendance system. Additionally, a change in work schedules may require the DoD Components to bargain with its labor unions, if applicable.

OPM Frequently Asked Questions

58. Q: May an employee receive hazard pay differentials or environmental differential pay if exposed to COVID-19 through the performance of assigned duties?

A: General Schedule (GS) employees may receive additional pay for the performance of hazardous duty or duty involving physical hardship. (5 U.S.C. 5545(d) and 5 CFR part 550, subpart I). Appendix A to subpart I of part 550 of title 5, Code of Federal Regulations, contains a list of approved hazard pay differentials. For example, a 25 percent hazard pay differential is authorized for employee exposure to "virulent biologicals, " which is defined as 'work with or in close proximity to…[m]aterials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete protection.'

To be eligible for the hazard pay differential, the agency must determine that the employee is exposed to a qualifying hazard through the performance of his or her assigned duties and that the hazardous duty has not been taken into account in the classification of the employee's position. A hazard pay differential is not payable if safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable. (See 5 CFR 550.904-550.906 for further information and exceptions.) OPM does not determine when hazard pay differentials must be paid; agencies have the responsibility and are in the best position to determine whether duties performed by employees meet the regulatory requirements for hazard pay. Thus, agency managers, in consultation with occupational safety and health experts, must determine whether an employee is entitled to hazard pay on a case-by-case basis.

Prevailing rate (wage) employees may receive an environmental differential when exposed to a working condition, physical hardship, or hazard of an unusually severe nature. (See 5 U.S.C. 5343(c)(4) and 5 CFR 532.511.) A list of approved differentials is contained in Appendix A to subpart E of part 532, of title 5, Code of Federal Regulations. As with hazard pay differentials, determinations as to whether an employee qualifies for an approved environmental differential must be made by agencies on a case-by-case basis.

59. Q: May an employee who has been exposed incidentally to COVID-19 (i.e., in a manner not directly associated with the performance of assigned duties) receive a hazard pay differential for exposure to "virulent biologicals"?

A: No. OPM's regulations define exposure to "virulent biologicals" as "work with or in close proximity to . . . [m]aterials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete protection." (See Appendix A to subpart I of part 550 of title 5, Code of Federal Regulations.) Agencies may pay a hazard pay differential to a General Schedule employee for exposure to "virulent biologicals" only when the risk of exposure is directly associated with the performance of assigned duties. An employee may not receive a hazard pay differential under the "virulent biologicals" category if exposure to a qualifying virus was not triggered by the performance of assigned duties. The hazard pay differential cannot be paid to an employee who may come in contact with the virus or another similar virus through incidental exposure to the public or other employees who are ill rather than being exposed to the virus during the performance of assigned duties (e.g., as in the case of a poultry handler or health care worker). Also, the virus must be determined to be likely to cause serious disease or fatality for which protective devices do not afford complete protection.

Federal Wage System (FWS) employees may not receive an environmental differential for incidental exposure to the pandemic COVID-19. The environmental differential for FWS employees is additional pay for job-related exposure to hazards, physical hardships, or working conditions of an unusually severe nature which cannot be eliminated or significantly reduced by preventive measures. The environmental differential is not intended to compensate employees for exposure to a safety risk unrelated to their assigned duties.

60. Q: Where can I find the various hazardous duty pay and environmental differentials?

A: For General Schedule (GS) employees, hazardous duty pay differentials are established under 5 CFR 550, Appendix A to subpart I. For Federal Wage System employees, pay administration rules for environmental differentials are found in 5 CFR 532.511. Environmental differential pay categories are listed in Appendix A to subpart E of 5 CFR part 532.

61. Q: Can employees receive hazardous duty pay or environmental differential pay for potential exposure to COVID-19?

A: No. There is no authority within the hazardous duty pay or environmental differential statutes to pay for *potential* exposure. To pay hazardous duty pay or environmental differential pay for an unusual physical hardship or hazard covered under the regulations, a local installation must find that there is credible evidence that an employee was actually exposed.

62. Q: If the need to evacuate from a non-foreign area continues beyond 180-days, can the agency continue utilizing the evacuation pay authority to provide evacuation payments?

A: No. Evacuation payments may be made to cover a total of up to 180 calendar days (including the number of days for which payment has already been made) when employees continue to be prevented from performing their duties by an evacuation order. When feasible, evacuation payments must be paid on the employee's regular pay days.

63. Q: Are employees eligible for Standby/On Call Pay if under quarantine?

A: No.

Evacuation and Authorized Departure

DON Frequently Asked Questions

64. Q: What form does an evacuation order take?

A: An order to evacuate from an assigned non-foreign area can be made orally or in writing, including by email (5 CFR 550.402, OPM Frequently Asked Questions on Evacuation, March 20, 2020). DoD has delegated to Components the authority to evacuate. Installation commanders have the authority to control ingress and egress, as well as evacuate, military installations. For overseas installations, Department of State and international agreements such as status-of-forces agreements, defense cooperation agreements, and base rights agreements must be considered. All installations located outside the United States must coordinate their responses to public health emergencies with the appropriate general counsel. (DoDI 6200.03, section 3.5).

65. Q: What is an Authorized Departure?

A: An Authorized Departure (AD) is a type of evacuation that is voluntary for official eligible family members (EFMs) and covered employees. Employees and/or EFMs who choose to depart the duty location based on an AD may not return to the departed location until the Under Secretary for Management terminates the order.

66. Q: What are evacuation payments? Are they intended to cover all employee expenses?

A: Evacuation payments are made when a civilian employee/family member(s) is authorized or ordered to evacuate a foreign post. Evacuation payments consist of (1) a subsistence allowance to help cover the costs of lodging, meals, laundry, and dry cleaning; (2) local transportation at the safe haven; and (3) an air freight replacement allowance if air freight is not shipped from post. Subsistence amounts are based on the safe haven's per diem rate if the family is occupying commercial quarters, and vary based on family size. M&IE payments decrease over time. Evacuation payments terminate no later than 180 days after the evacuation order is issued.

Evacuation payments are intended to help cover costs; they may not cover all costs**.**

67. Q: If an employee chooses to depart, where should they report?

A: The DoD AD order, March 20, 2020 will officially designate the safe haven location for employees and family members. Review the AD order for locations for employees and/or EFMs.

68. Q: I am a civilian employee. Per the AD order, the designated safe haven is Arlington, VA. However, my EFMs want to go to Pensacola, FL. Are they authorized to go to a different location, i.e., Pensacola, FL or must they evacuate to the same location as me?

A: If the AD order states that the official safe haven is the U.S., family members may depart to any location in the U.S. Generally, the United States (anywhere in the 50 States and the District of Columbia) is designated as the official safe haven, and evacuees are required to return to the U.S. to receive allowances. An employee may request designation of an alternate safe haven for special family needs but approval is not guaranteed. The approval of an alternate safe haven is at the discretion of the command.

69. Q: When do Subsistence Expense Allowance (SEA) benefits commence for evacuees?

A: SEA benefits will commence from the day following arrival at the safe haven location. No SEA will be paid for travel enroute to the safe haven location. (DSSR 632 and JTR 060402)

70. Q: I have a pet. Will I receive reimbursement for pet transportation if I bring my pet with me?

A: A civilian employee is authorized transportation and quarantine fees for up to two household pets (defined as a cat or dog) to or from a safe haven or designated place if he or she currently

owns them at the evacuated foreign permanent duty station. If the civilian employee transports the pets at personal expense, then reimbursement is limited to the constructed cost that the government would have incurred if it had transported the pets. A civilian employee traveling on a separation order is not authorized reimbursement for pet transportation or quarantine fees. (JTR, 060407)

71. Q: If EFMs under an evacuation order are unable to travel alone due to special needs or minor age, who can be reimbursed to accompany them to a U.S. safe haven?

A: Only employees' and EFMs' evacuation travel can be funded by the government. Therefore, either the employee parent designated nonessential could accompany, or another employee or EFM could serve as an escort, if willing and able to do so. If the EFM's U.S. safe haven is not the same as the escort's duty station or safe haven, that escort's travel will be on a cost-constructive basis calculated from the evacuated post to the escort's U.S. duty station.

72. Q: At what rate should agencies pay evacuated employees performing work at a safe haven (e.g., the employee's home) due to a pandemic health crisis?

A: If the employee is performing work, the employee is in work status and is entitled to his or her regular pay for those hours. If an employee requests to be excused from performing assigned work, the employee would need to take an appropriate form of personal leave (e.g., annual leave, sick leave, leave without pay).

73. Q: When married couple employees or domestic partnership employees depart post on evacuation orders, how are their SEA payments determined?

A: Employees will each receive evacuation benefits not to exceed an employee's eligibility, but without duplication of benefits for family members on their orders. Both employees are considered to be the first evacuee. This is based on married couple employees' or domestic partnership employees' eligibility for all other allowances, including transfer allowances and temporary lodging, on a per person employee basis. However, only 50% of the lodging allowance is granted for each employee if the employees are sharing lodging. (DSSR 632.1)

74. Q: Upon termination of an evacuation order, is there a grace period for continuation of SEA until the day an evacuee returns to post? What if the employee is being transferred and not returning to post?

A: Upon termination of an evacuation order, an employee or EFM will continue to receive SEA for an automatic grace period of three (3) days except when the full 180 days has expired. (DSSR 635)

75. Q: Will return travel expenses back to the employee's permanent duty location be covered when the AD is lifted?

A: Travel expenses to return to the permanent duty location are authorized only after the government officially permits employees and EFMs to return. Evacuated employees should use the same Evacuation Travel Orders issued when they departed the duty location to make the reservations to return.

76. Q: What documentation is required for civilian personal property service shipments affected by the Stop Movement Order?

A: The first Flag Officer or SES member in the chain of command of the BSO paying for the move is authorized to approve or deny stop movement exceptions for PCS travel for Navy civilian employees. A written exception-to-policy must be furnished to the shipping office for the shipment to proceed.

77. Q: Who should an employee contact if they have more questions about travel and allowances under an AD?

A: Employees should **c**ontact their local Command/BSO Lead Defense Travel Administrator (LDTA) for travel-related questions.

DOD Frequently Asked Questions

78. Q: What is the difference between an authorized departure and an ordered departure?

A: Authorized departure is voluntary for official family members and non-emergency direct-hire employees, and allows the Chief of Mission greater flexibility in determining which employees or groups of employees may depart. Ordered departure is not voluntary, and family members and non-emergency staff are ordered to depart post on evacuation status.

79. Q: At what age do children become ineligible for evacuation-related payments under DSSR 600?

A: Allowances eligibility for children usually ends when they reach age 21 (unless incapable of self-support due to mental or physical impairment). Evacuation-related payments under March 27, 2020 Department of State Standardized Regulations (DSSR) 600 are no exception to this rule. The definition of "children" found at DSSR 040m under "Family" governs their eligibility for foreign allowances except when waived or modified in specific DSSR sections that follow 040. DSSR 600 contains no such waiver or modification.

80. Q: I am a DoD employee who has been evacuated in accordance with an official evacuation order. What financial assistance will the Department provide to me?

A: If you are a DoD employee covered by an evacuation order, you are eligible for additional payments, which will help cover travel and subsistence expenses incurred as a result of your evacuation, and that of your dependents. Approved travel expenses and per diem are payable from the departure date through the date you and your dependents arrive at the safe haven. Approved

subsistence expenses are payable from the date following arrival at the safe haven and may continue until terminated by cancellation of the evacuation order, return to the regular duty station, or other appropriate action.

81. Q: I was evacuated, what happens to my pay?

A: If you are covered by an official evacuation order and you are prevented from performing the regular duties of your position, you may continue to receive pay, commonly known as "evacuation pay," without charge to leave, for up to thirteen pay periods unless:

- the activity establishes an alternate work site for you;
- the evacuation order is terminated and you are directed to return to your official duty station;
- you fail to perform assigned work while evacuated; or
- you resign/retire from the Department.

82. Q: I had no money available to me at the time of the evacuation. What should I do?

A: If you are covered by an evacuation order, your activity may advance you an amount equal to what you normally would receive for two pay periods. The Defense Finance and Accounting Services (DFAS) will take statutory deductions required by law from your pay including retirement, social security (Federal Insurance Contributions Act tax), and income tax withholdings.

83. Q: How do I apply for an advance?

A: Generally, DoD Form 2461 "Authorization for Emergency Evacuation Advance and Allotment Payments for DoD Civilian Employees" is used for all civilian payments. You should contact your Component for further instructions.

84. Q: Will I have to repay the advance?

A: The advance payment is equivalent to a loan and must be repaid unless an authorized management official decides to waive recovery based on a determination that such recollection would be against equity or good conscience or against the public interest.

85. Q: Will my evacuation pay be reduced if I receive an advance?

A: No. An advance is subject to repayment, but evacuation pay is equivalent to the continuation of your regular salary for each pay period you are eligible.

86. Q: How will I receive evacuation pay?

A: The DFAS will make the payments on your regular payday either through electronic funds transfer or by hard-copy check. If you need your checks sent to an alternate address, you should notify DFAS of the address change by calling the DFAS Customer Contact Center at (888) 332-7411.

87. Q: How is evacuation pay computed?

A: DFAS will determine the days and hours each employee covered by an evacuation order would have been expected to work during the pay period. Payments include appropriate night pay differential and Sunday premium pay as well as any law enforcement availability pay, administratively uncontrollable overtime pay, standby duty premium pay, regular overtime pay for firefighters covered by section 5545b of title 5, U.S.C., retention allowance payments, physicians comparability allowances and supervisory differential, as applicable. DFAS will take statutory deductions required by law from the employee's pay including retirement, social security (FICA), authorized allotments, and income tax withholdings.

88. Q: What are my responsibilities while receiving evacuation pay?

A: Your activity may require you to perform any work considered necessary during the period of the evacuation without regard to your grade or normal job responsibilities. If your activity requires you to report to a work site in a different geographic location, you may be entitled to temporary duty travel allowances.

89. Q: What will happen if I fail to perform assigned work while evacuated?

A: Failure or refusal to perform assigned work is a basis for terminating evacuation payments.

90. Q: What is a safe haven?

A: A safe haven is a location or place officially designated to which an employee and/or dependents will be ordered or authorized to depart. Safe havens are designated by the Secretary of State; specifically the State Under Secretary for Management designates the United States (the 50 United States and the District of Columbia), a foreign location, or both when necessary as the official safe haven location(s).

91. Q: When do Subsistence Expense Allowance (SEA) benefits commence for evacuees?

A: U.S. or Foreign Safe haven: SEA benefits will commence from the day following arrival at the safe haven location. No SEA will be paid for travel enroute to the safe haven location.
Alternate Safe haven: If an alternate safe haven is approved prior to the eligible family members (EFMs) evacuation, SEA benefits will commence from the day following arrival at the alternate safe haven location. If an alternate safe haven is approved after evacuees have arrived at that location, SEA will commence no earlier than the date the Department approved the request for March 27, 2020. the alternate safe haven. If the request for an alternate safe haven is denied, no SEA is authorized until the evacuee arrives at the U.S. or foreign safe haven.

92. Q: What is the maximum time period an employee may receive SEA payments?

A: An employee may receive SEA payments, up to a maximum of 180 days.

93. Q: What happens to an employee's allowances, post hardship differential and danger pay during the period of SEA payments?

A: Post hardship differential, danger pay and post (cost of living) allowance terminate as of the close of business on the day an employee commences travel under orders for emergency evacuation. "School at post" education allowance terminates without financial penalty. "School away from post" education allowance may continue until the end of the school year. Employees should check their earnings and leave statements for post hardship differential, danger pay and post (cost of living) allowance payments that should have been terminated. The employee is responsible for refunding any overpayments, which could become a debt.

94. Q: Do SEA payments stop while an evacuated employee is on temporary duty (TDY)? What happens to the employee's evacuated EFMs?

A: To meet the needs of the service, employees in evacuation status may be assigned TDY to another location. However, during the TDY period, when the employee is receiving TDY per diem, the payment of SEA for the individual is suspended, per DSSR 635(a). SEA may be resumed when the TDY ends. EFMs at same U.S. safe haven as employee: If there are EFMs of this employee in evacuation status, one family member receiving SEA becomes the first evacuee and thus receives lodging per diem. The family is not disadvantaged since the total SEA benefit package is reduced by only one M&IE (meals and incidentals expense) allowance when the employee departs on TDY status.

95. Q: May employees and EFMs on home leave or on R&R receive SEA payments?

A: Employees and EFMs cannot receive SEA while on home leave or in R&R status. If away from post at the time of the evacuation order, the employee either must return to post or declare his/her intention to do so before any family member can qualify for evacuation benefits. Transportation may be authorized to the safe haven location. SEA may not commence for evacuees until each arrives at the authorized safe haven only after the employee has commenced official travel to the duty station (either to safe haven or return to post). Determination of the exact date may also in some circumstances depend on the date the employee or EFMs members were officially due to return to post.

96. Q: Upon termination of an evacuation order, is there a grace period for continuation of SEA until the day an evacuee returns to post? What if the employee is being transferred and not returning to post?

A:. Upon termination of an evacuation order, an employee or EFM will continue to receive SEA for an automatic grace period of three (3) days except when the full 180 days has expired. For the employee not returning to post, only the three (3) days are allowed as long as he/she has not commenced travel under an assignment order to another duty location. For employees/family members returning to the evacuated post, an additional seven (7) days may March 27, 2020 be authorized due to transportation delays. Evacuees must provide a statement on their travel voucher justifying the additional seven (7) days required to arrange for return travel to post, such as airline reservations and air freight pick up. Other reasons of a personal nature do not qualify the evacuee for SEA for the additional days. Under no circumstance can SEA payments be made to exceed the 180-day "clock".

97. Q: Is my nanny or caregiver eligible for SEA?

A: Unless the nanny or caregiver is an eligible family member (EFM), the answer is "no." However, he/she may be the designated representative who is named by an employee for the purpose of caring for, escorting, or receiving monetary payments on behalf of an EFM.

98. Q: How are SEA Payments determined?

A: Subsistence Expense Allowance (SEA) is based on the locality rate of the authorized safe haven and begins the day after arrival at the authorized safe haven location. The regulations provide that SEA payments will be based on the per diem rate of the chosen U.S. safehaven location, however, DSSR 632.3 allows an agency to pay a lower rate if the authorizing officer determines that such lower rate would be more in keeping with necessary living expenses. For example, if an evacuee submits a lodging receipt at a location where the per diem rate is lower than their safehaven, reimbursement can be calculated not to exceed the per diem of the lodging location. A U.S. safehaven location for EFMs may be changed once during an evacuation and SEA payments will then be based on the new U.S. safehaven. However, any change in safehaven location is at the evacuee's personal expense, except when previously evacuated EFMs are allowed to rejoin their evacuated sponsor (the employee) in Washington, DC (or wherever his/her U.S. work assignment location is during evacuation). Employees and dependents are reimbursed according to a commercial (with lodging receipts) or non-commercial (without lodging receipts) rate, NTE 180 days.

- For the first 30 days: Commercial Rate (requires receipts for commercial lodging) – For the first evacuee, up to 100% (or up to 150% for special family compositions) of the lodging portion of the locality rate plus 100% M&IE. Each age 18 and older receives 100% M&IE. Each under the age of 18 receives 50% M&IE. Non-Commercial Rate (receipts not required) – For the first evacuee, a flat rate of 10% of the lodging portion of the locality rate plus 100% M&IE. Each age 18 and older receives 100% M&IE. Each under the age of 18 receives 50% M&IE.
- For days 31 through 180: Commercial Rate (requires receipts for commercial lodging) – For the first evacuee, up to 100% (or up to 150% for special family compositions) of the lodging portion of the locality rate plus 80% M&IE. Each age 18 and older receives 80% M&IE. Each under the age of 18 receives 40% M&IE.
- Non-Commercial Rate (receipts not required): For the first evacuee, a flat amount of 80% of M&IE. Each age 18 and older receives 80% M&IE. Each under the age of 18 receives 40% M&IE. March 27, 2020 Employees in a paid leave status who are away from the post when the evacuation order is issued should immediately notify post of intention to return to work status to become eligible for SEA at the designated safe haven. The employee either returns to the PDS immediately or receives authorization to report to the official safe haven, or to a temporary duty station. SEA may not be paid to any evacuee authorized to receive travel per diem. SEA continues for employees/dependents while an employee in ordered/authorized departure status takes annual or sick leave. An employee in Leave Without Pay (LWOP) status is not eligible for SEA unless evacuated as a dependent.

99. Q: When are SEA payments terminated?

A: Entitlement to SEA payments ends on the earliest of the following dates:

- the date the employee commences travel under an assignment order to another duty station outside the evacuation area;
- the effective date of transfer when the employee is already at the post to which transferred;
- the date of separation;
- the date specified by the head of agency;
- 180 days after the evacuation order is issued; or
- the date the evacuee commences return travel to post.

When a departure (evacuation) order is terminated and evacuees are allowed to return to post, entitlement to SEA payments ends on the day that return to post is authorized. Normally a grace period of three, not to exceed ten days, is granted during which SEA may continue to be paid while an evacuee is making arrangements to return to post. The grace period taken must be justified on the employee's travel voucher (i.e. that the extra days were necessary to arrange return to post). SEA payments are limited to 180 days, the grace period included.

100. Q: What happens after an evacuation has terminated and the post becomes unaccompanied, meaning family members can no longer go to post?

A: Employees whose EFMs are in temporary commercial lodging should apply for Transitional Separate Maintenance Allowance (SMA). Employees whose EFMs have been in non-commercial lodging should apply for Involuntary SMA. In lieu of Involuntary SMA for children in grades K-12, employees may consider the "away from post" education allowance option. Since SMA payments cannot be made retroactively, the employee should submit Standard Form (SF) 1190 to his/her agency appropriate authorizing official requesting SMA before the evacuation ends in order to take advantage of these benefits.

101. Q: Are evacuated employees and/or EFMs granted unaccompanied air baggage (UAB) for their departure from post?

A: Yes, employees/EFMs are allowed UAB, as follows: Dependents may ship up to 350 lbs of unaccompanied baggage per dependent age 12 or older and 175 lbs per child under age 12 up to a total of 1,000 lbs. If dependents are unable to ship unaccompanied baggage by air freight because of circumstances beyond the dependent's control, an air freight replacement allowance may be authorized to help defray the cost of items ordinarily shipped that must be purchased. March 27, 2020 The flat amounts per family are $250 for an individual, $450 for a family of two and $600 (total) for a family of three or more.

102. Q: What happens to the educational travel?

A: Educational travel eligibility continues, and the designated safe haven replaces the foreign post as the destination from school.

103. Q: What is a Transitional Separate Maintenance Allowance?

A: TSMA may be granted to an employee whose family members temporarily occupy commercial quarters following termination of an evacuation or in connection with an unaccompanied assignment following termination of an evacuation and conversion of a post to an unaccompanied status.

104. Q: How are TSMA payments initiated, received, and then terminated?

A: An employee submits a SF-1190 that is processed and approved. Payments are made to the employee by payroll and continue until the employee submits an SF-1190 requesting termination of the allowance. The employee should submit this termination notice upon the initial occurrence of any of the following events:

- the date the employee commences travel under transfer orders from the evacuated post or the date of transfer if no travel is to occur under the transfer orders;
- the final day of the authorized period of the TSMA;
- the date the complete HHE shipment is received by the employee's family members;
- the date the family members occupy non-commercial quarters; or
- the date the family members occupy permanent quarters.

105. Q: In the case of married couple employees or domestic partnership employees with EFM children and only one parent/employee is being evacuated, on whose orders should the evacuated children be placed?

A: EFM children should be evacuated under the name of the employee who lists them for allowances and benefits at post. March 27, 2020.

106. Q: May POVs be shipped from the post to the safe haven point at government expense?

A: No, POV shipments are not authorized. However, a safe haven transportation allowance of $25 per day is authorized. The transportation allowance may not exceed $25 per day, per family and may be paid at only one safe haven even if evacuees from the same family are at two different safe havens. Generally, no receipts are required, but may be requested.

107. Q: May an employee have access to HHG while on evacuation status?

A: Access to, delivery and return to storage of household goods for evacuees is at personal expense, not Government expense.

108. Q: When does an evacuation terminate?

A1: By law, an evacuation cannot last longer than 180 days, unless terminated earlier by the authorizing official.

OPM Frequently Asked Questions

109. Q: What form should an agency's order to evacuate take?

A: An order to evacuate from an assigned non-foreign area can be made orally or in writing, including by email. (See the definition of "order to evacuate" in 5 CFR 5**50.402.)**

110. Q: What type of work may an agency assign to an evacuated employee?

A: Under OPM regulations, an agency may assign any work considered necessary without regard to the employee's grade or title. However, an agency may not assign work to an employee unless the agency knows the employee has the necessary knowledge and skills to perform the assigned work.

Travel

DON Frequently Asked Questions

111. Q: May employees travel internationally during the pandemic?

A: On March 19, 2020, the Department of State advised U.S. citizens to avoid all international travel due to the global impact of COVID-19. In countries where commercial departure options remain available, U.S. citizens who live in the United States are to arrange for immediate return to the United States, unless they are prepared to remain abroad for an indefinite period. U.S. citizens who live abroad are to avoid all international travel. Many countries are experiencing COVID-19 outbreaks and implementing travel restrictions and mandatory quarantines, closing borders, and prohibiting non-citizens from entry with little advance notice. Airlines have cancelled many international flights and several cruise operators have suspended operations or cancelled trips. If you choose to travel internationally, your travel plans may be severely disrupted, and you may be forced to remain outside of the United States for an indefinite timeframe.

DOD Frequently Asked Questions

112. Q: Why did DoD institute travel restrictions on its people?

A: In order to help limit COVID-19's spread and its impact on the force, the Secretary of Defense instituted travel restrictions for both international and domestic travel.

113. Q: Who does the domestic travel restriction apply to?

A: All DoD service members and civilians, and their family members will stop all official travel – such as Permanent Change of Station or Temporary Duty – through June 30, 2020. Exceptions may be given for compelling cases where the travel is: (1) determined to be mission essential; (2) necessary for humanitarian reasons; or (3) warranted due to extreme hardship.

114. Q: When does the domestic travel restriction go into effect?

A: March 16.

115. Q: If somebody is already TDY or a family has departed for their CONUS PCS, what should they do?

A: Those who have already begun their travel may continue on to their final destination. Individuals whose TDY ends within stop movement period may return home. They should still be mindful of the health protection measures like social distancing and handwashing during their travels.

116. Q: Does the domestic travel restriction affect those who must travel for medical treatment?

A: No. Travel for medical treatment is still allowed.

117. Q: When the restrictions lift, will everyone begin moving?

A: DoD is working with the Services to determine prioritization to balance the needs to individual service members, families and maintain operational readiness. Additionally, Secretary Esper has specifically directed that PCS moves for uniformed personnel with school-age dependents should be prioritized to minimize school year disruption and education costs, or considered for in-place assignment extensions.

118. Q: Do the Level 3 locations include the European countries mentioned by the President?

A: DoD follows the levels and countries designated by the CDC. As of March 11, the CDC updated the list of countries designated as Level 3. This includes the Schengen Area countries of the European Union. The complete list can be found here: www.cdc.gov/coronavirus/2019-ncov/travelers/index.html.

119. Q: Does the Force Health Protection Guidance also go into effect March 13?

A: Yes, the policy is in effect as of March 13. We ask that all of our personnel proactively taking the actions to protect themselves and those around them by employing those protective measures including practicing good hand washing, social distancing, and taking appropriate actions if feeling sick now. These measures can dramatically decrease the risk of infection and slow the spread of COVID-19.

120. Q: What will screening measures (as mentioned in the Force Health Protection Supplement #4) entail?

A:We are instituting risk assessments and if necessary, medical evaluations, for all personnel prior to departure on any military aircraft. Additionally, we are putting preventive monitoring measures in place for those who have recently traveled. Specifically, for those who recently traveled to, though, or from a CDC Travel Health Advisory Level 2 or Level 3 country, we are directing that they stay at home at 14 days, practice social distancing, and self-monitor for potential symptoms of COVID-19 including taking their temperature twice a day. For all other returning travelers, including those traveling within the United States, we are telling them to practice social distancing and be mindful in their daily self-observation for any signs or symptoms

of COVID-19. For all, we are telling them that if they feel sick, they should immediately self-isolate, notify their leadership, and call the appropriate medical authorities for assistance.

121. Q: What about individuals who have had their household goods picked up but haven't departed their location?

A: Each situation is different. Individuals will need to contact their shipping office to determine if their household goods are still in the local area and whether or not they may have access to them. If their household goods are in transit to the new location they should contact their servicing personnel office to verify if their orders still authorize continuing on the previous move or if they need to be amended.

122. Q: What about my POV? I have an upcoming appointment to drop my car off at the Vehicle Processing Center (VPC). What should I do?

A: If you are unsure if the stop movement order applies to you, contact your chain of command. If the stop movement order does not apply to your PCS—or your chain of command has approved an exception to the order—proceed to the VPC as planned.

123. Q: I've already dropped my POV off, but my PCS has been delayed. Can I get my car back?

A: If you're interested in retrieving your vehicle, contact the VPC immediately. VPCs are postured to assist customers with changing appointments, vehicle retrieval, and answering any other POV-related questions you have.

124. Q: Now that CDC has declared a Global COVID-19 Outbreak Notice as Level 2, does that mean no families, domestically or internationally, can accompany on PCS moves?

A: At this time, the United States is not designated as level 2. Domestic designations may change as conditions change in the coming days. All overseas locations are either Level 2 or Level 3. Yes, all family members of military and essential civilian employees will have their international travel deferred for 60 days.

125. Q: With this new policy, what is the impact to those service members who have already received orders, to say, Korea or Japan? Will they be held in place?

A: Depending on their location, effective March 13, all service members, civilians and families traveling to, from or through Level 3 locations (as designated by the Centers for Disease Control and Prevention) will stop movement for the next 60 days. As stated in the travel restriction guidance, exceptions may be granted for compelling cases where the travel is: (1) determined to be mission essential; (2) necessary for humanitarian reasons; or (3) warranted due to extreme hardship.

126. Q: What do you mean when you talk about overseas "concurrent official travel" for families to Level 2 locations? Will families not be allowed to accompany?

A: Concurrent travel refers to having family members travel with their sponsor. No, families will not be able to accompany their sponsor to overseas locations; their travel will be deferred for 60 days. As stated in the travel restriction guidance, exceptions may be granted for compelling cases where the travel is: (1) determined to be mission essential; (2) necessary for humanitarian reasons; or (3) warranted due to extreme hardship.

127. Q: Will the screening measures only be for those landing in Level 2 or 3 locations?

A: No, this policy applies to all personnel who travel or have recently traveled. However, the actions we expect our leaders and people to take are dependent upon their travel routes and locations. At this time, all countries other than the United States are either Level 2 or Level 3, which requires screening whether it was for travel to, from, or through.

128. Q: Will a service member be allowed to PCS from Level 3 locations? Or will orders be cancelled?

A: All DoD uniformed personnel, civilian personnel and family members traveling to, from or through CDC Level 3 locations will stop movement for the next 60 days. As stated in the travel restriction guidance, exceptions may be granted for compelling cases where the travel is: (1) determined to be mission essential; (2) necessary for humanitarian reasons; or (3) warranted due to extreme hardship.

129. Q: Does this travel memo affect contractors traveling to and from those locations?

A: We advise contractors to check with their companies.

130. Q: What does government-funded leave actually mean?

A: Government-funded leave is leave by a military member or DoD civilian employee whose leave involves Government-funded travel. One example is renewal agreement travel by civilian employees.

131. Q: Will Reserve service members who are deployed to a CDC Level 3 or Level 2 location be permitted to redeploy CONUS upon completion of orders?

A: For Level 3: no, unless granted an exception. For Level 2, yes.

132. Q: How does this affect your relationship with host nations?

A: We are working with partner nations in impacted regions to ensure the health and safety of our members as operations continue.

133. Q: Who is the waiver authority for travel exceptions?

A: Approval authority for these exceptions belongs to the combatant commander for those assigned to combatant commands. The Chairman may approve exceptions for the Joint Staff. The Secretary of the Military Department concerned and the Chief Management Officer, in the case of Defense Field Activities and Field Agencies, retain the authority for all other individuals. They

may delegate the authority to no lower than the first general officer, flag officer, or member of the Senior Executive Service in the traveler's chain of command or supervision.

134. Q: Do they have to cancel their leave early?

A: DoD employees should contact their supervisor.

135. Q: OMB released a memorandum, "Updated Federal Travel Guidance in Response to Coronavirus," on March 14, 2020, that provides recommended guidance on limiting all government travel to mission-essential travel. How should DoD Components apply this guidance and stop movement orders issued by the Secretary of Defense and Deputy Secretary of Defense?

A: Both the Secretary of Defense and the Deputy Secretary of Defense issued memoranda placing firm limitations on travel for DoD personnel. Generally, DoD personnel should only travel by exception even if the travel is determined mission-essential. Exceptions are to be approved by the appropriate official (Secretaries of the Military Departments; the Chief Management Officer for the Office of the Secretary of Defense and the Defense Agencies and Field Activities; Combatant Commanders for their personnel and Chairman of the Joint Chiefs of Staff), and limited to: mission-essential, necessary for humanitarian reasons, or warranted due to extreme hardship. The OMB memorandum provides helpful examples of the types of mission-essential travel.

136. Q: Should DoD Components allow civilian employees travel to or within areas where this is community spread of COVID-19?

A: DoD Components are strongly discouraged to allow such travel and limit travel when there is an urgent need (e.g., protection of life and property). DoD Components should also consider the latest guidance from the CDC and local health authorities when limiting travel to persons at higher risk to COVID-19.

137. Q: How do I know where community transmission of COVID-19 is taking place?

A: DoD Components should review the CDC's website Coronavirus Disease 2019 (COVID-19) in the U.S., and information published by their state and local public health authorities. The CDC website contains links embedded in the map of the U.S. to all state public health authorities.

138. Q: Are civilians restricted from personal travel?

A: The memoranda identified in the question above does not apply to civilian employees' personal travel.

139. Q: Have there been any exceptions to the rental car rules for PCS for travelers who have shipped their vehicles but now cannot travel due to DoD's Stop Travel order and now have no transportation to and from work?

A: There is no authority to provide employees with a rental car at their permanent duty station at the expense of the government.

140. Q: If due to the COVID-19 Pandemic and guidance issued by the DOS and DoD suggest to not use public transportation, can individuals receive reimbursement for expenses incurred such as taxis required to travel to their assigned duty station? These individuals are not in a travel status.

A: There is no authority for reimbursing employees for taxis for travel between their home and permanent duty station under this situation. Per GSA, the only authority for reimbursing taxis for employees who normally use public transportation is if they are directed to work outside their normal duty hours and must travel "during darkness or hours of infrequently scheduled public transportation."

141. Q: How does the stop movement affect employees who are TDY? Are we supposed to bring them home or extend them?

A: If their PDS is in a CDC designated Level 3 country, the Secretary of Defense has ordered a stop movement. As such, they should have their TDY orders extended unless an exception is granted due to mission essentiality, hardship, or humanitarian reasons. For employees within the Continental United States, employees currently on TDY may complete their travel to their final destination.

142. Q: What if civilian employees traveling OCONUS fall ill while on temporary duty travel (TDY)? Would the Office of the Under Secretary of Defense memorandum, "Delegation of Authority to Prepay Costs of Emergency Health Care and Support Services for Civilian Employees of the Department Defense and their Authorized Dependents Outside the United States, its Territories, and Possessions", dated February 12, 2016, delegating authority to prepay the costs of emergency healthcare apply? Can civilian employees utilize their Government Travel Charge Card (GTCC) to cover these costs while on TDY?

A: DoD Components have been delegated the authority to prepay the cost of emergency healthcare if the situation warrants it. Please reach out to your budget office as they will be able to advise you on how to properly apply the Component funds to prepay any medical needs. The GTCC cannot be used to prepay the costs of emergency healthcare. Furthermore, if the employee does test positive for COVID-19, the employee may be eligible to apply for workers compensation in the event that the exposure occurred as a result of the TDY.

143. Q: What is the current guidance on travel for employees returning from countries identified by the CDC as Travel Health Notice Level 2 or 3?

A: Civilian personnel returning from locations identified by the CDC as Level 2 or 3 are strongly recommended to follow the procedures identified in DoD's Force Health Protection Guidance (Supplement 4). Employees should notify their supervisors or chain of command and seek

medical advice if they get sick with fever, cough, or difficulty breathing. Supervisors should consider placing the employee on telework, and/or any appropriate leave flexibility. Please refer above to the above question under Telework.

144. Q: I am civilian employee located at an OCONUS duty station, and am scheduled to return to CONUS on my last move home. Am I still entitled to my last move home?

A: Yes, individuals pending retirement or separation within the next 60 day are exempt, and, if entitled to a government-funded last move home, may proceed in accordance the with Office of the Secretary of Defense memorandum, "Travel Restrictions for DoD Components in Response to Coronavirus Disease 2019," dated March 11, 2020.

145. Q: Are locally hired employees without transportation agreements authorized departure allowances for dependents?

A: No. Under Department of State regulations, locally hired American citizens without transportation agreements and their dependents are not authorized departure allowances. For more information, please visit the Department of State's Standardized Regulations website.

146. Q: If I am performing a permanent change of station from a CDC Alert Level 3 Location, and am ordered into isolation or quarantine by a public health or medical official at a port of entry before proceeding to my new permanent duty station, what allowances am I authorized?

A: You may be authorized per diem while awaiting transportation unless lodging in kind and meals in kind are provided to you.

147. Q: If I am performing a permanent change of station from a CDC Alert Level 3 Location, and am ordered into isolation or quarantine at my new permanent duty station, what allowances am I authorized?

A: You are not authorized any additional PCS allowances.

148. Q: If I am performing a permanent change of station to a CDC Alert Level 3 Location, and am ordered to temporarily return to my old permanent duty station, what allowances am I authorized?

A: You may be authorized per diem while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you Temporary Duty Orders to your old Permanent Duty Station. Dependent travelers may receive per diem if they are in an awaiting transportation status.

149. Q: If I am performing a permanent change of station to a CDC Alert Level 3 Location, and am ordered to permanently return to my old permanent duty station or my orders are amended to name a different permanent duty station, what allowances am I authorized?

A: You are authorized permanent change of station allowances (per diem: lodging, meals, and incidental expenses) and transportation in accordance with JTR Sections 0538 and 0539.

150. Q: If I am performing a permanent change of station to a CDC Alert Level 3 Location, and am ordered to remain at a port of departure until transportation is available, what allowances am I authorized?

A: You may be authorized per diem (lodging plus meals and incidental expenses) while awaiting transportation in accordance with JTR Section 0539.

151. Q: If I am performing a permanent change of station to a CDC Alert Level 3 Location, and am ordered to travel to an alternate location until transportation is available, what allowances am I authorized?

A: You may be authorized per diem while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you Temporary Duty Orders. Dependent travelers may only receive per diem if they are in an awaiting transportation status.

152. Q: If I am diagnosed with a "quarantinable communicable disease" at a temporary duty location, and am ordered into isolation or quarantine by a public health or medical official at the temporary duty location, what allowances am I authorized?

A: Your TDY orders could be extended to cover the time you are in isolation or quarantine. If you are in a sick leave status, you may be authorized per diem (lodging, meals and incidental expenses) for up to 14 days. Per diem may be extended if authorized by the Service or Department of Defense (DoD) Component in accordance with JTR par. 033002-B. If lodging in kind and meals in kind are provided, then you may not be authorized per diem.

153. Q: If I am performing temporary duty travel including return from deployment from a CDC Alert Level 3 Location, and am ordered into isolation or quarantine by a public health or medical official at a port of entry before proceeding to the temporary duty station, what allowances am I authorized?

A: You are authorized standard travel and transportation allowances in accordance with JTR Chapter 2 while awaiting transportation. Your temporary duty orders could be amended to extend the temporary duty assignment.

154. Q: If I am performing temporary duty travel including return from deployment from a CDC Alert Level 3 Location, and am ordered into isolation or quarantine at a permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

155. Q: If I am returning from personal leave to my permanent duty station in a CDC Alert Level 3 Location, and transportation is not available or I am ordered not to return to my permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances. However, if you are placed on a temporary duty order, then you may receive standard travel and transportation allowances in accordance with JTR Chapter 2.

156. Q: If I am a dependent student receiving transportation to or from school, and ordered into isolation or quarantine at a port of entry by a public health or medical official before proceeding to the permanent duty station or school, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

157. Q: If I am a student and ordered into isolation or quarantine at the permanent duty station or school, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

158. Q: If I am a civilian employee's dependent and ordered into isolation or quarantine at the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

159. Q: If I am a civilian employee and ordered into isolation or quarantine at the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

160. Q: If I am a civilian employee, returning from Government-funded leave from a CDC Alert Level 3 locations, and ordered into isolation or quarantine by a public health or medical official at a port of entry before proceeding to the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances. However, if you are placed on a temporary duty order, then you may receive standard travel and transportation allowances in accordance with JTR Chapter 2.

161. Q: If I have permanent change of station orders to a CDC Alert Level 3 location, and I have already departed or detached from my old permanent duty station, can my dependents receive safe haven allowances?

A: No, safe haven allowances would not apply in this situation. However you may be authorized per diem while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you Temporary Duty Orders. Dependent travelers may only receive per diem if they are in an awaiting transportation status.

162. Q: If I am pending retirement or separation in the CONUS during the stop movement period, am I exempt from the requirements of the "Stop Movement for all Domestic Travel for DoD Components in Response to Coronavirus Disease 2019" memorandum, signed March 13th, 2020?

A: Yes, you are exempt and you may coordinate with your component to finalize your PCS.

163. Q: If I am pending retirement or separation OCONUS during the stop movement period, am I exempt from the requirements of the "Travel Restrictions for DoD Components in Response to Coronavirus Disease 2019" memorandum, signed March 11th, 2020?

A: Yes, you are exempt and you may coordinate with your component to finalize your PCS.

164. Q: If I am terminated OCONUS during the stop movement period, am I exempt from the requirements of the "Travel Restrictions for DoD Components in Response to Coronavirus Disease 2019" memorandum, signed March 11th, 2020 and may my component or command send me back to the United States?

A: Yes, you are exempt. Your component or command may arrange to send you back to the United States.

165. Q: If I am a dependent student, my school has closed and I cannot return home because my permanent duty station is in a CDC Alert Level 3 location, what allowances am I authorized?

A: You may be authorized allowances in accordance with JTR, par. 053806 and Department of State Standardized Regulations (DSSR) § 280. Please refer to Department of State (DoS) guidance.

166. Q: If I am a civilian employee's dependent, returning from Government-funded leave from a CDC Alert Level 3 locations, and ordered into isolation or quarantine by a public health or medical official at a port of entry before proceeding to the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

167. Q: If I am on Government funded leave and I cannot return home because my permanent duty station is in a CDC Alert Level 3 location, what allowances am I authorized?

A: You are not authorized travel and transportation allowances. However, if you are placed on a temporary duty order away from your permanent duty station, you may receive standard travel and transportation allowances in accordance with JTR Chapter 2.

168. Q: Are there exceptions to the Fly America Act prohibition against flying on a foreign flag carrier?

A: Yes, a civilian employee or their dependent may fly on a foreign flag carrier if there is no U.S. flag carrier available. The travel management company and AO must provide documentation to support use of a foreign flag carrier as required by JTR, par. 020206-I and applicable Service regulations.

169. Q: Are there situations when DoD travelers may fly under an Open Skies Agreement?

A: Yes, the restriction on Open Skies Agreement travel only applies to travel funded by DoD. If you are a DoD traveler, but your travel is funded by a non-DoD agency, such as Department of State, then you may be eligible to use an Open Skies Agreement.

170. Q: Is using a foreign air carrier considered a matter of necessity if the only available U.S. flag carrier connects at an airport in a location designated as a CDC alert level 3?

A: Your agency can determine that use of a foreign air carrier is a matter of necessity to protect the traveler's safety.

171. Q: If I have an underlying health condition, may I or my eligible family members travel to a safe haven and receive evacuation allowances?

A: Yes, the Global Authorized Departure memorandum, signed March 15th, 2020 allows travelers with underlying health conditions to travel to a safe haven or authorized alternate location and receive evacuation allowances.

Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020.

172. Q: Is using a foreign air carrier considered a matter of necessity if the only available U.S. flag carrier connects at an airport in a DoD travel restricted location?

A: Your agency can determine that use of a foreign air carrier is a matter of necessity to protect the traveler's safety.

173. Q: What are the DoD travel restrictions?

A: The Secretary of Defense issued the memorandum, "Reissuance of Department of Defense Response to Coronavirus Disease 2019 – Travel Restrictions," April 20, 2020, cancelled three prior issuances and reissued travel restriction guidance for DoD Components. Through June 30, 2020, the Secretary of Defense ordered a stop movement for DoD civilian employees and their dependents both internationally and domestically while the memorandum is in effect. This stop movement applies to all official travel including but not limited to:

- Temporary duty (TDY) travel;
- Government-funded leave travel;

- Permanent duty travel, including Permanent Change of Station (PCS) travel; and,
- Travel related to Authorized and Ordered Departures issued by the Department
- of State.

DoD Components may onboard civilian employees within the local community area only, and civilian employees whose travel to the local commuting area is not government-funded.

The following circumstances are exempt from these travel restrictions:

- Travel by patients, as well as their authorized escorts and attendants, forp purposes of medical treatment. Travel by medical providers for the purposes ofmedical treatment for DoD personnel and their families is also authorized.
- Travel for Global Force Management (GFM) activities (defined as deployments/redeployments ordered in the Global Force Management Allocation Plan, including Service internal rotations to support, and TDY used to source ordered capabilities).
- Travel by authorized travelers who departed their permanent duty station and are "awaiting transportation," and have already initiated travel (including intermediate stops). Such travelers are authorized to continue travel to their final destination on approved orders.
- Travel by authorized travelers whose TDY ends while this directive is in effect. Such travelers are authorized to return to their permanent duty station.
- Travel authorized by the Commander, U.S. Transportation Command (USTRANSCOM), to continue execution of the Joint Deployment and Distribution Enterprise as required to project and sustain the Joint Force globally.
- Travel by individuals pending retirement or separation from Federal service or the Department of Defense; and,
- Travel by those under authority of a Chief of Mission and authorized by that Chief of Mission.

If these exemptions do not apply to a DoD civilian employee, then an exception may be granted by the following officials or their designees (i.e., first general or flag officer or member of the Senior Executive Service or equivalent in the traveler's chain of command or supervision):

- The Combatant Commander if the civilian employee is assigned or allocated to a Combatant Command;
- The Chairman of the Joint Chiefs of Staff if the civilian employee is assigned to the Joint Staff;
- The Secretary of the Military Department concerned for civilian personnel under his/her jurisdiction;
- The Chief of the National Guard Bureau (NGB) for all civilian personnel assigned, attached, or allocated to the NGB, and for all title 32 and title 5 personnel assigned throughout the National Guard; and,
- The Chief Management Officer for personnel in the Office of the Secretary of Defense, Defense Agencies, DoD Field Activities, and any other DoD entities not listed above.

These officials, or their designees, may grant an exception where the travel is:

- determined to be mission-essential;
- necessary for humanitarian reasons; or,
- warranted due to extreme hardship.

Exceptions may only be granted on a case-by-case basis where determined to be in the best interest of the U.S. Government, and shall be coordinated between the gaining and losing organizations. Mission-essential travel refers to work that must be performed to ensure the continued operations of mission-essential functions, including positions that are deemed key and essential, as determined by the responsible DoD Component.

174. Q: Is a civilian employee located at an OCONUS duty station scheduled to return to CONUS on his or her last move home still entitled to the move?

A: Yes, provided that the government-funded travel by the employee is permitted by one of the approved exemptions identified in the Secretary of Defense memorandum, "Reissuance of Department of Defense Response to Coronavirus Disease 2019 – Travel Restrictions," April 20, 2020. If the employee's travel is not exempt, he or she may be receive for an exception from the appropriate official identified in the same memorandum, or their designee.

175. *Q Updated*: We have several employees concerned with the DoD travel restrictions and how it may affect their use of Renewal Agreement Travel (RAT). How should DoD Components process RAT for employees that are close to the end of their current eligibility window during the travel restriction period?

A: On 15 September 2020, The General Services Administration (GSA) issued Bulletin FTR 21-02 to inform agencies that certain provisions of the FTR governing Renewal Agreement Travel (RAT) are temporarily waived. This bulletin waives the requirement for an employee to have 12 months remaining on their successor tour of duty to be eligible for RAT. This Bulletin is retroactively effective for employees whose official RAT was delayed or suspended after March 13, 2019 (one year prior to the date of the national emergency issued by the President concerning COVID-19), and who have not yet taken RAT. This FTR Bulletin will expire one year from March 13, 2020, unless extended or rescinded.

176. Q: What allowances are available for those employees in CONUS and unable to return to their OCONUS Duty Station based on the travel restrictions?

A: Employees who are CONUS and unable to return OCONUS due to an Authorized Departure or Ordered Departure are entitled to evacuation payments. These payments are specific to each employee and are determined on a case-by-case basis.

177. Q: If I am performing a permanent change of station and am ordered into isolation or quarantine by a public health, medical, or DoD official at a port of entry before proceeding to my new permanent duty station, what allowances am I authorized?

A: You may be authorized per diem (lodging, meals, and incidental expenses) while awaiting transportation unless lodging in kind and meals in kind are provided to you. Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, which states authorized travelers who departed their permanent duty station and are "awaiting transportation" are exempt from travel restrictions and are authorized to continue travel to their final destination.

178. Q: If I am performing a permanent change of station and am ordered into isolation or quarantine at my new permanent duty station, what allowances am I authorized?

A: You are not authorized any additional PCS allowances.

179. Q: If I am performing a permanent change of station and am ordered to temporarily return to my old permanent duty station, what allowances am I authorized?

A: You may be authorized per diem (lodging, meals, and incidental expenses) while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you temporary duty orders to your old permanent duty station. Dependent travelers may receive per diem if they are in an awaiting transportation status.

Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, which states authorized travelers who departed their permanent duty station and are "awaiting transportation" are exempt from travel restrictions and are authorized to continue travel to their final destination.

180. Q: If I am performing a permanent change of station and am ordered to permanently return to my old permanent duty station or my orders are amended to name a different permanent duty station, what allowances am I authorized?

A: You are authorized permanent change of station allowances (lodging, meals, and incidental expenses) and transportation in accordance with JTR Sections 0538 and 0539.

181. Q: If I am performing a permanent change of station and am ordered to remain at a port of departure until transportation is available, what allowances am I authorized?

A: You may be authorized per diem (lodging, meals, and incidental expenses) while awaiting transportation in accordance with JTR Section 0539.

Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, which states authorized travelers who departed their permanent duty station and are "awaiting transportation" are exempt from travel restrictions and are authorized to continue travel to their final destination.

182. Q: If I am performing a permanent change of station and am ordered to travel to an alternate location until transportation is available, what allowances am I authorized?

A: You may be authorized per diem (lodging, meals, and incidental expenses) while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you temporary duty orders. Dependent travelers may only receive per diem if they are in an awaiting transportation status.

Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, which states authorized travelers who departed their permanent duty station and are "awaiting transportation" are exempt from travel restrictions and are authorized to continue travel to their final destination.

183. Q: If I have permanent change of station orders and I have already departed or detached from my old permanent duty station, can my dependents receive safe haven allowances?

A: No, safe haven allowances would not apply in this situation unless your new permanent duty station is in a country where the Secretary of State has Authorized or Ordered Departure and will not allow departed employees or eligible family members to return and Stop Forward Movement has been ordered by the Department of Defense. However you may be authorized per diem (lodging, meals, and incidental expenses) while awaiting transportation. You should contact your new duty station to determine whether you are considered to be awaiting transportation, or if they are going to provide you Temporary Duty Travel Orders. Dependent travelers may only receive per diem if they are in an awaiting transportation status.

Follow the guidance in the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, which states authorized travelers who departed their permanent duty station and are "awaiting transportation" are exempt from travel restrictions and are authorized to continue travel to their final destination.

184. Q: If I am pending retirement or separation in the CONUS or OCONUS during the stop movement period, am I exempt from travel restrictions in the Secretary of Defense's "Transition to Conditions Based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020?

A: Yes, you are exempt and you may coordinate with your component to finalize your PCS.

185. Q: If my employment is terminated OCONUS during the stop movement period, am I exempt from travel restrictions in the Secretary of Defense's "Transition to Conditions Based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020?

A: Yes, you are exempt. Your component or command may arrange to send you back to the United States.

186. Q: If I am returning from temporary duty travel including return from deployment and am ordered into isolation or quarantine by a public health or medical official at a port of entry before proceeding to the permanent duty station, what allowances am I authorized?

A: You may be authorized standard travel and transportation allowances in accordance with JTR Chapter 2 while awaiting transportation. Your temporary duty travel orders could be amended to extend the temporary duty assignment.

Follow the guidance in the Secretary of Defense's "Modification and Reissuance of DoD Response to Coronavirus Disease 2019 – Travel Restrictions" memorandum signed April 20, 2020, which states authorized travelers who are returning from TDY are authorized to continue travel to their PDS.

187. Q: If I am returning from temporary duty travel including return from deployment and am ordered into isolation or quarantine at a permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances.

188. Q: If I am returning from personal leave to my permanent duty station and transportation is not available or I am ordered not to return to my permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances. However, if you are placed on a temporary duty travel order before returning to your permanent duty station, then you may receive standard travel and transportation allowances in accordance with JTR Chapter 2. For example, if a civilian employee's permanent duty station is in Italy, they took personal leave in Germany before the Global Stop Movement and is unable to return to Italy, then the DoD component may authorize the employee to perform temporary duty from Germany.

189. Q: If my dependent is a student receiving transportation to or from school, and is ordered into isolation or quarantine at a port of entry by a public health, medical, or DoD official before proceeding to the permanent duty station or school, what allowances am I authorized?

A: You are not authorized travel and transportation allowances for your dependent student.

190. Q: If my dependent is a student and is ordered into isolation or quarantine at the permanent duty station or school, what allowances am I authorized?

A: You are not authorized travel and transportation allowances for your dependent student.

191. Q: If my dependent is a student, their school has closed and they cannot return home because of the Secretary of Defense's stop movement order, what allowances am I authorized?

A: You may be authorized allowances in accordance with JTR, par. 053806 and Department of State Standardized Regulations (DSSR) § 280 for your dependent student while awaiting transportation. Please refer to Department of State (DoS) guidance.

192. Q: If my dependent is a student that cannot return home because my permanent duty station is in a country where the Secretary of State has Authorized or Ordered Departure and will not allow departed employees or eligible family members to return and Stop Forward Movement has been ordered by the Department of Defense, what allowances may be authorized for my dependent?

A: Your dependent student may be authorized safe haven allowances in accordance with JTR, Section 0604.

193. Q: If my dependent is in the United States for medical travel and cannot return home because my permanent duty station is in a country where the Secretary of Station has Authorized or Ordered Departure and will not allow departed employees or eligible family members to return and Stop Forward Movement has been issued by the Department of Defense, what allowances may be authorized for my dependent?

A: You may be authorized safe haven allowances for your dependent in accordance with JTR, Section 0604.

194. Q: If my dependent is ordered into isolation or quarantine at the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances for your dependent.

195. Q: If I am a civilian employee, returning from Government-funded leave and ordered into isolation or quarantine by a public health, medical, or DoD official at a port of entry before proceeding to the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances. However, if you are placed on a temporary duty travel order before returning to your permanent duty station, then you may receive standard travel and transportation allowances in accordance with JTR Chapter 2. For example, if a civilian employee's permanent duty station is in Italy, they took Government-funded leave in Germany before the Global Stop Movement and is unable to return to Italy, then the DoD component may authorize the employee to perform temporary duty from Germany.

196. Q: If my dependent is returning from Government-funded leave and ordered into isolation or quarantine by a public health, medical, or DoD official at a port of entry before proceeding to the permanent duty station, what allowances am I authorized?

A: You are not authorized travel and transportation allowances for your dependent.

197. Q: If I am on Government funded leave and I cannot return home because of the Secretary of Defense's stop movement order, what allowances am I authorized?

A: You are authorized safe haven allowances only when your permanent duty station is in a location where the Secretary of State has Authorized or Ordered Departure and will not allow departed employees or eligible family members to return and Stop Forward Movement has been ordered by the Department of Defense. However, if you are not eligible for safe haven allowances, you may be placed on a temporary duty travel order away from your permanent duty station, and may receive standard travel and transportation allowances in accordance with JTR Chapter 2.

198. Q: Am I exempt from travel restrictions if I received temporary quarters subsistence expense (TQSE), my household goods have been picked up, and I have permanently moved out of my residence?

A: Yes, you may be exempt under the Secretary of Defense's "Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions" signed May 22, 2020, subsection d, which states, "Travel by authorized travelers who departed their permanent duty station and are 'awaiting transportation,' and by authorized travelers who have already initiated travel (including intermediate stops). Such travelers are authorized to continue travel to their final destination on approved orders."

Workforce Relations and Compensation

Leave

DON Frequently Asked Questions

199. Q: Are civilian employees allowed to take annual leave during the COVID-19 pandemic?

A: Civilian employees have a right to request and take accumulated leave. Supervisors may schedule the time the employee may take annual leave based on mission requirements.

200. Q: If an employee's leave is disapproved to meet mission requirements, is the DON responsible for any cancelled airline tickets?

A: No. Citing Comptroller General precedent, the General Services Administration Board of Contract Appeals has ruled there is no authority to reimburse personal travel expenses resulting from an agency's cancellation of leave. (*ROD W. SCHMIT*, General Services Administration Board of Contract Appeals, 16146-TRAV, August 6, 2003)

201. Q: If an employee is unable to use leave due to the COVID-19 pandemic, will leave be forfeited?

A: If an employee schedules "use or lose" annual leave in writing before the third biweekly pay period prior to the end of the leave year, and the leave is canceled due to an exigency of the public business (i.e., an urgent need for the employee to be at work), the employee may request restoration of the forfeited annual leave. (5 CFR 630.306(a)(2))

202. Q: Are civilian employees eligible for weather and safety leave if they are not telework eligible?

A: Yes. Civilian employees are eligible for weather and safety leave if they or their position are not telework eligible or they are not telework ready and a Continuity of Operations Plan has been activated or an evacuation order has been issued. (5 CFR 630.1605)

203. Q: Are part-time employees eligible for weather and safety leave?

A: Yes. Part time employees are eligible for weather and safety leave for the hours they are scheduled to work if they are not telework eligible or ready and a Continuity of Operations Plan has been activated or an evacuation order has been issued. (5 CFR 630.1601(b), 5 CFR 550.409)

204. Q: Is weather and safety leave an appropriate leave category when an employee is experiencing symptoms consistent with COVID-19, and test results confirm COVID-19?

A: If an employee is experiencing COVID-19 symptoms, the employee should use sick leave. Sick leave covers a period of sickness, as provided in 5 CFR 630.401(a)(2). Agencies must grant sick leave when an illness, such as COVID-19, prevents an employee from performing work. Supervisors are encouraged to advance sick leave, upon the employee's request, if the requesting employee does not have a sufficient balance to cover the time off requested.

205. Q: Who has the authority to grant weather and safety leave?

A: Each Department of the Navy (DON) organization has the discretion to excuse employees from duty without loss of pay or charge to leave because of severe weather, natural disasters, or hazardous conditions when such conditions prevent employees from safely reporting to their worksite. Weather and safety leave is granted, based on a determination that employees cannot safely travel to, or perform work, at their regular worksite, a telework site, or other approved location because of severe weather, natural disaster, or another emergency situation. (5 U.S.C. 6329c)

206. Q: May a civilian employee who identifies as "high risk" who is not experiencing symptoms of illness be granted sick leave if they are telework eligible and ready?

A: No. Sick leave is only appropriate for absences related to illness of the employee or family members as prescribed in 5 CFR 630.401. Civilian employees who are "high risk" to COVID-19 as identified by the Centers for Disease Control should telework if they are telework eligible and

ready. High risk employees who are not telework eligible and ready may be granted weather and safety leave.

207. Q: May an asymptomatic employee use sick leave because they have underlying medical conditions which makes them "high risk"?

A: No. Sick leave is only appropriate for absences related to illness of the employee or family members as prescribed in 5 CFR 630.401. Civilian employees who identify as "high risk" should telework if they are telework eligible and ready. Civilian employees who are not telework eligible and ready may be granted weather and safety leave.

208. Q: May an employee identified as "high risk" be advised by their doctor to stay home? How should a supervisor proceed if the employee is telework eligible but does not want to telework?

A: An employee who is identified as "high risk" by a medical professional should telework, if he/she is telework eligible and ready. A "high-risk" employee who is not telework eligible may be granted weather and safety leave regardless of whether the installation is open or closed. (5 CFR 630).

209. Q: What codes should be entered into the time keeping system for individuals placed on weather and safety leave?

A: Employees should enter LN, Administrative Leave in the THC box and PS, Administrative Leave for Weather and Safety Leave in the EHZ box.

210. Q: Can an employee take leave under the Family Medical Leave Act due to serious illness, such as COVID-19, or to care for a family member infected with COVID-19?

A: Employees may take up to twelve (12) weeks of leave without pay in a calendar year to care for themselves or a family member with a serious illness. Certain eligibility and restrictions apply.

211. Q: If a Medical Professional advised an employee to stay home because they have a high risk spouse or family member at home – are they eligible for W&S Leave, assuming they are not telework eligible or can they take sick leave?

A: Currently, an employee may use annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay to care for a family member who is healthy but has been quarantined due to COVID-19. An employee, covered by a telework agreement, may be able to telework pursuant to an ad hoc arrangement with the permission of the supervisor during the quarantine period. Provided the employee has telework capabilities and sufficient work to perform, the agency should be flexible in determining whether the employee can accomplish his or her duties from home while caring for a family member. An employee may telework during the time he or she is not responsible for caring for a family

member and must request annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay while caring for a family member.

Source: U. S. Office of Personnel Management Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19), Question C(5) - https://www.opm.gov/policy-data-oversight/covid-19/questions-and-answers-on-human-resources-flexibilities-and-authorities-for-coronavirus-disease-2019-covid-19.pdf.

212. Q: Enforced Leave-If a supervisor orders an employee to leave work, will the employee be placed on administrative leave, or be required to use his/ her annual or sick leave?

A: Excused absence (administrative leave) is not an entitlement, and supervisors are not required to grant it. An agency's determination to provide excused absence should be consistent with the Administration's Government-wide policy on granting excused absence during a pandemic influenza. That policy will be addressed in separate guidance. Obtaining an employee's agreement to take sick leave, annual leave, or leave without pay is preferable, but in some circumstances, a supervisor may require an employee to use his or her sick or annual leave or place an employee in a leave without pay status pending inquiry into the employee's medical condition. Such an action would be enforced leave. In addition, in rare circumstances when the agency has legitimate concerns that an employee's medical condition makes his continued presence in the workplace dangerous or inappropriate, a supervisor may place the employee on indefinite suspension in a non-pay, non-duty status pending a determination that the employee is fit for duty. These actions generally require advance notice, opportunity to reply, and an agency decision. The agency must have documentation sufficient to prove that its action was justified, and the employee may have the right to grieve or appeal the action taken. In the case of a pandemic, agency personnel actions aimed at preventing the spread of a disease may occur because of the guidance or directive of public health officials regarding the general danger to public health. Supervisors should consult their human resources staff prior to effecting either enforced leave or indefinite suspension.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=0b70914f-7839-45cc-9dca-e52223e98671&result=1

213. Q: Leave Restoration- I have "use or lose" annual leave, which I scheduled to use before the end of the leave year. My agency has canceled all scheduled annual leave until further notice because employees must be at work due to a pandemic influenza. It looks like this situation will continue through the beginning of the new leave year. Will I be forced to forfeit my "use or lose" annual leave?

A: If an employee schedules "use or lose" annual leave in writing before the third biweekly pay period prior to the end of the leave year, and the leave is canceled due to an exigency of the public business (i.e., an urgent need for the employee to be at work), the employee may request restoration of the forfeited annual leave. See OPM fact sheet on Restoration of Annual Leave.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=9445746d-c7f2-4571-8051-ef8f3fbce778

214. Q: Compressed Work Schedules -Must agencies request approval from OPM prior to establishing a compressed work schedule or flexible work schedule to deal with a pandemic influenza?

A: No. Agencies do not need OPM approval to establish flexible or compressed work schedules authorized by 5 U.S.C. 6122 and/or 6127. OPM encourages agencies to prepare for all emergency situations and address the use of compressed or flexible work schedules in their contingency plans.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=594db457-eee6-4656-9e23-4067af809efd

215. Q: I am eligible for Disabled Veterans Leave, but have been unable to get appointments due to COVID-19. Will there be an extension on the eligibility period for use due to the pandemic?

A: No. Per 5 CFR 630, subpart M, an eligible employee may only use disabled veterans leave during the continuous 12-month eligibility period beginning on the first day of employment or the effective date of the employee's qualifying service-connected disability rating.

DOD Frequently Asked Questions

216. Q: What is the difference between using sick leave for exposure to a quarantinable communicable disease and exposure to seasonal influenza? If everyone is getting sick at work can I just take sick leave to avoid being exposed?

A: An employee may use sick leave for exposure to quarantinable communicable diseases and seasonal influenza only in certain circumstances —

- Quarantinable Communicable Diseases. For purposes of this guidance, the term "quarantinable communicable disease" means a disease for which Federal isolation and quarantine are authorized. Isolation can be used to separate people with a contagious disease from people who are not sick in order to stop the spread of that illness. Quarantine can be used to separate and restrict the movement of people who were exposed to a contagious disease to see if they become sick and to prevent the possible spread of that disease to others. Agencies should refer to the list of quarantinable communicable diseases at https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html
- Under certain circumstances, the CDC or a State or local health department may determine that exposure to a quarantinable disease would jeopardize the health of others, and that quarantine of the exposed individual is warranted to protect the public's health. If the disease is not a quarantinable communicable disease, as defined by Executive Order, and a health authority or health care provider has concerns that exposure to the disease could

jeopardize the health of others, the health authority or health care provider should contact the CDC for evaluation of the risk factors and further recommendation.

- Influenza. Influenza may be classified as either seasonal or pandemic. Influenza strains that are new and capable of causing a pandemic are classified as quarantinable diseases; however, seasonal influenza strains – those that cause outbreaks of influenza every winter – are not considered quarantinable. Therefore, exposure to seasonal influenza will not meet the criteria for use of sick leave for exposure to a quarantinable communicable disease. Currently, there is no declared influenza pandemic, and agencies should not grant sick leave for exposure to influenza until they receive guidance from the appropriate officials (e.g., CDC, OPM). Employees who are sick with seasonal influenza and contagious to others should be allowed to use sick leave according to agency policies.

217. Q: What are examples of quarantinable communicable diseases?

A: Sick leave for exposure to a quarantinable communicable disease would only arise in cases of a quarantinable communicable disease. Agencies should refer to the list of quarantinable communicable diseases, which are defined by Executive Order 13295 as amended. See also CDC's Legal Authorities for Isolation and Quarantine: https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html.

218. Q: Can agencies grant sick leave for exposure to a quarantinable communicable disease?

A: A symptomatic employee is entitled to use an unlimited amount of accrued sick leave when he or she is unable to perform due to a quarantinable communicable disease, such as 2019 Novel Coronavirus (COVID-19), is entitled to use his or her accrued sick leave. Sick Leave for Personal Needs fact sheet: https://www.opm.gov/policy-data-oversight/payleave/leaveadministration/fact-sheets/personal-sick-leave/

219. Q: Can an employee who is healthy and opts to stay at home to provide care for a family member infected with a quarantinable communicable disease such as COVID-19 use sick leave?

A: An employee is entitled to use a total of up to 104 hours (13 days) of sick leave each leave year to provide care for a family member who is ill or receiving medical examination or treatment. If an employee's family member is symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19, the employee may use his or her accrued sick leave for general family care. The amount of sick leave permitted for family care purposes is proportionally adjusted for part-time employees and employees with uncommon tours of duty in accordance with the average number of hours of work in the employee's regularly scheduled administrative workweek. Sick Leave for Family Care fact sheet: https://www.opm.gov/policy-data-oversight/payleave/leave-administration/fact-sheets/sick-leave-for-family-care-or-bereavement-purposes/

220. Q: Can an employee requests sick leave to care for a family member with a serious health condition?

A: An employee is entitled to use up to 12 weeks (480 hours) of sick leave each leave year to care for a family member with a serious health condition. If an employee has already used 13 days of sick leave for general family care (discussed above), the 13 days must be subtracted from the 12 weeks. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general 3 family care purposes. An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for all family care purposes. If an employee's family member is symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19, that would generally constitute a serious health condition, which would allow use of up to 12 weeks of an employee's accrued sick leave to care for that family member. The amount of sick leave permitted for family care purposes is proportionally adjusted for part-time employees and employees with uncommon tours of duty in accordance with the average number of hours of work in the employee's regularly scheduled administrative workweek. Sick Leave to Care for a Family Member with a Serious Health Condition fact sheet: https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/factsheets/sickleave-to-care-for-a-family-member-with-a-serious-health-condition/

221. Q: Can an employee invoke his or her entitlement to use the Family and Medical Leave Act (FMLA) to care for a family member with a quarantinable communicable disease, such as COVID-19?

A: An employee may invoke his or her entitlement to unpaid leave under the Family and Medical Leave Act (FMLA) of 1993 in appropriate circumstances. Under FMLA, an employee is entitled to a total of up to 12 workweeks of leave without pay for a serious health condition that prevents an employee from performing his or her duties or to care for a spouse, son or daughter, or parent with a serious health condition. An employee may substitute his or her accrued annual and/or sick leave for unpaid leave in accordance with current laws and regulations governing the use of annual and sick leave. An employee or family member who contracts a quarantinable communicable disease, such as COVID-19, and becomes ill would generally be considered to have a qualifying serious health condition. Family and Medical Leave fact sheet: https://www.opm.gov/policy-data-oversight/payleave/leave-administration/fact-sheets/family-and-medical-leave/

222. Q: When an employee has exhausted all of his or her annual or sick leave may that be grated leave without pay?

A: If an employee has exhausted his or her available annual or sick leave and other forms of paid time off, he or she may request leave without pay (LWOP). LWOP is a temporary non-pay status and absence from duty that, in most cases, is granted at the employee's request. In most instances, granting LWOP is a matter of supervisory discretion and may be limited by agency internal policy. While FMLA leave is limited to specific purposes, LWOP may be granted for

any reason approved by the agency. In situations where LWOP is taken for a purpose that would qualify under FMLA, granting LWOP without requiring the employee to invoke FMLA will preserve the employee's entitlement to 12 weeks of FMLA leave. An extended period of LWOP may have an effect on an employee's benefits including health benefits, retirement benefits, and life insurance. Leave Without Pay fact sheet: (http://www.opm.gov/policy-data-oversight/pay-leave/leaveadministration/fact-sheets/leave-without-pay) Effect of Extended Leave Without Pay (or Other Nonpay Status) on Federal Benefits and Programs fact sheet: https://www.opm.gov/policy-data-oversight/pay-leave/leaveadministration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-statuson-federal-benefits-and-programs/

223. Q: Can an employee with a medical emergency related to COVID-19 participate in the leave Voluntary Leave Transfer Program (VLPT)?

A: If an employee has a personal or family medical emergency related to a quarantinable communicable disease, such as COVID-19, and is absent (or expected to be absent) from duty without available paid leave for at least 24 work hours, he or she may qualify to receive donated annual leave under the Voluntary Leave Transfer Program (VLTP).

- Voluntary Leave Transfer Program – The VLTP allows an employee to donate annual leave to assist another employee who has a personal or family medical emergency and who has exhausted his or her own available paid leave. All agencies must establish a VLTP. Voluntary Leave Transfer Program fact sheet: (https://www.opm.gov/policy-dataoversight/pay-leave/leave-administration/fact-sheets/voluntary-leave-transfer-program/)

224. Q: When is weather and safety leave authorized?

A: A DoD Component may authorize Weather and Safety Leave to a civilian employee under the following circumstances:

- The employee is asymptomatic of COVID-19 and subject to movement restrictions (i.e. quarantine or isolation) under the direction of public health authorities.
- The employee is asymptomatic and directed by a medical professional, public health authority, commander, or supervisor, to not report to the worksite. Note that a commander or supervisor may direct the employee to stay home because of possible exposure or because the employee shows symptoms that might be COVID-19.
- The employee is asymptomatic and at higher risk to COVID-19 as identified by the CDC and not telework eligible. Please review the OMB memorandum, "Updated Guidance on Telework Flexibilities in Response to Coronavirus," dated March 12, 2020, for more information about this scenario.
- Other circumstances when an employee is not able to safely travel to or perform work at an approved location.

Weather and Safety Leave is not an entitlement and must be approved by a supervisor. Where an employee is telework-ready, weather and safety leave is generally not appropriate. Additionally,

weather and safety leave is extremely limited for employees designated as emergency employees under 5 C.F.R. 630.1605(b).

225. Q: Are there any yearly limitations to weather and safety leave?

A: No, there is no cap on the number of hours that may be granted for weather and safety leave.

226. Q: Can supervisors question the reason for which their employees are requesting annual leave?

A: Since supervisors must balance the work of the agency against the interest of the employee in using annual leave, supervisors may find it necessary from time to time to ask employees how they will use the requested annual leave so that the supervisors may make informed decisions about scheduling the leave. In such cases, employees are not required to provide the supervisor with this information, but their request for annual leave may be denied based on mission requirements. DoD Components should also be mindful of requirements under their collective bargaining agreements.

227. Q: Can a supervisor deny leave to a civilian who is traveling outside the local commuting area?

A: Depending on the type of leave, a supervisor can deny or cancel leave to a civilian who is traveling outside the local commuting area based on mission requirements. A supervisor may not deny personal leave conducted at the expense of the individual solely because an employee is traveling outside of the local commuting area or to a CDC-designated level 2 or greater area.

228. Q: Can a civilian employee take sick leave when they are ill or to care for a sick family member?

A: Civilian employees should take sick leave when they are ill and may do so to care for a family member as prescribed under the Office of Personnel Management's (OPM) sick leave regulations. For additional information on the appropriate use of sick leave and other leave flexibilities, please review the memorandum published by the Office of the Under Secretary of Defense, Personnel and Readiness, "Civilian Personnel Guidance for DoD Components," March 8, 2020.

229. Q: Are intermittent employees eligible for weather and safety leave?

A: No, intermittent employees are not eligible for weather and safety.

OPM Frequently Asked Questions

230. If an agency does not have work to assign to an evacuated employee, what pay status should the employee be placed?

A: If an agency does not have work to assign to an evacuated employee, the agency would provide weather and safety leave to that employee for affected hours.

231. Does an evacuated employee performing work during a pandemic health crisis need to use his or her accrued leave to take time off?

A: Yes. If an evacuated employee cannot perform assigned work during his or her tour of duty due to personal reasons, the employee is required to request leave or other time off. For example, if an evacuated employee who is performing work becomes ill, he or she will need to take sick leave or other time off to cover the absence.

232. Q: If an employee, who has been receiving weather and safety leave due to exposure to COVID-19, becomes symptomatic (ill), should he or she continue to receive weather and safety leave?

A: No. Sick leave would be used to cover such a period of sickness, as provided in 5 CFR 630.401(a)(2). Agencies must grant sick leave when an illness, such as COVID-19, prevents an employee from performing work.

233. Q: If an employee runs out of sick leave, can the agency grant advanced sick leave to an employee who is ill (symptomatic) due to a quarantinable communicable disease, such as COVID-19, or must care for a family member who is ill?

A: Yes. However, while sick leave may be advanced at an agency's discretion, it is not an employee entitlement. The sick leave regulations allow an employee to be advanced sick leave for exposure to a quarantinable communicable disease, subject to the limitations below:

- 240 hours (30 days) may be advanced if the employee would jeopardize the health of others by his or her presence on the job because of exposure to a quarantinable communicable disease;
- 104 hours (13 days) may be advanced if the employee is providing care for a family member who would jeopardize the health of others by his or her presence in the community because of exposure to a quarantinable communicable disease.

234. Q: Must an employee have a doctor's note if requesting to use sick leave for 3 days or more due to an illness from a quarantinable communicable disease, such as COVID-19?

A: Not necessarily. Under OPM's regulations (5 CFR 630.405(a)), an agency may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence. An agency may consider an employee's self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. An agency may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any of the purposes for which sick leave is granted for an absence in excess of 3 workdays, or for a lesser period when the agency determines it is necessary. Supervisors should use their best judgment and follow their agency's internal practices for granting sick leave. Agencies should also be mindful about the burden and impact of requiring a medical certificate.

235. Q: If an employee is healthy but chooses to stay home because he or she has been in direct contact with an individual exposed to a quarantinable communicable disease, such as COVID-19, in what pay/leave status is the employee placed?

A: An employee, covered by a telework agreement, may request to telework with the permission of the supervisor. Agencies could also consider expanding telework to any telework eligible employees to provide additional flexibility for employees. For employees who are not currently covered by a telework agreement, agencies may also consider whether an employee has some portable duties (e.g., reading reports; analyzing documents and studies; preparing written letters, memorandums, reports and other correspondence; setting up conference calls, or other tasks that do not require the employee to be physically present), that would allow him/her to telework on a situational basis. An ad-hoc telework agreement should be signed to cover the period the employee is permitted to work from the approved alternate location (e.g., home). An employee may also request to take annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay. An agency may not authorize weather and safety leave to an employee under this scenario. The use of sick leave would be limited to circumstances where an employee has become symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19.

236. Q: If an employee is healthy but stays home because his or her asymptomatic family member has been quarantined due to exposure to COVID-19, in what pay/leave status is the employee placed?

A: Currently, an employee may use annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay to care for a family member who is healthy but has been quarantined due to COVID-19. An employee, covered by a telework agreement, may be able to telework pursuant to an ad hoc arrangement with the permission of the supervisor during the quarantine period. Provided the employee has telework capabilities and sufficient work to perform, the agency should be flexible in determining whether the employee can accomplish his or her duties from home while caring for a family member. An employee may telework during the time he or she is not responsible for caring for a family member and must request annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay while caring for a family member. (See section B, Telework for more information.)

237. Q: Can agencies approve weather and safety leave for an employee who has been exposed to a quarantinable communicable disease, such as Coronavirus Disease 2019 (COVID-19)?

A: Agencies may authorize weather and safety leave for an asymptomatic employee who is subject to movement restrictions (quarantine or isolation) under the direction of public health authorities due to a significant risk of exposure to a quarantinable communicable disease, such as COVID-19. (See Section B, Telework, for more information regarding general restrictions on the use of weather and safety leave for telework program participants.)

238. Q: If an employee is healthy but stays at home because he/she has been in direct contact with an individual infected with a quarantinable communicable disease such as COVID-19, should an agency authorize weather and safety leave?

A: An agency may authorize weather and safety leave to an employee exposed to COVID-19, even if asymptomatic, if a local health authority determines the employee would jeopardize the health of others if allowed to return to work. Employees should refer to CDC guidance (https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html) for how to conduct a risk assessment of their potential exposure. (See Section B, Telework, for more information regarding general restrictions on the use of weather and safety leave for telework program participants.)

239. Q: If an employee must stay home to care for an asymptomatic family member who was exposed to a quarantinable communicable disease, such as COVID-19, should an agency authorize weather and safety leave?

A: No. An agency should not authorize weather and safety leave in this instance. An employee who is healthy and is caring for an asymptomatic family member may request annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay for the period of absence from his or her job. In addition, an employee who is caring for an asymptomatic family member who has been exposed to a quarantinable communicable disease and who is covered by a telework agreement may also request to telework pursuant to an ad hoc arrangement to the extent possible. (See section B, Telework, for more information.)

If the employee's family member becomes symptomatic (ill) with a quarantinable communicable disease, such as COVID-19, sick leave to care for a family member with a serious health condition would be appropriate. (See section C, Sick Leave and Other Time Off, for more information.)

Leave – Families First Coronavirus Response Act

DON Frequently Asked Questions

240. Q: Regarding employee exclusions, what is meant by "health care provider" and "emergency responder"?

A: Supervisors may exclude an employee who is a health care provider or an emergency responder from the EPSLA and/or the EFMLEA's coverage based on mission requirements. For purposes of exclusion as defined in the Act:

- **Health care provider**—

- anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.
- This definition includes any individual that provides services or maintains the operation of the facility where that individual's services support the operation of the facility. This also includes anyone that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

• **Emergency responders—**

- anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals whose work is necessary to maintain the operation of the facility.

The Director of the Office of Management and Budget (OMB) has authority to exclude certain employees (positions) as identified in the Federal Register.

241. Q: What notice must I provide my supervisor that I need to take EPSL of EFMLA leave?

A: Employees should follow reasonable notice procedures after the first workday for which an employee take Paid Sick Leave. In any case where an employee requests leave in order to care for the employee's son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID–19 related reasons, if that leave was foreseeable, an employee shall provide the supervisor with notice of such Paid Sick Leave or Expanded Family and Medical Leave as soon as practicable.

If an employee fails to give proper notice, the supervisor should give him or her notice of the failure and an opportunity to provide the required documentation prior to denying the request for leave. If the employee is unable to provide notice, it will be reasonable for notice to be given by the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to do so.

242. Q: Why is there an exception for taking intermittent leave under the FFCRA when reporting to the worksite?

A: The implementing regulations at 29 C.F.R. 826.50 state that an employee reporting to the worksite may take emergency paid sick leave intermittently only to care for the employee's son or daughter whose school or place of care is closed, or child care provider is unavailable, because of reasons related to COVID-19. Under such circumstances the intermittent leave may be taken in any increment of time agreed to by the supervisor and employee. For all other qualifying reasons, an employee may not take Paid Sick Leave intermittently when reporting to worksite. Once the employee begins taking Paid Sick Leave for one or more such reasons, the employee must use the permitted days of leave consecutively until the employee no longer has a qualifying reason to take Paid Sick Leave.

Employees authorized to telework may take Paid Sick Leave for any qualifying reason intermittently, and in any agreed increment of time (but only when the employee is unavailable to telework because of a COVID-19 related reason.

243. Q: May I collect unemployment insurance benefits for time in which I receive pay for paid sick leave and/or expanded family and medical leave?

A: No. If you are paid sick leave, you are not eligible for unemployment insurance. However, each State has its own unique set of rules; and DOL recently clarified additional flexibility to the States (UIPL 20-10) to extend partial unemployment benefits to workers whose hours or pay have been reduced. Therefore, individuals should contact their State workforce agency or State unemployment insurance office for specific questions about eligibility. For additional information, please refer to:
https://www.careeronestop.org/LocalHelp/UnemploymentBenefits/unemployment-benefits.aspx

244. Q: As a supervisor, am I permitted to deny requests under the new sick leave provisions?

A: Supervisors many only disapprove sick leave under the EPSLA and EFMLEA if the employee does not meet the eligibility criteria or does not provide appropriate documentation.

245. Q: As a supervisor, may I delay my employees' sick leave requests or ask them to reschedule?

A: Delaying or asking employees to reschedule their sick leave requested under the FFCRA is the equivalent to denying a request. As these leave requests are based on personal emergencies, supervisors are advised not to ask employees to delay or reschedule their requests.

246. Q: Prior to the Families First Coronavirus Response Act (FFCRA), the FAQs indicate that if an employee is ordered to stay home (quarantine/isolation) then s/he would either telework (if able) or be put on Weather and Safety leave. Now with the FFCRA reason 1 - Federal, State or Local ordered quarantine - an employee may also use emergency paid

sick leave (EPSL) for quarantine. Can my supervisor require that I exhaust EPSL for quarantine or isolation before using Weather and Safety leave?

A: Employees unable to telework may be granted no more than two weeks/80 hours of emergency paid sick leave (EPSL) for quarantine (or other qualifying reasons). Once the 80 hours has been reached, there is no further entitlement to EPSL - even if an employee subsequently has another qualifying reason for absence under the Act (such as childcare, or care for an individual subject to a quarantine or isolation order). Childcare and caring for another under quarantine or isolation order are not qualifying reasons for Weather and Safety leave. Accordingly, employees with childcare responsibilities who are ineligible for telework would have to use their accrued leave if they have exhausted EPSL for quarantine as in this scenario. Additionally, in most cases it's up to an employee to invoke a leave entitlement. Based on these considerations, supervisors should not require employees to exhaust leave under the FFCRA prior to approving Weather & Safety leave.

Department of Labor Frequently Asked Questions

247. Q: My child's school or place of care has moved to online instruction or to another model in which children are expected or required to complete assignments at home. Is it "closed"?

A: Yes. If the physical location where your child received instruction or care is now closed, the school or place of care is "closed" for purposes of paid sick leave and expanded family and medical leave. This is true even if some or all instruction is being provided online or whether, through another format such as "distance learning," your child is still expected or required to complete assignments.

248. Q: May I take paid sick leave to care for a child other than my child?

A: It depends. The paid sick leave that is provided under the FFCRA to care for one (or more) of your children when their place of care is closed (or child care provider is unavailable), due to COVID-19 related reasons, may only be taken to care for your own "son or daughter."

However, paid sick leave is also available to care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. If you have a need to care for a child who meets these criteria, you may take paid sick leave if you are unable to work or telework as a result of providing care. But in no event may your total paid sick leave exceed two weeks.

249. Q: May I take expanded family and medical leave to care for a child other than my child?

A: No. Expanded family and medical leave is only available to care for your own "son or daughter."

250. Q: My child's school is operating on an alternate day (or other hybrid-attendance) basis. The school is open each day, but students alternate between days attending school in person and days participating in remote learning. They are permitted to attend school only on their allotted in-person attendance days. May I take paid leave under the FFCRA in these circumstances? (added 08/27/2020) [Updated to reflect the Department's revised regulations which are effective as of the date of publication in the Federal Register.]

A: Yes, you are eligible to take paid leave under the FFCRA on days when your child is not permitted to attend school in person and must instead engage in remote learning, as long as you need the leave to actually care for your child during that time and only if no other suitable person is available to do so. For purposes of the FFCRA and its implementing regulations, the school is effectively "closed" to your child on days that he or she cannot attend in person. You may take paid leave under the FFCRA on each of your child's remote-learning days.

251. Q: May I take my expanded family and medical leave intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not teleworking? *[Updated to reflect the Department's revised regulations which are effective as of the date of publication in the Federal Register.]*

A: Yes, but only with your employer's permission. Intermittent expanded family and medical leave should be permitted only when you and your employer agree upon such a schedule. For example, if your child's school or place of care is closed, or child care provider is unavailable, for an entire week due to COVID-19 related reasons and your employer and you agree, you may take expanded family and medical leave intermittently on Monday, Wednesday, and Friday, but work Tuesday and Thursday, while another family member watches your child.

The Department of Labor notes that if your child's school, place of care, or child care provider were closed or unavailable on only Monday, Wednesday, and Friday, as opposed to the entire week, then you would not need to take intermittent leave if working on the schedule in the example above. This is because each day of closure or unavailability is a separate reason for leave, and thus you would not need to take leave for a single reason intermittently. As such, you would not need employer permission to take paid leave on just the days of closure or unavailability.

252. Q: My child's school is giving me a choice between having my child attend in person or participate in a remote learning program for the fall. I signed up for the remote learning alternative because, for example, I worry that my child might contract COVID-19 and bring it home to the family. Since my child will be at home, may I take paid leave under the FFCRA in these circumstances? (added 08/27/2020) [Updated to reflect the Department's revised regulations which are effective as of the date of publication in the Federal Register.]

A: No, you are not eligible to take paid leave under the FFCRA because your child's school is not "closed" due to COVID–19 related reasons; it is open for your child to attend. FFCRA leave is not available to take care of a child whose school is open for in-person attendance. If your child is home not because his or her school is closed, but because you have chosen for the child to remain

home, you are not entitled to FFCRA paid leave. However, if, because of COVID-19, your child is under a quarantine order or has been advised by a health care provider to self-isolate or self-quarantine, you may be eligible to take paid leave to care for him or her. See FAQ 63.

Also, as explained more fully in FAQ 98, if your child's school is operating on an alternate day (or other hybrid-attendance) basis, you may be eligible to take paid leave under the FFCRA on each of your child's remote-learning days because the school is effectively "closed" to your child on those days.

253. Q: My child's school is beginning the school year under a remote learning program out of concern for COVID-19, but has announced it will continue to evaluate local circumstances and make a decision about reopening for in-person attendance later in the school year. May I take paid leave under the FFCRA in these circumstances?

A: Yes, you are eligible to take paid leave under the FFCRA while your child's school remains closed. If your child's school reopens, the availability of paid leave under the FFCRA will depend on the particulars of the school's operations.

254. Q: What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?

A: The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

255. Q: As an employee, how much will I be paid while taking paid sick leave or under the FFCRA?

A: Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; (In these circumstances, you are entitled to a maximum of $511 per day, or $5,110 total over the entire paid sick leave period.)

or

Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor. (Under these circumstances, you are subject to a maximum of $200 per day, or $2,000 over the entire two-week period.)

256. Q: May I take 80 hours of emergency paid sick leave for my self-quarantine and then another amount of emergency paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

A: No. You may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under emergency paid sick leave. However, you may take previously earned sick leave as the situation warrants.

257. Q: If I am home with my child because his or her school or place of care is closed, or childcare provider is unavailable, do I get paid sick leave?

A: You may take paid sick leave if you are unable/eligible to work (or telework) to care for your child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave.

258. Q: Can my employer deny me paid sick leave if my employer gave me paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect?

A: No, the Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.

259. Q: Are the paid sick leave requirements retroactive?

A: No. Employees that used other leave as of April 1, 2020 for reasons covered by the EPSLA and/or the EFMLEA may make timecard corrections, as appropriate, with supervisory approval.

260. Q: What records do I need to keep when my employee takes paid sick leave?

A: Regardless of whether you grant or deny a request for paid sick leave, you must document the following:

- The name of your employee requesting leave;
- The date(s) for which leave is requested;
- The reason for leave; and
- A statement from the employee that he or she is unable to work because of the reason.

If the employee requests leave because he or she is subject to a quarantine or isolation order or to care for an individual subject to such an order, you should additionally document the name of the government entity that issued the order. If your employee requests leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice, you should additionally document the name of the health care provider who gave advice.

If your employee requests leave to care for his or her child whose school or place of care is closed, or childcare provider is unavailable, you may must also document:

•The name of the child being cared for;
•The name of the school, place of care, or child care provider that has closed or become unavailable; and
•A statement from the employee that no other suitable person is available to care for the child.

261. Q: The OCHR FFCRA Fact Sheet provides minimum documentation requirements. Are they any additional documentation requirements?

A. In addition to the minimum requirements, (employee's name; date(s) for which leave is requested; qualifying reason for the leave; and oral or written statement that the employee in unable to work because of the qualified reason for leave), the implementing regulations at 29 C.F.R. 826.100 require the following case-specific documentation:

- for reason identified in (a) above, an employee must additionally provide the name of the government entity that issued the Quarantine or Isolation Order.

- for reason identified in (b), above, an employee must additionally provide the name of the health care provider who advised the employee to self-quarantine.

- for reason identified in (c) and (d) above, an employee must additionally provide either:
    - The name of the government entity that issued the Quarantine or Isolation Order; or
    - The name of the health care provider who advised the individual being care for to self-quarantine.

- for reason identified in (e), above, an employee must additionally provide:
    - The name of the son or daughter being cared for:
    - The name of the school, place of care, or child care provider that has closed or become unavailable; and
    - A representation that no other suitable person will be caring for the son or daughter during the period for which the employee takes Paid Sick Leave or Expanded Family and Medical Leave.

262. Q: What does it mean to be unable to work, including telework for COVID-19 related reasons?

A: You are unable to work if your employer has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either under normal circumstances at your normal worksite or by means of telework.

If you and your supervisor agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

263. Q: May I take my paid sick leave intermittently while teleworking?

A: Yes, if your supervisor allows it and if you are unable to telework your normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act. In that situation, you and your supervisor may agree that you may take paid sick leave intermittently while teleworking.

264. Q: May I take my paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?

A: It depends on why you are taking paid sick leave and based on supervisor approval. Unless you are teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

In contrast, if you and your supervisor agree, you may take paid sick leave intermittently if you are taking paid sick leave to care for your child whose school or place of care is closed, or whose childcare provider is unavailable, because of COVID-19 related reasons. For example, if your child is at home because his or her school or place of care is closed, or childcare provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

265. Q: What code do I utilize in SLDCADA when entering the Emergency Paid Sick Leave?

A: Emergency Paid Sick Leave Act will be coded using THC code "LV" Excused Absence and "DX" environmental hazard code (EHZ) for emergency leave paid at an employee's full rate of pay and EHZ code "DY" for emergency leave paid at the two-thirds an employee rate of pay.

Telework

DON Frequently Asked Questions

266. Q: What timekeeping code should be used for individuals teleworking due to a reasonable accommodation?

A: Employees who are teleworking due to a reasonable accommodation should use the telework code TS (situational telework).

267. Q: May employees who have been disciplined or who are on a Performance Improvement Plan (PIP) be allowed to telework?

A: Yes. However, there are a couple of exceptions:

1) If the employee was disciplined for being AWOL for more than 5 days in a calendar year.

2) If the employee was disciplined for Ethical Conduct violations, i.e., using a government computer for pornography.

Otherwise, telework may be authorized if the employee and their position is otherwise telework eligible and ready. If not, weather and safety leave is appropriate if the installation/activity has been closed.

268. Q: I thought the Telework Enhancement Act (TEA) requires a telework agreement in order for an employee to telework. May an agency's Continuity of Operations Plan (COOP) override the statute?

A: Yes. The TEA requires executive agencies to establish telework (TW) policy; that the policy require a TW agreement in order for employees to participate in the TW program; and that telework be incorporated in agencies' COOPs in the event of emergencies. However, the TEA further states that the agency's telework policy will be superseded when operating under a COOP. (5 USC 6502a(1)(A), 5 USC 6502b(2), 5 USC 6502b(5), (5 USC 6504(d)(2)).

269. Q: When a governor declares a state of emergency and limits movement of individuals, including on public roadways, what documentation must an employee provide to local/state authorities that proves they are required to report to the worksite to perform essential functions?

A: U.S Office of the Attorney General Memorandum, March 20, 2020, has issued guidance to Federal agencies to work with state and local officials to ensure that Federal agencies be allowed to continue to operate during this pandemic. Requirements will vary from state to state. Refer to applicable state governor's executive order and check with their local or state authorities to verify if and what substantiation is necessary for these situations.

For employees in the Washington, DC metro area: On March 31, 2020, DoD General Counsel issued a memorandum concerning the MD/VA/DC governors' and mayor's executive orders restricting movement in their jurisdictions. Employees should use the GC's memorandum in conjunction with their common access cards when traveling for official duties in the DC metro area.

270. Q: May civilian employees be forced to telework?

A: Yes. Under the following scenarios an agency may order an employee to telework whether or not the employee voluntarily enters into a telework agreement:

1) The agency activates its COOP and it requires employees to telework.

2) A pandemic is declared by the World Health Organization and the DoD Component or designee issues an evacuation order to an alternative worksite (e.g. home).

271. *Q Updated*: What options are available for civilian personnel if schools are closed and parents run out of annual leave?

A: Civilian personnel may telework even when a child or dependent requiring supervision is present at the alternative worksite. DoD granted a temporary waiver of policy until ***June 30, 2021***, to allow employees to telework in this situation. Where an employee is teleworking and providing care to a child or dependent during duty hours, the employee must account for this time using appropriate leave as approved by his or her supervisor. For example, an employee who feeds and supervises a young child multiple times during the day will need to take leave or, if on a flexible work schedule, adjust his or her hours. The OMB memorandum noted above of 12 March 2020 encourages supervisors to extend telework flexibilities more broadly to accommodate state and local responses to the outbreak, including, but not limited to, school closures. Alternative work schedules may be authorized that allow employees to complete their tour of duty in less than 10 days if applicable. For example, a maxiflex schedule would allow an employee to meet his or her basic work requirement for a biweekly pay period on fewer than 10 days and vary the number of hours worked on a given workday. Note that changes to alternative work schedules are subject to collective bargaining.

Additional tools include advance annual leave, compensatory time, credit hours, and other leave flexibilities. Weather and safety leave would not be appropriate under these facts alone.

272. Q: Can an agency mandate telework?

A: Telework agreements are typically voluntary. However, once an employee enters into a telework agreement, it is possible that an agency may require an employee to telework if this is clearly stated and agreed to in the written telework agreement. To avoid ambiguity, the telework agreement should specify what is expected of employees under these circumstances. See Section III-A-c, Evacuation Payments and the new Telework Guide.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=21d68600-b44d-4dd0-9631-08c56b03b424

273. Q: During a pandemic health crisis, can an agency order an employee to work from home (or an alternative location mutually agreeable to the agency and the employee) if the employee does not have a telework agreement?

A: Yes. An agency may order an employee to work from home (or an alternative location mutually agreeable to the agency and the employee) without regard to whether the agency and the employee have a telework agreement in place at the time the order to evacuate is issued. Agencies should consult with offices of human resources and general counsel to determine appropriate collective bargaining obligations where bargaining unit employees are impacted.

Source: U. S. Office of Personnel Management Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19), Question E(3) - https://www.opm.gov/policy-data-oversight/covid-19/questions-and-answers-on-human-resources-flexibilities-and-authorities-for-coronavirus-disease-2019-covid-19.pdf

274. Q: Can my supervisor prevent me from teleworking?

A: Yes, managers can deny a request to telework, based on business reasons and subject to limitations on telework participation described in the Telework Enhancement Act of 2010. For example, an employee's performance may not meet the standards outlined in the agency's telework policy or the terms of the written telework agreement between that employee and his/her supervisor. Similarly, a position may not be eligible because its official duties and responsibilities have been determined to be incompatible with telework. The denial should be made in writing, with an explanation, and this written denial should be provided to the employee in a timely manner. Collective bargaining agreements may provide for an employee to file a grievance about the denial or cancellation of a telework agreement through the negotiated grievance procedure. Check with your agency's employee relations staff in Human Resources to discuss your agency's procedures.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=6a3492a3-9179-4e21-8efa-51af5be5b2f8

275. Q: What equipment will the employee need at the home-based worksite and who will provide it?

A: Equipment and who will provide it will vary by situation. Many Federal agencies provide equipment (e.g., laptops, second phone lines, etc.) at home-based worksites. Each agency must establish its own policies on the provision and installation of equipment.

GSA's FMR bulletins provide some additional guidance for equipping home-based offices. Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=d806e769-2c21-422a-8037-7a4011abed34

276. Q: May Federal agencies cover additional costs incurred by employees as a result of telework (DSL line, additional phone line, increased use of electricity, etc.)?

A: An agency may not use appropriated funds to pay for items of personal expense, such as home utility costs, home maintenance, or insurance, unless there is specific statutory authority.

277. Q: Due to the pandemic, an employee must telework from home and may not be able to report to the official worksite. Will locality pay be affected?

A: An employee's official worksite is the location of his or her position of record where the employee regularly performs his or her duties. For an employee covered by a telework agreement, scheduled (while in duty status) to report at least twice each biweekly pay period on a regular and recurring basis to the regular worksite for his or her position of record, the regular worksite is the official worksite, and the employee is entitled to the locality rate designated for the regular worksite. However, OPM's regulations at 5 CFR 531.605(d)(3) permit an agency to make a temporary exception to the requirement that a telework employee report at least twice each biweekly pay period to the regular worksite and allow the telework employee's official worksite to remain the regular worksite.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=fffa2a1a-078c-4592-9876-a3867c35ef72

278. Q: As a supervisor, may I make my intern eligible for telework?

A: Yes. Interns are not specifically prohibited from telework. The DoD telework policy (DoD Instruction 1035) states in enclosure 3 that employees recently assigned or newly appointed to trainee or entry level positions may be considered for telework. Specifically, the DODI states that in the event of a pandemic health crisis, where employees are trained and equipped to telework, "they may be asked to telework to prevent the spread of germs. Employees in positions not typically eligible for telework should telework on a situational basis when feasible. These employees shall have a signed DD Form 2946 in place."

DOD Frequently Asked Questions

279. Q: Does the employee need a telework agreement before he or she can telework?

A: Yes, the Telework Enhancement Act requires every employee who participates in telework to have a written agreement, regardless of the type of telework. The Federal Government uses telework, among other things, to promote continuity of operations by allowing Federal employees to continue their work at an approved alternative worksite. The Telework Enhancement Act of 2010 defines "telework" or "teleworking" as a work flexibility arrangement under which an employee performs the duties and responsibilities of his or her position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work. Telework is a critical tool during emergency situations. OPM has strongly encouraged agencies to maintain a viable telework-ready workforce. This requires determining eligibility for employees to telework, encouraging employees to enter into written telework agreements, communicating expectations before an emergency situation occurs, and practicing and testing equipment and procedures regularly throughout the year, not just teleworking during emergencies that may occur infrequently. Telework arrangements may require collective bargaining obligations for employees represented by labor organizations. Agencies also need to implement and maintain a robust information technology system with the necessary infrastructure to accommodate widespread remote usage of agency systems as well as the accompanying technical support personnel to resolve remote connectivity issues. Agencies should maximize their telework capacity by entering into telework agreements with as many telework-eligible employees as possible and by conducting exercises to test employees' ability to access agency networks from home. Managers should ensure that there are effective processes in place for communicating efficiently with employees who are teleworking. For additional information on telework, please see www.telework.gov

280. Q: Is telework voluntary?

A: Yes. An agency may not compel an employee to telework, even if the duties of the position make that employee "telework eligible." However, although entering into a telework arrangement is voluntary, once the employee is under such an arrangement, he/she may be required to telework outside of his/ her normal telework schedule in the case of a temporary emergency situation if that understanding has been clearly communicated by the agency to the teleworking employee in the written telework agreement.

281. Q: Can an agency force an employee to telework?

A: Generally, no. The language of the Telework Enhancement Act supports that telework is a voluntary flexibility. In other words, an agency may not compel an employee to telework even if the duties of the position make that employee "telework eligible." However, although entering into a telework arrangement is voluntary, once the employee is under such an arrangement, he/she may be required to telework outside of his/her normal work schedule in the case of a temporary emergency situation if that understanding has been clearly communicated by the agency to the teleworking employee in the written telework agreement. In addition, during a pandemic health

crisis and where an order to evacuate is issued, an agency may order an employee to work from home (or an alternative location mutually agreeable to the agency and the employee) without regard to whether the agency and the employee have a telework agreement in place at the time the order to evacuate is issued. Agencies should consult with offices of human resources and general counsel to determine appropriate collective bargaining obligations where bargaining unit employees are impacted.

Source: U. S. Office of Personnel Management Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19), Question E(3) - https://www.opm.gov/policy-data-oversight/covid-19/questions-and-answers-on-human-resources-flexibilities-and-authorities-for-coronavirus-disease-2019-covid-19.pdf

282. Q: If the employee has a telework agreement in place and the manager requires them to telework during controlled monitoring period, does the employee have the option to refuse to telework?

A: Yes. The employee will have the option to use leave flexibilities to such as annual leave, advanced leave, etc. subject to supervisory approval.

283. Q: What should DoD Components do to prepare the workforce to telework?

A: The Telework Enhancement Act of 2010 states that "each executive agency shall incorporate telework into the continuity of operations plan (COOP) of that agency." If an agency COOP is in operation, that plan "shall supersede any telework policy." Therefore, DoD Components should immediately review their current COOP plans to ensure that telework has been fully incorporated and that as many employees as possible have been identified as telework employees in the plan. DoD Components should also review position eligibility for telework to ensure they are maximizing the number of employees who can continue mission essential functions.
Please see the question below on updated telework flexibilities.

284. Q: My employee just returned from an affected area and I do not want them to come into the office until I know they do not present a safety risk. As a supervisor, what can I do?

A: Supervisors should identify whether the employee is telework-ready and offer the employee the option to telework. If the employee is not telework-ready because, for example, they cannot perform their duties at an alternate location, then the supervisor should consider utilizing Weather and Safety Leave (please review the section below on the appropriate use of Weather and Safety Leave), administrative leave, or other leave flexibilities (paid or unpaid) available. DoD Components may also combine telework and various leave flexibilities when the employee may perform some of his or her duties at an alternate worksite.

Additionally, the Office of Management and Budget (OMB) memorandum, "Updated Guidance on Telework Flexibilities in Response to Coronavirus," dated March 12, 2020, encourages supervisors to extend telework flexibilities broadly to accommodate state and local responses to

the COVID-19 outbreak, particularly to those persons susceptible to COVID-19. In rare cases, an employee may not have a telework agreement or wish not to telework.

Additionally, civilian personnel returning from locations identified by the CDC as Level 2 or 3 are strongly recommended to follow the procedures identified in DoD's Force Health Protection Guidance (Supplement 4). Please see questions and answers under the Travel section.

285. Q: What options are available for civilian personnel if schools are closed and parents run out of annual leave?

A: Civilian personnel may telework even when a child or dependent requiring supervision is present at the alternative worksite. DoD granted a temporary waiver of policy until December 31, 2020, to allow employees to telework in this situation, and encourages DoD Components to make similar adjustments to their policies. Where an employee is teleworking and providing care to a child or dependent during duty hours, the employees must account for this time using appropriate leave as approved by his or her supervisor. For example, an employee who feeds and supervises a young child multiple times during the day will need to take leave or, if on a flexible work schedule, adjust his or her hours. The OMB memorandum noted above encourages supervisors to extend telework flexibilities more broadly to accommodate state and local responses to the outbreak, including, but not limited to, school closures.

DoD Components may also authorize alternative work schedules that allow employees to complete their tour of duty in less than 10 days if applicable. For example, a maxiflex schedule would allow an employee to meet his or her basic work requirement for a biweekly pay period on fewer than 10 days and vary the number of hours worked on a given workday. Note that changes to alternative work schedules is subject to collective bargaining.

Additional tools available to Components include advance annual leave, compensatory time, credit hours, and other leave flexibilities. Weather and safety leave would not be appropriate under these facts alone.

286. Q: Can an Agency continue to drug test their employees while they are on telework status if drug testing is a condition of their employment?

A: Continued drug testing is at the DoD Component's discretion. Please consult your drug testing coordinator for additional information.

287. Q: If a supervisor instructs employees to telework due to the COVID-19, how is time and attendance recorded?

A: Situational Telework (TS) is the type of telework to be coded for Time and Attendance purposes.

288. Q: Can an agency mandate an employee to telework who is not on a telework agreement?

A: Under the following scenarios an agency may order an employee to telework whether or not the position is telework eligible or the employee voluntarily enters into a telework agreement:

- The agency includes in their COOP that employees are required to telework and the agency activates the COOP.
- A pandemic has been declared by the World Health Organization and the DoD Component issues an evacuation order to an alternative worksite (e.g. home).

289. Q: If employees mandated to be on telework do not have enough work because duties also include working with classified information and systems, how should they report time and attendance for the actual telework time as well as the time when there is no work available?

A: Hours spent actually teleworking would be coded as Situational Telework for the hours or days worked. When employees are unable to telework, Weather and Safety Leave would be appropriate.

290. Q: I would like to direct telework for an asymptomatic employee. Do I have the authority to do so?

A: If the employee's telework agreement does not include an option for the supervisor to direct the employee to telework, then the supervisor may only direct an employee to telework under specific situations.

291. Q: When is telework mandatory for employees without a telework agreement?

A: Employees who are telework program participants may be required to telework in the event of an emergency. Employees, including those who are not telework program participants may be required to telework program when a pandemic is declared and the agency has issued evacuation orders and/or activated their COOP. Emergency employees as described in 5 C.F.R. 630.1605(b)(1) may be ordered to telework.

292. Q: Is DoD waiving the prohibition on allowing both employees who have been disciplined and employees on PIPs to telework during this pandemic emergency?

A: Employees who are ineligible to telework may be allowed to telework in a pandemic situation to the extent consistent with statute and individual agency policy and/or available waivers of that policy. If the Secretary of Defense declares an evacuation, then employees can be ordered to telework irrespective of participation in, or eligibility for, a telework program unless prohibited by the Telework Enhancement Act of 2010 (Public Law 111-292) (i.e., the employee has been officially disciplined for being absent without permission for more than 5 days in any calendar year; or the employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing,

downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties).

293. Q: What options are available for civilian personnel with children whose schools are closed and parents run out of annual leave?

A: Civilian personnel may telework even when a child or dependent requiring supervision is present at the alternative worksite. DoD granted a temporary waiver of policy until December 31, 2020, to allow employees to telework in this situation, andencourages DoD Components to make similar adjustments to their policies. Where an employee is teleworking and providing care to a child or dependent during duty hours, the employee must account for this time using appropriate leave as approved by his or her supervisor. For example, an employee who feeds and supervises a young childmultiple times during the day will need to take leave or, if on a flexible work schedule, adjust his or her hours. The OMB memorandum noted above encourages supervisors to extend telework flexibilities more broadly to accommodate state and local responses to the outbreak, including, but not limited to, school closures.

For employees covered under title I of FMLA (i.e., DoD employees with an intermittent work schedule or under a temporary appointment with a time limitation of 1 year or less), the Expanded Family and Medical Leave Act authorized in Division C of the Families First Coronavirus Response Act (FFCRA) extends FMLA to employees who are unable to work (or telework) due to a need for leave to care for the employee's child (under 18 years of age) as a result of the child's school or place of care has been closed. The first 10 days of this type of leave is unpaid leave and the remaining 10 weeks (if necessary) is paid at two-thirds of the employee's regular rate of pay. (For eligibility criteria, payment limitations, and additional information see https://www.dol.gov/agencies/whd/ffcra).

Most employees are eligible for up to 80 hours of emergency paid sick leave under Division E of the FFCRA. This sick leave is paid at two-thirds (2/3) the employee's regular rate of pay and is for employees who are unable to work (or telework) because of a bona fide need to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19. (For eligibility criteria, payment limitations, and additional information see https://www.dol.gov/agencies/whd/ffcra).

DoD Components may also authorize alternative work schedules that allow employees to complete their tour of duty in less than 10 days if applicable. For example, a maxiflex schedule would allow an employee to meet his or her basic work requirement for a biweekly pay period on fewer than 10 days and vary the number of hours worked on a given workday. Note that changes to alternative work schedules is subject to collective bargaining. Additional tools available to Components include advance annual leave, compensatory time, credit hours, and other leave flexibilities. Weather and safety leave would not be appropriate under these facts alone.

294. Q: Can employees change their telework location without prior approval of their supervisor?

A: No, an employee's telework site must be approved by his or her supervisor prior to working. It must be the same site indicated in the telework agreement. The site may be changed on a situational basis in an emergency, however the employee must get approval by his or her supervisor.

OPM Frequently Asked Questions

295. Q: During a pandemic health crisis, can an agency require a telework-eligible employee to work from home without a telework agreement? Can agency also require an employee who has not been previously designated as telework-eligible to work from home?

A: Yes. The regulations at 5 CFR 550.409(a) allow an agency to order one or more employees to evacuate from their worksite and perform work from their home (or an alternative location mutually agreeable to the agency and the employee as a safe haven) during a pandemic health crisis without regard to whether the agency and the employee have a telework agreement in place at the time the order to evacuate is issued. An evacuated employee at a safe haven may be assigned to perform any work considered necessary or required to be performed during the period of evacuation without regard to his or her grade, level, or title. The employee must have the necessary knowledge and skills to perform the assigned work.

296. Q: The local school system has closed during a pandemic health crisis; can an agency require an employee to work from home with his or her children present?

A: OPM evacuation payment regulations do not prohibit an evacuated employee from working from home during a pandemic health crisis with children in the home. An agency may direct an evacuated employee to either telework or request personal leave (e.g, annual leave, sick leave if applicable, or leave without pay) as necessary.

297. Q: If an agency directs telework under an evacuation order, are there any collective bargaining obligations?

A: There may be collective bargaining obligations. Since circumstances and facts will vary from organization to organization, each agency will need to evaluate its circumstances and make its own determination regarding any applicable collective bargaining obligations. Agencies are encouraged to review applicable collective bargaining agreement provisions to determine if the matter is already covered by the collective bargaining agreement. Agencies should be mindful that the President has declared a national emergency pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5191(b), concerning the COVID-19 outbreak. Agencies should also consider guidance from the Office of Management and Budget (PDF file) which advises agencies to maximize telework across the nation for the Federal Workforce (including mandatory telework, if necessary), while maintaining mission-

critical workforce needs. Finally, 5 U.S.C. 7106(a)(2) provides that an agency may "take whatever actions may be necessary to carry out the agency mission during emergencies" subject to 5 U.S.C. 7106(b)(2) and (b)(3). Agencies should consult with offices of human resources and general counsel to determine appropriate labor relations obligations as it relates to deciding what actions are needed to address the emergency in accordance with 5 U.S.C. 7106 and 22 U.S.C. 4105 (foreign service). If the agency needs to act quickly due to the circumstances of the emergency, the agency is strongly encouraged to begin communicating with the appropriate union representatives as soon as possible and otherwise satisfy any applicable collective bargaining obligations under the law at the earliest opportunity, including on a post implementation basis.

298. Q: If an evacuated employee is working from home and is unable to report to his or her regular official worksite at least twice each biweekly pay period, does the agency need to change the employee's official worksite for purposes of location-based pay?

A: No. As provided in 5 CFR 531.605(d)(2)(ii), an authorized agency official may make an exception to the twice-in-a-pay period standard in appropriate situations, such as when an employee is affected by an emergency situation that temporarily prevents the employee from commuting to his or her regular official worksite For more information, please see the Official Worksite for Location-Based Pay Purposes Fact Sheet.

299. At what rate should agencies pay evacuated employees performing work at a safe haven (e.g., the employee's home) due to a pandemic health crisis?

A: Employees who work at a safe haven (e.g., the employee's home) during an evacuation due to a pandemic health crisis will be paid their normal rate of pay for the hours of work performed (including any applicable premium pay, allowances, differentials, or other authorized payments).

300. Q: If an employee evacuated from a non-foreign area is forced to incur additional costs due to working from home (e.g., purchasing a computer or internet service), may an agency provide payments to offset those expenses?

A: The agency head, in his or her sole and exclusive discretion, may grant special allowance payments, based on a case-by-case analysis, to offset the direct added expenses incidental to performing work from home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis. (See 5 CFR 550.409(b).) An employee is not entitled to special allowance payments for increased costs during an evacuation unless specifically approved by the agency head.

301. Q: Should an agency authorize weather and safety leave to a telework program participant who was exposed to a confirmed case of a quarantinable communicable disease, such as COVID-19?

A: Use of weather and safety leave would be subject to the normal conditions—for example, weather and safety leave may be granted only if an employee is not able to safely travel to or

perform work at an approved location. Thus, an employee who is not a telework program participant would be granted weather/safety leave for quarantine periods under the direction of local or public health authorities. However, in the case of telework program participants, the employee's home is generally an approved location. Thus, the employee would generally be expected to perform telework at home as long as the employee is asymptomatic. (See 5 CFR 630.1605.) If a telework program participant in these circumstances needs time off for personal reasons, then the employee would be expected to take other personal leave or paid time off (e.g., annual leave or sick leave to care for a family member).

302. Q: Generally, how should agencies manage telework during incidences of quarantinable communicable disease, such as COVID-19?

A: For an employee covered by a telework agreement, ad hoc telework arrangements can be used as a flexibility to promote social distancing and can be an alternative to the use of sick leave for exposure to a quarantinable communicable disease for an employee who is asymptomatic or caring for a family member who is asymptomatic. An employee's request to telework from home while responsible for such a family member may be approved for the length of time the employee is free from care duties and has work to perform to effectively contribute to the agency's mission. The Telework Enhancement Act of 2010 requires agencies to incorporate telework into their continuity of operations plan. Agencies should have written telework agreements in place with as many employees who are willing to participate and communicate expectations for telework in emergency situations.

It is important for an agency to have a solid technology infrastructure established to support a high level and volume of connectivity, so employees can work seamlessly from their alternate locations (e.g., home) and maintain established records and security requirements. Managers, employees, and organizations must remain flexible and adapt to the changing environment.

303. Q: How does the pandemic authority in the evacuation pay regulations relate to an agency's Continuity of Operations Plan (COOP)?

A: COOP supersedes any agency telework policy. This could include any agency telework policy established through the collective bargaining process under 5 U.S.C. Chapter 71. Thus, an agency is not bound by the telework policy developed under 5 U.S.C. 6502 while operating under a COOP. Under 5 U.S.C. 6504(d)(1), an agency COOP should address telework issues. Agencies should consult with offices of human resources and general counsel to determine appropriate labor relations obligations where bargaining unit employees are impacted.

Also, under 5 CFR 550.409, during a pandemic emergency, an agency may direct employees to evacuate from (i.e., not report to) their normal worksite and perform work from their home (or an approved alternate telework location), without regard to whether the agency and the employee have a telework agreement. Thus, this provides an authority to adopt revised telework policies that supersede normal telework policies. Please consult with offices of human resources and general counsel to determine appropriate labor relations obligations where bargaining unit

employees are impacted. See additional discussion on labor relations obligations. For maximum clarity, we recommend that the telework provisions of an agency COOP expressly address the use of the authority in section 550.409 to require telework in a pandemic emergency.

Under normal conditions, weather and safety leave is available to employees who are not able to safely travel to or perform work at the normal worksite, if they are not telework program participants who are expected to telework at home or another approved location. A COOP plan and/or an agency action under 5 CFR 550.409 can allow for revised telework policies to maximize the use of telework during a pandemic emergency to support continuity of Government operations. Those revised telework policies may allow an agency to direct employees who have not been participating in an agency's telework program to be designated as telework program participants. As such, they would not be prevented from safely working at an approved location and thus would generally not be eligible for weather and safety leave, since they are not prevented from safely working at an approved location (5 U.S.C. 6329c(b)).

Benefits

DON Frequently Asked Questions

304. Q: Will retirement packages continue to be processed?

A: Yes. The Civilian Benefits Center at OCHR-Norfolk will continue to process retiment packages. Questions and inquiries about retirement packages should be directed to the benefits center at 1-888-320-2917, navybenefits@navy.mil.

DOD Frequently Asked Questions

305. Q: If quarantined, will my Federal benefits such as Health and Life Insurance, TSP, Flexible Spending, etc. continue?

A: Benefits for Federal employees and eligible family members remain unchanged during periods of quarantine or any emergency situation.

306. Q: During the quarantine period, who is my point of contact for benefits related questions, such as Open Season elections, TSP loans, interruption of pay, etc.?

A: Employees may contact their respective agency benefits offices.

307. Q: If I chose civilian controlled monitoring, will my family members receive treatment if they began to exhibit COVID-19-like symptoms?

A: Family members with COVID-19-like symptoms will be subject to Federal Health Benefits Insurance and other private Insurance requirements, and should contact their local health care facility for treatment.

308. Q: Can U.S. health insurance companies or health plans cancel or non-renewing health policies for people who contract COVID-19?

A: Generally, the answer is no. The Health Insurance Portability and Accountability Act, reaffirmed by the Affordable Care Act, requires that individuals must remain eligible and have their coverage renewed without regard to their particular health or travel circumstances. This applies to church plans and U.S. sold expatriate group plans.

309. Q: What are the protections for a medical worker who takes a leave of absence from a job, accepts temporary or foreign medical insurance, and returns to their job. Can they be denied their job-based health coverage due to contracting COVID-19?

A: No. Generally, individuals who take leaves of absence from their jobs and return to those jobs are equally eligible for their employer-sponsored insurance as other workers.

Employee Relations (other)

DON Frequently Asked Questions

310. Q: Are employers allowed to share the identity of someone they learn has tested positive for COVID-19 with others in the workplace?

A: No. The Rehabilitation Act and the Americans with Disabilities Act (ADA) do not permit such a broad disclosure of the medical condition of a specific employee. Both the CDC and EEOC specifically advise employers to maintain confidentiality of persons with confirmed COVID-19. The employer must protect the confidentiality of the employee, and improper disclosure of such protected information may make the agency liable for damages. A better approach would be to inform employees that someone at a particular location or on a particular floor has tested positive, or if that does not seem sufficient, to notify specific individuals that they may have been in close contact at a particular place and time with an individual who has tested positive, thereby not identifying the specific individual but providing sufficient information for them to make an informed decision as to the appropriate course of action for their own health and safety.

311. Q: How much information may be requested from employees who report feeling ill at work or who call in sick during the COVID-19 pandemic?

A: In accordance with the EEOC's "Pandemic Preparedness in the Workplace and the Americans with Disabilities Act," which has been updated on March 19, 2020 to reflect information on COVID-19, employers may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine if they have or may have COVID-19. Currently these symptoms include, for example, fever, chills, cough, shortness of breath, or sore throat. Keep in mind that the Department of the Navy at all levels must maintain all information about employee illness as a confidential medical record in compliance with the Americans with Disabilities Act (ADA).

312. Q: Can we (Command/supervisors) mandate the provision of personal information for recall and emergency purposes? If yes, under what authority?

A: Yes, DoD has various existing authorities, programs, and policies under which it can utilize to require such information from our civilian employees (including non-appropriated fund employees) for the most expeditious accountability of personnel at the social security number level of detail. Specifically, please see DoDI 3001.01 Personnel Accountability in Conjunction With Natural or Manmade Disasters dated 3 MAY 2010, "Personnel accountability is a shared responsibility between the commander and/or supervisor and the individual." Therein, you will also find the responsibilities assigned to the Deputy Under Secretary of Defense for Civilian Personnel Policy (DUSD(CPP)) who can require emergency contact information be reviewed and validated by all DoD Civilian employees annually using DD Form 93, "Record of Emergency Data".

313. Q: May commands require medical documentation of a serious health condition in order to place someone on weather and safety leave?

A: Under certain circumstances, yes. Weather and safety leave is not an entitlement, and is not appropriate when an employee is able to telework. Where an employee who cannot telework self-certifies the he or she is at "increased risk" of severe illness from COVID-19 (according to CDC guidelines), and their increased risk condition is not previously known to the agency or is not obvious, the agency may initially place them on weather and safety leave, but also require the employee to subsequently provide substantiating documentation from a licensed medical practitioner (at their own expense) that they meet the CDC standards of increased risk. For the CDC listing of increased risk conditions, see **https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html**.

314. Q: May a command require an employee to report COVID-19 test results for themselves or someone the employee came into contact with prior to returning to work?

A: Yes, the command may direct the employee to report the test result(s) to ensure the employee is safe to return to the workplace. If the employee fails to follow the order, then he/she is subject to disciplinary action for failure to follow directions. The employee may also be prevented from returning to the work place until he/she produces documentation showing they are fit to return to duty.

315. Q: Can I order an employee into the official worksite even if the installation or office is generally closed?

A: Yes. Under 5 C.F.R. 630.1605(b), a supervisor can order employees who are identified as emergency employees to the official worksite if the installation or office is generally closed. Normally, the supervisor should identify and inform the employees in advance that they occupy positions that have been identified as emergency essential and that they may need to return to the

official worksite to carry out mission critical functions of the DoD Component. Components should be mindful of their collective bargaining obligations when doing so.

316. Q: Will an employee who has direct contact with the public (e.g., investigator, park ranger, health care professional, police officer, firefighter) be required to report for work and perform the normal duties of his or her position? If an employee refuses, will the employee be fired?

A: Employees are expected to report for work and perform the normal duties of their positions. If an employee fails to report for duty without an administratively acceptable reason for his or her absence, the employee could be considered absent without leave and may be subject to disciplinary action, up to and including removal from Federal service. The agency makes the determination as to whether the employee has an administratively acceptable reason for his or her absence.

When an employee reports for work, he or she is expected to first carry out lawful supervisory orders to work, and may later choose to appeal or grieve an order after complying with it. An employee who refuses to comply with a supervisor's order may be disciplined, up to and including removal from Federal service. However, an employee may refuse to carry out a particular work assignment if, at the time the assignment is given, the employee reasonably believes carrying it out will endanger his or her safety or health.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=1af7803d-cb98-4b8a-9717-f805d457036e

317. Q: May an employee refuse to use required safety equipment (e.g., protective equipment or decontamination stations) provided by the agency?

A: When an agency requires employees to follow certain safety procedures, such as using protective equipment or going through a decontamination station, it is to protect the safety and health of its employees. As with any other agency policy, employees are expected to comply with agency safety and health policies. Employees who refuse to comply may be subject to appropriate disciplinary action, up to and including removal from Federal service.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=196e43e3-1f2e-440d-b754-6f8683a8d0f5

318. Q: Am I required to wear a face covering?

A: The Centers for Disease Control and Prevention (CDC) has recommended that surgical masks and N95 masks are in short supply and should be reserved for health care professionals or other medical first responders. In accordance with the CDC recommendation to wear cloth face coverings, for the health and wellbeing of our employees, and by Memorandum dated April 5, 2020, the Secretary of Defense requires that all individuals on DoD property, installations and facilities wear cloth face coverings when they cannot maintain six feet of social distance in public areas and work centers (this does not include in a Service member's or Service family member's

personal residence on a military installation). The cloth covering may be made from household items or common items. The cloth face covering should not minimize efforts to maintain social distancing at all times, when possible.

319. Q: If I make my own cloth face covering, what type of requirements must I follow in terms of size, fabric and means of attachment?

A: The cloth face covering must cover the nose and mouth, fitting snugly but comfortably against the side of the face, be secured with ties or ear loops, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine dried without damage or change to shape. The CDC has provided instructions on how to make the cloth face coverings from various methods, which can be found at: https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html.

320. Q: What precautions, if any, should I take when wearing a face covering?

A: The CDC has recommended that you do not touch your eyes, nose, or mouth when removing the face covering and to wash your hands immediately afterwards. The cloth covering should be cleaned regularly.

321. Q: My medical condition prevents me from wearing a face covering – what should I do?

A: The CDC has advised that cloth face coverings should not be placed on children under the age of 2, anyone who has trouble breathing, is unconscious, incapacitated or otherwise unable to remove the mask/covering without assistance. If a medical condition prevents you from wearing a cloth face covering you may submit a request for waiver through your immediate supervisor, which will be reviewed and decided upon by the local Command. If a waiver is approved, you may be asked to work from home or alternate worksite, take leave, or be placed on leave.

322. Q: What if I refuse to wear a face covering?

A: If you believe you have a medical exception to wearing the cloth face covering, advise your supervisor and initiate the waiver process; this may result in you being asked to work from home or alternate worksite, take leave, or be placed on leave. All employees who elect not to wear the cloth face coverings as prescribed, and who have not initiated the waiver process or possess an authorized waiver, are subject to discipline and denial of access to the worksite.

323. Q: Will I be reimbursed for the cost of my face coverings?

A: The cloth face coverings may be made from items in your home or common household items at low cost. Reimbursements will not be provided for the cloth face coverings.

324. Q: What is "conservative in appearance" for a face covering?

A: The cloth face covering should not contain offensive symbols, markings, words or pictures. The cloth face covering may vary in color but should strive for a professional and neat outer

appearance. Examples of possible cloth face coverings include: bandanas free of offensive markings, clean cut or sewn cloth or fabric.

OPM Frequently Asked Questions

325. Q: If an employee comes to work and shows symptoms of illness, what should the supervisor do? May the employee be placed on excused absence (administrative leave), and if so, for how long? What is needed before the employee can return to work?

A: When a supervisor observes an employee at the workplace exhibiting medical symptoms, he or she can express general concern regarding the employee's health and remind the employee of his or her leave options for seeking medical attention, such as requesting sick or annual leave. Supervisors may refer to CDC's Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) for some tips on how to handle employees showing symptoms of acute respiratory illness. See https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html. However, supervisors of federal employees should consider this guidance in conjunction with OPM guidance for the federal workforce.

If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances. When these leave options are not practical, a viable alternative, when the employee is covered by a telework agreement, is for the employee to work from home for social distancing purposes pursuant to an ad hoc arrangement approved by the employee's supervisor. Of course, the feasibility of working from home is dependent on several factors, including the nature of the employee's duties, the availability of any necessary equipment (personal computer, etc.), and computer and communication connectivity. If none of the above options are possible, agencies have the authority to place an employee on excused absence (administrative leave) and order him or her to stay at home or away from the workplace. The duration of any such excused absence (administrative leave) is dependent on the specific circumstances but is typically a short period. Placing an employee on excused absence (administrative leave) is fully within an agency's discretion and does not require the consent or request of the employee. Supervisors should not place an employee on excused absence (administrative leave) without first consulting with their human resources (HR) staff and general counsel to review agency policy, collective bargaining agreements, and applicable law with respect to any applicable collective bargaining provisions.

An employee who is quarantined under the direction of health care authorities should not be reporting to the normal worksite. The employee's supervisor should offer the quarantined employee the option of ad hoc telework to the maximum extent possible. The quarantined employee may be granted advanced sick leave for the quarantine period, at the employee's request. Other options include annual leave, advanced annual leave, or donated annual leave. Before an employee returns to work, the employee's supervisor should consult with HR and general counsel regarding procedures for requesting administratively acceptable medical

documentation in accordance with applicable policies, collective bargaining agreements, and laws.

326. Q: If no medical official is present at a Federal building, who assesses employees and orders them home if they appear ill?

A: Supervisors may require an employee to take leave or stay away from the worksite based on objective evidence only (not suspicion). Supervisors should obtain assistance from HR staff or on-site employee health services (if available), as the action may require compliance with adverse action procedures.

Objective evidence will depend on the facts of each case. Objective evidence could consist of a statement from the health authorities having jurisdiction or from a health care provider that the employee is physically unable to work or poses a danger to other employees or knowledge the employee resides in an area that has been quarantined. Consultation with public health officials may be appropriate. Less definitive, but potentially sufficient, evidence would be the employee making specific comments about being exposed to pandemic influenza or to a quarantinable communicable disease such as COVID-19 (e.g., taking care of a sick relative or friend). If such comments are made, supervisors should consult with HR and general counsel to assess whether a determination from a public health official is appropriate and necessary.
Human resources offices and agency legal counsel should be contacted to determine the best course of action based on objective evidence. Employee relations specialists and agency legal counsel have the necessary knowledge to assist supervisors and managers with options, such as telework, and appropriate actions arising from an outbreak of a quarantinable communicable disease or pandemic influenza. HR staff should check OPM's website (www.opm.gov) and the CDC website (www.cdc.gov) on a regular basis to stay current.

While consideration may be given to directing the employee to leave the workplace and either placing him or her on enforced leave or effecting an indefinite suspension after appropriate adverse action procedural requirements are satisfied, the human resources office and agency legal counsel should be contacted to ensure these types of adverse actions are permissible and defensible under the circumstances, and if appropriate, how to implement these types of actions. Excused absence (administrative leave) may be used if other options are exhausted and if it is necessary to prevent an employee from being at the worksite and putting other employees at risk before a supervisor can appropriately place an employee on enforced leave or indefinite suspension. (See additional discussion on enforced leave in question F3 below.).

327. Q: Can an agency mandate an employee exposed to a quarantinable communicable disease or infected with COVID-19 to remain away from the workplace for a specified period?

A: The CDC or other health agency will provide information related to the length of time an individual remains contagious, as well as current recommendations for social distancing, etc. For information specific to COVID-19, please view CDC's web site at

https://www.cdc.gov/coronavirus/2019-ncov/index.html. In the case of an epidemic or pandemic, agency personnel actions aimed at preventing the spread of a disease may be taken because of the guidance or directive of public health officials regarding the general danger to public health. Generally, an agency should not prohibit an employee from reporting to work unless it has evidence or a reasonable concern that an employee is physically unable to perform his or her job, or their presence in the workplace poses a risk of infection to others. Whenever possible, sick employees should be encouraged to take leave, such as sick leave, annual leave, advanced leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay. Excused absence (administrative leave) may be used if other options are not feasible and it is necessary to prevent an employee from being at the worksite and possibly putting other employees at risk. Excused absence is a paid, non-duty status that does not require the employee's consent or request and does not trigger adverse action procedures. In addition, excused absence can provide time for the agency to seek appropriate evidence regarding the employee's health. In other cases, such as when an employee refuses to take leave voluntarily, a supervisor may find it appropriate to enforce the employee's use of leave. Supervisors should consult with appropriate HR staff and general counsel before taking such a step, because enforced leave is an adverse action that imposes procedural requirements (i.e., advance notice, an opportunity to reply, the right to representation, and an agency decision) before actually enforcing the use of leave. Enforced leave of 14 days or less may be subject to agency administrative grievance procedures or negotiated grievance procedures. In addition, enforced leave lasting longer than 14 days may be appealed to the Merit Systems Protection Board (MSPB) or potentially grieved under any applicable negotiated grievance procedure. Supervisors need to consult with their HR office and legal counsel when deciding to enforce the use of leave, to ensure that the action is permissible and defensible before a third party.

328. Q: Does an agency have the right to solicit medical documentation when the employee is requesting sick leave? May an agency require all staff to be tested and treated for a quarantinable communicable disease, such as COVID-19?

A: Agency policy and collective bargaining agreements may have provisions for requesting medical documentation from an employee. Accordingly, agencies should consult with their HR office and general counsel for guidance. An agency may grant sick leave only when supported by evidence administratively acceptable to the agency. For absences in excess of 3 days, or for a lesser period when determined necessary by the agency, an agency may require a medical certificate or other administratively acceptable evidence.

Under current rules, management may require medical evaluation or screening only when the need for such evaluation is supported by the nature of the work (see 5 CFR 339.301). Attempts on the part of a supervisor to assume a particular medical diagnosis based on observable symptoms is very problematic and should be avoided. However, when a supervisor observes an employee exhibiting symptoms of illness, he or she may express concern regarding the employee's health and remind the employee of his or her leave options for seeking medical attention, such as requesting sick or annual leave. If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances. Agencies

should also note the provisions of 5 CFR 630.401(a)(5), which require the approval of requests for sick leave if an employee is determined by the health authorities having jurisdiction or by a health care provider, to "jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease."

329. Q: Under what circumstances should an agency communicate to its employees that there is a confirmed case among one or more of its employees (without identifying the person/specific office)?

A: The infected employee's privacy should be protected to the greatest extent possible; therefore, his or her identity should not be disclosed. In an outbreak of quarantinable communicable disease or COVID-19, management should share only that information determined to be necessary to protect the health of the employees in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Supervisors should consult with their agency general counsel to determine what information is releasable. Employees exposed to a co-worker with confirmed COVID-19 should refer to CDC guidance for how to conduct a risk assessment of their potential exposure at https://www.cdc.gov/coronavirus/2019-ncov/hcp/assess-manage-risk.html If social distancing, information sharing, or other precautions to assist employees in recognizing symptoms or reducing the spread of the illness can be taken without disclosing information related to a specific employee, that is the preferred approach.

Managers should work with their workplace safety contacts and local health officials to stay apprised of information regarding transmission of the illness and precautions that should be taken to reduce the spread of influenza or any other contagious disease in the workplace. Managers should treat this as they would any other illness in the workplace and continue to protect employee privacy interests while providing sufficient information to all employees related to protecting themselves against the spread of illness.

Injury Compensation

DON Frequently Asked Questions

330. Q: If an employee contracts COVID-19 at work, are they eligible for worker's compensation?

A: An employee that contracts COVID-19 during the performance of their work duties would have the full coverage of the Federal Employee's Compensation Act (FECA) for related lost wages, medical treatment, related disability and complications. See, 20 C.F.R. §10. The employee must actually be diagnosed with COVID-19 to potentially be afforded coverage. More information may be located at https://www.dol.gov/owcp/dfec/InfoFECACoverageCoronavirus.htm

331. Q: If an employee contracts COVID-19 at work, what type of evidence can an employee submit to prove they were exposed to the virus while in the performance of duty?

A: In establishing fact of injury, a claimant's statement as to how the injury or exposure occurred is of great probative value and will stand unless refuted by strong or persuasive evidence. The employee should submit factual evidence concerning exposure, including whether they work in high-risk employment, as well as supporting medical evidence. The supervisor will be expected to provide OWCP with any information they have concerning the alleged exposure and to indicate whether they are supporting or controverting the claim. If the supervisor supports the claim, including that the exposure occurred, and Form CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days. If Form CA-2 for an occupational disease is filed, it too will be developed and adjudicated.

332. Q: Is there anything specific I should do within ECOMP for COVID-19 Claims?

A: OSHA Record Keepers: Safety and health managers should refer to OSHA's recordkeeping guidance in determining whether a COVID-19 incident is recordable: https://www.osha.gov/SLTC/covid-19/standards.html

Agency Reviewers: Select Event Code "COR – Coronavirus" at the Signing stage of the form review after reviewing the claimant and supervisor info. This is very important as it will help ensure COVID-19 claims get consistent and appropriate treatment.

DOD Frequently Asked Questions

333. Q: Is an employee eligible for Federal Employees' Compensation Act (FECA) payments if he or she contracts COVID-19, either directly or from a coworker?

A: If an employee believes his or her illness resulted from a work-related incident, the employee can file workers' compensation claim under the Federal Employees' Compensation Act (FECA). Employees with a medical condition covered by the Federal Employees' Compensation Act (FECA) will receive FECA benefits. FECA benefits are administered by the U.S. Department of Labor, and each case will be judged on its own merit.

334. Q: My organization is now teleworking full time. If an employee is diagnosed with COVID-19, will the employee be eligible for benefits under the FECA?

A: An employee must meet the requirements for claim acceptance just as in any claim. In order for an employee to be covered by the FECA while teleworking, he or she must be directly engaged in the performance of his or her federal duties at the time of the claimed work injury. If an employee believes that he or she contracted COVID-19 while directly engaged in telework activities he or she may file a form CA-1, Notice of Traumatic Injury. The Office of Workers' Compensation Programs (OWCP) will develop the claim and make a formal decision regarding entitlement to benefits.

335. Q: Can employees receive FECA benefits if diagnosed with COVID-19 but do not exhibit any symptoms?

A: In order to meet the requirements for entitlements to benefits, the factual evidence must establish a work-related COVID-19 exposure, and the medical evidence must establish a positive COVID-19 diagnosis resulting from the work-related exposure.

336. Q: What happens if an employee is diagnosed with COVID-19 but cannot determine where or how the employee was exposed? Can the employee still receive FECA benefits?

A: FECA benefits for COVID-19 are only payable if the evidence supports that an employment factor or requirement gave rise to the resulting COVID-19 diagnosis. This requirement for entitlement must be satisfied by factual evidence showing a workrelated COVID-19 exposure and medical evidence from a qualified physician reflecting that the positive COVID-19 diagnosis resulted from the established work-related exposure.

337. Q: If an employee's claim is accepted for COVID-19, will any medical treatment be paid under the FECA?

A: If your claim is accepted for COVID-19, you are entitled to receive all medical services, appliances or supplies which a qualified physician prescribes or recommends, and which OWCP considers necessary to treat the condition that was accepted as work-related condition.

338. Q: Should employees wait for OWCP to make a decision on my claim before they seek medical treatment?

A: If an employee is ill and in need of medical treatment, the employee should not wait for OWCP to make a formal decision on the claim. Please seek medical treatment when needed.

339. Q: Are employees covered under worker's compensation when teleworking from home and are required to travel into the office to perform duties via a privately owned vehicle (POV)?

A: While commuting is generally not covered, if the employee is teleworking and is directed for some employment reason to travel into the office to perform work, the travel would be considered part of performance of duty. The employee must travel between the two locations to accomplish work during the workday.

Labor Relations

DON Frequently Asked Questions

340. Q: Is there any flexibility on labor-management agreements during an emergency?

A: Yes. There is some flexibility. In an emergency, management has the right to alter working conditions without bargaining prior to implementing the change pursuant to 5 U.S.C. §7106(a)(2)(D). However, post-implementation bargaining may be required. In this regard, if management follows applicable procedures contained in existing collective bargaining agreements, bargaining would not be required over the procedure. In situations where an agency

wishes to use different procedures, or where there are no existing contractual procedures or past practices covering the action, an agency may have post-implementation bargaining obligations.

341. Q: Is there any flexibility on labor-management agreements during an emergency?

A: Yes, there is some flexibility. In an emergency, management has the right to alter working conditions without bargaining prior to implementing the change. However, post-implementation bargaining may be required. In this regard, if management follows applicable procedures contained in existing collective bargaining agreements, bargaining would not be required over the procedure. In situations where an agency wishes to use different procedures, or where there are no existing contractual procedures or past practices covering the action, an agency may have post-implementation bargaining obligations. With regard to any of these situations, supervisors and managers should seek guidance and advice from their Office of General Counsel and human resources personnel.

Source: OPM Pandemic FAQs - https://www.opm.gov/FAQs/QA.aspx?fid=b48bf83b-440c-4f1e-a88c-3cdc9d802ac8&pid=f06f72aa-fd1d-4cd1-aa27-370ad6ccc519

DOD Frequently Asked Questions

342. Q: What are the labor relations obligations for an agency in taking action when an employee has, is suspected of having, or been exposed to COVID-19?

A: Agencies are encouraged to review applicable collective bargaining agreements (CBAs) to determine what, if any, obligations agencies may have under 5 U.S.C. chapter 71. However, we note that 5 U.S.C. § 7106(a) (2) (D) provides that an Agency may "take whatever actions may be necessary to carry out the Agency mission during emergencies". Agencies should consult with their human resources and general counsel to determineappropriate labor relations obligations as they relate to considering actions needed toaddress COVID-19. If the Agency needs to act quickly due to the circumstances of the emergency, the Agency is strongly encouraged to begin communicating with the appropriate union representatives as soon as possible and otherwise satisfy any applicable CBA obligations at the earliest opportunity, including on a postimplementation basis. Lastly, if the union files proposals on anything, each proposal should be reviwed individually and a determination made if the proposal fall under prohibitive or permissive subjects of bargaining, or appropriate arrangements and procedures, or "covered by" doctrine. DCPAS stands ready to assist agencies in determining negotiability obligations of union proposals. Agencies are reminded to consult with DCPAS for approval prior to either verbally or in writing, declaring a proposal non-negotiable.

Performance Management – Defense Performance Management and Appraisal Program (DPMAP)

DON Frequently Asked Questions

343. Q: How should we handle the end of the DPMAP rating cycle, considering the impacts of COVID-19?

A: Please see the 1 May 2020 "Department of the Navy Guidance on the Defense Performance Management and Appraisal Program during the COVID-19 Outbreak" posted on the portal at: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DON%20ASN%20MRA%20Guidance%20Memo%20-%20DPMAP%20During%20COVID-19.pdf.

344. Q: Can the DON further delegate the authority to extend the processing timelines in Section 3 of DoDI 1400.25, Volume 431, to commands?

A: No, the Under Secretary of Defense for Personnel and Readiness (USD(P&R) provided the authority to extend the processing timelines exclusively to DoD Components in USD (P&R) memorandum, "Temporary Exception – Department of Defense Performance Management and Appraisal Program," of 29 April 2020. Therefore, the authority resides at the DON level and cannot be further delegated to commands.

345. Q: Does the new effective date established in the DON DPMAP Guidance apply to employees of Academic Institutions whose performance cycle ends on or before 30 June 2020?

A: No, the new effective date does not apply to employees of Academic Institutions. Academic Institutions within the DON whose performance cycle ends on or before 30 June 2020, shall maintain their current effective date.

346. Q: Do the start and end dates of the performance appraisal cycle change as a result of the extended timelines?

A: No, in accordance with USD (P&R) memorandum, "Temporary Exception – Department of Defense Performance Management and Appraisal Program," of 29 April 2020, the dates of an established performance appraisal cycle are not affected by the exception to policy.

347. Q: If the supervisor is not able to complete the appraisal by 10 July 2020, due to extenuating circumstances, what would be the effective date of the appraisal?

A: A rating of record is final when it is signed by the Rating Official and by the Higher Level Reviewer (HLR). A rating of record finalized after 10 July 2020, for an employee covered under the standard DPMAP cycle will become effective on the date it is signed by the HLR.

348. Q: The DON guidance to extend the effective date of the appraisal for employees covered under the standard DPMAP appraisal cycle (i.e., 1 April 2019 through 31 March

2020) to 10 July 2020, applies to employees who have not received a rating of record. What date will appraisals become effective for employees who already received a rating of record?

A: Employees whose ratings are finalized in MyPerformance Tool (i.e., acknowledged) on or before 1 June 2020, will become effective on 1 June 2020.

349. Q: Are any DPMAP resources available on a public website?

A: Yes, DPMAP policy, guides, tips sheets, checklists, training videos, and more, are available at https://www.dcpas.osd.mil/LER/DPMAP. This website is accessible from a personal smartphone or computer that does not require a Common Access Card.

Performance Management – MyPerformance Appraisal Tool

DON Frequently Asked Questions

350. Q: Can users access MyPerformance Tool from a personal computer or with a Common Access Card (CAC) reader?

A: No, MyPerformance Tool requires Virtual Private Network (VPN) access.

351. Q: When users are not able to access their performance plan in MyPerformance Tool, are they exempt from documenting performance in the Tool?

A: No, in accordance with DoDI 1400.25 Volume 431, MyPerformance Appraisal Tool is the only automated appraisal tool authorized for use in administering and documenting activities under DPMAP, and MyPerformance generates a completed DD Form 2906. Users who are not able to access performance plans in the system may *temporarily* document performance outside of MyPerformance Tool. As soon as access is available, users must enter performance documented outside of the system into MyPerformance Tool.

352. Q: I am a supervisor who currently does not have access to MyPerformance Tool. How do I appraise employee performance when I do not have access to the employees' performance elements and standards?

A: If a Trusted Agent is authorized to act on behalf of the supervisor, the Trusted Agent may document performance decisions in MyPerformance Tool on behalf of the supervisor. If a Trusted Agent has not been authorized, supervisors should seek assistance from their local Human Resources Office (HRO) for advice on their options.

Additional information on the Trust Agent responsibility is available in the Trusted Agent User Guide at https://www.dcpas.osd.mil/LER/DPMAP. This website is accessible from a personal smartphone or computer.

353. Q: How do users document performance when they are not able to access their plans in MyPerformance Tool?

A: Users who are not able to access performance plans in the systems may *temporarily* document performance outside of MyPerformance Tool through various methods such as word documents, emails, and/or a hard copy DD Form 2906. As soon as access is available, users must enter performance documented outside of the system into MyPerformance Tool.

354. Q: Do I need to change the hard-coded effective date of the appraisal (i.e., 1 June 2020) in MyPerformance Tool for the 2020 performance appraisal cycle?

A: No, OCHR HQ will coordinate a system change with the Defense Civilian Personnel Advisory Service to modify the 1 June 2020 effective date to 10 July 2020, for all employees covered under the standard DPMAP appraisal cycle (1 April – 31 March).

355. Q: Should commands close the performance plans of employees whose appraisals were temporarily documented outside of MyPerformance due to a lack of system access?

A: No, appraisals temporarily documented outside of the system must be entered into MyPerformance Tool as soon as access is available to ensure compliance with DoDI 1400.25, Volume 431 and therefore should not be closed.

356. Q: An employee is not able to enter Employee Input (i.e., self-assessment) for the annual performance appraisal due to lack of MyPerformance Tool access. Can I enter Employee Input on behalf of the employee in my role as the Rating Official, Higher Level Reviewer, Trusted Agent, or Super User?

A: No, MyPerformance Tool does not provide the functionality for anyone other than the employee to enter Employee Input.

357. Q: What happens when an annual appraisal is completed in MyPerformance Tool and the employee was not able to document Employee Input due to a lack of system access?

A: If the rating of record has been completed and the employee would like their input to be documented in the system, the Rating Official can request an Administrative Correction be processed. In order to process an Administrative Correction, the Rating Official should contact their servicing HRO for additional guidance. The Rating Official will need to provide the Employee Name, Appraisal ID, Effective Date, Critical Element Number(s) and Employee Input when making such a request.

358. Q: At what point in the automated process does the rating of record documented in MyPerformance Tool flow into DCPDS?

A: The rating of record flows from MyPerformance Tool to DCPDS when the supervisor documents communication of the appraisal to the employee in MyPerformance Tool. The employee does not need to acknowledge the appraisal in order for the rating to flow to DCPDS; however, if the employee does not acknowledge the appraisal, then the rating official must

indicate in the Tool that the employee declined to acknowledge in order to finalize the appraisal record in the Tool.

359. Q: The awards process is complete but some appraisals are still waiting to be completed in MyPerformance Tool due to system access issues. How do commands record the ratings of appraisals temporarily documented outside of MyPerformance Tool so the ratings-based awards can be processed?

A: Commands will consolidate and submit ratings using the Mass Appraisal Spreadsheet provided by their servicing OCHR Operations Center for processing. The rating will be recorded in the Defense Civilian Personnel Data System (DCPDS). Once the ratings have been recorded, commands may then submit their Mass Awards Spreadsheets for ratings based awards to their servicing OCHR Operations Center for processing.

360. Q: What happens when a rating of record is documented in DCPDS manually through the Mass Appraisal Spreadsheet process and, subsequently, the appraisal is completed in MyPerformance Tool at a later date?

A: If the documentation in MyPerformance Tool matches the update made with the Mass Appraisal process, no changes will be made to DCPDS. However, if there is a mismatch of data (e.g., Summary Ratings, Average Score, or Appraisal Effective Date) between what was updated using the Mass Appraisal process and the date entered in MyPerformance Tool, then an additional row of data will be created in DCPDS. This will result in an additional row of data for the same appraisal cycle.

Performance Management – Awards

DON Frequently Asked Questions

361. Q: Can OCHR process a rating-based performance award prior to the effective date of the performance rating?

A: To receive a rating-based performance award, the employee must have received a performance rating within the last 12 months. Therefore, a rating-based award must have the same or later effective date as the effective date of the rating of record. For example, a rating-based award for the standard DPMAP appraisal cycle must have an effective date of 10 July or later since the effective date of the 2020 rating of record will be 10 July 2020. However, for employees covered under the standard DPMAP cycle, OCHR will process rating-based awards with an effective date of 10 July 2020, or later.

362. Q: With rating-based performance awards delayed until the new effective date, what can I do to recognize or reward employees in the interim?

A: Other monetary awards such as individual contribution awards (e.g., on the spot) may be granted at any time during the appraisal cycle. Supervisors may also consider other non-monetary awards or forms of recognition such as time off awards and letters of appreciation.

363. Q: The effective date of the appraisal is 1 June 2020. Will OCHR process a rating-based performance award with the effective date of the award earlier than 10 July 2020?

A. No, OCHR will process rating-based awards for employees on the standard DPMAP cycle with an effective date of 10 July 2020, or later. Rating-based awards will not be processed with an effective date earlier than 10 July 2020, regardless of the effective date of the appraisal.

Awards and Recognition

DON Frequently Asked Questions

364. Q: The USD (P&R) memorandum of 19 June 2020, granted an exception to policy which removed the expiration dates of time-off awards granted between 13 March 2019 and 30 September 2020. Are time-off awards with no expiration date paid to employees who leave the organization?

A: No. In accordance with 5 CFR 451.104, a time-off award cannot be converted to a cash payment under any circumstances.

365. Q: The USD (P&R) memorandum of 19 June 2020, granted an exception to policy which removed the expiration dates of time-off awards granted between 13 March 2019 and 30 September 2020. Are time-off awards with no expiration date transferred if the employee leaves the organization?

A: If the employee transfers to another DoD Component or outside of the DoD, the award cannot be transferred (DoDI 1400.25 v451). If the employee transfers within the DON, the time-off award is transferrable (DON CHRM 451-02).

366. Q: Is any action required by the employee or command in order to restore a time-off award that expired during the specified time period?

A: No, the Defense Finance and Accounting Services (DFAS) will implement the exception to policy, which includes restoration of expired time-off awards. DFAS anticipates the restoration of time-off awards and removal of expiration dates may take until September 2020 to complete and appear in the Defense Civilian Payroll System (DCPS).

367. Q: When will the Defense Finance and Accounting Services (DFAS) complete the restoration of time-off awards impacted by the USD (P&R) memorandum of 19 June 2020?

A: DFAS completed the system updates necessary to meet the requirements of the USD(P&R) policy exception on 25 September 2020. Restored time-off awards are available in the Defense Civilian Payroll System on pay period ending 26 September, and on Leave and Earnings Statements in MyPay between 26 September and 2 October 2020.

368. Q: – Are civilian employees eligible the Armed Forces Civilian Service Award (AFCSA) for COVID-19 operations and activities?

A: On 14 September 2020, the USD (P&R) issued a memorandum, "Armed Forces Civilian Service Award for Department of Defense Coronavirus Operations and Activities," which expanded the criteria of the AFCSA to qualifying COVID-19 operations and activities. Civilian employees who meet the expanded criteria found in USD (P&R) memorandum, "Award of the Armed Forces Service Medal and Humanitarian Service Medal for Department of Defense Coronavirus Operations and Activities," of 30 June 2020, and NAVADMIN 235/20 may be eligible for this award.

369. Q: What is the approval authority for the AFCSA?

A: In accordance with DON Civilian Human Resources Manual 451, the Secretary of the Navy is the approval authority for the AFCSA. Echelon 1 and 2 commands are responsible endorsing nominations that require SECNAV approval.

370. Q: Where do commands submit nominations for the AFCSA?

A: Nominations for the AFCSA are submitted to the Office of Civilian Human Resources via the SECNAV portal link provided below. All nomination packages must include echelon 1 or 2 endorsement and will be reviewed by the DON Executive Management Advisory Panel Awards Committee.

https://portal.secnav.navy.mil/orgs/MRA/DONHR/Awards/Pages/Awards-Tracker.aspx.

371. Q: How long will it take to process a AFCSA for approval?

A: In accordance with SECNAV memorandum, "Department of the Navy Secretariat Correspondence and Tasking Management Guidance (Business Rules)," of 7 April 2020, SECNAV level awards require a minimum of 60 days for processing.

Non-Appropriated Fund

DOD Frequently Asked Questions

372. Q: What is the co-pay or coinsurance payment for an employee seeking care from an authorized health provider because the employee is experiencing COVID- 19 symptoms?

A: All member cost sharing for co-pays and coinsurance is waived on all of the DoD Health plans, including the High Deductible Health Plan (HDDP), for FDA-authorized COVID-19 tests, health care provider visits (in and out of network), urgent care visits, and emergency room visits *that result in an order for or administration of the test.*

373. Q: What is the co-pay for telemedicine visits?

A: The DoD NAF Health plan will provide zero co-pay for Teladoc general medicine and behavioral health consults, as well as for in-network providers delivering synchronous virtual care (live videoconferencing) for any reason. The member waiver of co-pays for Teladoc is available

only on the CONUS plans including HDHP. Contact your health insurance provider for more information on how to take advantage of this co-pay elimination as it is only for a limited time period.

374. Q: How should employees ensure their prescription medications do not run out during the COVID-19 pandemic period?

A: DoD HBP pharmacy program will waive early refill limits on 30-day prescription maintenance medications for all members covered by the DoD NAF HBP. This applies to any 30-day prescriptions for maintenance medications filled at a participating pharmacy in the US for those covered on the CONUS plans, as well as any fills done in the US by employees, retirees, or covered dependents on the OCONUS plans that are living in the US.

375. Q: May NAF employees telework to help mitigate the spread of COVID-19? Are DoD NAF Components authorized to establish alternative work schedules?

A: Yes, DoD NAF Components have the discretion to authorize, promote, and implement telework programs for NAF employees, and to establish alternative work schedules such as compressed and flexible schedules under Department of Defense Instruction 1400.25, Volume 1406, "DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Attendance and Leave."

Equal Employment Opportunity

EEOC Frequently Asked Questions

376. Q: EEOC has explained in the updated 2020 EEOC Pandemic publication that, at the present time, the COVID-19 pandemic permits an employer to take the temperature of employees who are coming into the workplace. Is there anything else an employer could do at the current time to determine if employees physically coming into the workplace have COVID-19 or symptoms associated with the disease?

A: In a transcribed Webinar held on March 27, EEOC advises that employers may ask all employees who will be physically entering the workplace if they have COVID-19, or symptoms associated with COVID-19, or ask if they have been tested for COVID-19. Symptoms associated with COVID-19 include, for example, cough, sore throat, fever, chills, and shortness of breath. An employer may exclude those with COVID-19, or symptoms associated with COVID-19, from the workplace because as EEOC has stated, their presence would pose a direct threat to health or safety. For those employees who are teleworking; however, they are not physically interacting with coworkers, and therefore, the employer would generally not be permitted to ask these questions.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

377. Q: What may an employer do under the ADA if an employee refuses to permit the employer to take his temperature or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19?

A: Under the circumstances existing currently, the ADA allows an employer to bar an employee from physical presence in the workplace if he refuses to have his temperature taken or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19. To gain the cooperation of employees, however, employers may wish to ask the reasons for the employee's refusal. The employer may be able to provide information or reassurance that they are taking these steps to ensure the safety of everyone in the workplace, and that these steps are consistent with health screening recommendations from CDC. Sometimes, employees are reluctant to provide medical information because they fear an employer may widely spread such personal medical information throughout the workplace. The ADA prohibits such broad disclosures. Alternatively, if an employee requests reasonable accommodation with respect to screening, the usual accommodation process should be followed.

378. Q: May a manager ask only one employee, as opposed to asking all employees, questions designed to determine if she has COVID-19, or require that this employee alone have her temperature be taken or undergo other screening or testing?

A: If an employer wishes to ask only a particular employee to answer such questions, or to have her temperature taken or undergo other screening or testing, the ADA requires the employer to have a reasonable belief based on objective evidence that this person might have the disease. So, it is important for the employer to consider why it wishes to take these actions regarding this particular employee, such as a display of COVID-19 symptoms. In addition, the ADA does not interfere with employers following recommendations by the CDC or other public health authorities regarding whether, when, and for whom testing or other screening is appropriate.

379. Q: May an employer ask an employee who is physically coming into the workplace whether they have family members who have COVID-19 or symptoms associated with COVID-19?

A: No. The Genetic Information Nondiscrimination Act (GINA) prohibits employers from asking employees medical questions about family members. GINA, however, does not prohibit an employer from asking employees whether they have had contact with anyone diagnosed with COVID-19 or who may have symptoms associated with the disease. Moreover, from a public health perspective, only asking an employee about his contact with family members would unnecessarily limit the information obtained about an employee's potential exposure to COVID-19.

380. Q: Suppose a manager learns that an employee has COVID-19, or has symptoms associated with the disease. The manager knows she must report it but is worried about violating ADA confidentiality. What should she do?

A: The ADA requires that an employer keep all medical information about employees confidential, even if that information is not about a disability. Clearly, the information that an

employee has symptoms of, or a diagnosis of, COVID-19, is medical information. But the fact that this is medical information does not prevent the manager from reporting to appropriate employer officials so that they can take actions consistent with guidance from the CDC and other public health authorities.

The question is really what information to report: is it the fact that an employee, unnamed, has symptoms of COVID-19 or a diagnosis, or is it the identity of that employee? Who in the organization needs to know the identity of the employee will depend on each workplace and why a specific official needs this information. Employers should make every effort to limit the number of people who get to know the name of the employee.

The ADA does not interfere with a designated representative of the employer interviewing the employee to get a list of people with whom the employee possibly had contact through the workplace, so that the employer can then take action to notify those who may have come into contact with the employee, without revealing the employee's identity. For example, using a generic descriptor, such as telling employees that "someone at this location" or "someone on the fourth floor" has COVID-19, provides notice and does not violate the ADA's prohibition of disclosure of confidential medical information. For small employers, coworkers might be able to figure out who the employee is, but employers in that situation are still prohibited from confirming or revealing the employee's identity. Also, all employer officials who are designated as needing to know the identity of an employee should be specifically instructed that they must maintain the confidentiality of this information. Employers may want to plan in advance what supervisors and managers should do if this situation arises and determine who will be responsible for receiving information and taking next steps.

381. Q: May an employer invite employees now to ask for reasonable accommodations they may need in the future when they are permitted to return to the workplace?

A: Yes. Employers may inform the workforce that employees with disabilities may request accommodations in advance that they believe they may need when the workplace re-opens. If advance requests are received, employers may begin the "interactive process" - the discussion between the employer and employee focused on whether the impairment is a disability and the reasons that an accommodation is needed. If an employee chooses not to request accommodation in advance, and instead requests it at a later time, the employer must still consider the request at that time.

Source: EEOC Technical Assistance Questions and Answers updated on September 8, 2020 - https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

382. Q: An employee who must report to the workplace knows that a coworker who reports to the same workplace has symptoms associated with COVID-19. Does ADA confidentiality prevent the first employee from disclosing the coworker's symptoms to a supervisor?

A: No. ADA confidentiality does not prevent this employee from communicating to his supervisor about a coworker's symptoms. In other words, it is not an ADA confidentiality

violation for this employee to inform his supervisor about the coworker's symptoms. After learning about this situation, the supervisor should contact the appropriate management officials to report this information and discuss next steps.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

383. Q: An employer knows that an employee is teleworking because the person has COVID-19, or symptoms associated with the disease, and that he is in self-quarantine. May the employer tell staff that this particular employee is teleworking without saying why?

A: Yes. If staff need to know how to contact the employee, and that the employee is working, even if not present in the workplace, then disclosure of this information without saying why the employee is teleworking, is permissible. If the employee was on leave rather than teleworking, because he has COVID-19, or symptoms associated with the disease, or any other medical condition, then an employer cannot disclose the reason for the leave, just the fact that the individual is on leave.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

384. Q: Many employees, including managers and supervisors, are now teleworking as a result of COVID-19. How are they supposed to keep medical information of employees confidential while working remotely?

A: The ADA requirement that medical information be kept confidential includes a requirement that it be stored separately from regular personnel files. If a manager or supervisor receives medical information involving COVID-19, or any other medical information while teleworking, and is able to follow an employer's existing confidentiality protocols while working remotely, the supervisor has to do so. But to the extent that that is not feasible, the supervisor still must safeguard this information to the greatest extent possible until the supervisor can properly store it. This means that paper notepads, laptops, or other devices should not be left where others can see them. Similarly, documentation must not be stored electronically where others would have access. And in fact, a manager may even wish to use initials or another code to further ensure confidentiality of the name of an employee.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

385. Q: Does the ADA permit employers to notify public health authorities if they learn an employee has COVID-19?

A: Yes. The ADA permits this notification to public health authorities because as the EEOC explained in its updated Pandemic publication, COVID-19 at this time poses a direct threat, both to individuals with the disease, and those with whom they come into contact. By direct threat, the ADA means that an individual's medical condition, in this case COVID-19, poses a significant

risk of substantial harm to himself or others. The Appendix to the ADA regulations, which are also available on www.eeoc.gov, clearly recognizes that the ADA does not preempt state, county, or local laws that are designed to protect the public health from a direct threat, like that posed by COVID-19 at the time we are conducting this webinar on March 27, 2020.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

386. Q: May an employer exclude from the workplace an employee who is 65 or older and who does not have COVID-19, or symptoms associated with the disease, solely because the CDC has identified this age group as being at a higher risk of severe illness if they contract COVID-19?

A: No. The Age Discrimination in Employment Act prohibits employment discrimination against workers age 40 and over. If the reason for an action is older age, over age 40, the law would not permit employers to bar older workers from the workplace, to require them to telework, or to place them on involuntary leave. One way to show that an action was based on age would be if the employer did not take similar actions against comparable workers who are under the age of 40.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

387. Q: Do the EEO laws require an employer to grant a request to telework from an employee who is 65 or older because the CDC says older people are more likely to experience severe symptoms if they get COVID-19?

A: No. The Age Discrimination in Employment Act itself does not have an accommodation provision like the Americans with Disabilities Act; however, if an employer is allowing other comparable workers to telework, it should make sure it is not treating older workers differently based on their age.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

388. Q: The CDC list of people who are at higher risk for severe illness if they contract COVID-19 includes a recommendation to monitor women who are pregnant. Based on this CDC recommendation, may an employer decide to lay off or place on furlough a woman who is pregnant but does not have COVID-19, or symptoms associated with the disease?

A: No. Pregnant employees are protected under Title VII of the Civil Rights Act. Employment actions based on pregnancy are employment actions based on sex, so decisions about layoffs or furloughs should not be based on pregnancy.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

389. Q: Conversely, do the EEO laws require an employer to grant a request to telework from an employee who is pregnant because the CDC says there is a higher risk if she contracts COVID-19?

A: Title VII, as amended by the Pregnancy Discrimination Act, states that "women affected by pregnancy shall be treated the same for all employment-related purposes, as other persons not so affected, but similar in their ability or inability to work." Therefore, a pregnant worker should not be denied a needed adjustment that the employer provides to other employees for other reasons, but who are similar in their ability or inability to work. In addition, note that pregnancy-related medical conditions sometimes can be ADA disabilities, and if that is the case, they may trigger ADA accommodation rights. However, pregnancy itself is not an ADA disability.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

390. Q: The EEOC received a number of questions about possible discrimination involving national origin. For example, may an employer single out employees based on national origin and exclude them from the workplace due to concerns about possible transmission of COVID-19? May an employer tolerate a hostile work environment based on an employee's national origin or religion because others link it to transmission of COVID-19?

A: No. Title VII of the Civil Rights Act prohibits all employment discrimination based on national origin. It does not matter if it is linked to the current COVID-19 pandemic. Employers may wish to remind workers in these difficult times on policies regarding workplace harassment, and emphasize the broad nature of the prohibition against harassment, meaning that the policies include a prohibition on any harassment based on national origin, among other bases, even if the harassment is linked to fear of the virus.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

391. Q: Is COVID-19 a disability under the ADA?

A: Here is what the EEOC can say now. This is a very new virus, and while medical experts are learning more about it, there is still much that is unknown. Therefore, it is unclear at this time whether COVID-19 is or could be a disability under the ADA. Regardless of whether COVID-19 is or could be a disability, remember that an employer could bar the employee with the disease from entering the workplace at this time because of direct threat. Employers should continue to take actions involving persons with COVID-19, or who may have COVID-19, based on the most current guidance available from the CDC and other public health authorities.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

392. Q: What are an employer's ADA obligations when an employee says that he has a disability that puts him at greater risk of severe illness if he contracts COVID-19, and therefore asks for reasonable accommodation?

A: The CDC has identified a number of medical conditions, including for example, chronic lung disease and serious heart conditions, as potentially putting individuals at higher risk. Therefore, this is clearly a request for reasonable accommodation, meaning it is a request for a change in the workplace due to a medical condition. Because the ADA would not require an accommodation where the employee has no disability, the employer may verify that the employee does have a disability, as well as verifying that the accommodation is needed because the particular disability may put the individual at higher risk. There could also be situations where accommodations are requested because a current disability is exacerbated by the current situation. Again, the employer can verify the existence of the disability and discuss both why an accommodation is needed and the type of accommodation that would meet the employee's health concerns. In either situation, and as with any request for reasonable accommodation, an employer may also consider whether a reasonable accommodation would pose an undue hardship, meaning the employer can assess whether a specific form of accommodation would pose significant expense or significant difficulty under the current circumstances. For employers seeking documentation from a health care provider to support the employee's request, they should remember that because of the health crisis, many doctors may have difficulty responding quickly. There may be other ways to verify the existence of a disability. For example, a health insurance record or a prescription may document the existence of a disability. If the employer is waiting to receive documentation, it may want to provide the accommodation on a temporary basis. This could be particularly critical where the request is for telework or leave from an employee whose disability puts them at a higher risk for COVID-19.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

393. Q: What are an employer's ADA obligations to provide reasonable accommodation if an employee says that he lives in the same household as someone who, due to a disability, is at greater risk of severe illness if he contracts COVID-19?

A: The employee only has a right to reasonable accommodation for his own disability. In the situation being raised here, the employee does not have a disability, only a member of his household. However, the employer should consider if it is treating the employee differently than other employees with a similar need before it responds to the request.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

394. Q: What practical considerations should employers and employees keep in mind about the interactive process in the current COVID-19 situation?

A: The interactive process refers to the process an employer and an employee should use to fully discuss a request for accommodation, so that the employer obtains necessary information to make an informed decision. In the current situation, some requests may need an employer's prompt attention, such as those employees who have disabilities putting them at higher risk. Employers may provide requested accommodations on a temporary basis, for example, 1 or 2 weeks while the employer is discussing the request more fully with the employee, or waiting to receive medical documentation. Given the current circumstances, employers and employees should be as flexible and creative as possible. There may be accommodations that are not ideal, but will meet an employee's needs, at least on a short-term basis. For federal agencies, the current COVID-19 crisis constitutes an extenuating circumstance that can justify exceeding the normal timelines they must follow in processing requests for and providing reasonable accommodations.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

Note: In its September 8, 2020 guidance, EEOC has stated that the rapid spread of COVID-19 has disrupted normal work routines and may have resulted in unexpected or increased requests for reasonable accommodation. Although the pandemic may result in delay in discussing requests and providing accommodations, employers and employees are encouraged to use interim solutions to enable employees to keep working as much as possible.

Source: September 8, 2020 - https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

395. Q: What are additional EEO considerations in planning furloughs or layoffs?

A: The laws enforced by the EEOC prohibit covered employers from selecting people for furlough or layoff because of that individual's race, color, religion, national origin, sex, age, disability, protected genetic information, or in retaliation for protected EEO activity.

Source: EEOC Technical Assistance Questions and Answers updated on September 8, 2020 - https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

396. Q: When an employer requires some or all of its employees to telework because of COVID-19, or government officials require employers to shut down their facilities and have employees telework, is the employer required to provide a teleworking employee with the same reasonable accommodations it provides to this individual in the workplace?

A: If such a request is made, the employer and employee should discuss what the employee needs and why, and whether the same or a different accommodation could suffice in the home setting. For example, an employee may already have certain things in their home to enable them to do their job so that they do not need to have all of the accommodations that are provided in the workplace. Also, the undue hardship considerations might be different when evaluating a request for accommodation while teleworking rather than when working in the workplace. In other words, a reasonable accommodation that is feasible and does not pose an undue hardship in the

workplace might pose one when considering the place where it is needed, and considering the circumstances that necessitated the telework. For example, the fact that the period of telework is for a temporary or unknown duration, may render certain accommodations either not feasible or an undue hardship. There may also be constraints on the normal availability of items, or on the ability of the employer to conduct a needed assessment. So as a practical matter, given the circumstances that have led to the need for telework, employers and employees should both be creative and flexible about what can be done where an employee needs a reasonable accommodation for telework at home in these circumstances. If possible, providing interim accommodations might be appropriate, while an employer discusses the request with the employee or is waiting for additional information.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

397. Q: Assume that an employer grants telework to employees for the purpose of slowing or stopping the spread of COVID-19. After such public health measures are no longer necessary, does the employer automatically have to grant telework as a reasonable accommodation to every employee with a disability who wishes to continue this arrangement?

A: No. Anytime an employee requests a reasonable accommodation, the employer is entitled to understand the disability-related limitation that necessitates an accommodation. If there is no disability-related limitation that requires teleworking, the employer does not have to provide it as an accommodation. Or, if there is a disability-related limitation, but the employer can effectively address the need with another form of reasonable accommodation at the workplace, then the employer can choose that alternative to telework. To the extent that an employer is permitting telework to employees because of COVID-19, and is choosing to excuse an employee from performing one or more essential functions, then a request after the COVID-19 crisis has ended to continue telework as a reasonable accommodation, does not have to be granted if it requires continuing to excuse the employee from performing an essential function. This is because the ADA never requires an employer to eliminate an essential function as an accommodation for an individual with a disability. The fact that an employer temporarily excused performance of one or more essential functions during the COVID-19 crisis to enable employees to telework for the purpose of protecting their safety or otherwise chose to permit telework, does not mean that the employer has permanently changed a job's essential functions, or that telework is a feasible accommodation, or that it does not pose an undue hardship. These are fact-specific determinations. The employer has no obligation under the ADA to refrain from restoring all of an employee's essential duties after the immediate crisis has passed, or at such time as it chooses to restore the prior work arrangement and then evaluate any request for continued or new accommodation under the usual ADA rules.

Source: EEOC Webinar of March 27, 2020 - https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

398. Q: Assume that prior to the emergence of COVID-19 an employee with a disability had requested telework as a reasonable accommodation. The employee had shown a disability-related need for the accommodation, but the employer denied it because of concerns that the employee would not be able to perform the essential functions remotely. In the past, the employee continued to come to the workplace. However, after the COVID-19 crisis has subsided and temporary telework ends, the employee renews her reasonable accommodation request for telework. Can the employer again refuse the request?

A: Assuming that all of the requirements for such a reasonable accommodation are satisfied, the temporary telework experience could be relevant in considering the renewed request. In this situation, for example, the period of providing telework because of the COVID-19 pandemic could serve as a trial period that showed whether or not this employee with a disability could satisfactorily perform all essential functions while working remotely, and the employer should consider any new request in light of this information. As with all accommodation requests, the employee and the employer should engage in a flexible, cooperative, interactive process if this issue does arise.

399. *Q New*: For any COVID-19 vaccine that has been approved or authorized by the Food and Drug Administration (FDA), is the administration of a COVID-19 vaccine to an employee by an employer (or by a third party with whom the employer contracts to administer a vaccine) a "medical examination" for purposes of the ADA? *(EEOC - 12/16/20)*

A: No. The vaccination itself is not a medical examination. As the Commission explained in guidance on disability-related inquiries and medical examinations, a medical examination is "a procedure or test usually given by a health care professional or in a medical setting that seeks information about an individual's physical or mental impairments or health." Examples include "vision tests; blood, urine, and breath analyses; blood pressure screening and cholesterol testing; and diagnostic procedures, such as x-rays, CAT scans, and MRIs." If a vaccine is administered to an employee by an employer for protection against contracting COVID-19, the employer is not seeking information about an individual's impairments or current health status and, therefore, it is not a medical examination.

Although the administration of a vaccination is not a medical examination, pre-screening vaccination questions may implicate the ADA's provision on disability-related inquiries, which are inquiries likely to elicit information about a disability. If the employer administers the vaccine, it must show that such pre-screening questions it asks employees are "job-related and consistent with business necessity."

400. *Q New*: According to the CDC, health care providers should ask certain questions before administering a vaccine to ensure that there is no medical reason that would prevent the person from receiving the vaccination. If the employer requires an employee to receive the vaccination from the employer (or a third party with whom the employer contracts to administer a vaccine) and asks these screening questions, are these questions subject to the ADA standards for disability-related inquiries? *(EEOC - 12/16/20)*

A: Yes. Pre-vaccination medical screening questions are likely to elicit information about a disability. This means that such questions, if asked by the employer or a contractor on the employer's behalf, are "disability-related" under the ADA. Thus, if the employer requires an employee to receive the vaccination, administered by the employer, the employer must show that these disability-related screening inquiries are "job-related and consistent with business necessity." To meet this standard, an employer would need to have a reasonable belief, based on objective evidence, that an employee who does not answer the questions and, therefore, does not receive a vaccination, will pose a direct threat to the health or safety of her or himself or others.

By contrast, there are two circumstances in which disability-related screening questions can be asked without needing to satisfy the "job-related and consistent with business necessity" requirement. First, if an employer has ordered a vaccination to employees on a voluntary basis (i.e. employees choose whether to be vaccinated), the ADA requires that the employee's decision to answer prescreening, disability-related questions also must be voluntary. 42 U.S.C. 12112(d)(4)(B); 29 C.F.R. 1630.14(d). If an employee chooses not to answer these questions, the employer may decline to administer the vaccine but may not retaliate against, intimidate, or threaten the employee for refusing to answer any questions. Second, if an employee receives an employer-required vaccination from a third party that does not have a contract with the employer, such as a pharmacy or other health care provider, the ADA "job-related and consistent with business necessity" restrictions on disability-related inquiries would not apply to the pre-vaccination medical screening questions.

The ADA requires employers to keep any employee medical information obtained in the course of the vaccination program confidential.

401. *Q New:* Is asking or requiring an employee to show proof of receipt of a COVID-19 vaccination a disability-related inquiry? *(EEOC - 12/16/20)*

A: No. There are many reasons that may explain why an employee has not been vaccinated, which may or may not be disability-related. Simply requesting proof of receipt of a COVID-19 vaccination is not likely to elicit information about a disability and, therefore, is not a disability-related inquiry. However, subsequent employer questions, such as asking why an individual did not receive a vaccination, may elicit information about a disability and would be subject to the pertinent ADA standard that they be "job-related and consistent with business necessity." If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own health care provider, the employer may want to warn the employee not to provide any medical information as part of the proof in order to avoid implicating the ADA.

402. *Q New*: Where can employers learn more about Emergency Use Authorizations (EUA) of COVID-19 vaccines? *(EEOC - 12/16/20)*

A: Some COVID-19 vaccines may only be available to the public for the foreseeable future under EUA granted by the FDA, which is different than approval under FDA vaccine licensure. The **FDA has an obligation** to:

[E]nsure that recipients of the vaccine under an EUA are informed, to the extent practicable under the applicable circumstances, that FDA has authorized the emergency use of the vaccine, of the known and potential benefits and risks, the extent to which such benefits and risks are unknown, that they have the option to accept or refuse the vaccine, and of any available alternatives to the product.

The FDA says that this information is typically conveyed in a patient fact sheet that is provided at the time of the vaccine administration and that it posts the fact sheets on its website. More information about EUA vaccines is available on the **FDA's EUA page.**

403. *Q New*: If an employer requires vaccinations when they are available, how should it respond to an employee who indicates that he or she is unable to receive a COVID-19 vaccination because of a disability? *(EEOC - 12/16/20)*

A: The ADA allows an employer to have a qualification standard that includes "a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace." However, if a safety-based qualification standard, such as a vaccination requirement, screens out or tends to screen out an individual with a disability, the employer must show that an unvaccinated employee would pose a direct threat due to a "significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation." **29 C.F.R. 1630.2(r)**. Employers should conduct an individualized assessment of four factors in determining whether a direct threat exists: the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. A conclusion that there is a direct threat would include a determination that an unvaccinated individual will expose others to the virus at the worksite. If an employer determines that an individual who cannot be vaccinated due to disability poses a direct threat at the worksite, the employer cannot exclude the employee from the workplace—or take any other action—unless there is no way to provide a reasonable accommodation (absent undue hardship) that would eliminate or reduce this risk so the unvaccinated employee does not pose a direct threat.

If there is a direct threat that cannot be reduced to an acceptable level, the employer can exclude the employee from physically entering the workplace, but this does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities. For example, if an employer excludes an employee based on an inability to accommodate a request to be exempt from a vaccination requirement, the employee may be entitled to accommodations such as performing the current position remotely. This is the same step that employers take when physically excluding employees from a worksite due to a current COVID-19 diagnosis or symptoms; some workers may be entitled to telework or, if not, may be eligible to take leave under the Families First Coronavirus Response Act, under the FMLA, or under the employer's policies.

Managers and supervisors responsible for communicating with employees about compliance with the employer's vaccination requirement should know how to recognize an accommodation request from an employee with a disability and know to whom the request should be referred for consideration. Employers and employees should engage in a flexible, interactive process to

identify workplace accommodation options that do not constitute an undue hardship (significant difficulty or expense). This process should include determining whether it is necessary to obtain supporting documentation about the employee's disability and considering the possible options for accommodation given the nature of the workforce and the employee's position. The prevalence in the workplace of employees who already have received a COVID-19 vaccination and the amount of contact with others, whose vaccination status could be unknown, may impact the undue hardship consideration. In discussing accommodation requests, employers and employees also may find it helpful to consult the Job Accommodation Network (JAN) website as a resource for different types of accommodations, www.askjan.org. JAN's materials specific to COVID-19 are at https://askjan.org/topics/COVID-19.cfm.

Employers may rely on CDC recommendations when deciding whether an effective accommodation that would not pose an undue hardship is available, but there may be situations where an accommodation is not possible. When an employer makes this decision, the facts about particular job duties and workplaces may be relevant. Employers also should consult applicable Occupational Safety and Health Administration standards and guidance. Employers can find OSHA COVID-specific resources at: www.osha.gov/SLTC/covid-19/.

Managers and supervisors are reminded that it is unlawful to disclose that an employee is receiving a reasonable accommodation or retaliate against an employee for requesting an accommodation.

404. *Q New*: If an employer requires vaccinations when they are available, how should it respond to an employee who indicates that he or she is unable to receive a COVID-19 vaccination because of a sincerely held religious practice or belief? *(EEOC - 12/16/20)*

A: Once an employer is on notice that an employee's sincerely held religious belief, practice, or observance prevents the employee from receiving the vaccination, the employer must provide a reasonable accommodation for the religious belief, practice, or observance unless it would pose an undue hardship under Title VII of the Civil Rights Act. Courts have defined "undue hardship" under Title VII as having more than a *de minimis* cost or burden on the employer. EEOC guidance explains that because the definition of religion is broad and protects beliefs, practices, and observances with which the employer may be unfamiliar, the employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief. If, however, an employee requests a religious accommodation, and an employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, the employer would be justified in requesting additional supporting information.

405. *Q New*: What happens if an employer cannot exempt or provide a reasonable accommodation to an employee who cannot comply with a mandatory vaccine policy because of a disability or sincerely held religious practice or belief? *(EEOC - 12/16/20)*

A: If an employee cannot get vaccinated for COVID-19 because of a disability or sincerely held religious belief, practice, or observance, and there is no reasonable accommodation possible, then it would be lawful for the employer to exclude the employee from the workplace. This does not

mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities.

406. *Q New*: Is Title II of GINA implicated when an employer administers a COVID-19 vaccine to employees or requires employees to provide proof that they have received a COVID-19 vaccination? *(EEOC - 12/16/20)*

A: No. Administering a COVID-19 vaccination to employees or requiring employees to provide proof that they have received a COVID-19 vaccination does not implicate Title II of GINA because it does not involve the use of genetic information to make employment decisions, or the acquisition or disclosure of "genetic information" as defined by the statute. This includes vaccinations that use messenger RNA (mRNA) technology, which will be discussed more below. However, if administration of the vaccine requires pre-screening questions that ask about genetic information, the inquiries seeking genetic information, such as family members' medical histories, may violate GINA.

Under Title II of GINA, employers may not (1) use genetic information to make decisions related to the terms, conditions, and privileges of employment, (2) acquire genetic information except in six narrow circumstances, or (3) disclose genetic information except in six narrow circumstances.

Certain COVID-19 vaccines use mRNA technology. This raises questions about genetics and, specifically, about whether such vaccines modify a recipient's genetic makeup and, therefore, whether requiring an employee to get the vaccine as a condition of employment is an unlawful use of genetic information. The CDC has explained that the mRNA COVID-19 vaccines "do not interact with our DNA in any way" and "mRNA never enters the nucleus of the cell, which is where our DNA (genetic material) is kept." (See https://www.cdc.gov/coronavirus/2019-ncov/vaccines/differentvaccines/mrna.html for a detailed discussion about how mRNA vaccines work). Thus, requiring employees to get the vaccine, whether it uses mRNA technology or not, does not violate GINA's prohibitions on using, acquiring, or disclosing genetic information.

407. *Q New*: Does asking an employee the pre-vaccination screening questions before administering a COVID-19 vaccine implicate Title II of GINA? *(EEOC - 12/16/20)*

A: Pre-vaccination medical screening questions are likely to elicit information about disability, and may elicit information about genetic information, such as questions regarding the immune systems of family members. It is not yet clear what screening checklists for contraindications will be provided with COVID-19 vaccinations.

GINA defines "genetic information" to mean:

- Information about an individual's genetic tests;
- Information about the genetic tests of a family member;
- Information about the manifestation of disease or disorder in a family member (i.e., family medical history);
- Information about requests for, or receipt of, genetic services or the participation in clinical research that includes genetic services by the an individual or a family member of the individual; and

- Genetic information about a fetus carried by an individual or family member or of an embryo legally held by an individual or family member using assisted reproductive technology.

29 C.F.R. § 1635.3(c). If the pre-vaccination questions do *not* include any questions about genetic information (including family medical history), then asking them does not implicate GINA. However, if the pre-vaccination questions *do* include questions about genetic information, then employers who want to ensure that employees have been vaccinated may want to request proof of vaccination instead of administering the vaccine themselves.

GINA does not prohibit an individual employee's own health care provider from asking questions about genetic information, but it does prohibit an employer or a doctor working for the employer from asking questions about genetic information. If an employer requires employees to provide proof that they have received a COVID-19 vaccination from their own health care provider, the employer may want to warn the employee not to provide genetic information as part of the proof. As long as this warning is provided, any genetic information the employer receives in response to its request for proof of vaccination will be considered inadvertent and therefore not unlawful under GINA. *See* 29 CFR 1635.8(b)(1)(i) for model language that can be used for this warning.

DOD Expeditionary Civilians (DOD-EC)

408. Q: Are there rest and recuperation (R&R) restrictions to these level 3 category locations i.e. Germany or Italy for our overseas civilian workforce?

A: Yes, R&R travel is considered government funded leave and subject to the Secretary of Defense memorandum, "Reissuance of Department of Defense Response to Coronavirus Disease 2019 – Travel Restrictions," April 20, 2020

409. Q: If an employee's R&R return has been canceled and not showing signs/symptoms of illness, what type of leave status should the employee be in?

A: At the end date of your R&R, a supervisor may assign the employee to telework, if practicable, or assign the employee to another duty location. Where those options are not available, the employee will be eligible for Weather and Safety leave due to being subject to movement restrictions for COVID-19. Also, note that the employee may not voluntarily change cancel R&R leave and to use Weather and Safety leave.

410. Q: Will an employee's Post Differential pay be affected by delays in returning from R&R leave?

A: Yes, if the employee is no longer in Afghanistan or other overseas duty location for more than 30 days, Post Differential pay will end. Once the employee is allowed to return, the employee will start the 42-day eligibility period over again for the Post Differential to re-start. At the end of the eligibility period, the Post Differential pay will be made retroactive back to the start of this recent 42-day period.

411. Q: If DoD-EC employees are quarantined, are they approved excused leave or do they have to use their own sick leave?

A: An employee symptomatic of COVID-19 will use their own sick leave. Please review the section on Leave above for more information.

412. Q: Do redeploying DoD-EC employees have to be quarantined for two weeks?

A: DoD strongly recommends and encourages DoD Components to restrict DoD workplace access for 14 days for DoD Civilians employees whose travel included CDC Travel Health Notice Level 2 and 3 locations. DoD-EC employees should follow guidance from their specific DoD Component.

Where to Go for Additional Information

For additional information, the following resources are available:

- CAC-enabled: Visit the DON Office of Civilian Human Resources portal at https://portal.secnav.navy.mil/orgs/MRA/DONHR/Pages/Default.aspx
- Non-CAC-enabled: Visit the DON Officer of Civilian Human Resources public website at: https://www.secnav.navy.mil/donhr/Pages/default.aspx
- See the DON Office of Civilian Human Resources website at https://www.secnav.navy.mil/donhr/Pages/default.aspx
- Answers to Frequently Asked Questions (Frequently Asked Questions) regarding evacuation are available via the Department of State Office of Allowances: https://aoprals.state.gov/content.asp?content_id=164&menu_id=75
- DSSR Section 600, "Payments During Evacuation/Authorized Departure," https://aoprals.state.gov/content.asp?content_id=109&menu_id=75
- JTR Chapter 0604, "Standard Allowances for Civilian Employees and their Dependents," https://www.defensetravel.dod.mil/Docs/perdiem/JTR.pdf
- 5 CFR §550.401-409, "Payments During Evacuation" from a non-foreign OCONUS or inside CONUS, https://www.ecfr.gov/cgi-bin/text-idx?SID=8a6ee76348207209cea80fc4940545a6&mc=true&node=pt5.1.550&rgn=div5#sp5.1.550.d
- Information on worker's compensation benefits for Federal employees related to COVID-19 can be found at https://www.dol.gov/owcp/dfec/InfoFECACoverageCoronavirus.htm.Centers for Disease Control and Prevention (CDC) Website: https://www.cdc.gov/coronavirus/2019-ncov/index.html

- CDC Worker Resources: https://www.cdc.gov/niosh/emres/2019_ncov.html
- CDC Prevention and Treatment Actions: https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-treatment.html
- Occupational Safety and Health Administration (OSHA) Guidance: https://www.osha.gov/SLTC/covid-19/
- OPM's Coronavirus Guidance: https://www.opm.gov/policy-data-oversight/covid-19/
- OMB – Updated Guidance on Telework Flexibilities in Response to Coronavirus: https://www.chcoc.gov/content/updated-guidance-telework-flexibilities-response-coronavirus
- DCPAS Emergency Preparedness: https://www.dcpas.osd.mil/OD/EmergencyPreparedness
- DoD Public Affairs Coronavirus Portal: https://www.defense.gov/Explore/Spotlight/Coronavirus/
- DOD (USD P&R Memorandum) dtd 29 April 2020 "Temporary Exception - Defense Performance Management and Appraisal Program:" https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DOD%20USD%20PR%20Guidance%20Memo%20DPMAP.pdf
- DON Guidance on the Defense Performance Management and Appraisal Program During COVID-19 dtd 1 May 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DON%20ASN%20MRA%20Guidance%20Memo%20-%20DPMAP%20During%20COVID-19.pdf
- Contact your local servicing Human Resources Office
- Email: don_covid19.fct@navy.mil

Frequently Asked Questions References

- DOD Travel Restrictions Frequently Asked Questions dtd 18 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DoD-Travel%20Restrictions.pdf
- DOD DTMO COVID-19 Travel and Transportation Questions and Answers (Civilian Employees and Dependents) Version 2 dtd 13 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DoD-DTMO%20COVID-19%20Travel%20QAs%20Version%202.pdf

- DOD DTMO COVID-19 Travel and Transportation Questions and Answers Version 3 dtd 27 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DOD%20DTMO%20COVID-19_Travel_QAs-Version%203.pdf

- DCPAS Q&As for Dealing with the Coronavirus (Communicable Diseases and Influenza): https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DoD-DCPAS%20QandAs%20Coronavirus.pdf

- DCPAS - Civilian Personnel Guidance Q&As COVID-19 dtd 15 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DOD%20-%20Ref%20c%20-%20QAs%20for%20Civilian%20Personnel%20%20Novel%20Coronavirus_031520.pdf

- DCPAS - Civilian Personnel Guidance Q&As COVID-19 dtd 25 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DOD%20QAs%20for%20Civilian%20Personnel%20%20Novel%20Coronavirus.pdf

- DCPAS - Civilian Personnel Guidance: Questions and Answers for Personnel Evacuating under the Global Authorized Departure dtd 27 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DOD%20Q%20and%20As%20for%20Personnel%20Evacuating%20under%20the%20Global%20Authorized%20Departure.pdf

- OPM Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19) dtd 7 March 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/OPM-COVID-19%20Additional%20Guidance%20Questions%20and%20Answers.pdf

- OPM - Coronavirus Disease 2019 (COVID-19) Frequently Asked Questions on Evacuation Payments During a Pandemic Health Crisis: https://www.opm.gov/policy-data-oversight/covid-19/frequently-asked-questions-on-evacuation-payments-during-a-pandemic-health-crisis/

- EEOC Webinar of March 27, 2020: https://www.eeoc.gov/coronavirus/webinar_transcript.cfm

- EEOC "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws" updated 16 December, 2020: https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

- Department of Labor- Families First Coronavirus Response Act FAQs: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions

- DOD Force Health Protection Guidance – Supplement 8 dtd 13 April 2020: https://media.defense.gov/2020/Apr/13/2002280147/-1/-1/1/FORCE-HEALTH-PROTECTION-GUIDANCE-SUPPLEMENT-8.PDF

- DON FAQs for E-E/ Key / Mission Essential Employees dtd 14 April 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DON%20-%20FAQS%20for%20E-E%20Key%20Mission%20Essential%20Employees.pdf

- DCPAS Modified Travel Restrictions and Updated Questions and Answers: https://www.dcpas.osd.mil/Content/documents/OD/DCPAS%20Message%202020041%20-%20%20Modified%20Stop%20Movement%20and%20QAs.pdf

- DOD COVID-19 Travel Restrictions FAQs as of 20 April 2020: https://media.defense.gov/2020/Mar/19/2002266939/-1/-1/1/COVID-19-TRAVEL-RESTRICTIONS-FAQ.pdf

- DOD DTMO COVID-19 - Travel Restrictions FAQs as of 1 May 2020: https://portal.secnav.navy.mil/orgs/MRA/DONHR/Coronavirus_Documents/DoD%20COVID-19%20Travel%20QAs%20Civilian%20and%20Military.pdf

- DOD DTMO COVID 19 – Travel Restrictinos FAQs as of 29 June 2020: https://www.defensetravel.dod.mil/coronavirus

- EEOC Technical Assistance Questions and Answers updated on September 8, 2020 - https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws