

Human Resources Flexibilities and Authorities for the 2019 Novel Coronavirus

The U.S. Office of Personnel Management (OPM) reminds agencies that a wide range of human resources (HR) flexibilities and authorities are available to assist employees and agencies in dealing with the 2019 Novel Coronavirus (2019-nCoV) or other quarantinable communicable diseases. 2019-nCoV, first detected in Wuhan, Hubei Province, China, has caused heightened public awareness about potential health impacts. This attachment provides agencies with information on leave and other workplace flexibilities and authorities that can be utilized during any potential outbreak of 2019-nCoV. Agencies are expected to implement policies consistent with laws, regulations, collective bargaining agreements, and OPM guidance.

Note: For purposes of this guidance, the term “quarantinable communicable disease” generally means a disease for which Federal isolation and quarantine are authorized. Isolation may 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 may 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, which are defined by Executive Order 13295 and include “severe acute respiratory syndromes,” such as 2019-nCoV. (See <http://www.cdc.gov/quarantine/AboutLawsRegulationsQuarantineIsolation.html>.) Under certain circumstances, the Centers for Disease Control and Prevention (CDC) or a state or local health department may determine that exposure to a quarantinable communicable 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.

I. Leave and Other Paid Time Off

The Federal Government offers numerous leave and workplace flexibilities to assist employees during incidences of quarantinable communicable diseases (such as 2019-nCoV). Under current law and regulations, agencies may authorize weather and safety leave when certain criteria are met as discussed below. When appropriate, employees may also use sick leave, annual leave, advanced annual and/or sick leave, Family and Medical Leave Act leave, leave without pay, donated leave under the Voluntary Leave Transfer and Leave Bank Programs, and other paid time off such as compensatory time off and credit hours earned under flexible work schedules.

Weather and Safety Leave. OPM has determined that agencies may authorize weather and safety leave when an asymptomatic employee (i.e., healthy, not displaying symptoms of the given disease) 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 2019-nCoV. This determination is based on the significant safety risks for other employees and the general public that would be incurred if such an employee were allowed to

travel to and perform work at the employee's normal worksite. (NOTE: The use of weather and safety leave would not be appropriate in cases of communicable diseases that have not been designated as quarantinable by public health authorities, since they do not pose the same high degree of safety risks for the public.) Use of weather and safety leave would supersede the use of sick leave as would have otherwise been allowed in these circumstances under OPM's sick leave regulations at 5 CFR 630.401(a)(5). 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 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 based on potential exposure. 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). If an employee (whether or not a telework program participant) is diagnosed as being infected, or likely has been infected, with a quarantinable communicable disease, such as 2019-nCoV, use of weather and safety leave would be inappropriate. Accrued or advanced sick leave would normally 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 prevents an employee from performing work. If the employee exhausts the available sick leave, other paid leave or paid time off may also be available to an employee, as described in this guidance document.

Sick Leave. An employee is entitled to use an unlimited amount of accrued sick leave when he or she is unable to perform his or her duties due to physical or mental illness or is receiving medical examination or treatment. An employee who is symptomatic (ill) due to a quarantinable communicable disease, such as 2019-nCoV, is entitled to use his or her accrued sick leave. Sick Leave for Personal Needs fact sheet: (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/personal-sick-leave/>)

Sick Leave for General Family Care. 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 2019-nCoV, 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/pay-leave/leave-administration/fact-sheets/sick-leave-for-family-care-or-bereavement-purposes/>)

Sick Leave to Care for a Family Member with a Serious Health Condition. 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

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 2019-nCoV, 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/fact-sheets/sick-leave-to-care-for-a-family-member-with-a-serious-health-condition/>)

Annual Leave. An employee may use any or all accrued annual leave for personal needs, such as rest and relaxation, vacations, medical needs, personal business, emergencies, or to provide care for a healthy or sick family member. An employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken.

Annual Leave fact sheet: (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/annual-leave/>)

Advanced Annual and/or Sick Leave. An agency may advance annual leave in an amount not to exceed the amount the employee would accrue during the remainder of the leave year. An agency may advance a maximum of up to 30 days (240 hours) of sick leave, subject to limitations, to be used for the same reasons it grants sick leave. An employee may request advanced annual and/or sick leave irrespective of existing leave balances.

Advanced Annual Leave fact sheet: (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/advanced-annual-leave/>)

Advanced Sick Leave fact sheet: (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/advanced-sick-leave/>)

Family and Medical Leave. 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 2019-nCoV, 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/pay-leave/leave-administration/fact-sheets/family-and-medical-leave/>)

Leave Without Pay. 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 nonpay 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/leave-administration/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/leave-administration/fact-sheets/effect-of-extended-leave-without-pay-lwop-or-other-nonpay-status-on-federal-benefits-and-programs/>)

Donated Leave. If an employee has a personal or family medical emergency related to a quarantinable communicable disease, such as 2019-nCoV, 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) or Voluntary Leave Bank Program (VLBP).

- **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-data-oversight/pay-leave/leave-administration/fact-sheets/voluntary-leave-transfer-program/>)

- **Voluntary Leave Bank Program** – The VLBP allows an employee who is a member of the agency's voluntary leave bank to receive donated annual leave from the leave bank if the employee experiences a personal or family medical emergency and has **exhausted his or her own available paid leave**. An agency is not required to establish a VLBP.

Voluntary Leave Bank Program fact sheet: (<https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/voluntary-leave-bank-program/>)

Other Paid Time Off. An employee may use earned compensatory time off, compensatory time off for travel, and/or credit hours earned under a flexible work schedule to be absent from work, including reasons related to a quarantinable communicable disease, such as 2019-nCoV.

- **Compensatory Time Off** – Compensatory time off is earned time off with pay in lieu of overtime pay for overtime work.

Compensatory Time Off fact sheet: (<http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/compensatory-time-off/>)

- **Compensatory Time Off for Travel** – Compensatory time off for travel is earned time off with pay for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.

Compensatory Time Off for Travel fact sheet: (<http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/compensatory-time-off-for-travel/>)

- **Credit Hours** – Credit hours are hours an employee elects to work, with supervisory approval, in excess of the employee’s basic work requirement under a **flexible work schedule that provides for credit hours**.

Credit Hours fact sheet: (<http://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/credit-hours-under-a-flexible-work-schedule/>)

II. Work Schedule Flexibilities

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.

Alternative Work Schedules. An agency may implement an alternative work schedule (AWS) for employees instead of a traditional fixed work schedule to help an employee balance work and personal responsibilities. Agencies may have to satisfy collective-bargaining obligations prior to implementing AWS for bargaining unit employees, if the applicable collective-bargaining agreement does not provide for flexible or compressed work schedules. Under many types of alternative work schedules, an employee can complete his or her biweekly work requirement in less than 10 workdays. Under other alternative work schedules, the employee may choose to adjust arrival and departure times to accommodate doctor appointments, childcare or eldercare issues, or other pressing issues surrounding the related emergency. Agencies should discuss options with their employees to help maximize productivity at work, while assisting them in meeting their family and personal needs.

For additional information on alternative work schedules, please see Handbook on Alternative Work Schedules at: <http://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/alternative-work-schedules/>.

III. Hiring and Pay Flexibilities

Emergency Critical Hiring. Under 5 CFR 213.3102(i)(2), an agency may make 30-day appointments in the excepted service to fill a critical hiring need. An agency may extend these appointments for an additional 30 days. This authority may be used to fill senior-level positions as well as positions at lower grades. The agency determines what qualifications are required. Career Transition Assistance Plan (CTAP), Reemployment Priority List (RPL), and Interagency CTAP (ICTAP) requirements under 5 CFR part 330 do not apply to these appointments.

Direct Hire Authority. Agencies are reminded of current OPM-authorized Governmentwide direct hire authorities. These authorities allow agencies to appoint candidates directly for:

- Medical Officers (General Schedule (GS)-0602), Nurses (GS-0610 and GS-0620), Diagnostic Radiologic Technicians (GS-0647), and Pharmacists (GS-0660) at all grade levels and all locations.
- Information Technology Management (Information Security) (GS-2210), GS-9 and above at all locations.
- Veterinary Medical Officer positions at the GS-11 through GS-15 grade levels (or equivalent) nationwide to include overseas territories and commonwealths (e.g., Puerto Rico, Guam, and the U.S. Virgin Islands) may be used indefinitely or until OPM terminates this authority.
- Scientific, Technical, Engineering and Mathematics (STEM) positions at the GS-11 through GS-15 grade levels (or equivalent) nationwide. This authority expires October 10, 2023.
- Cybersecurity-related positions at the GS-12 through GS-15 grade levels (or equivalent) nationwide may be used indefinitely or until OPM terminates this authority.

Agencies may give individuals in the occupational series listed above competitive service career, career-conditional, term, or temporary appointments, as appropriate. In all cases, an agency must adhere to the public notice requirements in 5 U.S.C. 3327 and 3330 and all ICTAP requirements. For additional information on these authorities, please see OPM's Direct Hire Authority guidance: <https://www.opm.gov/policy-data-oversight/hiring-information/direct-hire-authority/> and <https://www.chcoc.gov/content/announcing-government-wide-direct-hire-appointing-authorities>.

An agency should contact employ@opm.gov if it believes it has one or more occupations for which an agency-specific direct hire authority may be appropriate in support of relief and recovery efforts.

Reemployed Annuitants. Under specified circumstances (which include responding to an emergency), agencies may bring back retirees without applying the dual compensation salary

offset and without OPM approval as provided at 5 U.S.C. 8344(i) and 8468(i), which require that:

- Appointments are limited to 1 year or less;
- Hours worked by any annuitant reemployed under these provisions are limited to 520 during the first 6 months of retirement, 1,040 during any 12-month period, and 3,120 total hours worked during any period; and
- Reemployment may not exceed 2.5 percent of the full-time workforce at any time, and if 1 percent is exceeded, the agency must provide an explanation and justification to the Congress and OPM.

Agencies should contact employ@opm.gov for reemployment that may be needed for longer time periods than allowable under this authority.

Agencies must contact employ@opm.gov before reemploying a retiree who left the Federal Government with a Voluntary Separation Incentive Payment (VSIP) buyout. Depending upon the specific statute under which the buyout was received, the agency may request a buyout repayment waiver from OPM.

Other Hiring Flexibilities

Senior Executive Service (SES) limited appointments. Agencies have the authority to make SES Limited Term or Limited Emergency appointments for career employees, provided the appointment is within the space allocations limit previously authorized by OPM. Agencies may seek a temporary allocation from OPM if space is not currently available. Agencies may also seek authority from OPM to make Limited Term or Limited Emergency appointments of non-career employees using an automated form generated through the Executive and Schedule C System (ESCS).

Use of private-sector temporary employment firms. An agency may contract with private-sector temporary employment firms for services to meet emergency staffing needs. These contracts may be for 120 days and may be extended for an additional 120 days, subject to displaced employee procedures.

Temporary appointments less than 120 days. An agency may make competitive service appointments for 120 days or less without clearing CTAP or ICTAP. However, these programs may help identify one or more well-qualified displaced Federal employees who are available for immediate employment.

Reemployment priority lists. Current and former employees on agency RPLs are another immediate source of qualified individuals available for temporary, term, or permanent

competitive service appointments. Conversely, in some cases, an agency may apply an exception under 5 CFR 330.211 of the RPL provisions to appoint someone else.

Pay Flexibilities

Agencies have discretionary authority to provide additional compensation to address recruitment and retention difficulties. Short-term pay flexibilities such as recruitment, relocation, and retention incentives may assist agencies in meeting their emergency critical staffing needs. See <https://www.opm.gov/policy-data-oversight/pay-leave/pay-and-leave-flexibilities-for-recruitment-and-retention/> for additional information on available compensation flexibilities.