



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Tuesday, April 10, 2018

CPM 2018-09

MEMORANDUM FOR: CHIEF HUMAN CAPITAL OFFICERS

FROM: DR. JEFF T.H. PON, DIRECTOR

Subject: Issuance of Weather and Safety Leave Regulations

The U.S. Office of Personnel Management (OPM) is pleased to announce the issuance of its final regulations to implement the weather and safety leave provisions of the Administrative Leave Act of 2016 (Act), enacted under section 1138 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328, 130 Stat. 2000, December 23, 2016). The weather and safety leave regulations are effective 30 days after the publication of the final regulations. See www.regulations.gov.

OPM will be issuing separate final regulations on the other provisions of the Administrative Leave Act (dealing with administrative leave, notice leave, and investigative leave) at a later date.

Under the regulations, agencies may grant weather and safety leave when it is determined that employees cannot safely travel to or from, or perform work at, their normal worksite, a telework site, or other approved location because of severe weather or another emergency situation. Weather and safety leave is a form of paid time off authorized under the Administrative Leave Act. It will generally be used in conjunction with an *operating status announcement* issued by OPM or an agency.

It is particularly noteworthy that, under the new statute, an agency will be unable, in most circumstances, to grant weather and safety leave to an employee who is a telework program participant and able to safely perform telework at the employee's home. This new provision will apply regardless of what is stated (or not stated) in the employee's telework agreement and in agency policies and agreements.

Under section 6329c(b) of the Administrative Leave Act, as reflected in OPM regulations, an agency may grant weather and safety leave only if an employee is prevented from safely traveling to or performing work at an "approved location" due to an act of God, a terrorist attack, or another condition that prevents an employee or group of employees from safely traveling to or safely performing work at an approved location. Because employees who are participating in a telework program under applicable agency policies are typically able to safely perform work at their approved locations (e.g., their homes), such an employee will generally not be granted weather and safety leave. If, in the agency's judgment, the employee could not reasonably have

anticipated these conditions, and thus was unable to prepare for telework or otherwise unable to perform productive work, the agency could exercise the discretion to grant weather and safety leave. Conversely, the new regulations provide that an agency may not grant weather and safety leave if these conditions could have been reasonably anticipated and the employee did not take reasonable steps within his or her control to prepare to perform telework at the approved telework site.

Interagency Working Group

OPM would like to take this opportunity to reconvene its interagency working group for dismissal and closure procedures. The group will work with OPM to update the current *DC Dismissal and Closure Procedures* to incorporate the new weather and safety leave and produce procedures that apply Governmentwide.

We ask that Chief Human Capital Officers who would like to have a representative from their agency participate in the working group have the representative submit his or her name along with contact information (email address and telephone number) in an email to pay-leave-policy@opm.gov with the subject heading, "Dismissal and Closure Working Group." We request that this information be provided by close of business April 13, 2018.

Additional information

For additional information, agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov. Employees should contact their agency human resources offices for assistance.

cc: Deputy Chief Human Capital Officers and Human Resources Directors