



Human Resources Guidance and Options For Health Crisis Situations

The Frequently Asked Questions (FAQs) below provide guidance and options to help civil service managers, supervisors and employees address various situations that may arise during the current flu season. The options emphasize the need to protect our workforce and to assure continuity of operations wherever possible and through whatever means are available, including voluntary telework arrangements, work schedule changes, and other workplace flexibilities.

It is possible that the current flu season may become more severe. Therefore, it is important that supervisors and employees plan ahead for the possibility that an increased number of employees may need to use available leave and work options due to health-related issues. It is also important that supervisors and employees take steps now to slow the spread of the flu in the workplace. The following are possible situations supervisors and employees may be presented with as the flu season progresses and the threat of the 2009 H1N1 flu continues:

- Employee has the flu or flu-like symptoms
- Employee is healthy, but needs to take care of a family member who has the flu or flu-like symptoms
- Employee is healthy, but needs to take care of their child due to school or child care closing
- Employee has been exposed to the flu

Depending on the situation there are a variety of options available to employees such as:

- Sick or annual leave
- Earned time in their account such as compensatory time, credit hours, or time off award
- Telework
- Work schedule change
- Leave without pay



Frequently Asked Questions (FAQs)

Supervisors and employees can contact their servicing Human Resources Specialist if they require any further information regarding the FAQs. Additional FAQs will be added as situations develop.

A. Telework

1. What does telework readiness mean?

The workplace may act as a “point of spread” where employees can easily spread flu to their fellow employees as well as to others in the community. Telework is one available flexibility that can assist in mitigating the effects of the spread of flu in the workplace and in maintaining continued operations. Ensuring telework readiness includes the following supervisor/employee responsibilities:

Supervisors should:

- Discuss telework, leave, and work schedule options with their employees.
- Ensure appropriate coordination with the HQ Information Technology and Communication Division to be certain that employees have the proper equipment, connectivity, access to databases/shared drives, etc.
- Establish communication processes, responsibilities, and expectations to ensure understanding of telework requirements.
- Be flexible with work assignments that can be accomplished through telework.
- Communicate that a temporary telework arrangement does not guarantee regular telework privileges under normal circumstances.
- Be familiar with the NASA Headquarters (HQ) pandemic plans.

Employees should:

- Take responsibility for ensuring the success of the arrangement and ensure they have resources available at home to be functional without having to come to work to retrieve materials.
- Ensure there is sufficient portable work during the hours/days of telework time being requested. Discuss with their supervisor possible work assignments/projects that could be accomplished in addition to or as an alternative to their current work assignments.
- Ensure assigned work is accomplished and notify the supervisor of any changes in their situation that may affect the arrangement.
- Ensure regular communication with the supervisor to coordinate priorities and guarantee that organizational needs are accomplished timely.
- Understand the telework arrangement is a result of the current health crisis and is a temporary and not a permanent arrangement.
- Be familiar with HQ pandemic plans.

2. How do I request a telework arrangement?

An employee not currently on a telework agreement may request approval from their supervisor to temporarily telework due to the current health crisis situation. Guidelines and procedures for requesting a telework arrangement are provided in HQPR 3611.1, dated October 25, 2007

http://nodis3.gsfc.nasa.gov/hq_Lib/hqd_display.cfm?Internal_ID=HQ_PR_3611.1_TOC&idx=1

Supervisors should be flexible in assigning work that can be accomplished during this temporary situation (e.g., portable projects or study). If the position is not normally compatible to a telework arrangement,



supervisors need to communicate to the employee that the arranged telework agreement due to the health crisis situation does not guarantee regular telework privileges under normal circumstances.

3. Can my supervisor disapprove my request to telework?

Supervisors have the right to disapprove or terminate an employee's use of the telework option. Use of telework must meet the organization's needs, and supervisors decide whether an employee can work off-site, based on the nature of the position and the level of the employee's performance. If a telework request is disapproved, the employee will be required to use annual, sick leave or earned time in their account such as compensatory time, credit hours or time off award, or leave without pay (LWOP).

If the current health crisis becomes serious enough, more flexibility in telework arrangements will be required in order to maintain and/or continue Headquarters operations.

4. My child's school or child care facility has closed. Can I telework from home while caring for my child? If so, for how long?

Telework is not a substitute for child care; however, it can be very valuable to employees with care-giving responsibilities. Provided the employee has telework capabilities and work to perform, supervisors should be flexible in determining whether an employee can accomplish his/her duties from home while caring for a child. An employee may telework during the time he/she is not responsible for child care and must take accrued annual leave, other paid time off, or LWOP while performing child care responsibilities. For example, a young child or infant who requires constant care and attention should not be left alone; therefore, the employee's ability to telework would be limited to just the time the employee is not responsible for child care. An older child who requires minimal supervision may be at home with the employee, as long as the child is independently pursuing his/her own activities. An employee may also request a change in their work schedule to perform work during the time he/she is not responsible for child care.

It is possible that schools and day care centers will be closed for extended periods of time in order to reduce the spread of the flu. An employee's request to telework from home while caring for a child may be approved for the length of time the employee has work to perform to effectively contribute to the organization. A combination of telework and leave is permissible during the day. For example, if the employee is scheduled to work 8 hours in a day and is not required to care for the child 4 hours of the day, then he/she may telework 4 hours and take annual leave for 4 hours.



B. Leave Options

1. I have a family member who has the flu, or complications from the flu, and I must care for him/her. What are my leave options?

An employee may use a total of up to 104 hours (13 days) of sick leave each leave year to provide general medical care to a family member and up to 12 weeks (480 hours) of sick leave to care for a family member who develops a serious health condition. If the employee has already used 13 days of sick leave for general family care and bereavement purposes, that amount must be subtracted from the 12 weeks (480 hours) of sick leave an employee may use to provide care for a family member with a serious health condition.

In addition to sick leave, an employee may use annual leave, earned compensatory time off, earned compensatory time off from travel, earned time off award, or earned credit hours. The employee may also request to receive donated annual leave through the leave transfer program. Finally, an employee may invoke his/her entitlement to unpaid leave under the Family and Medical Leave Act and take a total of up to 12 weeks (480 hours) of LWOP to provide care for a spouse, son or daughter, or parent with a serious health condition.

An employee also may request to telework during those hours he/she is not caring for their family member.

2. My child's school or child care facility has closed. Can I use "family friendly" sick leave to care for my child until the school reopens?

No. Sick leave is not appropriate if the child is not sick. An employee who is healthy and is caring for a family member who is healthy may request annual leave or other paid time off, such as earned compensatory time off, earned compensatory time off for travel, earned time off award, or earned credit hours for the period of absence from his/her job.

An employee may also request LWOP. Supervisors have the authority to approve up to 30 days of LWOP. LWOP requests exceeding 30 days must be approved by both the employee's supervisor and the Director, Headquarters HRMD. For LWOP in excess of 30 days, an employee must submit a memorandum which includes his/her name, organization, reason for the LWOP, effective date and duration of the leave, and supporting documentation through his/her supervisor for approval prior to forwarding to the Director, Headquarters HRMD, for final approval. If approved, a personnel action will need to be initiated to document the LWOP pay status.

3. What are my leave options if I have been diagnosed with the flu?

An employee who has been diagnosed with the flu may use accrued sick leave or annual leave, request advanced sick leave, request donated leave under the voluntary leave transfer program, or use any earned compensatory time off, earned compensatory time off for travel, or earned credit hours. In addition, an employee may invoke his/her entitlement to unpaid leave under the Family and Medical Leave Act (FMLA) and take a total of up to 12 weeks of LWOP for a serious health condition. An employee may substitute his/her accrued annual and sick leave, as appropriate, for unpaid leave under the FMLA.

If the current health crisis becomes serious enough, the President may request the Office of Personnel Management (OPM) to establish an emergency leave transfer program for Federal government employees.

4. May I take sick leave if I have been exposed to the flu?

An employee may use accrued sick leave when he/she would, as determined by the health authorities or a health care provider, jeopardize the health of others because of his/her exposure to a communicable disease. An employee may also take accrued annual leave, other paid time off, or LWOP if he/she was exposed to a communicable disease.



5. Do I have to use all of my annual and sick leave before requesting donated leave from my coworkers?

No, an employee may request donated leave before he/she exhausts available annual and sick leave. However, before an employee may become an approved leave recipient under the voluntary leave transfer program (VLTP), it must be determined that the employee's absence from duty without available paid leave because of a medical emergency is (or is expected to be) at least 24 hours. (For part-time employees or employees on uncommon tours of duty, the period of absence without paid leave is prorated.)

An employee may receive donated annual leave under the VLTP when he/she becomes an approved leave recipient. A request to become a leave recipient in the VLTP must be made through WebTADS and requires medical documentation to support the medical leave request. Instructions on how to complete the request can be found at <https://www.nssc.nasa.gov/>.

Under an emergency leave transfer program, an employee is not required to exhaust his/her available paid leave before receiving donated annual leave.

6. May I receive donated annual leave from my coworkers to care for a sick family member?

An employee with a personal or family medical emergency who has exhausted his/her own available paid leave may be eligible to receive donated annual leave from the VLTP. If OPM establishes an emergency leave transfer program, the employee also may be eligible to receive donated leave from the emergency leave transfer program.

7. If I'm afraid of catching the flu and don't want to come to work, what are my leave options?

An employee who is healthy may request annual leave for the period of absence from his/her job. An employee has a right to take annual leave, subject to the approval of the supervisor to schedule the time at which annual leave may be taken. In addition, an employee may request to use other paid time off, such as earned compensatory time off, earned compensatory time off for travel, earned credit hours or earned time off award. An employee may also request LWOP.

8. If I exhaust all of my accrued (including advanced) annual and accrued sick leave, what are my options?

There are a number of alternatives for an employee who has exhausted his/her accrued/advanced annual and accrued sick leave. An employee may request LWOP and/or advance sick leave. A maximum of 30 days of sick leave may be advanced for an employee's serious disability or ailment. In addition, an employee who has a personal or family medical emergency and who has exhausted his/her own available paid leave may be eligible to receive donated annual leave from the VLTP. (See B5 to request to become a leave receipt in the VLTP).

If OPM establishes an emergency leave transfer program, the employee also may be eligible to receive donated leave from the emergency leave transfer program.

9. A family member died due to complications from the flu. I have to make arrangements for, and attend, his/her funeral. What leave can I take?

An employee may use a total of up to 104 hours (13 days) of sick leave each leave year to make arrangements necessitated by the death of a family member or attend the funeral of a family member. In addition, an employee may request to use accrued annual leave or other paid time off, such as earned compensatory time off, earned compensatory time off for travel, and earned credit hours. An employee may also request LWOP.



C. Leave Issues

1. May an employee leave work or refuse to report for work because he/she is afraid of contracting the flu from co-workers?

An employee who is concerned about contracting the flu from a co-worker should first raise the concern with his/her supervisor to discuss appropriate action, such as moving to a different work area, taking annual leave, or teleworking. An employee who leaves his/her duty station without approval may be considered absent without leave (AWOL). AWOL may result in disciplinary action, up to and including removal from Federal service.

2. May an employee who is not sick call in sick because he/she is afraid of contracting the flu?

No. Generally, an employee may only use sick leave when he/she is unable to work due to a physical or mental illness or is receiving medical examination or treatment. An employee who is not eligible for sick leave may request annual leave. An employee has the right to take annual leave, subject to the approval of the supervisor to schedule the time at which annual leave may be taken. If an employee's request for leave is denied and the employee still refuses to report for work, the employee may be considered absent without leave (AWOL) and may be subject to disciplinary action, up to and including removal from Federal service.

3. May an employee call in sick after a supervisor has canceled annual leave and ordered the employee to report for work?

An employee is entitled to use sick leave under certain conditions. However, under 5 C.F.R. 630.403, a supervisor may grant sick leave only when supported by administratively acceptable evidence. If the supervisor does not grant the request for sick leave or any other leave, the employee may be considered AWOL. A supervisor may take disciplinary action for AWOL, up to and including removal from Federal service.



D. Keeping Employees who are ill Away From the Workforce

1. If an employee exhibits signs of the flu, may a supervisor order him/her to leave work or work from home? If so, will the employee be paid during the absence?

As with any illness, any medical diagnosis by a supervisor is very problematic and should be avoided. However, when a supervisor observes an employee exhibiting signs of illness, he/she may express general concern regarding the employee's health and remind the employee of his/her leave options for seeking medical attention, such as requesting sick or annual leave. Employees on approved sick or annual leave will continue to be paid during their absence.

Although leave is generally voluntary, a supervisor may direct an employee to take leave. However, directing an employee to take leave may constitute enforced leave, which is an adverse action and must always be coordinated in advance with the Headquarters Human Resources Management Division (HRMD) and the Headquarters Health Unit. In individual cases, when employees refuse to vacate the workplace, supervisors should contact their Human Resources Specialist in the Headquarters HRMD to ensure that prudent practices are in place to make appropriate decisions.

2. 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?

Excused absence (administrative leave) is not an entitlement, and supervisors are not required to grant it. NASA Headquarters determination to provide excused absence will be made in consideration of any Government-wide policy on granting excused absence if a pandemic influenza health crisis is declared. The Executive Director of Headquarters Operations in coordination with the Director, Headquarters HRMD, may also determine local conditions that allow for the use of excused absence. The duration of any excused absence is dependent on the specific circumstances but is typically a short period.

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/her sick or annual leave or place an employee in a leave without pay status pending inquiry into the employee's medical condition. In rare circumstances, a supervisor may place the employee on indefinite suspension in a non-pay, non-duty status. These actions generally require advance notice, opportunity to reply, and a HQ decision. The supervisor must have documentation sufficient to prove that his/her action was justified, and the employee may have the right to grieve or appeal the action taken. In all cases, such action must be worked through the Headquarters HRMD.

If the current health crisis becomes serious enough, NASA or HQ personnel actions aimed at preventing the spread of a disease may occur because of the guidance or direction of public health officials regarding the general danger to public health.

3. If a supervisor suspects an employee is ill or contagious, may the supervisor prohibit the employee from reporting for work or returning to work?

Unless the supervisor has evidence (suspicion is not enough) that an employee is physically unable to perform the job or poses a risk to himself/herself or others, he/she may not prohibit the employee from reporting to work. Such action would constitute a constructive suspension and would be an adverse action requiring advance notice, opportunity to reply, HQ decision, and possibly appeal or grievance rights. Supervisors must consult with their Human Resources Specialist in the Headquarters HRMD before refusing to allow an employee to report for work or to return to work so that proper procedures will be followed and constructive suspension issues can be considered.



4. May a supervisor require an employee to have a medical exam or physical, or prevent an employee from returning to work until the results of an exam or physical show the employee is not contagious?

Management may require a medical examination when the position occupied by the employee contains properly developed physical or medical requirements (see 5 C.F.R. 339.301). Most positions do not have established physical or medical requirements. If the criteria are met for requiring a medical examination and the employee refuses the exam, he/she may be disciplined, up to and including removal from Federal service.

Requiring a medical examination based on perception of an employee's flu-like symptoms is very problematic and should be avoided. However, when a supervisor observes an employee exhibiting signs of illness, the supervisor may express concern regarding the employee's health and remind the employee of his/her leave options for seeking medical attention, such as requesting sick or annual leave. If the employee has no leave available, supervisors may approve requests for advanced sick leave or LWOP. Supervisors must approve requests for sick leave when the employee would, as determined by appropriate health authorities or by a health care provider, jeopardize the health of others by his/her presence on the job because of exposure to a communicable disease.

Requests for advanced sick leave are initiated through WebTADS and require medical documentation to support the medical leave request. Instructions on how to complete the request can be found at <https://www.nssc.nasa.gov/>.



E. Benefits

1. Will Federal Employees Health Benefit (FEHB) carriers pay for routine flu testing?

FEHB plan carriers will provide benefits for medically necessary services. If a patient presents himself/herself to the physician or emergency room with symptoms of the flu and the provider conducts an exam and lab test, the health plan will provide benefits.

2. Will FEHB carriers pay for testing on demand by the patient and, if so, are the participating physicians aware that the carriers will defray those costs?

See the answer to E. 1 above. FEHB carriers will provide benefits only for medically necessary services.

3. Has any consideration been given to suspending normal co-pays and deductibles for testing, given the current circumstance?

No. Usual co-payments and deductibles will apply.

4. Is OPM encouraging carriers to cover the cost of out-of season flu vaccinations and/or the available treatment drugs?

The U.S. Preventive Services Task Force recommends all patients 50 years of age or older be offered influenza vaccine annually. Most FEHB carriers provide benefits for one routine immunization per flu season. If a patient has not had a flu shot already this season, the carrier would provide benefits for the inoculation. If a patient is diagnosed with flu, including the H1N1 virus, the health plan will provide benefits for prescription drugs and other medically necessary treatment.

5. If an employee is without benefits and is forced to take sick leave, is there an obligation to provide benefits?

No. If the employee has no benefits (i.e., no insurance benefits), he/she does not become eligible for such benefits as a result of illness or because the individual's employer takes precautionary measures to protect the workforce.

6. Might an employee be eligible for workers' compensation payments if he/she contracts the influenza virus from a coworker?

If an employee believes his/her illness resulted from a work-related incident, the employee can file a workers' compensation claim. Workers' compensation benefits are administered by the U.S. Department of Labor, and each case will be judged on its own merit. To apply for workers' compensation benefits, the employee must first contact the Headquarters Workers Compensation Office at 202-358-1569, Cherie.Zieschang-1@nasa.gov, or 202-358-0930, Frances.Corradino-1@nasa.gov. Additional information on the Headquarters workers' compensation program is available at <http://oim.hq.nasa.gov/hqsops/hqfac/workers-comp.html>. General information on workers' compensation benefits for Federal employees can be found at <http://www.dol.gov/esa/owcp/contacts/fecacont.htm>.



F. Miscellaneous

1. Under what circumstances should a manager or supervisor communicate to his/her employees that there is a confirmed influenza case among one or more of his/her employees (without identifying the person/specific office)?

The infected employee's right to privacy should be protected to the greatest extent possible; therefore, his/her identity should not be disclosed. In the case of a pandemic influenza health crisis, or any communicable disease, management should share only that information determined to be necessary to protect the health of the employees in the workplace. 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 and supervisors should work with the Headquarters Health Unit to determine appropriate information regarding transmission of the illness and precautions that should be taken to reduce the spread of pandemic influenza or any other contagious disease in the workplace. While much media attention has been devoted to pandemic influenza, managers and supervisors 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.