



**Human Resources Guide
for Managers and Supervisors**
Pandemic & Emergency Reference

January 2020



Homeland
Security

TABLE OF CONTENTS

PURPOSE.....	3
HIRING FLEXIBILITIES	4
ALTERNATIVE WORK ARRANGEMENTS.....	6
KEEPING EMPLOYEES AWAY FROM THE WORKPLACE	7
REQUIRING EMPLOYEES TO WORK	9
EMPLOYEE ASSISTANCE PROGRAM	110
LABOR RELATIONS.....	110
HAZARD PAY.....	110
MILITARY RESERVISTS / NATIONAL GUARD PERSONNEL ISSUES	121
EMPLOYEES SEPARATING FROM DHS.....	121
CONVERSION ELIGIBILITY	121
SECURITY CLEARANCES/BACKGROUND CHECKS.....	121
PLANNING CHECKLIST FOR MANAGERS	132

Disclaimer

This guide provides human resources (HR) information related to civilian employees covered by Title 5, United States Code, and does not, and is not intended to, create or violate any legal rights. This guidance is intended to be used in conjunction with applicable law, regulations, and DHS policy.

Supervisors are encouraged to seek additional guidance from their servicing human resources or counsel's office, as necessary.

This information is subject to change. For updates to and more detailed information on agency planning for pandemic events, please visit [OPM's Pandemic Information website](#).

PURPOSE

The purpose of this guide is to assist Department of Homeland Security (DHS) managers and supervisors in understanding human resources (HR) flexibilities and specific issues that may affect their employees during a pandemic or other emergency event.

In the event of a pandemic health crisis, the [Centers for Disease Control and Prevention](#) (CDC) will share health-related information and instructions with Federal agencies and the public. The CDC and local health officials may share information to help the public recognize symptoms and encourage social distancing or other precautions to reduce the spread of the illness.

The Office of Personnel Management (OPM) [Pandemic Information](#) website provides guidance and information for Federal managers, employees, and human resources (HR) practitioners to help deal with the effects of a potential pandemic health crisis. If needed, OPM will issue additional guidance regarding leave use, telework, hiring flexibilities, and other HR matters during a pandemic health event.

If you have questions about the information provided, I encourage you to contact your servicing HR office.

Angela Bailey
Chief Human Capital Officer

HIRING FLEXIBILITIES

The OPM [Pandemic Information](#) website includes guidance on [agency planning for pandemic events](#), [telework](#), and [hiring flexibilities](#). *If you have questions about specific hiring authorities or flexibilities, please contact your servicing human resources (HR) office.*

When OPM approval is required to use a hiring authority (see table below), Component HR offices submit requests through the Office of the Chief Human Capital Officer, Human Capital Policy and Programs at staffingpolicy@hq.dhs.gov for review and submission to OPM.

Hiring flexibilities that <u>do not</u> require OPM approval	Hiring flexibilities that <u>require</u> OPM approval
<ul style="list-style-type: none"> • Direct Hire Authorities (DHA) (existing Government-wide authorities) • 30-Day Critical Need Appointment • 1-Year, 1040 Work Hours per Year Appointments in Remote/Isolated Locations • Reemploying Former Federal Employees • Reemploying Annuitants with a Salary Offset (or without a salary offset for an emergency need or part time/limited basis) • Employing Faculty Members • Career Transition Assistance Plan (CTAP) • Agency Reemployment Priority List • 120 Days or Less Appointments • Using Private Sector Temporaries 	<ul style="list-style-type: none"> • 1-Year Temporary Emergency Needs Appointments • Reemploying Annuitants Without Salary Offset • Agency-Specific Schedule A and B Appointments • Agency-Specific Direct Hire Authority (DHA) • Reemploying Buyout Recipients (without repayment of VSIP) • SES Limited Emergency Appointments

Obtaining Agency-Specific Excepted Service Schedule A or B Appointing Authority

Component requests for Schedule A or B appointing authority are submitted to staffingpolicy@hq.dhs.gov with the following information:

- Authority requested, title, series, grades, duties, number of positions to be filled
- Explain why recruitment and competitive examining are not possible (e.g., emergency with immediate hiring need);
- Other options the Component considered in trying to fill its positions.

Obtaining Agency-Specific Direct Hire Authority (DHA)

In a pandemic crisis, Component requests for DHA based on a critical hiring need are submitted to staffingpolicy@hq.dhs.gov with the following information:

- Occupation(s) to be covered by the DHA, including title, series, grade, location, number of positions to be filled
- Describe the event or circumstance that has created the need to fill the position(s) and the duration for which the critical need is expected to exist;
- Explain why the use of other hiring authorities is impracticable or ineffective.

Reemploying Buyout Recipients (without repayment of VSIP)

An employee who separates with a buyout (Voluntary Separation Incentive Payment (VSIP)) must repay the full incentive if they are reemployed within 5 years of the date of the separation on which the VSIP is based (including work under a personal services contract or other direct contract). OPM may waive the repayment in limited situations (see Title 5, Code of Federal Regulations, Part 576, Sections 201-203 ([5 CFR 576.201-203](#))).

Component requests for waiver of the VSIP repayment requirement are submitted to staffingpolicy@hq.dhs.gov with the following information:

- Explain how the individual involved possesses unique abilities and is the only qualified applicant available for the position; or
- Describe the event that involves a direct threat to life or property and how the individual's skills directly relate to resolving the emergency. (Reemployment will be on a temporary basis, only as long as the individual's services are necessary due to the emergency.)

Short-term Hiring

Schedule A ([5 CFR 213.3102\(i\)\(2\)](#)) may be used without OPM approval to fill critical positions for 30 days. These appointments may be extended for an additional 30 days so agencies can determine their longer-term needs in dealing with a pandemic event.

DHS has several flexibilities available when faced with the need to back-fill positions of workers on sick leave. OPM's [Hiring Flexibilities website](#) provides general information about short-term hiring flexibilities.

ALTERNATIVE WORK ARRANGEMENTS

Alternative work arrangements may be especially crucial to employ during a contingency event. In the event of a pandemic health crisis, the [CDC](#), local health officials, and OPM may encourage social distancing, telework, or other precautions to reduce the spread of the illness.

Alternative Work Schedules

Alternative Work Schedules (AWS) are work schedules that differ from traditional fixed work schedules (e.g., 8 hours per day, 40 hours per week). AWS enables eligible employees to have work schedules that help the employee balance work and family responsibilities. There are two categories of AWS:

- [Compressed work schedules \(CWS\)](#) allow an employee to complete their 80-hour per pay period work requirement (or part-time work requirement) in less than 10 workdays. A CWS is a fixed schedule. The employee's arrival and departure times are set.
- [Flexible work schedules \(FWS\)](#) allows an employee to vary their work schedule within the limits set by the agency. During core hours, all employees must be at work; however, during the flexible hours, employees can vary their arrival and departure times, hours worked each day, days worked each week, etc. The FWS options (flexitour, gliding, variable day, variable week, and maxiflex schedules) have different degrees of flexibility.

Telework

Telework allows an employee to perform work, during any part of regular, paid hours, at an approved alternative worksite (e.g., home, telework center). Telework policy at DHS varies by component and office. Employees of offices that allow teleworking may be permitted to telework on a routine schedule or on an as-needed basis for reasons such as special projects, illness, or worksite closures.

Telework is an integral part of pandemic preparation and response planning. During a pandemic, eligible employees may be asked to work from home for an unspecified duration to minimize the risk of the spread of the virus and to minimize interruption to DHS operations.

The [OPM Guide to Telework in the Federal Government](#) provides additional information. The DHS Telework Policy is found in [DHS Directive 123-05](#).

KEEPING EMPLOYEES AWAY FROM THE WORKPLACE

As with any illness, employees should be encouraged to use their sick leave (or other time off) to go home and take care of themselves and/or seek medical attention when they become sick or expect that they have been exposed to a communicable disease.

Employee Showing Signs of Symptoms

When a supervisor observes an employee exhibiting medical symptoms, he or she can remind the employee of his or her leave options for seeking medical attention, such as requesting sick or annual leave (see Proposed Script, below). If the employee has no leave available, supervisors may approve requests for advanced leave or leave without pay in certain circumstances.

Another viable alternative in many cases is for the employee to telework from home, either under a voluntary telework agreement, or under DHS's order directing employees to work from home pursuant to an evacuation during a pandemic influenza.

If none of the above options are possible, supervisors have the authority to place an employee on paid, excused absence and order him or her to stay at home or away from the workplace. DHS will follow OPM guidance on the use of excused absence in pandemic situations.

- **Do not** place an employee on enforced leave without first contacting your servicing HR office. The HR staff will have updated facts from OPM and CDC, as well as the ability to consult with DHS legal counsel.
- Enforced leave lasting longer than 14 days may be appealed to the Merit Systems Protection Board or grieved under a negotiated or administrative grievance procedure.

Soliciting a Diagnosis

A supervisor may not solicit a diagnosis when an employee is requesting sick leave. DHS policy and Component collective bargaining agreements may have provisions for requesting medical documentation from an employee to support a sick leave request and should be followed unless other special arrangements are negotiated. HR offices and union representatives can provide additional information regarding negotiated agreements.

In certain situations, the CDC may request that employers not require medical documentation to support a sick leave request. DHS will comply with such requests except in cases where the employee is serving under a letter of leave restriction.

Proposed Script for Managers to Discuss Using Leave with an Employee Who Appears to be Ill

Manager: *You seem sick today. You should take leave to take care of yourself.*

Employee: *I'm really fine. I'd rather keep working.*

Manager: *You're coughing. It's important that you take care of yourself and not risk getting other employees sick. I encourage you to use your sick leave and go home or seek medical attention.*

Employee: *I don't want to go home.*

Manager: *I appreciate your work ethic. Please use your sick leave, that's what it's for and it's the responsible thing to do to take care of yourself and not expose your co-workers (and others) to an illness. If you don't have any sick leave, I can advance you some to use.*

- Don't ask employees to disclose any medical condition; the focus should be on symptoms only.
- Do not threaten to discipline an employee for not taking sick leave.

If the employee still refuses to go home, consult your servicing HR office for next steps.

Communication Regarding Employee Health Issues

Management should promote social distancing, information sharing, or other precautions to assist employees in recognizing symptoms or reducing the spread of the illness without disclosing information related to a specific employee. Our employees' right to privacy should be protected to the greatest extent possible.

Management should share only that information determined by workplace safety contacts or local health officials to be necessary to protect the health of the employees in the workplace; management should consult legal counsel prior to disclosing employee's medical information.

Worksite Closure/Excused Absence

Employees may be granted excused absence if a DHS facility is closed due to a contingency or pandemic event. However, DHS does not anticipate the need for widespread use of excused absences, which would be regarded as a last resort.

Excused absence may be appropriate if:

- The employee is prevented from working due to agency closure; or,
- The employee cannot work from home or an alternate worksite because of work-related reasons.

DHS will follow OPM guidance on the use of excused absence (*e.g. administrative leave, weather and safety leave*) in pandemic situations.

Staying at Home for Duration of Illness

Under normal circumstances, management cannot mandate that an employee stay at home for a given length of time; however, DHS will follow guidance provided by public health officials during any public health crisis. On a case by case basis, supervisors should consult their servicing human resources office and legal counsel for advice about mandating that employees stay home.

REQUIRING EMPLOYEES TO WORK

Emergency Plan Activation

- Emergency personnel are expected to report for work where deployed or remain at work in dismissal or closure situations, unless otherwise directed by DHS.
- DHS may determine that circumstances justify excusing a designated employee from duty and allowing the employee to use accrued leave because of an individual hardship or circumstances unique to the employee. For example, factors such as the illness of a family member or lack of available alternatives to childcare or eldercare may be considered.
- DHS has the right to relocate employees to different worksites to maintain operations during any crisis. An employee may not go home instead of deploying to the designated worksite. Employees who refuse to follow emergency related orders may be subject to appropriate discipline, up to and including removal from federal service.

Refusal to Work/AWOL

- Even if an employee is afraid of contracting influenza or another illness, they must report for work, unless they have approval to take leave or alternative work arrangements have been made with the supervisor.
- An absence without leave (AWOL) may result in disciplinary actions, up to and including removal from federal service.
- Before placing an employee on AWOL, management must consider the facts and circumstances surrounding the unauthorized absence.

Refusal to Use Personal Protective Equipment

Managers may require employees to follow certain safety procedures, such as using personal protective equipment, going through a decontamination station, or taking medical countermeasures, to protect the safety and health of employees and the public. As with any other DHS policy, employees are expected to comply with DHS safety and health policies.

Employees who refuse to comply may be subject to appropriate disciplinary action, up to and including removal from federal service. Employees who wish to seek an exemption from PPE

requirements, for example, because of religious or medical reasons, should seek an accommodation by contacting the [Office of Civil Rights and Civil Liberties](#) or following the [applicable reasonable accommodation process](#).

EMPLOYEE ASSISTANCE PROGRAM

[Employee Assistance Program \(EAP\)](#) services are designed to help employees, managers, and organizations meet life challenges and remain healthy, engaged, and productive. EAP services are generally available anytime, anywhere via telephone for any issue that affect an employee's ability to work. During a health crisis specifically, an EAP counselor can help employees:

- Cope with anxiety or stress related to crisis preparation and response;
- Manage feelings of isolation sometimes experienced if working offsite for an extended time period due to exposure.

EAP is confidential, has no impact on security clearance, is free, and voluntary.

LABOR RELATIONS

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:

- If management follows applicable procedures contained in existing collective bargaining agreements or negotiated pandemic plans, bargaining would not be required over the procedure;
- In situations where DHS wishes to use different procedures, or where there are no existing contractual procedures, negotiated plans or past practices covering the action, DHS may have post-implementation bargaining obligations;
- Supervisors and managers should seek guidance and advice from their servicing HR office.

HAZARD PAY

- A General Schedule employee may be eligible to receive additional pay if he or she performs a duty or type of work listed in OPM's hazard pay regulations (see [5 CFR Part 550, Subpart I](#)—Pay for Duty Involving Physical Hardship or Hazard).
- A 25 percent hazard pay differential may be authorized for employee exposure to “virulent biologicals.” To be eligible for the hazard pay differential, DHS 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.
- Managers, in consultation with HR staff and occupational safety experts, must determine whether an employee is entitled to hazard pay on a case-by-case basis.

MILITARY RESERVISTS / NATIONAL GUARD PERSONNEL ISSUES

- An employee in the Reserves or National Guard called to active duty during a pandemic health crisis has restoration rights under the [Uniformed Services Employment and Reemployment Rights Act](#).
- When Reservists and National Guard members return to work from active duty during a pandemic influenza or other crisis, if the office has been closed due to an evacuation order, these employees should contact their supervisor and their servicing HR office to discuss timeframes and requirements prior to their return.

EMPLOYEES SEPARATING FROM DHS

An employee is free to resign or retire at any time as well as set the effective date of resignation or retirement. During a pandemic, DHS may rescind a buyout or early retirement offer (if there is a management need to do so).

CONVERSION ELIGIBILITY

- In a contingency, DHS will do everything possible to ensure that all eligible excepted service conversions to the competitive service are processed in a timely manner.
- Appointments under the Recent Graduates and Presidential Management Fellows programs under Pathways may be extended for no more than an additional 120 calendar days to cover rare or unusual circumstances or situations. Extensions of appointments for Interns eligible for conversion under the Pathways Programs are not permitted and conversions must be made effective within 120 days of completion of program requirements. Contact your servicing HR office immediately for guidance on conversions under the Pathways Programs.

SECURITY CLEARANCES/BACKGROUND CHECKS

The requirements for security clearances and background checks remain unchanged for emergency hires. Completing these activities might include social distancing alternatives to face-to-face interviews. Requirements for background checks for ID badges for government building access apply to emergency hires, as well. Suitability rules do not apply for temporary appointees.

PLANNING CHECKLIST FOR MANAGERS

- Familiarize yourself with agency policies and guidance on dealing with a health crisis.
- Include staffing and HR implications in your COOP plan.
- Identify alternative methods for continuing critical office functions during a pandemic health crisis and discuss them with your employees. This includes:
 - Alternative work arrangements, such as telework, working from alternate sites, and flexible or compressed work schedules
 - Communication plans and procedures
 - Teleconferencing and/or videoconferencing arrangements
- Review your agency and office telework policies and agreements.
- Update employee contact information and develop a plan for keeping the information current.
- Establish and test procedures for contacting employees (e.g., emergency notification system).
- Develop a contingency plan for accomplishing work during increased employee absenteeism, including cross-training workers to cover for employees who are not able to work.
- Familiarize yourself with the [DHS Employee Resources website](#).
- Familiarize yourself with the [Employee Assistance Program \(EAP\)](#) procedures and communicate with employees about the EAP.
- Identify employees with special needs, such as those with physical impairments, and include their needs in planning.
- Familiarize yourself with employee and agency requirements and obligations for requesting and approving leave and other agency-specific policies and procedures.
- Familiarize yourself with agency specific guidance on communications and discuss the guidance with employees.
- Establish a procedure for communicating with agency headquarters concerning employee status and deaths during a health crisis.