



**Headquarters Air Force
Civilian Force Management
Directorate
AF/A1C
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GUIDANCE FOR SUPERVISORS AND MANAGERS OF CIVILIANS IMPLEMENTING *OPENING UP AMERICA AGAIN* GUIDELINES – FAQs

FREQUENTLY ASKED QUESTIONS AND ANSWERS

Q1. Our local state governor/mayor has lifted the mandatory stay-at-home order and is allowing local businesses to reopen. Can I now mandate that all of my civilian employees return to their traditional worksites?

A1. Transitioning to optimized civilian workforce operations, including the return of civilian employees to traditional worksites, is to be a phased approach according to DoD and DAF guidance, and calibrated to local conditions and HPCON levels. Additionally, as Commanders make the decision to transition from one phase to another, supervisors must evaluate and develop a plan for each individual employee on a case-by-case basis. Factors to consider in determining whether to mandate an employee return to the traditional worksite include, but are not limited to: whether the employee is able to telework and perform the full range of their duties/mission needs; the risk level of the employee (in accordance with the *Department of the Air Force Return to Work Capacity Guidelines*); whether the employee has any family members in their household at higher risk; mitigation measures in the workplace (ability to physically distance, barriers, etc.); ability of employee to safely travel (i.e., mass transit vs POV); potential dependent care responsibilities; etc. There is no “one-size-fits-all” approach and consistency is not the goal in this instance. Supervisors must balance mission needs with employee safety and individual needs.

Q2. I have an employee on Weather and Safety Leave who is immunocompromised and cannot telework due to the nature of their position. I need them to come back to work. Can I mandate them to return?

A2. Supervisors should avoid mandating the return of employees who are in the higher risk categories prior to Phase 3, except in the most urgent mission-needs situation. Although these guidelines do not impact the authority to recall civilian employees to traditional worksites to meet urgent, mission-essential requirements, per DAF guidance, effective safeguards and mitigation measures must be put into place to ensure civilian employees are able to travel safely to and from work and perform their jobs in a safe manner. Before requiring a higher risk employee to return to the traditional worksite, a supervisor should work collaboratively with the employee in developing a plan, and seek creative, flexible, and tailored solutions. A supervisor should consider and try to find a balance between the risk to the employee and the mission need.

Q3. Are there any limitations to how long an employee may stay on Weather and Safety Leave, either in one continuous period, or per year?

A3. There is no cap on the number of hours of Weather and Safety Leave that may be authorized.

Q4. If a supervisor determines to recall a civilian employee back to the traditional worksite, can an employee refuse?

A4. Supervisors are encouraged to take a collaborative approach to develop a plan for each civilian employee's transition to optimized operations and seek creative, flexible, and tailored solutions. Where duties can be performed by telework, supervisors should maximize telework whenever possible. Where mission needs cannot be met by telework, other new work arrangements should be considered. Ultimately, a supervisor can mandate an employee's return to the traditional worksite. An employee may also request leave under a variety of leave entitlements. Also, even at a stage/phase when most civilian employees have transitioned to optimized operations and/or returned to the traditional worksites (Phase 3/HPCON A), a civilian employee who is at higher risk of serious complications from COVID-19, as defined by the CDC, may be legally entitled (under the Rehabilitation Act) to reasonable accommodation, including full-time telework.

Q5. My employees are teleworking and are able to perform all of their job duties that way. Do I have to recall them to the worksite?

A5. It remains DAF policy to maximize telework whenever possible. Where employees are able to perform the full range of their duties through telework, or where there is not an urgent mission need for the remaining duties to be performed in the immediate future, supervisors may determine not to recall those employees.

Q6. I have been teleworking due to my worksite being closed and I am able to perform all of my job duties this way. Now that our office is reopening, do I have to return to my traditional worksite or can I continue to telework full time?

A6. It remains DAF policy to maximize telework whenever possible. Where employees are able to perform the full range of their duties through telework, or where there is not an urgent mission need for the remaining duties to be performed in the immediate future, supervisors are encouraged to continue telework.

Q7. If an employee is designated as an 'emergency employee', non-telework eligible, AND is at higher risk of COVID-19 as defined by the CDC, can the employee still be ordered to report to the worksite based on their 'emergency employee' designation?

A7. Yes, a civilian employee designated as an "emergency employee" who is non-telework eligible and at higher risk of COVID-19 complications, can be required to report to the worksite or an alternative worksite. However, consistent with mission, supervisors and managers should seek to minimize the number of higher risk emergency employees required to report to the traditional worksite, by deliberately identifying the required skills, assessing mission impact and considering alternative approaches (such as whether those not at higher risk possess similar skills). Wing Commanders (or Complex Commanders or equivalent) retain ultimate decision

authority with respect to mission criticality and safety when there is a disagreement between management and individual employees with respect to their recall. Effective safeguards and measures must be put in place to ensure that all higher risk emergency employees who are required to work, or who are recalled from Weather and Safety Leave, are able to safely travel to and from work and perform their jobs on site in a safe manner. Supervisors are encouraged to take a collaborative approach in working with their civilian employees to develop plans for each civilian employee's transition to optimized operations and seek creative, flexible, and tailored solutions.

Q8. Can I mandate that my civilian employees submit to temperature checks and/or answer questions about COVID-19 illness and/or symptoms before coming onto base or into the worksite?

A8. Commanders have broad authority during a pandemic to take actions to protect the force. However, actions taken with respect to civilian employees have different considerations and guidelines than those for military personnel. In general, before mandating medical exams of any type (and a temperature screening is considered a medical exam), Commanders should consult with their servicing CPS, JA, and SG offices. If it is determined that civilian employees may be required to submit to a medical exam, and an employee refuses to do so, the Commander may bar that employee from access. However, if barred under these circumstances, the employee cannot be mandated to return to the worksite. Consultation with the servicing CPS and JA is crucial in determining what duty/leave status the employee should be in, and/or what other actions may be taken. Similarly, an employee may not be compelled to disclose personal medical information. If screening for symptoms verbally, care should be taken not to violate Privacy Act, HIPPA, or Rehabilitation Act rules.

Q9. Can I require an employee to bring in a doctor's note stating they do not have COVID-19 before I let them come into the workplace?

A9. In general, no. However, if a supervisor has reason to believe an employee may pose a risk to other employees or personnel, the supervisor may require medical documentation showing the employee is not a risk to others. For example, if the employee has been ill with a flu-like illness, or has disclosed that they were exposed to someone with COVID-19, a supervisor may require a medical clearance, or in the alternative, may request the employee self-quarantine prior to returning to work. Prior to taking any of these steps, supervisors should consult with their servicing CPS, JA and SG offices.

Q10. I'm aware that one of my civilian employees tested positive (or was exposed to someone who tested positive) for COVID-19. Can I require medical documentation from the civilian employee to confirm that they are safe to return to the traditional worksite?

A10. A supervisor may require that a civilian employee requesting sick leave due to exposure to contagious disease or the illness of a member of the immediate family with a contagious disease provide medical documentation regardless of the length of the absence. Commanders have broad authority during a pandemic to take actions to protect the force. Therefore, where an employee has informed management of his/her illness or exposure, supervisors may require fitness-for-

return-to-work medical documentation to confirm the civilian employee no longer poses a risk to other employees.

Q11. My worksite is mandating face coverings for all employees. Will my organization be required to supply a face mask?

A11. If management is requiring that civilian employees wear face coverings, management must either furnish the covering or provide for a uniform allowance in accordance with AFI 36-128, Pay Setting and Allowances. (See AF/A1 memo Subj: Department of Air Force Guidance on Use of Cloth Face Coverings, Dated: 5 Apr 20.)

Q12. How do I know if someone is higher risk?

A12. Supervisors should not assume they know someone's risk status, even if they are aware of underlying medical conditions. Supervisors must also take care not to violate Privacy Act, HIPPA, or Rehabilitation Act rules in any effort to determine their employee's status. In general, it should suffice to provide civilian employees with information regarding self-certification and/or simply ask all employees if they wish to self-certify as "at higher risk", without asking them for specific medical information. (For further information on self-certifying as "at higher risk", refer to Headquarters Air Force, Civilian Force Policy Division, 6 April 2020, *Weather and Safety Leave Fact Sheet*.)

Q13. I have an employee who I know underwent cancer treatment last summer and I believe she should be considered "higher risk". However, she wants to voluntarily return to the worksite. I'm not comfortable with that risk. Do I have to let her return?

A13. Supervisors are encouraged to take a collaborative approach in working with their civilian employees to develop plans for each civilian employee's transition to optimized operations and seek creative, flexible, and tailored solutions. Participation in the telework program is voluntary and generally, supervisors may not mandate their employees to telework. (For further information regarding exceptions to this, refer to Headquarters Air Force, Civilian Force Policy Division, 27 March 2020, *Telework Fact Sheet*.) More importantly, if the supervisor is concerned that the employee's health will be jeopardized by returning to the workplace, the Rehabilitation Act regulations do not allow the supervisor to exclude the employee *solely* because the employee has a disability that the CDC identifies as placing the employee at higher risk for serious complications from COVID-19. The exception would be if the employee's disability poses a "direct threat" to her or other employees' health or safety that cannot be eliminated or reduced by reasonable accommodation. The direct threat requirement is a high standard. It requires showing that the individual has a disability that poses a "significant risk of substantial harm" to her own or another employee's health or safety. A direct threat assessment cannot be based solely on the condition being on the CDC's list; the determination must be an individualized assessment based on a reasonable medical judgment about this employee's present ability to safely perform the essential functions of the job, using the most current medical knowledge and/or on the best available objective evidence. The Rehabilitation Act regulations require consideration of 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. Analysis of these factors will likely

include considerations based on the severity of the pandemic in a particular area and the employee's own health, and her particular job duties. A supervisor may only bar an employee from the workplace if, after going through all these steps, the facts support the conclusion that the employee poses a significant risk of substantial harm to herself or other employees that cannot be reduced or eliminated by reasonable accommodation. The supervisor must consult with the servicing CPS and JA before barring an employee from the workplace.

Q14. My employee has a dependent who has a medical condition, and I'm not sure if their condition puts them at higher risk for COVID-19 complications. I'd like to get more information from the employee before working out a plan to transition the employee back to the traditional worksite. Can I ask the employee for more information about their dependent's condition?

A14. Supervisors must take care not to violate Privacy Act, HIPPA, or Rehabilitation Act rules as they work collaboratively to develop plans for each employee's transition to optimized operations. Generally, the discussion should be limited to asking the employee what their dependent care needs are, and giving them the opportunity to disclose whether their dependent meets the criteria as higher risk. Supervisors are strongly encouraged to consult with their servicing CPS and JA offices in these situations.

Q15. We are preparing to transition our civilian employees to optimized operations. A few of my employees have young/school age children. Schools are still closed and daycare is not yet readily available. What do I do?

A15. Supervisors are encouraged to take a collaborative approach in working with their civilian employees to develop plans for each civilian employee's transition to optimized operations and seek creative, flexible, and tailored solutions. Dependent care responsibilities are one of the several factors that should be considered in the overall assessment in developing such plans. There is no "one-size-fits-all" approach so Commanders, supervisors and managers are encouraged to evaluate all relevant factors and try to find a balance between mission requirements and employee needs and safety. Employees who are teleworking due to COVID-19 are permitted to do so with a child (or other persons requiring care or supervision) present at home through 31 Dec 2020.

Q16. Our office has been closed and civilian employees who were unable to telework were placed on Weather and Safety Leave. Our office will be reopening soon, but when I contacted my employees to notify them, they indicated they did not have child care for their child due to the schools/care facilities in our area still being closed. Now that the worksite is opening, if they can't return due to dependent care responsibilities, is Weather and Safety Leave still authorized? If not, what status should they be in?

A16. Once the worksite is open and employees are expected to return, Weather and Safety Leave is not appropriate for an employee who needs to remain home to care for children. Under the Families First Coronavirus Response Act (FFCRA), employees who need to stay home to care for children whose school or care facility was closed due to COVID-19 are eligible for 80 hours of Emergency Paid Sick Leave (EPSL). If additional time off is necessary, the employee

may also request to use annual leave, previously earned compensatory time, credit hours, time off award, advanced annual leave, or leave without pay. It is not appropriate to approve regular sick leave for an employee staying home to care for a healthy child. (For additional information on FFCRA entitlements, refer to Headquarters Air Force, Civilian Force Policy Division, 27 April 2020, *Families First Coronavirus Response Act Fact Sheet*)

Q17. Our office has been closed for several weeks and we are transitioning some civilian employees to their traditional worksites. If an employee returns and is showing symptoms of illness (unsure if COVID-related or not), what should I do?

A17. When a commander/supervisor observes a civilian employee at the workplace exhibiting symptoms of illness, he/she should express general concern regarding the employee's health and remind the employee of leave options available, including advanced sick leave. If the employee is able to perform work (i.e., they are not incapacitated), supervisors should identify whether the employee is telework-ready, or can be made telework-ready on a just-in-time basis, and offer the employee the option to telework. If the employee is not a telework participant, and if the supervisor wants to keep the employee away from the worksite for the safety of other workers, then the supervisor may authorize Weather and Safety Leave. Supervisors are encouraged to consult with their servicing CPS and JA offices in such situations.

Q18. My supervisor has notified me that I will be required to return to the traditional worksite. I believe I am at a higher risk for COVID-19 and I want to continue to telework to minimize my risk. What can I do?

A18. It remains DAF policy to maximize telework whenever possible. Moreover, a civilian employee at higher risk under the CDC classification may have a legal right (under the Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act) to the reasonable accommodation of extended telework, even if other employees have been recalled to the traditional worksite. It will depend on the ability for the employee to safely perform his or her job at the worksite. By law, a request for accommodation requires an individualized assessment of the facts and circumstances (both medical and job) of the particular requesting employee. The statute broadly defines the term "disability" and includes virtually all of the conditions (other than age) identified by the CDC as qualifying an employee as being at higher risk for serious complications from COVID-19. The Equal Employment Opportunity Commission has specifically deemed telework, including full-time telework, to be a potential reasonable accommodation, even in situations where employees without a disability are not permitted to telework. Thus, an employee with a disability that puts them at higher risk from COVID-19 may well be entitled to continued telework as an accommodation. Note that denials of requests for reasonable accommodation should only be made after consultation with the local servicing CPS and legal offices.

Q19. I have employees who have been deemed mission essential, but who also have self-identified as "higher risk" and were placed on Weather and Safety Leave. Now that we are transitioning to optimized civilian workforce operations, can I recall them to the traditional worksite?

A19. Emergency civilian employees on approved Weather and Safety Leave may normally remain on Weather and Safety Leave until the threat of transmission lowers. However, in circumstances where critical, urgent, or mission-essential functions (to include essential maintenance and production tasks or services needed to support the warfighting mission, or to protect people and property) cannot be supported without emergency employees returning to work, management may recall those emergency employees from Weather and Safety Leave. Special precautions must be enacted to support the health and welfare of emergency employees, and especially those who are higher risk from serious COVID-19 complications, while also ensuring accomplishment of critical mission requirements. Consistent with mission, supervisors and managers should seek to minimize the number of higher risk emergency employees required to work, by deliberately identifying the required skills, assessing mission impact and considering alternative approaches (such as whether those not at higher risk possess similar skills). Supervisors are encouraged to take a collaborative approach in working with their civilian employees to develop plans for each civilian employee's transition to optimized operations and seek creative, flexible, and tailored solutions. Wing Commanders (or Complex Commanders or equivalent) retain ultimate decision authority with respect to mission criticality and safety when there is a disagreement between management and individual employees with respect to their recall. Effective safeguards and measures must be put in place to ensure that all higher risk emergency employees who are required to work, or who are recalled from Weather and Safety Leave, are able to safely travel to and from work and perform their jobs on site in a safe manner. Commanders must assess these situations in consultation with Medical, Legal and Civilian Personnel advisors.

Q20. Is it the Air Force's intent to continue Weather and Safety Leave authorization for higher risk civilian employees for 12-18 months if the COVID-19 outbreak lasts that long?

A20. It is the DAF's goal to ensure all civilian employees are gainfully employed and working towards accomplishing the mission, while also protecting the employees' health and safety. Supervisors and managers should consider available alternatives prior to a civilian employee being authorized long-term Weather and Safety Leave. Alternatives include, but are not limited to: telework for the portion of an employee's job that can be accomplished away from the workplace; reassigning the employee to a different position (equal to current pay and grade) that may better protect the employee's health (such as one that can be performed remotely); and staggering arrival times and shifts to enable more physical distancing at the workplace – provided that effective safeguards and measures have been put into place to ensure that employees who are recalled from Weather and Safety Leave (or telework) are able to safely travel to and from work and perform their jobs on site in a safe manner. As outlined in OMB's guidance, M-20-23, *Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again*, "Agencies and managers must continue to take precautions for vulnerable populations that are at higher risk for severe illness from COVID-19, including older adults and people of any age who have serious underlying medical conditions." Supervisors are encouraged to take a collaborative approach to develop a plan for each employee on a case-by-case basis. When a civilian employee is placed on Weather and Safety Leave, the decision should be reassessed periodically to determine if other alternatives may be available.

Considerations include the risk level to the employee (in accordance with the *Department of the Air Force Return to Work Capacity Guidelines*); whether the employee has any family members in their household at higher risk; mitigation measures in the workplace (ability to physically distance, barriers, etc); ability of the employee to safely travel (i.e., mass transit vs POV); potential dependent care responsibilities; etc. There is no “one-size-fits-all” approach and consistency is not the goal in this instance. Also, it must be noted that even under HPCON A, CDC-designated Higher Risk and Special Populations may legally be entitled to reasonable accommodation (under the Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act). An employee with a disability that puts them at higher risk from COVID-19 may be entitled to either continued telework or continued leave (of some form) as an accommodation. By law, the request for accommodation requires an individualized assessment of the facts and circumstances (both medical and job) of the particular requesting employee. Supervisors should consult with their servicing CPS and JA offices in such situations.

Q21. I have been on Weather and Safety Leave because I cannot do my job remotely. My supervisor has notified me that I will be required to return to the traditional worksite soon. I believe I am at a higher risk for COVID-19 and I want to continue to stay home to minimize my risk. What can I do?

A.21. Civilian employees on approved Weather and Safety Leave may normally remain on Weather and Safety Leave until the threat of transmission lowers, generally Phase 3. Healthy civilian employees always have the option to request personal leave (e.g., annual, advanced annual, LWOP, compensatory time off) for safety reasons and supervisors and managers are encouraged to approve such requests as appropriate. Civilian employees may also have entitlements under the Family First Coronavirus Relief Act (FFCRA) and should consult the Headquarters Air Force, Civilian Force Policy Division, 27 April 2020, *Families First Coronavirus Response Act Fact Sheet* for additional information on these entitlements. Also, even under HPCON A, CDC-designated Higher Risk and Special Populations may legally be entitled to reasonable accommodation (under the Rehabilitation Act of 1973, as amended by the Americans with Disabilities Act). An employee with a disability that puts them at higher risk from COVID-19 may be entitled to either continued telework or continued leave (of some form) as an accommodation. By law, the request for accommodation requires an individualized assessment of the facts and circumstances (both medical and job) of the particular requesting employee.

Additionally, during the COVID-19 outbreak, supervisors and managers should seek to minimize the number of higher risk employees required to return to traditional worksites, by deliberately identifying the required skills, assessing mission impact and considering alternative approaches (such as whether those not at higher risk possess similar skills). Supervisors are encouraged to take a collaborative approach in working with their civilian employees to develop plans for each civilian employee’s transition to optimized operations and seek creative, flexible, and tailored solutions. Wing Commanders (or Complex Commanders or equivalent) retain ultimate decision authority with respect to mission criticality and safety when there is a disagreement between management and individual employees (who do not have a disability) with respect to their recall. Effective safeguards and measures must be put in place to ensure that all higher risk

employees who are required to work, or who are recalled from Weather and Safety Leave, are able to safely travel to and from work and perform their jobs on site in a safe manner. Civilian employees may self-identify as “higher risk” or as members of “special populations”, in accordance with CDC criteria, and supervisors and managers may approve Weather and Safety Leave if the employee cannot telework and if adequate safety and mitigation measures cannot be put into place.

Q22. If management places a civilian employee on an alternate work schedule due to COVID-19-related reasons (to help with social distancing for example), are we required to pay the employee night differential?

A22. Yes, if management assigns an employee to a shift that is appropriate for night differential, then the appropriate night differential must be paid. When making schedule changes, management should ensure all labor obligations are met. Note that even if changes are permitted in accordance with a bargaining agreement or in accordance with federal law, the Agency may still be required to bargain over the impacts and/or implementation of such a change. Supervisors and managers should continue to engage with his or her labor relations specialist regarding such issues.

References:

- 10 U.S.C. § 1580, Emergency Essential Employees: Designation
- 5 U.S.C. § 6329c(b), Weather and Safety Leave
- 5 CFR Part 630, Weather and Safety Leave
- Public Law 111-292, Telework Enhancement Act of 2010
- United States Office of Personnel Management’s *Guide to Telework in the Federal Government*, April 2011
- Department of Defense Instruction (DoDI) Number 1035.01, 4 April 2012, Telework Policy
- DoDI1035.01_AFI36-816, Civilian Telework Program, 29 October 2018
- DoDI1400.25V610_AFI36-807, *Hours of Work and Holiday Observances*, 19 April 2019
- DoDI1400.25V630_AFI36-815, *Leave*, 14 November 2019
- Office of Management and Budget/Office of Personnel Management Memorandum, M-20-23, *Aligning Federal Agency Operations with the National Guidelines for Opening Up America Again*
- *Department of the Air Force Return to Work Capacity Guidelines*, 15 May 2020, Version 1
- Secretary of Defense Memorandum, *Guidance for Commanders on Risk-Based Changing of Health Protection Condition Levels During Coronavirus Disease 2019 Pandemic*, May 19 2020
- *Guidelines for Opening Up America Again*, <https://www.whitehouse.gov/openingamerica/>
- Department of the Air Force Memorandum (A1), *Department of the Air Force Guidance on Use of Cloth Face Coverings*, 5 Apr 20
- Department of Defense Memorandum, *Transition to Conditions-based Phased Approach to Coronavirus Disease 2019 Personnel Movement and Travel Restrictions*, May 22, 2020
- Department of Defense Memorandum, *Force Health Protection Guidance (Supplement 8) – Department of Defense Guidance for Protecting Personnel in Workplaces during the Response to the Coronavirus Disease 2019 Pandemic*

- Department of Defense Memorandum, *Civilian Personnel Guidance for DoD Components in Responding to Coronavirus Disease 2019*, 8 March 2020
- Office Of Management and Budget Memorandum, M-20-13, Updated Guidance on Telework Flexibilities in Response to Coronavirus, dated March 12, 2020
- Office of Management and Budget Memorandum, M-20-15, Updated Guidance for the National Capital Region on Telework Flexibilities in Response to Coronavirus, dated March 15, 2020
- Office of Management and Budget Memorandum, M-20-16, *Federal Agency Operational Alignment to Slow the Spread of Coronavirus, COVID-19*, March 17, 2020
- USD P&R memorandum, "*Civilian Duty Status and Use of Weather and Safety Leave during COVI Headquarters Air Force, Civilian Force Policy Division, March 2020, Telework Fact Sheet*
- *D-19 Pandemic*, March 30, 2020
- Department of Defense Memorandum, Updated Civilian Personnel Guidance in Response to Coronavirus Disease 2019, DCPAS Message 2020024
- Department of the Air Force Memorandum (A1), *Telework Flexibilities in Response to COVID-19*, 20 March 2020
- Department of the Air Force Memorandum (A1), *Weather and Safety Leave during COVID-19 (Self-Certification guidelines)*, 3 April 2020
- Department of the Air Force Memorandum (A1), *Interim Implementation Guidance – Families First Coronavirus Response Act (FFCRA)*, 14 April 2020
- Headquarters Air Force, Civilian Force Policy Division, 27 March 2020, *Telework Fact Sheet*
- United States Office of Personnel Management Memorandum #2020-05, *Coronavirus Disease 2019 (COVID-19): Additional Guidance, Attachment Questions and Answers on HR Flexibilities and Authorities for Coronavirus Disease 2019*, 7 March 2020.
- Headquarters Air Force, Civilian Force Policy Division, 6 April 2020, *Weather and Safety Leave Fact Sheet*
- Headquarters Air Force, Civilian Force Policy Division, 27 April 2020, *Families First Coronavirus Response Act Fact Sheet*