

University of Houston System EOS/HR Guidance Concerning the Novel Coronavirus (COVID-19) Pandemic

The Office of Equal Opportunity Services and the UH Human Resources Department, in consultation with the Office of General Counsel, has prepared guidance for use by UHS Human Resources offices, EEO offices and others in providing direction to managers about handling workplace situations in light of the novel coronavirus (COVID-19) pandemic.

The guidance below is meant to be user-friendly and widely-applicable. Specific situations may require an individualized assessment. The guidance is informed by feedback received and questions posed to date. Updates will be provided as other developments occur.

Managers' Guidance

Travel Restrictions: Managers must follow university guidance, federal guidance, and CDC guidelines and require that employees self-quarantine if they have traveled to any international locations since February 2020. These employees must be approved before returning to campus. There is a procedure to follow for return to campus approval that is set out on the COVID-19 webpage for each institution.

UH: <https://uh.edu/covid-19/>

UHD: <https://www.uhd.edu/administration/emergency-management/coronavirus/Pages/default.aspx>

UHCL: <https://www.uhcl.edu/health-alert/>

UHV: <https://www.uhv.edu/alert/>

Preventive Measures: Managers may require employees to adopt infection-control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal in the workplace.

Asking employees about COVID-19: Although managers should not ask employees if they have COVID-19 or any specific medical condition, they can require their employees to answer questions about symptoms and disclose whether they are experiencing symptoms that could potentially be associated with COVID-19.

- For example, managers may ask such employees if they have been advised by a health care provider to self-quarantine, or if they are experiencing symptoms of COVID-19. These symptoms include fever, chills, cough, shortness of breath, or sore throat.
- As you know, managers may send an employee home or require them to remain at home if they become ill with symptoms of COVID-19 or other illness.
- Managers should not base any symptom-related inquiry on an employee's protected status, such as race or national origin.

- Managers may require a doctor's note when sick/symptomatic employees want to return to work. As a practical matter, however, doctors and other health care professionals may be too busy to provide return to work documentation. Therefore, new approaches may be necessary, such as reliance on local clinics to provide a form, a stamp, or an e-mail to certify that an individual is medically ready to come back to work.
- It is required that managers maintain all information about employee illness, including any potential COVID-19-related symptoms or illness, as a confidential medical record, separate from their personnel record and limit the distribution of such information to individuals with a legitimate need to know. It is recommended that HR be directly involved in the handling and safeguarding of this information.

Employees concerned about COVID-19 transmission: The universities' websites provide information and forms related to remaining at and/or returning to work from international travel, potential exposure to an individual with COVID-19 and actual diagnoses of COVID-19.

Communications about positive COVID-19 cases: Managers should not inform other employees in their department if one of their co-workers has been diagnosed with COVID-19. It may be deemed necessary to share information with employees who may have had contact with an employee with a confirmed case of COVID-19. Managers should not inform the potentially affected employees of the name of the COVID-19-stricken employee, but may inform the potentially affected employees that an employee of the university has tested positive for COVID-19 and that the university believes that the potentially affected employees may have come into contact with the stricken employee.

The CDC does not recommend self-isolation for indirect (versus close) contact with individuals diagnosed with COVID-19 however, the heightened sensitivity requires more flexible approaches in addressing coworkers' concern about their potential exposure, as discussed below.

Accommodation issues: Managers should take a flexible approach when an employee voluntarily discloses that he/she has a specific medical condition or disability that puts him or her at increased risk of COVID-19-related complications. Although managers should not ask about the specific medical condition, the manager may ask him/her to describe the type of assistance they think will be needed to perform the essential functions of the job (e.g. telework or leave for a medical appointment). The manager must keep this information confidential. If there are concerns about the validity of the requests by the employee, the manager should consult with Human Resources and not handle it directly.

Managers should take a flexible approach when an employee expresses concern about being in the workplace due to possible exposure to COVID-19. Managers should listen to employee concerns and implement a telework arrangement if operationally feasible. In accordance with applicable law and university policy, the manager may grant temporary short-term paid COVID-19 related emergency leave if telecommuting is not possible. On a long-term basis, the employee should follow the process to request telework as a reasonable workplace accommodation, if possible. Employees with disabilities that put them at high risk for complications may request telework as a reasonable accommodation to reduce their chances of infection.

Specific Types of Leave available: Managers must consider granting the various paid leaves available for employees who have COVID-19-related special circumstances, if they cannot perform telework. **We list the available leave types below that may be available and will provide further updates on categories and calculations to use for these employees in the coming days as these laws just changed.**

1) Emergency Leave: Managers may grant paid COVID-19-related emergency leave on a short-term temporary basis for employees who cannot telework because of the nature of their job duties.

2) New federal requirements for emergency paid sick leave: (EFFECTIVE APRIL 2, 2020) The university must provide paid sick time, generally two (2) weeks with some restrictions, to an employee who is unable to work (or remote work) because:

- (1) the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- (2) the employee has been advised by a health care provider to self-quarantine because of COVID-19;
- (3) the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- (4) the employee is caring for an individual subject or advised to quarantine or self-isolate;
- (5) the employee is caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precautions; or
- (6) the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury. Unlike the emergency FMLA requirements, an employee is immediately eligible for this leave (there is no 30-day-on-payroll requirement).

3) New FMLA requirements: (EFFECTIVE APRIL 2, 2020) The university must provide up to 12 weeks of job-protected FMLA leave for employees who have been on the payroll for 30 calendar days. This is limited to certain circumstances, including where an employee is unable to work (or remote work) due to a need to care for a minor child if the child's school or place of child care has been closed or is unavailable due to a public health emergency. The first 10 days is unpaid but employees can use emergency paid sick leave during that time. The remaining 10 weeks of FMLA leave is required to be paid, generally at two-thirds of the employee's regular rate with some restrictions. Consult your Human Resources contact regarding specific guidance and coding of the leave.

Remote Work:

- Managers should take a flexible, but specific job-duty-related approach to allowing employees to work remotely.
- Managers should clearly communicate with employees about workplace (remote or on-site) rules and expectations. This includes the accurate recording of all time worked (non-

exempt personnel). If it is determined there is abuse by employees, employers can always take remedial corrective action.

- Managers need to consider how an employee's reasonable workplace accommodations can be applied in a telework setting. The university 504 Coordinator can be consulted in this process. The university needs to continue to provide reasonable accommodations for employees with known disabilities barring undue hardship or direct threat. In the event of undue hardship, the manager and employee should cooperate to identify an alternative reasonable accommodation in consultation with Human Resources.

Temporary Alternate Work Site/COVID-19 Telecommuting Agreement Guidance:

Consistent with the recommendations of public health officials, the university has determined that staff may work from home to the extent they are able to perform job functions remotely and with appropriate approval from their supervisors. The following is guidance for supervisors to consider when considering requests from employees to work from an alternate work site.

1) What approval is needed for employees to work from a Temporary Alternate Work Site?

Supervisors may approve a short-term work arrangement related to COVID-19. Approval from Human Resources is not required for these requests. However, such approvals should be maintained at the department level for reporting at a later date. In addition, this form and a list of employee names who were approved for an alternate work site should be submitted to the appropriate Human Resources Department.

The circumstances for the temporary Alternative Work Site request should be documented and include considerations such as equipment needs and maintenance, employee safety, communication and supervision, and adherence to state and federal laws.

2) Temporary Alternate Work Site Approval:

- Staff may work from home to the extent that they are able to perform functions remotely.
- If the employee is able to work remotely and has the equipment/resources to work remotely, the department should initiate the appropriate COVID-19 Telecommuting Form.
- If the employee does not have the necessary equipment/resources, the department may provide the equipment/resources, if reasonable and available, in accordance with Property Management Guidelines.

3) Work that cannot be done remotely:

- If the work cannot be done remotely and is determined to be mission essential, the employee can work under their supervisor's guidance on-site with appropriate considerations for social distancing and report as normal.
- If the work cannot be done remotely and the position is not determined to be mission essential, the employee may work with their supervisor in arranging flex schedules or other

arrangements subject to new emergency sick leave rules as discussed above. Granting COVID-19 related emergency leave can be considered.

This is a time of transition with many changing rules and if there are questions please feel free to contact Human Resources, the Office of Equal Opportunity Services (eos@uh.edu; 713-743-8835) or the Office of General Counsel (dhcornell@uh.edu; 832-842-0949) as needs arise.