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INFORMATION PAPER

**ATZB-JA
3 April 2020**

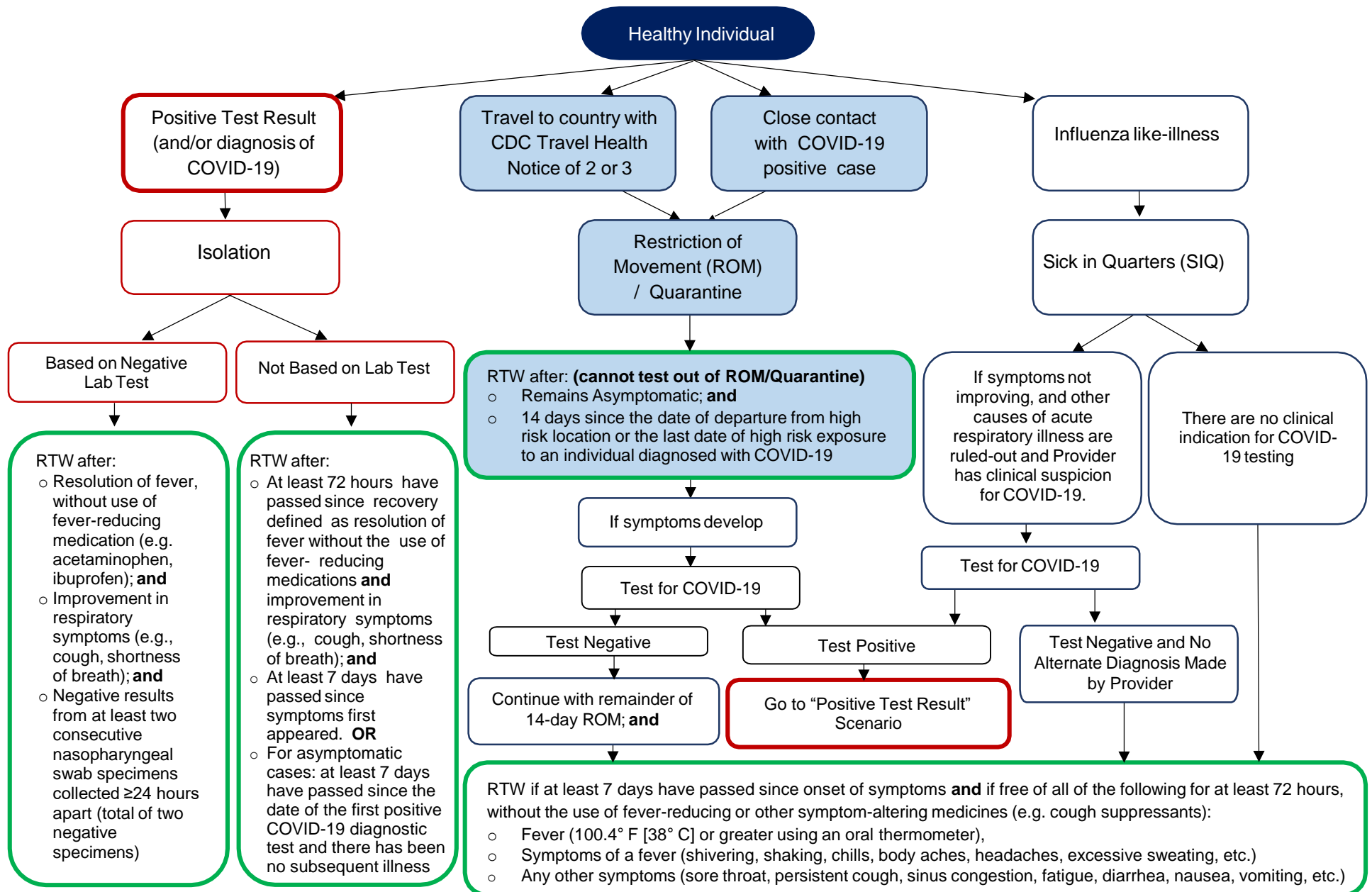
SUBJECT: Civilian Duty Status Guidelines during COVID-19

1. Purpose. To improve clarity on status, appropriate duty locations, and return to duty of Department of the Army civilian employees in the coronavirus (COVID-19) pandemic.
2. References. HQDA, OPM, OMB, DOD, DCPAS and others have issued guidance on telework, weather & safety leave (WSL) and return to work standards. This guidance may change. Refer to webEOC and share point for more detailed information on specific issues.
3. Background. Prior to the onset of the COVID-19 in CONUS, most USAG POM and DLIFLC civilian employees did not have approved telework agreements and the Collective Bargaining Agreements (CBA) addressed teleworking as a voluntary arrangement. The POM and DLIFLC Continuity of Operations Plans (COOP) directed employees to telework in an activated COOP if they are not able to physically access the work site, work conditions deteriorated to a degree that employee safety is jeopardized or basic services are disrupted. On 11 March 2020, the World Health Organization declared COVID-19 to be a pandemic. On 13 March 2020, POTUS declared a COVID-19 National Emergency. The declaration of emergency authorizes rapid changes to CBA to respond to the emergency, while working as closely as circumstances allow with the leaders of bargaining units. The Presidio of Monterey Complex remains open for duty, while the physical locations for many services are closed or may be limited.
4. Emergency essential employees may be required, depending upon the nature of their duties, to continue to perform duty at their customary worksite. 5 CFR 630.1605(b).
5. Employees who have approved telework agreements, including agreements recently completed in response to the COVID-19 emergency, can be required to telework. Supervisors may approve telework agreements that have flexible scheduling, e.g. including longer unpaid breaks during the day to care for family members, and/or that include some duty at the customary worksite and some duty at the telework location. Employees must appropriately safeguard information while teleworking. Hatch Act applies to telework.
6. Supervisors may compel employees who do not have approved telework agreements to telework because of the pandemic, if their organization activates a COOP which requires teleworking. Supervisors may allow employees to continue performing duty at the customary work site, after determining that the employee doing so will not increase safety/health risks for that or other employees or service members.
7. A supervisor may authorize use of WSL in several circumstances. WSL is not a right and should not be used if the employee can perform duties through teleworking. Conditions potentially appropriate for WSL include:

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- a. Public health officials direct asymptomatic employee to quarantine or isolate;
 - b. Medical professional, commander, or supervisor directs asymptomatic employee not to report to the worksite because of recent travel to a high risk area, possible exposure or because the employee shows symptoms that might be COVID-19.
 - c. The employee is at higher risk to COVID-19 as identified by the CDC, e.g. age or underlying health issue, and is not telework eligible.
 - d. Other circumstances when an employee is not able to safely travel to or perform work at an approved location (consult first to ensure circumstances fit WSL criteria).
8. Employees who have symptoms of COVID-19, or who are ill/recovering from other medical issues should not be teleworking or on WSL. Their time should be classified as sick or annual leave.
9. Supervisors may ask employees if they are experiencing symptoms associated with COVID-19 such as fever, chills, cough, sore throat, or shortness of breath. Supervisors should encourage employees who demonstrate symptoms of acute respiratory illness to go home on sick or other personal leave. If the employee refuses to go home and the supervisor reasonably believes that the employee endangers the work force, the supervisor may direct the employee to work at a different location, perform different duties, telework, or to go home. Excused absence (administrative leave) may be used for a brief period if it is necessary to prevent an employee from creating a health risk at the worksite. If objective evidence supports the employee's continued absence, and the employee does not voluntarily take leave, and cannot telework, a supervisor can place an employee on enforced leave or indefinite suspension. Supervisors should consult with CPAC before placing an employee on excused absence (administrative leave) or directing an employee to take leave.
10. Employees who have been diagnosed with COVID-19 or are recovering from other illness will remain out of the work place until the following conditions have been met:
- a. If positive for COVID-19, at least 2 negative tests at least 24 hours apart OR 7 days since onset of symptoms; AND at least 72 hours have passed since resolution of fever (100° F oral temperature) without use of fever-reducing medications, and improvement in other respiratory symptoms (e.g. cough, shortness of breath.)
 - b. If other illness (e.g. cold, flu-like), free of cough, fever, sign of fever or other symptoms for at least 72 hours, without use of symptom altering medications AND at least 7 days since onset of symptoms.
11. Medical documentation after an employee has been out due to illness may vary depending upon the availability of in-person medical care. In-person medical care may be limited to serious illness. Employees who have been tested for COVID-19 are required to communicate the results of the test to their supervisors. Employees who have been directed to self-care may generally provide an email, or text from a telehealth provider, or certify that the conditions of paragraph 10 have been met, rather than provide documentation from an in person medical examination.
12. Matrices and flowcharts are attached demonstrating duty status and return to duty.

Return to Work (RTW) Flowchart Coronavirus Disease (COVID-19)



THE OFFICIAL WORKSITE IS OPEN

SCENARIOS		DUTY STATUS OPTIONS		
		Telework ¹	Report to Worksite ²	Weather and Safety Leave ³ (applies only to non-telework participants)
IF:	AND:	THEN:		
The employee is asymptomatic of COVID-19	is directed by a medical professional, public health authority, commander or supervisor ⁴ to stay home	✓	✗	✓
	is not directed by a medical professional, public health authority, commander or supervisor to stay home	✓	✓	✗ (Use AL)
	prefers not to come to an otherwise open worksite	✓	✓	✗ (Use AL)
	is at high risk of COVID-19 as defined by the CDC ⁵	✓	✗	✓
	has children at home due to school system or childcare center closures	✓ (Use AL or SL for hours of care)	✓	✗ (Use AL or SL)
	has a family member(s) who requires care and the family member is:	not ill ✓ (Use AL for hours of care)	✓ ⁶	✗ (Use AL)
		ill ✓ (Use SL for hours of care)		✗ (Use SL)
	returns from travel and is directed by a medical professional, public health authority, commander, or supervisor to stay home	✓	✗	✓
	is designated as an emergency employee ⁷ and ordered to the worksite	✗	✓	✗
	is ill for other reasons	Use Sick Leave		
The employee is symptomatic of COVID-19, is ill, and cannot work		Use Sick Leave		

¹ Employees may telework if they occupy a telework eligible position and have a telework agreement. Commanders and supervisors are strongly encouraged to review their employees' eligibility for telework, and communicate with employees to see if telework is appropriate. In very limited circumstances, commanders or supervisors may require employees to telework. AL = Annual Leave; SL = Sick Leave

² Employees who are ill are encouraged to take sick leave, and may take other paid leave as appropriate. Sick leave may only be used when the employee or a family member for whom they are providing care is sick. If an employee does not have any leave available, he or she is encouraged to discuss with their chain of command or supervision options including advanced leave, accessing donated leave, and unpaid leave.

³ Weather and safety leave is not an entitlement. Under DoDI 1400.25 Volume 610, "DoD Civilian Personnel Management System: Hours of Duty," approval authority is the commander or head of activity unless further delegated.

⁴ The commander or supervisor either directs the employee to stay home because of possible exposure or because the employee has symptoms that might be COVID-19.

⁵ Office of Management and Budget Memorandum, "Updated Guidance on Telework Flexibilities in Response to Coronavirus," March 12, 2020

⁶ Unless directed by a medical professional, public health authority, commander or supervisor to stay home because of COVID-19 concerns.

⁷ The employee is designated an emergency employee by a commander or supervisor under 5 CFR 630.1605(b) and must report to the worksite even if a telework participant. The commander or supervisor determines the employee is critical to agency operations.

THE OFFICIAL WORKSITE IS CLOSED

SCENARIOS		DUTY STATUS OPTIONS		
		Telework ⁸	Report to Worksite	Weather and Safety Leave ^{9,10} (applies only to non-telework participants)
IF:	AND:	THEN:		
The employee is asymptomatic of COVID-19	is directed by a medical professional, public health authority, commander or supervisor to stay home	✓	✗	✓
	is not directed by a medical professional, public health authority to stay home	✓	✗	✓
	is at high risk of COVID-19 defined by the CDC ¹¹	✓	✗	✓
	has children at home due to school system or childcare center closures	✓ (Use AL or SL for hours of care)	✗	✓
	has a family member(s) who requires care and the family member is:	✓ (Use AL for hours of care)	✗	✓
		✓ (Use SL for hours of care)		
	returns from travel and is directed by a medical professional, public health authority, commander, or supervisor to stay home	✓	✗	✓
	is designated as an emergency employee ¹² and ordered to the worksite	✗	✓	✗
	is ill for other reasons	Use Sick Leave		
The employee is symptomatic of COVID-19, is ill, and cannot work		Use Sick Leave		

⁸ Employees must telework if they occupy a telework eligible position and have a telework agreement. Commanders and supervisors are strongly encouraged to review their employees' eligibility for telework, and communicate with employees to see if telework is appropriate. In very limited circumstances, commanders or supervisors may require employees to telework. AL = Annual Leave; SL= Sick Leave

⁹ Employees who are ill are encouraged to take sick leave, and may take other paid leave as appropriate. Sick leave may only be used when the employee or a family member for whom they are providing care is sick. If an employee does not have any leave available, he or she is encouraged to discuss with their chain of command options including advanced leave, accessing donated leave, and unpaid leave. If the employee is not a telework participant during a worksite closure, weather and safety leave is appropriate.

¹⁰ Weather and safety leave may not be substituted for pre-approved/planned annual or sick leave.

¹¹ Office of Management and Budget Memorandum, "Updated Guidance on Telework Flexibilities in Response to Coronavirus," March 12, 2020

¹² The employee is designated an emergency employee by a commander or supervisor under 5 CFR 630.1605(b) and must report to the worksite even if a telework participant. The commander or supervisor determines the employee is critical to agency operations.

SOURCE: CPM 2020-05, dated 07 March 2020

Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19)

F. Employee Relations.

(1) If an employee comes to work and shows symptoms of illness, what should the supervisor do? May the employee be placed on excused absence (administrative leave), and if so, for how long? What is needed before the employee can return to work?

When a supervisor observes an employee at the workplace exhibiting medical symptoms, he or she can express general concern regarding the employee's health and remind the employee of his or her leave options for seeking medical attention, such as requesting sick or annual leave. Supervisors may refer to CDC's Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) for some tips on how to handle employees showing symptoms of acute respiratory illness. See <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-businessresponse.html>. However, supervisors of federal employees should consider this guidance in conjunction with OPM guidance for the federal workforce.

If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances. When these leave options are not practical, a viable alternative, when the employee is covered by a telework agreement, is for the employee to work from home for social distancing purposes pursuant to an ad hoc arrangement approved by the employee's supervisor. Of course, the feasibility of working from home is dependent on several factors, including the nature of the employee's duties, the availability of any necessary equipment (personal computer, etc.), and computer and communication connectivity.

If none of the above options are possible, agencies have the authority to place an employee on excused absence (administrative leave) and order him or her to stay at home or away from the workplace. The duration of any such excused absence (administrative leave) is dependent on the specific circumstances but is typically a short period. Placing an employee on excused absence (administrative leave) is fully within an agency's discretion and does not require the consent or request of the employee. Supervisors should not place an employee on excused absence (administrative leave) without first consulting with their human resources (HR) staff and general counsel to review agency policy, collective bargaining agreements, and applicable law with respect to any applicable collective bargaining provisions.

An employee who is quarantined under the direction of health care authorities should not be reporting to the normal worksite. The employee's supervisor should offer the quarantined employee the option of ad hoc telework to the maximum extent possible. The quarantined employee may be granted advanced sick leave for the quarantine period, at the employee's request. Other options include annual leave, advanced annual leave, or donated annual leave.

Before an employee returns to work, the employee's supervisor should consult with HR and general counsel regarding procedures for requesting administratively acceptable medical documentation in accordance with applicable policies, collective bargaining agreements, and laws.

SOURCE: CPM 2020-05, dated 07 March 2020

Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19)

(2) If no medical official is present at a Federal building, who assesses employees and orders them home if they appear ill?

Supervisors may require an employee to take leave or stay away from the worksite based on objective evidence only (not suspicion). Supervisors should obtain assistance from HR staff or on-site employee health services (if available), as the action may require compliance with adverse action procedures.

Objective evidence will depend on the facts of each case. Objective evidence could consist of a statement from the health authorities having jurisdiction or from a health care provider that the employee is physically unable to work or poses a danger to other employees or knowledge the employee resides in an area that has been quarantined. Consultation with public health officials may be appropriate. Less definitive, but potentially sufficient, evidence would be the employee making specific comments about being exposed to pandemic influenza or to a quarantinable communicable disease such as COVID-19 (e.g., taking care of a sick relative or friend). If such comments are made, supervisors should consult with HR and general counsel to assess whether a determination from a public health official is appropriate and necessary.

Human resources offices and agency legal counsel should be contacted to determine the best course of action based on objective evidence. Employee relations specialists and agency legal counsel have the necessary knowledge to assist supervisors and managers with options, such as telework, and appropriate actions arising from an outbreak of a quarantinable communicable disease or pandemic influenza. HR staff should check OPM's website (www.opm.gov) and the CDC website (www.cdc.gov) on a regular basis to stay current.

While consideration may be given to directing the employee to leave the workplace and either placing him or her on enforced leave or effecting an indefinite suspension after appropriate adverse action procedural requirements are satisfied, the human resources office and agency legal counsel should be contacted to ensure these types of adverse actions are permissible and defensible under the circumstances, and if appropriate, how to implement these types of actions. Excused absence (administrative leave) may be used if other options are exhausted and if it is necessary to prevent an employee from being at the worksite and putting other employees at risk before a supervisor can appropriately place an employee on enforced leave or indefinite suspension. (See additional discussion on enforced leave in question F3 below.)

(3) Can an agency mandate an employee exposed to a quarantinable communicable disease or infected with COVID-19 to remain away from the workplace for a specified period?

The CDC or other health agency will provide information related to the length of time an individual remains contagious, as well as current recommendations for social distancing, etc. For information specific to COVID-19, please view CDC's web site at <https://www.cdc.gov/coronavirus/2019-ncov/index.html>. In the case of an epidemic or pandemic, agency personnel actions aimed at preventing the spread of a disease may be taken because of the guidance or directive of public health officials regarding the general danger to public health.

Generally, an agency should not prohibit an employee from reporting to work unless it

SOURCE: CPM 2020-05, dated 07 March 2020

Questions and Answers on Human Resources Flexibilities and Authorities for Coronavirus Disease 2019 (COVID-19)

has evidence or a reasonable concern that an employee is physically unable to perform his or her job, or their presence in the workplace poses a risk of infection to others. Whenever possible, sick employees should be encouraged to take leave, such as sick leave, annual leave, advanced leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay. Excused absence (administrative leave) may be used if other options are not feasible and it is necessary to prevent an employee from being at the worksite and possibly putting other employees at risk. Excused absence is a paid, non-duty status that does not require the employee's consent or request and does not trigger adverse action procedures. In addition, excused absence can provide time for the agency to seek appropriate evidence regarding the employee's health. In other cases, such as when an employee refuses to take leave voluntarily, a supervisor may find it appropriate to enforce the employee's use of leave. Supervisors should consult with appropriate HR staff and general counsel before taking such a step, because enforced leave is an adverse action that imposes procedural requirements (i.e., advance notice, an opportunity to reply, the right to representation, and an agency decision) before actually enforcing the use of leave. Enforced leave of 14 days or less may be subject to agency administrative grievance procedures or negotiated grievance procedures. In addition, enforced leave lasting longer than 14 days may be appealed to the Merit Systems Protection Board (MSPB) or potentially grieved under any applicable negotiated grievance procedure. Supervisors need to consult with their HR office and legal counsel when deciding to enforce the use of leave, to ensure that the action is permissible and defensible before a third party.