

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

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### **A. Determination of COVID-19 as a Quarantinable Communicable Disease**

#### **(1) Is COVID-19 a quarantinable communicable disease pursuant to Executive Order (E.O.) 13295?**

The Centers for Disease Control and Prevention (CDC) has determined that COVID-19 meets the definition for “severe acute respiratory syndromes” set forth in E.O. 13674. Therefore, this novel coronavirus is a “quarantinable communicable disease,” as defined by E.O. 13295, as amended by E.O.s 13375 and 13674.

Additional information on quarantinable communicable diseases is available from the CDC at <http://www.cdc.gov/quarantine/AboutLawsRegulationsQuarantineIsolation.html>.

### **B. Telework**

#### **(1) Should an agency authorize weather and safety leave to a telework program participant who was exposed to a confirmed case of a quarantinable communicable disease, such as COVID-19?**

Use of weather and safety leave would be subject to the normal conditions—for example, weather and safety leave may be granted only if an employee is not able to safely travel to or perform work at an approved location. Thus, an employee who is not a telework program participant would be granted weather/safety leave for quarantine periods under the direction of local or public health authorities. However, in the case of telework program participants, the employee’s home is generally an approved location. Thus, the employee would generally be expected to perform telework at home as long as the employee is asymptomatic. (See 5 CFR 630.1605.) If a telework program participant in these circumstances needs time off for personal reasons, then the employee would be expected to take other personal leave or paid time off (e.g., annual leave or sick leave to care for a family member).

**(2) Generally, how should agencies manage telework during incidences of quarantinable communicable disease, such as COVID-19?**

For an employee covered by a telework agreement, ad hoc telework arrangements can be used as a flexibility to promote social distancing and can be an alternative to the use of sick leave for exposure to a quarantinable communicable disease for an employee who is asymptomatic or caring for a family member who is asymptomatic. An employee's request to telework from home while responsible for such a family member may be approved for the length of time the employee is free from care duties and has work to perform to effectively contribute to the agency's mission. The Telework Enhancement Act of 2010 requires agencies to incorporate telework into their continuity of operations plan. Agencies should have written telework agreements in place with as many employees who are willing to participate and communicate expectations for telework in emergency situations.

It is important for an agency to have a solid technology infrastructure established to support a high level and volume of connectivity, so employees can work seamlessly from their alternate locations (e.g., home) and maintain established records and security requirements. Managers, employees, and organizations must remain flexible and adapt to the changing environment.

**(3) In the event that local school systems are closed due to COVID-19, but Federal offices remain OPEN, is it permissible for a telework program participant to perform telework with a child in the home?**

An agency that has a general bar on teleworking when there are young children or other persons requiring care and supervision may choose to adjust its policies to allow, as a special exception, telework in those circumstances in the case of an emergency, such as the COVID-19 situation. Under such an exception policy, a teleworking employee would be expected to account for work and non-work hours during his or her tour of duty and take appropriate leave (paid or unpaid) to account for time spent away from normal work-related duties (e.g., to care for small children).

Agencies should address in their telework policies potential situations that may prevent or impact an employee's ability to effectively perform his or her duties at home. This includes policies regarding the conditions under which employees may telework, even if they have a young child or other person requiring the presence of a caregiver in the home. (For additional information please see OPM Guidance on Telework and Dependent Care at: <https://www.telework.gov/guidance-legislation/telework-guidance/telework-and-dependent-care/>.)

If an agency policy bars an employee from teleworking at his or her home when there is a child or elder care situation, then the home is not an approved location under OPM's regulations. Since Federal offices remain OPEN, agencies may not authorize weather and safety leave to employees who cannot telework with children in the home. Employees should either report to their worksite or request annual leave or other paid time off if they are unable to report to the worksite.

**(4) In the event that local school systems are closed due to COVID-19 and Federal offices are CLOSED, is it permissible for a telework program participant to perform telework with a child in the home?**

An agency that has a general bar on teleworking when there are young children or other persons requiring care and supervision may choose to adjust its policies to allow, as a special exception, telework in those circumstances in the case of an emergency, such as the COVID-19 situation. Under such an exception policy, a teleworking employee would be expected to account for work and non-work hours during his or her tour of duty and take appropriate leave (paid or unpaid) to account for time spent away from normal work-related duties (e.g., to care for small children).

Agencies should address in their telework policies potential situations that may prevent or impact an employee's ability to effectively perform his or her duties at home. This includes policies regarding the conditions under which employees may telework, even if they have a young child or other person requiring the presence of a caregiver in the home. (For additional information please see OPM Guidance on Telework and Dependent Care at: <https://www.telework.gov/guidance-legislation/telework-guidance/telework-and-dependent-care/>.)

If an agency policy bars an employee from teleworking at his or her home when there is a child or elder care situation, then the home is not an approved location under OPM's regulations. Since Federal offices remain CLOSED, agencies may authorize weather and safety leave to employees who cannot telework with children in the home under agency policies and cannot safely travel to or perform work at the regular office location.

**(5) What happens if an employee does not have a sufficient amount of work to perform to cover the entire telework day during incidences of COVID-19?**

An employee must always have a sufficient amount of work to perform throughout the workday when he or she teleworks. An employee performing telework who does not have enough work must notify his or her supervisor and receive additional work or discuss leave options such as annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay.

**(6) Does an agency possess the authority to have their telework program participants work from home during an agency closure due to COVID-19?**

Yes. During an agency closure due to COVID-19, when an agency Continuity of Operation Plan (COOP) has not been initiated and the World Health Organization has NOT declared a pandemic, telework program participants will generally be expected to continue working from home. All telework program participants will be ineligible for weather and safety leave during a closure except in rare circumstances when one of the exceptions under 5 CFR 630.1605(a)(2) applies. They must telework for the entire workday, take other leave (paid or unpaid) or other time off, or use a combination of telework and leave or other paid time off. (Note: A telework program participant may also be referred to as a "telework-ready" employee.) For more information, please see:

<https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/dcdissmissal.pdf>.

**(7) Can an agency order an employee to telework during a COOP event?**

Yes. The Telework Enhancement Act of 2010 states that “each executive agency shall incorporate telework into the continuity of operations plan of that agency.” Employees participating in an agency telework program can be leveraged during a COOP activation. If an agency COOP plan is in operation, that plan “shall supersede any telework policy,” (see 5 U.S.C. 6504(d)(2)) and allow greater flexibility to expand telework to a larger segment of the workforce in support of agency operations) so that as many employees as possible are working during a COOP activation.

**C. Sick Leave and Other Time Off**

**(1) If an employee, who has been receiving weather and safety leave due to exposure to COVID-19, becomes symptomatic (ill), should he or she continue to receive weather and safety leave?**

No. Sick leave would be used to cover such a period of sickness, as provided in 5 CFR 630.401(a)(2). Agencies must grant sick leave when an illness, such as COVID-19, prevents an employee from performing work.

**(2) If an employee runs out of sick leave, can the agency grant advanced sick leave to an employee who is ill (symptomatic) due to a quarantinable communicable disease, such as COVID-19, or must care for a family member who is ill?**

Yes. However, while sick leave may be advanced at an agency’s discretion, it is not an employee entitlement. The sick leave regulations allow an employee to be advanced sick leave for exposure to a quarantinable communicable disease, subject to the limitations below:

- 240 hours (30 days) may be advanced if the employee would jeopardize the health of others by his or her presence on the job because of exposure to a quarantinable communicable disease;
- 104 hours (13 days) may be advanced if the employee is providing care for a family member who would jeopardize the health of others by his or her presence in the community because of exposure to a quarantinable communicable disease.

**(3) Must an employee have a doctor’s note if requesting to use sick leave for 3 days or more due to an illness from a quarantinable communicable disease, such as COVID-19?**

Not necessarily. Under OPM’s regulations (5 CFR 630.405(a)), an agency may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence. An agency may consider an employee’s self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of

the absence. An agency may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any of the purposes for which sick leave is granted for an absence in excess of 3 workdays, or for a lesser period when the agency determines it is necessary. Supervisors should use their best judgment and follow their agency's internal practices for granting sick leave. Agencies should also be mindful about the burden and impact of requiring a medical certificate.

**(4) If an employee is healthy but chooses to stay home because he or she has been in direct contact with an individual exposed to a quarantinable communicable disease, such as COVID-19, in what pay/leave status is the employee placed?**

An employee, covered by a telework agreement, may request to telework with the permission of the supervisor. Agencies could also consider expanding telework to any telework eligible employees to provide additional flexibility for employees. For employees who are not currently covered by a telework agreement, agencies may also consider whether an employee has some portable duties (e.g., reading reports; analyzing documents and studies; preparing written letters, memorandums, reports and other correspondence; setting up conference calls, or other tasks that do not require the employee to be physically present), that would allow him/her to telework on a situational basis. An ad-hoc telework agreement should be signed to cover the period the employee is permitted to work from the approved alternate location (e.g., home).

An employee may also request to take annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay. An agency may not authorize weather and safety leave to an employee under this scenario. The use of sick leave would be limited to circumstances where an employee has become symptomatic (ill) due to a quarantinable communicable disease, such as COVID-19.

**(5) If an employee is healthy but stays home because his or her asymptomatic family member has been quarantined due to exposure to COVID-19, in what pay/leave status is the employee placed?**

Currently, an employee may use annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay to care for a family member who is healthy but has been quarantined due to COVID-19. An employee, covered by a telework agreement, may be able to telework pursuant to an ad hoc arrangement with the permission of the supervisor during the quarantine period. Provided the employee has telework capabilities and sufficient work to perform, the agency should be flexible in determining whether the employee can accomplish his or her duties from home while caring for a family member. An employee may telework during the time he or she is not responsible for caring for a family member and must request annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay while caring for a family member. (See section B, Telework for more information.)

## **D. Weather and Safety Leave**

### **(1) Can agencies approve weather and safety leave for an employee who has been exposed to a quarantinable communicable disease, such as Coronavirus Disease 2019 (COVID-19)?**

Agencies may authorize weather and safety leave for an asymptomatic employee who is subject to movement restrictions (quarantine or isolation) under the direction of public health authorities due to a significant risk of exposure to a quarantinable communicable disease, such as COVID-19. (See Section B, Telework, for more information regarding general restrictions on the use of weather and safety leave for telework program participants.)

### **(2) If an employee is healthy but stays at home because he/she has been in direct contact with an individual infected with a quarantinable communicable disease such as COVID-19, should an agency authorize weather and safety leave?**

An agency may authorize weather and safety leave to an employee exposed to COVID-19, even if asymptomatic, if a local health authority determines the employee would jeopardize the health of others if allowed to return to work. Employees should refer to CDC guidance (<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html>) for how to conduct a risk assessment of their potential exposure. (See Section B, Telework, for more information regarding general restrictions on the use of weather and safety leave for telework program participants.)

### **(3) If an employee must stay home to care for an asymptomatic family member who was exposed to a quarantinable communicable disease, such as COVID-19, should an agency authorize weather and safety leave?**

No. An agency should not authorize weather and safety leave in this instance. An employee who is healthy and is caring for an asymptomatic family member may request annual leave, advanced annual leave, other paid time off (e.g., earned compensatory time off, earned credit hours), or leave without pay for the period of absence from his or her job. In addition, an employee who is caring for an asymptomatic family member who has been exposed to a quarantinable communicable disease and who is covered by a telework agreement may also request to telework pursuant to an ad hoc arrangement to the extent possible. (See section B, Telework, for more information.)

If the employee's family member becomes symptomatic (ill) with a quarantinable communicable disease, such as COVID-19, sick leave to care for a family member with a serious health condition would be appropriate. (See section C, Sick Leave and Other Time Off, for more information.)

## **E. Evacuation Payments During a Pandemic Health Crisis**

**(1) If a local or state health office makes a determination that COVID-19 has become a public health emergency, could a Federal agency use the evacuation payment authority found at 5 CFR 550.409?**

No. OPM regulations permit this authority to be utilized in connection with communicable diseases only in the context of a declared pandemic health crisis. The World Health Organization (WHO) makes the determination of when a pandemic is occurring.

**(2) If the WHO declares COVID-19 to be a pandemic, can an agency order one or more employees to evacuate their worksite and work from home?**

Yes. 5 CFR 550.409(a) allows an agency to order its employees to evacuate their regular worksites and work from home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis.

**(3) During a pandemic health crisis, can an agency order an employee to work from home (or an alternative location mutually agreeable to the agency and the employee) if the employee does not have a telework agreement?**

Yes. An agency may order an employee to work from home (or an alternative location mutually agreeable to the agency and the employee) without regard to whether the agency and the employee have a telework agreement in place at the time the order to evacuate is issued. Agencies should consult with offices of human resources and general counsel to determine appropriate collective bargaining obligations where bargaining unit employees are impacted.

**(4) What type of work may an agency assign to an evacuated employee?**

Under OPM regulations, an agency may assign any work considered necessary without regard to the employee's grade or title. However, an agency may not assign work to an employee unless the agency knows the employee has the necessary knowledge and skills to perform the assigned work.

**(5) If an employee is forced to incur additional costs due to working from home (e.g., purchasing a computer or internet service), may an agency provide payments to offset those expenses?**

The agency head, in his or her sole and exclusive discretion, may grant special allowance payments, based on a case-by-case analysis, to offset the direct added expenses incidental to performing work from home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis. (See 5 CFR 550.409(b).) An employee is **not** entitled to special allowance payments for increased costs during an evacuation unless specifically approved by the agency head.

## **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-business-response.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.

**(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](http://www.opm.gov)) and the CDC website ([www.cdc.gov](http://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 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.

**(4) Does an agency have the right to solicit medical documentation when the employee is requesting sick leave? May an agency require all staff to be tested and treated for a quarantinable communicable disease, such as COVID-19?**

Agency policy and collective bargaining agreements may have provisions for requesting medical documentation from an employee. Accordingly, agencies should consult with their HR office and general counsel for guidance. An agency may grant sick leave only when supported by evidence administratively acceptable to the agency. For absences in excess of 3 days, or for a lesser period when determined necessary by the agency, an agency may require a medical certificate or other administratively acceptable evidence.

Under current rules, management may require medical evaluation or screening only when the need for such evaluation is supported by the nature of the work (see 5 CFR 339.301). Attempts on the part of a supervisor to assume a particular medical diagnosis based on observable symptoms is very problematic and should be avoided. However, when a supervisor observes an employee exhibiting symptoms of illness, he or she may express 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. If the employee has no leave available, supervisors are authorized to approve requests for advanced leave or leave without pay in certain circumstances. Agencies should also note the provisions of 5 CFR 630.401(a)(5), which require the approval of requests for sick leave if an employee is determined by the health authorities having jurisdiction or by a health care provider, to “jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.”

**(5) Under what circumstances should an agency communicate to its employees that there is a confirmed case among one or more of its employees (without identifying the person/specific office)?**

The infected employee’s privacy should be protected to the greatest extent possible; therefore, his or her identity should not be disclosed. In an outbreak of quarantinable communicable disease or COVID-19, management should share only that information determined to be necessary to protect the health of the employees in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Supervisors should consult with their agency general counsel to determine what information is releasable. Employees exposed to a co-worker with confirmed COVID-19 should refer to CDC guidance for how to conduct a risk assessment of their potential exposure at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assess-manage-risk.html>.

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 should work with their workplace safety contacts and local health officials to stay apprised of information regarding transmission of the illness and precautions that should be taken to reduce the spread of influenza or any other contagious disease in the workplace. Managers 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.

**G. Hazardous Duty Pay Related to Exposure to COVID-19**

**(1) May an employee receive hazard pay differentials or environmental differential pay if exposed to COVID-19 through the performance of assigned duties?**

General Schedule (GS) employees may receive additional pay for the performance of hazardous duty or duty involving physical hardship. (5 U.S.C. 5545(d) and 5 CFR part 550, subpart I). Appendix A to subpart I of part 550 of title 5, Code of Federal Regulations, contains a list of approved hazard pay differentials. For example, a 25 percent hazard pay differential is authorized for employee exposure to “virulent biologicals, “ which is defined as ‘work with or in close proximity to...[m]aterials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete protection.’

To be eligible for the hazard pay differential, the agency 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. A hazard pay differential is not payable if safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable. (See 5 CFR 550.904-550.906 for further information and exceptions.) OPM does not determine when hazard pay differentials must be paid; agencies have the responsibility and are in the best position to determine whether duties performed by employees meet the regulatory requirements for hazard pay. Thus, agency managers, in consultation with occupational safety and health experts, must determine whether an employee is entitled to hazard pay on a case-by-case basis.

Prevailing rate (wage) employees may receive an environmental differential when exposed to a working condition, physical hardship, or hazard of an unusually severe nature. (See 5 U.S.C. 5343(c)(4) and 5 CFR 532.511.) A list of approved differentials is contained in Appendix A to subpart E of part 532, of title 5, Code of Federal Regulations. As with hazard pay differentials, determinations as to whether an employee qualifies for an approved environmental differential must be made by agencies on a case-by-case basis.

**(2) May an employee who has been exposed incidentally to COVID-19 (i.e., in a manner not directly associated with the performance of assigned duties) receive a hazard pay differential for exposure to “virulent biologicals”?**

No. OPM's regulations define exposure to “virulent biologicals” as “work with or in close proximity to . . . [m]aterials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete protection.” (See Appendix A to subpart I of part 550 of title 5, Code of Federal Regulations.) Agencies may pay a hazard pay differential to a General Schedule employee for exposure to “virulent biologicals” only when the risk of exposure is directly associated with the performance of assigned duties. An employee may not receive a hazard pay differential under the “virulent biologicals” category if exposure to a qualifying virus was not triggered by the performance of assigned duties. The hazard pay differential cannot be paid to an employee who may come in contact with the virus or another similar virus through incidental exposure to the public or other employees who are ill rather than being exposed to the virus during the performance of assigned duties (e.g., as in the case of a poultry handler or health care worker). Also, the virus must be determined to be likely to cause serious disease or fatality for which protective devices do not afford complete protection.

Federal Wage System (FWS) employees may not receive an environmental differential for incidental exposure to the pandemic COVID-19. The environmental differential for FWS employees is additional pay for job-related exposure to hazards, physical hardships, or working conditions of an unusually severe nature which cannot be eliminated or significantly reduced by preventive measures. The environmental differential is not

intended to compensate employees for exposure to a safety risk unrelated to their assigned duties.

**(3) Where can I find the various hazardous duty pay and environmental differentials?**

For General Schedule (GS) employees, hazardous duty pay differentials are established under 5 CFR 550, Appendix A to subpart I. For Federal Wage System employees, pay administration rules for environmental differentials are found in 5 CFR 532.511. Environmental differential pay categories are listed in Appendix A to subpart E of 5 CFR part 532.

**(4) Can employees receive hazardous duty pay or environmental differential pay for potential exposure to COVID-19?**

No. There is no authority within the hazardous duty pay or environmental differential statutes to pay for *potential* exposure. To pay hazardous duty pay or environmental differential pay for an unusual physical hardship or hazard covered under the regulations, a local installation must find that there is credible evidence that an employee was actually exposed.

**H. Workplace Precautions to Prevent Exposure to COVID-19**

**(1) If an employee works in an occupation at risk for exposure to a quarantinable communicable disease such as COVID-19, what can he or she do to stay safe and prevent the spread of the disease to others?**

The Occupational Safety and Health Administration (OSHA) published guidance and recommended measures to help prevent occupational exposure to COVID-19 in Federal workplaces. See OSHA's COVID-19 guidance at <https://www.osha.gov/SLTC/covid-19/index.html>.

See also CDC guidance: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html>.

**I. Office of Workers Compensation Programs (OWCP)**

**(1) Where can Federal employees find information on workers compensation benefits related to COVID-19?**

Information on worker's compensation benefits for Federal employees related to COVID-19 can be found at <https://www.dol.gov/owcp/dfec/InfoFECACoverageCoronavirus.htm>.