

NIEHS TELEWORK DURING EMERGENCY CLOSURES

Effective January 24, 2016 (Arbitrator's Decision)

The parties shall institute the following language to cover telework requirements during emergency closures:

Section 1. Implementation of Policy:

Management has a duty to inform all workers with telework agreements about the change in policy within 5 business days of the date of this award. Notification of employees begins an "open enrollment" time period which must last at least 3 pay cycles. The open enrollment period may be shortened or lengthened by the mutual agreement of the parties. During open enrollment, all bargaining unit members may apply for a change in status to or from any of the following categories: regular teleworker, ad-hoc teleworker, or non-teleworker. During the open enrollment period, the old policy shall prevail. At the end of the open enrollment period all employees with telework agreements shall be subject to the new policy. After the initial open enrollment period, the Agency may revert back to the old system of keeping telework agreements in place for one year. The arbitrator reserves jurisdiction for all matters of clarifying, interpreting, or implementing this policy for 12 months from award date.

Section 2. Scope of Policy:

All telework (regular and ad hoc) is typically scheduled by mutual agreement and is typically based on the employee's request and the supervisor's approval. Management agrees that, to the extent practicable, all aspects of telework and any related leave under this policy will be handled in a fair and equitable fashion. These terms apply to all full-day emergency closures of the official duty location. These terms also apply to all early releases or late openings.

Section 3. Telework Requirements During Emergency Closures

All on-duty employees with teleworker agreements (regular and ad hoc, whether scheduled or unscheduled for telework) are expected to telework during emergency closures. Employees with telework agreements that would have otherwise been off-duty during an emergency closure are not expected to telework. Employees that do not have telework agreements are not expected to telework. Nothing in this section shall limit a supervisor's discretion to grant an excused absence with administrative leave for any category of teleworking employee under Section 4.

Section 4. Considerations for Exceptions to Telework Requirement:

During emergency closures, telework may not be feasible for a variety of reasons. If an employee is unable to telework during an emergency closure, the employee must contact their supervisor via phone or email as soon as possible. Supervisors shall grant administrative leave to employees who have a personal hardship. A personal hardship includes any of the following:

lack of power, lack of heat, lack of water, dependent care responsibilities, no available transportation to the alternative work station, and/or other extenuating circumstances. A supervisor may request documentation of a personal hardship. Normally, the employee's written statement will suffice to document that personal hardship conditions prevail.

At their discretion, supervisors may ask the employee to perform whatever work can be accomplished under the prevailing conditions. When that work is complete to the satisfaction of the supervisor, the employee shall be given an excused absence with administrative leave for the remainder of the emergency closure.

Section 5. Denial of Administrative Leave

As described in Section 4, supervisors are generally expected to grant an excused absence with administrative leave when an employee's circumstances fit the exception policy. However, administrative leave may be denied in two cases:

1. *Mission-Critical Employee Status* – Employees designated as having a mission-critical function may be denied administrative leave. The Agency may designate any employee as a mission-critical employee. It is understood the designation of an employee as mission-critical will be made in good faith. This status is reserved only for employees with job functions considered essential to continuity of operations. The Agency shall maintain and promulgate a list of all mission-critical employees in the bargaining unit on a quarterly basis to the Union.

2. *Urgent Time-Sensitive Projects* – Employees working on time sensitive projects (e.g., where there is a significant milestone or deadline and delay cannot be tolerated) may be denied administrative leave. Where possible, supervisors should inform employees of the need for them to work under this category in advance. However, in the event of extremely urgent work, supervisors may inform employees of their status under this provision when they request an exception under Section 4.

When administrative leave is denied for any reason, the Agency shall provide the Union with written explanation of the denial. Written notice for administrative leave denials shall be provided no later than 10 business days following the resumption of normal operations. Employees denied administrative leave are expected to telework, but shall be able to utilize personal leave or leave without pay at management's discretion.

Section 6. Arbitrability of Adverse Decisions

All Agency decisions that create an adverse outcome (including any disciplinary action) for a bargaining unit member under this policy are arbitrable. That includes, but is not limited to, denial of administrative leave under Section 4 or requiring an employee to work under Section 5. The clock for grievances being timely filed on any matter in this policy does not begin until written explanations have been received by the Union.