

American Federation of Government Employees
Field Services & Education Department

BARGAINING GUIDANCE
2019 n-CoV Bargaining Return to Worksite Bargaining

The situation involving 2019 n-CoV aka Corona virus is a rapidly evolving one. AFGE has resources available regarding the virus, in general, on its website at:

<https://www.afge.org/member-benefits/health-and-safety/coronavirus-disease/>

The following informational sheet is intended to assist with bargaining with the Agency regarding orders for some or all of the Bargaining Unit to return to the physical worksite. There is precedent that we work with here, as we have bargained with Agencies over the potential effects of the outbreaks of Zika and SARS and the return to normal operations therein.

Circumstances vary greatly in locals, and in bargaining units that prevent consideration of unique situations. The following sample proposals cover many areas which may be of interest to locals. But other areas of interest specific to a local or bargaining unit may also be appropriate.

In crafting these proposals, FSED has focused on keeping proposals based on the limited scope of bargaining afforded in the exercise of a management right, “procedures” and “appropriate arrangements.” It is important to note that since these have different standards in determining negotiability and appropriateness we have tried to keep each proposal separate.

Bargaining Tips:

- Ensure that union proposals are crafted as “procedures” and/or “appropriate arrangements.” Each proposal must be specifically linked to an affected employee in order to minimize declarations of non-negotiability by the agency.
- Avoid proposals containing multiple issues to limit the need for severance of proposals in a negotiability dispute.

GENERAL

UNION PROPOSAL # _____

The following constitutes agreement by the parties of all matters expressly negotiated regarding the Agency’s actions surrounding a return to worksite order from the 2019 n-CoV emergency. Nothing in this agreement permanently changes any provision in the current collective bargaining agreement unless specifically identified in this agreement.

Nothing in this agreement shall be construed as a waiver of any right of employees or the Union.

UNION PROPOSAL # _____

Nothing in this agreement waives any right by any bargaining unit employee to pursue a grievance, appeal, or claim against the agency.

UNION PROPOSAL # _____

The Agency will provide notice to all bargaining unit employees (BUEs) of any new policies and requirements relating to the return to the worksite including this MOA. All such documents will be distributed in hard copy to the employees, and posted on the Agency intranet at the time of issuance. Employees and managers will receive email with a link when such documents are posted to the Agency intranet.

UNION PROPOSAL # _____

The Agency will provide adequate notice of at least one pay period to all BUEs that they are ordered to return to the worksite.

UNION PROPOSAL # _____

The Agency will not retaliate/discriminate against any employee who contracted 2019-n-COV and has since recovered in its return to worksite orders.

UNION PROPOSAL # _____

The Agency will place posters that encourage [staying home when sick](#), [cough and sneeze etiquette](#), and [hand hygiene](#) at the entrance to your workplace and in other workplace areas where they are likely to be seen.

UNION PROPOSAL # _____

The Agency will provide the employees an online portal on the Agency intranet where all 2019-n-COV information (i.e. information about the disease, processes and procedures related to the disease, etc.) will be available for review.

UNION PROPOSAL # _____

The Agency will establish and distribute/post social distancing policies both for employees and members of the public who interact with the employees prior to a return to the worksite by the bargaining unit employees.

UNION PROPOSAL # _____

The Agency will post in common areas all information regarding social distancing policies/protocols.

UNION PROPOSAL # _____

The Agency will provide timely 2019 n-CoV testing for all BUEs employees. There will be no charge to the employees for leave or costs for the exam.

UNION PROPOSAL # _____

If any employee, contractor, uniformed service member, or member of the public has tested positive for the virus, and come into contact with the Agency within the period of transmission, both the Union and the affected employees will be notified. (See attached guidance for concerns regarding HIPAA and Privacy Act: https://www.hhs.gov/sites/default/files/covid-19-hipaa-and-first-responders-508.pdf?fbclid=IwAR1ZR0TlsVG37GUJUEm_NOTPFGWebhP7VQSvG_UhqYQIhH2vGX84lVWXBvU)

UNION PROPOSAL # _____

The Agency will provide masks to all employees, contractors, uniformed service members, or member(s) of the public who arrives at the worksite without their own mask.

UNION PROPOSAL # _____

The Agency will provide hand sanitizer to all employees, contractors, uniformed service members, and/or members of the public.

UNION PROPOSAL # _____

The Agency will provide no-touch waste disposal receptacles in all common areas of the worksite.

UNION PROPOSAL # _____

The Agency will double its routine to clean all frequently touched surfaces in the workplace, such as workstations, countertops, and doorknobs, cleaning such areas no fewer than twice per day.

UNION PROPOSAL # _____

Any rules regarding employees not eating at their workstations or offices are suspended, if such areas are reasonably out of public view.

UNION PROPOSAL # _____

Employees, in the absence of a cleaning crew/janitorial services, will be allotted time to sanitize their individual or shared workstations each day.

UNION PROPOSAL # _____

Office equipment that must be shared due to availability (i.e. copiers, printers, etc.) will be subject to office procedures that will limit the individuals touching the equipment, and will be cleaned at least daily.

UNION PROPOSAL # _____

[For Agency Controlled Parking Lots] The Agency agrees to waive all parking fees for individuals who typically commute using Public Transit systems, until all relevant federal, state, and local governments have given the notice that it is safe to use such systems without social distancing.

[For Public or GSA Controlled Parking Lots]

The Agency agrees to either to enter negotiations to obtain additional parking spots for employees, or provide public parking fees for individuals who typically commute using Public Transit systems, until all relevant federal, state, and local governments have given the notice that it is safe to use such systems without social distancing.

UNION PROPOSAL # _____

All meetings which can be conducted remotely (i.e. e-mail, Skype, Zoom, conference call, etc.) will be conducted remotely.

TELEWORK/WORK SCHEDULES/LEAVE

UNION PROPOSAL # _____

The Agency will continue to allow temporary telework arrangements for those employees who cannot report to work due to a pandemic occurrence, provided the position held is conducive to telework. During a pandemic (2019-n-CoV or otherwise), in accordance with guidance from OPM or other recognized authority, the usual requirements for telework may be waived in order to benefit both the Agency and the Employee.

UNION PROPOSAL # _____

The Agency will continue to allow schedule flexibility, provided that the continued schedule flexibility does not demonstrably negatively affect Agency operations.

UNION PROPOSAL # _____

The Agency will continue to allow maximum telework flexibility, provided that the continued telework flexibility does not demonstrably negatively affect Agency operations.

UNION PROPOSAL # _____

Individuals with identified “at-risk” medical conditions (that is to say conditions that either increase the likelihood of contagion and/or increase the likelihood of complications from the virus) will be given the opportunity to work from home if the individual position allows for telework.

UNION PROPOSAL # _____

The Agency will develop and distribute guidance regarding the processes and procedures for sending individuals away from the worksite upon development of Covid related symptoms.

UNION PROPOSAL # _____

Individuals exhibiting symptoms of the virus will be sent home on administrative leave pursuant to all relevant and appropriate CDC and OPM guidelines.

UNION PROPOSAL # _____

When the Agency has a reasonable objective belief that an employee has been exposed to a virus considered a danger to the workplace (i.e. 2019 n-CoV, etc.) the Agency may require that the employee work from home as a sort of quarantine away from other for the benefit of other Agency employees. If that employee has had physical contact with co-workers, the Agency may require all such workers to telework. In the event that a large group of employees are required to work from home by the Agency; the usual requirements of telework may be waived in order to benefit both the Agency and the Employee.

UNION PROPOSAL # _____

All employees eligible to donate blood plasma will be granted appropriate administrative leave in order to do so, pursuant to all appropriate laws, rules, and regulations.

UNION PROPOSAL # _____

TRAVEL

UNION PROPOSAL # _____

The Agency will not schedule any non-necessary agency related travel for BUEs until an “all clear” is provided by the relevant federal, state and local, government agencies, health agencies, and management officials from the Area of departure and the destination.

UNION PROPOSAL # _____

If an employee is ordered to begin travel again, the Agency will instruct employees to check themselves for symptoms of [acute respiratory illness](#) 1) before starting travel 2) and upon returning from travel and notify their supervisor and self-quarantine if they are sick.

UNION PROPOSAL # _____

The Agency will ensure employees who become sick while traveling or on temporary assignment understand that they should notify their supervisor and should promptly call a healthcare provider for advice if needed.

UNION PROPOSAL # _____

Employees on agency travel who are subject to quarantine will be paid for all days in quarantine, and will not be responsible for any additional charges incurred resulting from their quarantine (such as accommodations, food, laundry, quarantine mandated medical care).

PERFORMANCE

UNION PROPOSAL # _____

In the event an employee is required to telework due to the Agency’s reasonable objective belief that the employee has been exposed to 2019 n-CoV, but the employee does not have access to the full range of his/her duties while on telework, the employee will not be penalized in any way (i.e. lower performance rating) for that inability, and production requirements may be waived for the period of time the employee is required to be on telework.

UNION PROPOSAL # _____

When the Agency believes it is appropriate to put an employee on a Performance Improvement Plan during this health crisis, it will delineate how it plans to both provide training and guidance

(if necessary) and how the employee may be able to demonstrate a Reasonable Opportunity to Improve given the disruption to the Employee's normal work routines.

UNION PROPOSAL # _____

The Agency will continue to provide **[if it currently provides]** all relevant and necessary trainings to allow employees to keep current with any and all position necessary certifications; or in the alternative will explore granting waivers to individuals who cannot renew or otherwise keep current position necessary certifications due to the public health crisis.

The Agency will attempt to make all necessary adjustments to allow its employees to attend all mission critical/position necessary trainings/certifications virtually. In the event that the employee's attendance cannot occur virtually, all safety precautions will be taken to protect the employee from infection during said mission critical event.

LEAVE

UNION PROPOSAL # _____

If an Employee is suspected to have been exposed to and/or contracted a communicable disease, and is sent home from the worksite without valid verification of the illness, there will be no charge to the Employee's leave.

UNION PROPOSAL # _____

The Agency may allow employees who may be immunocompromised, or have other factors which may increase the lethality of COVID-19 (the disease which results from 2019 n-CoV exposure) liberal use of sick leave without consequence or reference to any leave abuse provision within the CBA. This does not waive the Employee's ability to obtain other potential accommodations through the reasonable accommodations process but provides an expedited process so that the employee can immediately take advantage of the Employee's leave in an emergent situation.

UNION PROPOSAL # _____

No employee will be subject to any adverse personnel action for exceeding allotted leave due to verifiable exposure of 2019 n-CoV.

UNION PROPOSAL # _____

The Agency will grant leave to employees who are well but who have a sick immediate family member with COVID-19. Such employees should immediately notify their supervisor and refer to CDC guidance for [how to conduct a risk assessment](#) of their potential exposure.

UNION PROPOSAL # _____

The Agency will not take any adverse personnel action against an employee who declines an assignment in a country that is currently subject to a Department of State travel advisory because of an emergency alert for coronavirus.

PPE

UNION PROPOSAL # _____

For employees who must interact with Persons Under Investigation (PUIs) and Asymptomatic Close Contacts of Confirmed Cases of COVID-19, the Agency commits to maintaining the safest environment possible.

UNION PROPOSAL # _____

For any bargaining unit employee who must interact with a PUI or confirmed case, the Agency will be provided a sufficient stock of protective equipment (PPE), including:

- a gown,
- gloves,
- eye protection (e.g., goggles, a disposable face shield that covers the front and sides of the face), and

respiratory protection that is at least as protective as a NIOSH-approved N95 filtering facepiece respirator.

UNION PROPOSAL # _____

The Agency will provide a safe area, away from PUI or confirmed case interaction, for employees to remove and discard exposed PPE.

UNION PROPOSAL # _____

All employees responsible for waste removal will be provided for any bargaining unit employee who must interact with a PUI or confirmed case, the Agency will be provided a sufficient stock of protective equipment (PPE), including:

- a gown,
- gloves,
- eye protection (e.g., goggles, a disposable face shield that covers the front and sides of the face), and respiratory protection that is at least as protective as a NIOSH-approved N95 filtering facepiece respirator.

UNION PROPOSAL # ____

For all employees interacting with PUI or confirmed case, if possible, the Agency will allow make every effort to allow remote interaction rather than close contact; including but not limited to the increased use of telephone, text monitoring system, or video conference.

CONTACT TESTING

UNION PROPOSAL # ____
CONTACT TESTING

If an employee (or employees) is known to have come in contact with a person who is infected with COVID-19, then the employee(s) will be immediately instructed to self-quarantine.

- a. Specialized health staff, working under HIPAA restrictions, will staff work with the exposed employee(s) to help them recall everyone with whom they have had close contact at work during the timeframe while they may have been infectious;
- b. Specialized health staff, working under HIPAA restrictions, then warn these exposed individuals (contacts) of their potential exposure as rapidly and sensitively as possible;
 1. To protect privacy, contacts are only informed that they may have been exposed to a patient with the infection. They are not told the identity of the patient who may have exposed them;
 2. All exposed employees will be subject to this self-same process;
 3. The Union will be informed of all units/shifts/PDs/numbers of employees exposed;
- c. All exposed employees will be ordered stay home and [maintain social distance](#) from others (at least 6 feet) until
 1. The employee is tested by the Agency, free of cost, and cleared as uninfected, or
 2. 14 days after their last exposure.
- d. If the employee is telework eligible, they shall spend the pendency of their Contact Testing teleworking. If the employee is not telework eligible, they shall be placed on administrative leave.