

**MEMORANDUM OF UNDERSTANDING BETWEEN  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (COUNCIL 238)  
COVID SAFETY PLAN, COVID TRAVEL PLAN, AND COVID TESTING  
PROTOCOL**

The following Memorandum of Understanding (MOU) is entered into between the United States Environmental Protection Agency (EPA or Agency) and the American Federation of Government Employees, Council 238, (AFGE), collectively referred to as the Parties, regarding Reentry, the impact and implementation of the EPA Covid Safety Plan, EPA Covid Travel Plan, and EPA Covid Testing Plan with regard to AFGE Bargaining Unit Employees for as long as those are in effect.

**Section 1: Reentry**

1. Bargaining unit employees may voluntarily re-enter EPA facilities without restriction as to occupancy density. Bargaining unit employees will not be coerced into volunteering.
2. There may be additional needs for facilities-related employees to come into the office more often to prepare for the larger physical return of employees to the office, and many of these employees are BUEs. The Agency has identified to AFGE the BUEs with facility-related duties.
3. Bargaining unit employees may work with their supervisor to establish a start date for their new telework or remote work agreement unless performing in-person mission critical work or facilities-related work. Employees who have been teleworking full time as a result of the pandemic and/or are on adjusted work schedules will not be required to change work status to be consistent with new articles (telework, remote work and/or work schedule) until the pay period April 24, 2022 except that, no AFGE bargaining unit employee will be required to physically return to the office prior to May 2, 2022. Consistent with an approved start date, bargaining unit employees may voluntarily follow their new telework or remote work arrangement in advance of any required re-entry date. Employees electing to apply for Telework or Remote Work should submit initial applications no later than 21 days prior to the expected reentry date.
4. If an employee requests a new Telework or Remote Work Agreement, and the deciding official has not approved the request within the agreed upon timeframe identified in the Parties' Telework or Remote Work Articles, then the telework status and the approved AWL of that employee will not change until the deciding official/supervisor has provided employees with remote work and/or telework decisions on employees' arrangements.
5. Employees may request telework, situational telework, or other workplace flexibilities based on their personal situations and/or COVID levels. The Telework, Remote Work, and Work Schedule Articles have significant flexibilities employees may use.

## Section 2: Visitors to EPA Facilities

1. Only when GSA or FPS personnel will not confirm fully vaccinated status/examine negative test results of visitors may an AFGE bargaining unit employee be tasked to check the vaccination status or negative test result from a visitor. When an employee is tasked with checking in visitors (note at this time contractors are considered visitors) the employee should take the following steps to ensure visitors comply with COVID protocols in a way that protects employees:
  - a. Contact the visitor to schedule a virtual meeting or phone call no more than two (2) business days prior to the visitor's arrival onsite.
  - b. During the virtual meeting/call:
    - i. If the status check is done virtually:
      1. Email the visitor(s) the attestation form.
      2. Ask the visitor(s) to show their vaccination attestation/negative test result.
      3. Ensure the visitor has the responsible employee's phone number.
      4. Remind the visitor they are obligated to have a copy of the vaccination attestation/negative test result.
    - ii. If the initial contact is done over the phone and the check must be done in person:
      1. On the initial phone call:
        - a. Email the visitor(s) the attestation form.
        - b. Tell the visitor they will have to show their vaccination attestation/negative test result showing full vaccination before entering the facility.
        - c. Ensure the visitor(s) has the responsible employee's phone number and ask them to call the responsible employee upon arrival at the building and wait outside the building/at the guard's desk, or whatever place nearby the entrance is conducive to safely checking their vaccination attestation/negative test result.

2. To check the visitor's vaccination attestation/negative test result:
  - a. Once the visitor(s) call the responsible employee upon the visitor's arrival, remind them where to wait and that they must show their vaccination attestation/negative test result..
  - b. Ask the visitor(s) to place their vaccination attestation/negative test result on a nearby desk/table etc. so the responsible employee can review it while socially distancing.
  - iii. Only after the responsible employee verifies the vaccination attestation documents as fully vaccinated status or negative test result documents for the visitor will the visitor be allowed to enter the EPA facility.
2. Visitors' test results must be no older than 72 hours.
3. Employees may advise a management official of any noncompliance issues with the EPA Covid Safety Plan for further action by management.

### **Section 3: COVID Safety**

1. The workforce of the future will rely heavily on technology to facilitate effective communication and collaboration for individuals who may not be occupying the same physical workspace, and so the Agency will continue to leverage technology to support a hybrid workplace.
2. A significant portion of the EPA workforce lives in commuting areas outside of the county where the Official Agency Worksite is located. Supervisors will make individual decisions on requests for situational telework considering COVID levels in both the county of the Official Agency Worksite and the county where the employee resides. Employees are obligated to provide relevant references from the EPA Dashboard or the CDC if they want their supervisors to consider this sort of information.
3. The Agency will follow Safer Federal Workforce Task Force and CDC Guidance or State/local guidance (whichever is more protective) for masking in the workplace (worn [in accordance with current CDC guidance](#)) and social distancing. All employees must wear masks in EPA offices when the EPA Dashboard indicates their office is in an area of high community level. Masking requirements will be reestablished when/if high community levels are reached. Employees will be reminded of masking advice and mandates through signage, including the EPA electronic bulletin board, mass emails, lobby screens or physical signs.

4. Face masks properly worn (i.e. [in accordance with the manner described in current CDC guidance](#)) are required at high community levels for all occupants except for short periods of time when actively eating or drinking unless otherwise specified by a reasonable accommodation.
5. Before the reentry of AFGE bargaining unit employees to official EPA worksites, the Agency will do the following:
  - a. Conduct ventilation inspection for compliance with ASHRAE standards;
  - b. Flush water systems, where appropriate;
  - c. Address general health and safety issues including but not limited to working with building management to treat vermin infestations;
  - d. Communicate to employees on COVID safety plan, (contact tracing, COVID travel guidance); and
  - e. Ensure adequate cleaning supplies.
  - f. The Agency will comply with local occupancy requirements, if more stringent than federal standards and no exceptions apply.
6. CO2 Monitoring:
  - a. In anticipation of a meeting in a conference room of 20 people or more in-person with 3 business-days-notice, the Agency agrees to perform CO2 monitoring upon the request of any employee. The Agency will only implement this practice at facilities with 50 EPA employees or more due to the Agency's limited control over GSA-leased spaces where there is a low number of EPA employees.
  - b. When CO2 levels are at 1000 ppm or higher, the Agency agrees to examine and, where feasible, implement practices to keep CO2 levels below 1000 ppm. The Parties agree to submit the issue of ppm levels to the Federal Service Impasses Panel, and the Agency agrees to waive any “covered by” defenses.
  - c. Laboratory spaces will not be subject to CO2 monitoring because their HVAC systems are single-pass air.
  - d. After transmission levels have reached moderate levels for a period of three weeks at a given facility, the Agency is no longer obligated to perform CO2 monitoring as described above. However, even when the Agency is not obligated to perform CO2 monitoring, employees may request CO2 monitoring in any space. CO2 monitoring may then occur at the discretion of SHMP managers

across the Agency based on their professional judgment. Upon request, SHMP managers will share the basis for their declination.

- e. The Parties recognize implementing this program will require the Agency to obtain monitoring equipment, which may take time to procure.
  - f. Employees whose locations do not have sufficient monitoring equipment will not be asked to meet in-person in groups of 20 or more until such equipment is obtained.
  - g. The Agency will share with the Union any results of air quality monitoring performed in EPA facilities with the relevant local AFGE President and the National Council 238 President.
  - h. Nothing in this MOU will prohibit AFGE from deploying its own CO2 monitoring program in EPA facilities.
  - i. The Parties agree to negotiate this issue further, up to and including submission to the Federal Service Impasses Panel, and the Agency agrees to waive any “covered by” defenses.
7. All EPA facilities will meet the minimum ASHRAE standard 62.1 for verification of acceptable air quality.
  8. AFGE employees on an individual basis may continue to physically distance, if practicable. Supervisors are not obligated to enforce physical distancing and are encouraged to work with employees to ensure concerns with distancing are addressed.
  9. The Agency will establish a web page with the following current information for each major facility:
    - a. The age and most recent audit of the facility’s HVAC system
    - b. Facility’s HVAC compliance with ASHRAE standards
    - c. MERV rating of filter for HVAC
  10. Employees with a [COVID close contact](#) or suspected COVID close contact in the workplace or while performing Agency duties must get tested per the Agency’s testing guidance. Employees with a suspected COVID close contact may telework if they have available portable work or may take leave, except for emergency situations where employees may be required to come into the Agency worksite or perform on-location field work while following CDC safety protocols.
  11. In situations not covered by established testing protocols such as contact-tracing and where free testing is not available through a local government testing program, the

Agency will provide testing for individuals with signs and symptoms consistent with COVID 19 manifesting during field work, during official travel or during working hours at an EPA facility. The Parties note that when asymptomatic individuals identified as close contacts through other contact tracing programs or with a recent known or suspected exposure to COVID-19 in the course of their personal lives they are encouraged to have COVID testing during non-duty hours.

12. The Agency and AFGE will work together to explore the routine use of hybrid meetings and develop best practices for virtual options in a hybrid work environment.
13. The Parties agree changes to the current safety plan to conform with the latest CDC, Safer Federal Workforce guidance and EPA's policies based on such guidance will be bargained on an expedited basis, and an FMCS mediator may be involved after ten (10) working days from when notice of the changes are proposed.
14. COVID hours of work flexibilities for employees with dependent care responsibilities will end when the schedule for the reentry of AFGE employees to EPA worksites is completed. The Work Schedules Article negotiated by the Parties will then become fully effective. On days when employees are coming into the office they are expected to adhere to normal working hours.
15. Employees can continue to work in the Official Agency Worksite on a voluntary basis in accordance with this agreement and prior to the Agency reentry date. The Agency reentry date for AFGE bargaining unit employees will be the pay period beginning April 24, 2022 with the understanding that no employee is required to come into the official Agency worksite the first week of this pay period unless otherwise noted in this agreement. Beginning on the Agency reentry date for AFGE bargaining unit employees, AFGE Bargaining Unit Employees not approved for remote work and in accordance with approved telework agreements will be required to return to the office as follows:
  - a. First Pay Period – At least one day a pay period;
  - b. Second Pay Period – At least two days a pay period;
  - c. Third Pay Period – Three days in the pay period (if applicable); and
  - d. Fourth Pay Period – Resume “normal” schedules.

#### **Section 4: COVID Testing**

1. When community levels are at medium or high, employees who are not fully vaccinated [as defined by the Safer Federal Workforce Task Force](#) who come into an Official EPA worksite, travel on official business, interact with members of the public as part of their work duties, or enter other spaces for official business (such as other federal, state and local offices) shall participate in the Agency Screening Testing Program with the following frequency:

- a. Employees working remotely or on maximum telework are not required undergo regular testing.
  - b. Employees entering an Agency facility 4 times per week or more: testing twice a week;
  - c. Employees entering an Agency facility 3 days per week or less: testing once a week;
  - d. Managers may assign workdays for unvaccinated employees to ensure optimal timing for protections.
2. Refusals to take a required test or to provide the results of the test may result in the Agency barring the employee from the Agency workplace for the safety of others pending resolution. Nothing in this agreement supersedes the Agency's ability to take disciplinary or adverse action against employees.
  3. Employees may seek medical or religious accommodations for testing as appropriate. Nothing in this agreement supersedes an employee's approved religious or medical accommodation.
  4. The Agency will pay for the cost of Agency-directed screening testing.
  5. Required screening testing will take place during duty time. Employees will be granted a reasonable amount of time to obtain Agency-directed screening tests.
  6. If an employee is not required to be tested but decides to obtain a COVID-19 test they may seek leave in accordance with the Parties' leave article or utilize Maxiflex flexibilities in accordance with the Parties' agreement.
  7. Reasonable travel costs that are incurred as a result of obtaining the test from a site preapproved by the Agency should be based on agency travel policies and Federal Travel Regulations.
  8. Diagnostic Testing: Federal employees who have been exposed to persons with known or suspected COVID-19 in the workplace or in the performance of official business will receive diagnostic testing at no cost to the employee.
  9. The cost of diagnostic testing for current infection with COVID-19, required to complete official travel can be claimed in a travel voucher as a Miscellaneous Expense under Agency travel policies.
  10. Privacy Act compliance: The Agency will abide by all requirements of the Privacy Act in the management and storage of information covered by the Privacy Act that is generated by the Agency Covid Testing Process.
  11. The Agency agrees Agency Head Review will be performed on this agreement on an expedited basis.

12. The Parties agree this MOU will end when (1) there is a low community level indicated on the EPA Dashboard for all EPA facilities for a period of six weeks; or (2) by mutual agreement. Either party may demand additional negotiations when/if COVID transmission levels reach substantial or higher according to the EPA Dashboard at two (2) or more EPA facilities simultaneously for a period of three weeks.

SIGNATURES

FOR THE AGENCY

FOR THE UNION

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Robert Coomber, EPA LERD, Date  
National Chief Negotiator

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Joyce Howell, AFGE Council 238, Date  
Chief Negotiator for Future of Work