

This guidance has been prepared by the Office of the President to assist you in issuing your local policy. It applies to both medical centers and campuses – **all UC locations.**



Frequently Asked Questions (FAQs) Concerning Novel Influenza A (H1N1) Guidance for Managers and Supervisors

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This guidance provides recommendations to Managers and Supervisors in addressing concerns related to the Novel Influenza A H1N1 flu (H1N1 flu). The recommendations below will help slow the spread of H1N1 and seasonal influenza.

If an employee becomes sick with influenza-like illness, the employee should consult with their health care provider and follow their guidance. The response to a public health emergency such as an influenza pandemic will be directed by federal, state, and local health agencies. It is the responsibility of the University to act in accordance with all applicable public health directives. The University's guidance, policies, and regulations cannot conflict with public health orders for the control of the H1N1 flu pandemic.

If any employment actions are taken as a result of an influenza outbreak, such as requiring that employees not come to work, such actions must be consistent with federal and state laws prohibiting discrimination in the workplace.

QUESTIONS/ANSWERS RELATED TO EMPLOYEES

1. What should managers and supervisors communicate to their employees concerning H1N1 flu?

The Centers for Disease Control and Prevention (CDC) recommends that everyone be informed of the precautionary measures they can take to stay healthy:

- Cover your nose and mouth with a tissue when you cough or sneeze. Throw the tissue in the trash after you use it.
- Wash your hands often with soap and water, especially after you cough or sneeze. Alcohol-based hand cleaners are also effective.
- Avoid touching your eyes, nose or mouth. Germs spread that way.
- Try to avoid close contact with sick people.
- Influenza is thought to spread mainly person-to-person through coughing or sneezing by infected people.
- If you get sick, CDC recommends that you stay home from work or school and limit contact with others to keep from infecting them.

For additional information concerning the H1N1 flu, visit the CDC website at <http://www.cdc.gov/h1n1flu/qa.htm> or the Health & Human Services (HHS) website at <http://www.flu.gov/>

2. What steps should be taken if an employee becomes ill with influenza-like symptoms?

This may depend on the resources available at the particular campus location. Where occupational health services or authorized medical offices are available, managers and supervisors should recommend that employees who appear to be ill seek medical assistance. If occupational health services are not available, managers and supervisors should encourage employees to take leave and seek medical assistance from their health care provider.

If an employee declines to take leave, managers and supervisors should consult the local Human Resources office for assistance in determining whether there is objective evidence of influenza-like illness. In addition, consider the use of on-site employee health services, if available, to assist in making this determination. If there is objective evidence of influenza-like illness and the employee still refuses to take leave, a manager or supervisor may, over the objection of the employee, require that the employee leave the workplace. In such circumstances, the absence should be recorded as “approved.”

Managers and supervisors should seek assistance from their Human Resources office early, and before taking any action, to ensure that all appropriate options have been considered. Action should not be taken based solely on a manager’s or supervisor’s subjective assessment of an employee’s medical condition.

3. Are there steps that managers and supervisors can take to prepare for an outbreak of H1N1 flu?

Each campus should have a pandemic plan in place. Managers and supervisors should familiarize themselves with their individual campus plan, systemwide policies and local implementing procedures, collective bargaining agreement provisions regarding leave, compensation, employee and labor relations, and alternative work arrangements. As part of any planning effort, managers and supervisors should make information available to employees concerning the common-sense steps employees can take to protect themselves and help prevent the spread of flu in the workplace. This information can be found on the CDC’s website at <http://www.cdc.gov/h1n1flu/> and www.cdc.gov/germstopper/work.htm.

Managers and supervisors should also keep themselves informed of the latest public health information released by the CDC and plan in advance for the possibility of increased employee absences. It would also be prudent for managers and supervisors to determine in advance whether it would be feasible for employees to work at home when they are not sick themselves but need to stay away from the workplace because of an outbreak to, for example, care for a sick family member.

4. Must the University grant leave to an employee who is sick with H1N1 flu?

Employees who are ill with influenza-like illness should be advised to **remain at home until at least 24 hours after they are free of fever ($\geq 100^{\circ}$ F / 37.8° C) and signs of fever without the use of fever-reducing medications** in order to minimize the spread of the virus. Employees should be encouraged to avail themselves of the University's sick leave policy and other applicable leave policies and collective bargaining agreement provisions.

An employee who is sick may be entitled to leave under the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) under certain circumstances. The FMLA and CFRA entitle eligible employees to take up to 12 workweeks of unpaid, job-protected leave in a calendar year if they have a serious health condition. The H1N1 flu or influenza-like illness may qualify as a "serious health condition" where complications arise. University employees may be permitted and/or required to substitute paid leave in certain circumstances, depending on the applicable policy or collective bargaining agreement.

5. Must the University allow parents or caregivers time off from work to care for sick family members?

If certain members of an employee's family are sick, the employee may be entitled to leave under the FMLA and CFRA. The FMLA and CFRA entitle eligible employees to take up to 12 workweeks of unpaid, job-protected leave in a calendar year to care for certain family members with a serious health condition. At the University, this group includes the employee's spouse or domestic partner, parents, and children. Influenza-like illness may qualify as a "serious health condition" where complications arise. University employees may be permitted and/or required to substitute paid leave in certain circumstances, depending on the applicable policy or collective bargaining agreement.

If the family member who is sick is the employee's child, parent, spouse, or domestic partner, the employee may use up to 6 days of accrued sick leave in the calendar year to care for the family member even if the illness is not a "serious health condition."

Additionally, under University sick leave policies and certain collective bargaining agreements, employees with accrued sick leave may use it to care for a wider variety of ill family members. If an employee has no accrued time off, the employee may be granted unpaid time off to care for an ill family member. Applicable policies and collective bargaining agreement provisions should be consulted.

6. Must the University allow parents time off from work to care for healthy children whose schools may have closed due to the outbreak?

Under University policies and collective bargaining agreements, employees may be able to use vacation or other accrued time off or take unpaid personal leave to care for healthy children whose schools or day care centers have been closed under such circumstances. Applicable policies and collective bargaining agreement provisions should be consulted.

7. Does the FMLA or CFRA entitle an employee to take leave to avoid getting the H1N1 flu?

No. The FMLA and CFRA entitle employees to job-protected leave when they have a serious health condition or when they need leave to care for covered family members who have a serious health condition. Leave for the purpose of avoiding exposure to the flu would not be protected under the FMLA or CFRA.

8. May the University require an employee who is out sick with H1N1 flu to provide a certification from a health care provider before returning to work?

Yes. An employer may require a certification from a health care provider clearing an employee to return to work. However, managers and supervisors should be consistent in this practice and treat employees uniformly.

9. May the University prohibit an employee from coming to work if the employee is known to have H1N1 flu?

Yes. The University is obligated to provide a safe workplace and may take necessary and reasonable steps to minimize health risks for its employees, such as requiring that employees not come to work if they have the H1N1 flu.

If an employee has had very close contact (for example lives in the same household) with a person with active influenza-like illness, the employee should be told to watch carefully for symptoms of fever, such as cough, sore throat, or runny nose, and to stay home if influenza-like illness symptoms develop or go home immediately if influenza-like illness symptoms occur at work. See Department of Public Health Interim Guidance for Employers and Employees on Novel Influenza 'A' (H1N1) Virus

http://www.cdph.ca.gov/HealthInfo/discond/Documents/CDPH_Interim_Guidance_H1N1Flu_Employers_Employees.pdf

10. Do the same leave policies apply to represented and non-represented employees?

Leaves for represented employees are generally governed by the applicable collective bargaining agreements whereas leaves for unrepresented employees are governed by University policy. Managers

and supervisors should therefore consult and comply with the collective bargaining agreement provisions regarding leaves and/or University leave policies that may apply to their employees.

11. Does the foregoing advice also apply to academic employees?

The basic principles set forth above regarding steps that the University may take to ensure a safe workplace apply to the University's academic employees. Managers and supervisors should refer to the Academic Personnel Manual to determine applicable leave policies for the various categories of academic employees.

QUESTIONS/ANSWERS RELATED TO STUDENTS

1. May the University quarantine or isolate students who have contracted the H1N1 flu or exhibit influenza-like illness?

Yes. The University enacted a Policy on Safeguards, Security and Emergency Management in January 2006 that contemplates the need for Chancellors to take extraordinary measures in the event of "a natural or man-made disaster, a civil disorder which poses a threat of serious injury to persons or damage to property," or other "seriously disruptive events."¹Pursuant to this policy, the University may take appropriate steps to protect the health and safety of its students in the face of a known serious health crisis like an influenza pandemic. .

2. What steps should be taken before the University initiates quarantine or isolates students who have contracted the H1N1 flu, or exhibit influenza-like illness?

Campuses should consult and coordinate with their local health care official before instituting quarantine. The California Department of Public Health (DPH) is authorized to establish and maintain places of isolation and quarantine, and has the *final authority* to implement statutes and regulations pertaining to the control of communicable diseases.² Because DPH has ultimate authority in this area, the campuses should coordinate with local public health agencies to ensure that its actions are consistent with the most current DPH orders, rules and regulations pertaining to the control of the H1N1 flu.

3. May the University prohibit students who have contracted the H1N1 virus from attending classes on campus?

Yes. If a student exhibits influenza-like illness or has the H1N1 flu, the University may prohibit the student from attending classes on campus. The University must take appropriate steps to protect the health and safety of its students in the face of a known serious health crisis. The University's Policy on Safeguards, Security and Emergency Management, enacted in January 2006, contemplates the need for Chancellors to take extraordinary measures in the event of "a natural or man-made disaster, a civil

disorder which poses a threat of serious injury to persons or damage to property,” or other “seriously disruptive events.”³

The CDC recommends that persons who are sick should be instructed to limit their contact with other people (self-isolate) as much as possible and to stay home (or in their residence hall room) **until at least 24 hours after they are free of fever ($\geq 100^{\circ}$ F / 37.8° C) and signs of fever without the use of fever-reducing medications:** <http://www.cdc.gov/h1n1flu/sick.htm>

4. May the University cancel classes or close the campus?

Yes. Under the appropriate circumstances, the Chancellors may cancel classes or close the campus. If confirmed cases of H1N1 virus infection or a large number of cases of influenza-like illness (i.e. fever with either cough or sore throat) occur among students, faculty, or staff or in the community, campus officials should consult with state and local health officials regarding an appropriate response.

The CDC is not currently recommending that institutions cancel or dismiss classes or other large gatherings. See “Interim CDC Guidance for Institutions of Higher Education in Response to Human Infections with Novel Influenza A (H1N1) Virus: http://www.cdc.gov/h1n1flu/guidance/guidelines_colleges.htm

The DPH “Interim Guidance on K-12 School and Childcare Facility Dismissal in Response to Human Infections with the Novel Influenza A (H1N1) Virus” does not advise school closure unless there is a magnitude of faculty or student absenteeism that interferes with the school’s ability to function: <http://www.cdph.ca.gov/HealthInfo/discond/Documents/CDPHUpdatedGuidanceOnSchoolsDismissalsH1N1.pdf>.

5. If a child exhibits influenza-like symptoms, may a University-affiliated child care center refuse services to the child?

Yes. Some campuses operate centers for the care of the children of faculty and/or students. California Child Care Center General Licensing Requirements require that these centers inspect all arriving children for signs of sickness.⁴ The center must not accept into its care any child exhibiting obvious symptoms of illness including, but not limited to, fever or vomiting.”⁵

The CDC and the DPH recommend that students, teachers, and staff who appear to have an influenza-like illness at arrival or who become ill during the school day be promptly isolated from other students and teachers until they can be picked up. Parents and guardians should be reminded to monitor their school-aged children for symptoms of influenza-like illness and advised that children who are sick should stay home. Likewise, teachers and staff should be reminded to stay home when sick. Ill students should not attend alternative childcare or congregate in settings other than school. Childcare facilities that close their operations should also cancel childcare-related gatherings and encourage parents to

avoid congregating with their children at home or in other places:

<http://www.cdph.ca.gov/HealthInfo/discond/Pages/SwineInfluenzaSchools.aspx#dismissal-schools>

6. Should campuses take special precautions concerning individuals returning from study abroad locations where they may have been exposed to the H1N1 virus?

Not presently. Campuses should not, for example, prohibit students or faculty from returning to campus after traveling to study abroad locations where high incidence of H1N1 flu has been reported. Instead, persons returning to the United States who develop influenza-like illness symptoms should be told to promptly consult their health care provider and follow their directions.

Faculty, staff and students, who have plans to travel abroad should be advised to check the CDC's travel advisory website for guidance. The CDC advises and issues notices on the status of travel to many foreign locations and the United States. <http://wwwn.cdc.gov/travel/content/novel-h1n1-flu.aspx#notices>

Campuses should also advise students to exercise prudence and delay international travel – especially if they are ill. The World Health Organization has a pandemic page that posts guidance for individuals, communities and others regarding treatment, quarantine etc.:

<http://www.who.int/csr/disease/swineflu/en/index.html>

The Office of Risk Services within UCOP's Financial Management Department has arranged for employees and students traveling on official University business to be covered for a wide variety of accidents and incidents, including illness, while away from the campus or primary workplace. This coverage is provided at no cost to the traveler. Coverage is accessed through automatic ticket/travel agency booking (UCLA Travel or Connexus) or registration through <http://www.uctrips-insurance.org/>. Once registered, the traveler receives a welcome email providing them with the following:

- A trip brief with useful information about their destination
- Current alerts for that particular destination (including H1N1 alerts)
- Email alerts before and during the trip and health alerts up to 30 days after a trip (including H1N1 status of travel destination)

Those traveling on official University business should be encouraged to access this information.

QUESTIONS/ANSWERS RELATED TO PRIVACY AND DUTY TO REPORT

1. Is there a duty to report cases of H1N1 flu to state or local health authorities?

Generally, health care providers (includes doctors, nurses, physician assistants, among others) at the University student health centers, health care clinics, and medical centers who know of or are in

attendance on a case or suspected case of H1N1 flu are required to report it to the local health department immediately by telephone in accordance with internal administrative procedures. Where no health care provider is in attendance, any individual who knows of or suspects that someone has H1N1 flu is permitted to report it to the local health department.⁶ Local health departments in turn notify the DPH.

Contact information for the local health officers may be found at http://www.cdph.ca.gov/HealthInfo/Documents/LHD_CD_Contact_Info.pdf

2. What are the responsibilities of the local and/or state health departments once they have been notified of a case of H1N1 flu?

Health officers are legally required to take whatever steps are deemed necessary for the investigation and control of the disease reported. These steps include the power to isolate and quarantine persons, inspect and disinfect property, require the examination of a person to verify the diagnosis, investigate to determine the source of the infection, determine the contacts subject to quarantine, issue appropriate instructions, and take appropriate steps to prevent or control the spread of the disease.⁷ Health officers may, for purposes of their investigation, disclose information contained in an individual case report, including personal information, as may be necessary to prevent the spread of the disease or occurrence of additional cases.⁸ If the disease requires isolation, the health officer must insure that instructions are given to the patient and members of the household that define the area within which the patient is to be isolated and state what measures should be taken to prevent the spread of the disease, including the isolation technique to be followed.⁹

Medical Centers and Campuses should plan to work closely with local health officers who may be authorized to take appropriate action on behalf of the University or able to provide the University with the approval and/or authority to take appropriate remedial action. Any such authority given or action taken by the local health officer should be documented.

3. May student health care providers disclose personal information related to a student suspected or known to have H1N1 flu, without consent, as necessary to control the disease?

Yes. Student Health Center personnel may alert the residence halls and instructors about students they have examined as patients and found to be symptomatic of H1N1 flu when the student is not compliant with instructions to leave campus, to not attend class and/or to go home or to an appropriate health facility for treatment.

The Family Educational Rights and Privacy Act¹⁰ (FERPA) permits disclosure of student treatment records for purposes other than treatment to “appropriate persons [to protect others] in connection with

an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.” The Health Insurance Portability and Accountability Act¹¹ (HIPAA) provides that such disclosure of protected health information without patient consent is permitted if there is a good faith belief that the disclosure is “necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and . . . [the disclosure] is to a person or persons reasonably able to prevent or lessen the threat.”¹² California case law holds that health care providers have a duty to take reasonable steps, including breaching patient confidentiality, to warn and protect others at risk from a patient with a communicable disease.¹³ California regulations regarding communicable diseases obligate a health care provider in attendance on a case of suspected communicable disease to breach confidentiality to give detailed instructions to the members of the household of the sick person regarding precautionary measures to be taken for preventing the spread of the disease or condition.¹⁴

Even when circumstances warranting disclosure exist, disclosure should be as limited as possible, only necessary information should be shared, and disclosures should be made only to those people with a need to know.

The local health department may also provide a campus with advance written approval in order to disclose such information in such circumstances. Further, as previously indicated, a health official may release personal information as necessary to prevent the spread of disease or the occurrence of additional cases.

¹ University of California Policy on Safeguards, Security and Emergency Management, issued January 26, 2006

² Health & Saf. Code §§ 120135, 120145, 120200; 120215.

³ Policy on Safeguards, Security and Emergency Management

⁴ 22 C.C.R. §§ 101226.1(a), 10156.1(b) (“Daily Inspection for Illness”)

⁵ *Id.*

⁶ 17 C.C.R. §§ 2500(b), 2500(c), 2500(a)(14), 2500(h)(i).

⁷ Health & Saf. Code §§ 120130(c), 120145, 120175, 17 C.C.R. §§ 2501, 2520.

⁸ 17 C.C.R. § 2502 (f) (2).

⁹ 17 C.C.R. §§ 2516, 2518.

¹⁰ <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

¹¹ <http://www.hhs.gov/ocr/privacy/>

¹² 45 C.F.R. 164.512(j)(i). This provision should be relied upon only in extraordinary circumstances.

¹³ *Reisner v. Regents of the University of California* (1995) 31 Cal.App.4th 1195.

¹⁴ 17 C.C.R. § 2514.