Guidance for Managers and Supervisors Concerning
H1N1 influenza type A (Swine Flu)

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

The Centers for Disease Control (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 of 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 influenza type A virus, visit the CDC website at http://www.cdc.gov/swineflu/key_facts.htm.

In addition, the Occupational Health and Safety Administration recommends that employees be asked to advise their supervisors if they believe they have H1N1 flu or have been exposed to it.

2. What steps should be taken if an employee becomes ill with H1N1 flu-like symptoms?

Managers and supervisors should recommend that employees who appear to be ill or who have been exposed to H1N1 flu seek immediate medical assistance from their healthcare provider.

If an employee declines to take leave for this purpose, managers and supervisors should consult Campus Human Resources (for campus staff) or Health System Human Resources (for Medical Sciences staff) for coordination with the appropriate healthcare professionals in determining whether there is objective evidence of H1N1 flu-like symptoms. If there is objective evidence of H1N1 flu-like symptoms 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 Campus Human Resources or Health System Human Resources 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?

Managers and supervisors should familiarize themselves with polices and 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. These measures include, but are not limited to frequent hand washing and other good health habits to stop the spread of germs, staying home when one feels ill, and generally decreasing contact with others. These and other simple steps employees can take are found on the CDC’s website at: [www.cdc.gov/flu](http://www.cdc.gov/flu) and [www.cdc.gov/germstopper/work.htm](http://www.cdc.gov/germstopper/work.htm).

In addition, there are many campus resources available to managers and supervisors, including the following websites:

- UCLA Environment, Health & Safety
- UCLA Campus Safety
- Arthur Ashe Student Health & Wellness Center
- UCLA Newsroom

4. Must the University grant leave to an employee who is sick with H1N1 flu or who is caring for a family member that has this flu?

Employees who are ill with H1N1 flu or who have a family member with this flu should be encouraged to stay home 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 (see Personnel Policies for Staff Members on the “At Your Service” website). Managers and supervisors are encouraged to support these and other community mitigation efforts.

An employee who is sick or whose family members are 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 work weeks of unpaid, job-protected leave in a designated 12-month leave year for specified family and medical reasons, which may include the flu where complications arise that create a “serious health condition” as defined by the FMLA or CFRA regulations. 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. Does the University have to 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 work weeks of unpaid, job-protected leave in the calendar year for specified family and medical reasons which may include the flu where complications arise that create a “serious health condition.” 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 six 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 polices and collective bargaining agreement provisions should be consulted.

6. Does the University have to 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.

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

No. 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 taken by an employee for the purpose of avoiding exposure to the flu would not be protected under the FMLA and CFRA.

8. Can 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. Can the University mandate that employees stay home if they or members of their family are known to have H1N1 flu or to have been exposed to someone with 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 or have been exposed to it.

If any employment actions are taken as a result of the 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. In other words, such employment actions should not be based on an employee’s age (40 and over), ancestry, color, religious creed, disability (mental and physical) including HIV and AIDS, marital status, medical condition (cancer and genetic characteristics), national origin, race, sex, and sexual orientation.

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. Please contact Employee & Labor Relations if you have any questions related to provisions covering represented 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.

Even if the family member does not have a serious case of the flu, the employee can still use up to six days of accrued sick leave in the calendar year to care for a child, parent, spouse, or domestic partner of the employee to attend to that family member’s illness.

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. Please refer to applicable polices and collective bargaining agreements for terms of usage.

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 because of the pandemic flu.