

**SMU FACULTY SENATE RESOLUTION
REGARDING TELEWORK FOR STAFF MEMBERS
AT RISK FOR SEVERE COVID-19 DISEASE AND OTHERS**

June 24, 2020

Whereas, the Centers for Disease Control (CDC) has listed several classes of persons at higher risk of severe COVID-19 disease (“at-risk”) (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>), including:

*all persons age 65 and over;

*all persons, regardless of age, with underlying health conditions like:

- serious heart disease;
- diabetes;
- severe obesity (those with a BMI of 40 or higher);
- chronic liver disease;
- immunocompromised persons (including those taking immune-weakening medications or treatments);
- hemoglobin disorders;
- chronic lung disease;
- chronic kidney disease undergoing dialysis;
- moderate to severe asthma;

Whereas, the CDC has concluded that persons with such underlying health conditions are 12 times more likely to die of COVID-19 than otherwise healthy people, and far more likely to be hospitalized;

Whereas, the CDC, echoing calls from associations like the American College Health Association, has recommended that universities “*encourage telework for as many staff and faculty as possible*, especially employees at higher risk for severe illness from COVID-19”;

Whereas, COVID-19 is a respiratory infection commonly spread by breathing in others’ air droplets and viral particles, which can remain suspended in the air and may be spread by air vents;

Whereas, indoor office environments where multiple people are present pose a comparatively large risk of COVID-19 transmission, even when reasonable precautions are taken;

Whereas, even where a University staff member is not personally at higher risk of severe COVID-19 disease, the staff member may reside in a household with persons who are at higher risk because of age or underlying health conditions (“at-risk household members”);

Whereas, transmission among members of a single household is a very common source of infection;

Whereas, many at-risk staff members can work remotely without the need to physically enter an office environment that places them unnecessarily at greater risk;

Whereas, staff members seeking telecommuting agreements on the basis of their at-risk COVID-19 status or the at-risk status of a household member should not be subject to unnecessarily burdensome or intrusive requests for information or documentation that are appropriate only for seeking a reasonable accommodation of a legally recognized disability;

Whereas, the medical confidentiality of at-risk staff members and at-risk household members should be protected;

Whereas, recent experience during the COVID-19 pandemic, during which SMU employees deemed nonessential worked remotely for several weeks, has demonstrated that the compelling medical needs of at-risk staff and at-risk household members can be met consistent with the needs of the University to operate at sufficient capacity and quality;

Whereas, reducing the density of non-essential, at-risk staff members on campus promotes the safety and health of employees whose physical presence *is* required (such as facilities and security personnel) by reducing their personal risk of infection and thereby minimizing the risk of further SMU community spread;

Whereas, SMU showed decisive and important leadership in closing campus in mid-March, but should now demonstrate the same compassion and regard for the health of staff that it has shown to faculty and students;

Whereas, protecting at-risk staff members and their household members from unnecessary risk to their health and lives is a moral imperative and perhaps a legal obligation;

Whereas, the Faculty Senate received an outpouring of more than 300 comments from staff members in the space of three days overwhelmingly supporting greater access to telework options, but also revealing a deep well of anxiety, fear, and low morale across SMU's campus;

Whereas, the health, safety, and morale of University staff are critical to the faculty and to the functioning of the University as a whole;

Now therefore, be it resolved, that the Faculty Senate urges the President's Executive Council to authorize decisions at the unit level by department chairs, deans, or supervisors regarding telecommuting agreements for at-risk staff members or staff members with at-risk household members;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct department chairs, deans, or supervisors to grant all requests for telecommuting agreements to all

at-risk staff members whose physical presence is not essential to the performance of their jobs or to the operation of the campus (as determined by their department chairs, deans, or supervisors);

Be it further resolved, that the Faculty Senate urges the President’s Executive Council to direct department chairs, deans, or supervisors will grant request for telecommuting agreements from other staff members, without regard to at-risk status, whose physical presence is not essential to the performance of their jobs or to the operation of the campus (as determined by their department chairs, deans, or supervisors): for example, staff members from other populations identified by the CDC as needing to take “extra precautions” (e.g., for pregnancy and breast-feeding) (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>); staff members with specific child-care needs arising from the COVID-19 pandemic; staff members who are primary caregivers for an at-risk person, regardless of whether the at-risk person lives with the staff member; staff members who work at Expressway Tower or other locations where the university does not fully control and regulate entry or use of the building; staff members who cannot safely wear masks or take other precautions for their own health (e.g., due to respiratory or other conditions); staff members with certain mental-health issues, for example, anxiety disorder, obsessive-compulsive disorder, or post-traumatic stress disorder, who may have more difficulty handling the disruption to daily life that has accompanied the COVID-19 pandemic; staff members with household members whose work exposes them to an unusually high risk of contracting COVID-19 (e.g., doctors, nurses, law-enforcement personnel, and other first-responders), and therefore whose presence on campus would present unusually great risk of SMU community spread; and other staff members on an individualized and as-needed basis;

Be it further resolved, that the Faculty Senate urges the President’s Executive Council to direct department chairs, deans, or supervisors to grant all requests for telecommuting agreements to all staff members who live with an at-risk household member and whose physical presence is not essential to the performance of their jobs or to the operation of the campus (as determined by their department chairs, deans, or supervisors);

Be it further resolved, that the Faculty Senate urges the President’s Executive Council to direct the SMU Department of Human Resources (HR), Office of Institutional Access and Equity (IAE), department chairs, deans, or supervisors to immediately notify all staff members of their option to request such telecommuting agreements from their department chairs, deans, or supervisors and to extend the time for requesting such agreements to July 15, 2020;

Be it further resolved, that the Faculty Senate urges the President’s Executive Council to direct department chairs, deans, or supervisors to consider requests for telecommuting agreements through the end of the Fall Semester 2020 based on changes in the at-risk status of the staff member or staff household member;

Be it further resolved, that the Faculty Senate urges the President’s Executive Council to direct HR, IAE, department chairs, deans, and supervisors to simplify and streamline the process for requests for telecommuting agreements, specifically by eliminating the need for a staff member to request an accommodation for a disability, as follows immediately below;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct department chairs, deans, or supervisors to require only the following materials as part of a staff member's request for a telecommuting agreement:

(1) The staff member shall provide a signed affirmation to the staff member's department chair, dean, or supervisor that:

EITHER

(a) the staff member is age 65 or older *or* that the staff member has an underlying condition specified in the CDC guidelines that places the staff member at higher risk of severe COVID-19 disease (referenced above in this resolution), without needing to disclose the specific underlying condition;

OR

(b) that the staff member lives with a household member age 65 or older *or* who has an underlying condition specified in the CDC guidelines that places the household member at higher risk of severe COVID-19 disease, without needing to disclose the specific underlying condition of the household member;

AND

(2) If the basis of the request for a telecommuting agreement is an underlying condition (rather than the age) of the staff member or household member, the staff member shall provide a written statement to the staff member's department chair, dean, or supervisor from a licensed healthcare provider that the staff member or household member meets the criteria above in part (1), without needing to disclose the specific underlying condition and without needing to undergo additional office visits, tests, or exams;

provided, however, that this written statement from a healthcare provider shall not be required if the staff member affirms in writing that they have been unable to obtain a healthcare provider's statement due to lack of access to, or timely response from, a healthcare provider;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct HR, IAE, department chairs, deans, or supervisors, as applicable, to store separately from the staff member's personnel file any medical information received regarding a particular staff member that is collected as part of a telecommuting agreement, thus limiting access to the staff member's confidential medical information;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct department chairs, deans, or supervisors that such telecommuting agreements presumptively should allow all work to be done remotely by the staff member, except to the extent and for the limited time a staff member's physical presence on campus is actually necessary for performance of some aspects of the staff member's work;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct the staff member's department chair, dean, or supervisor to complete a determination, within one (1) week after the staff member's request is made, whether and under what conditions the telecommuting arrangement request will be granted;

Be it further resolved, that the Faculty Senate urges the President's Executive Council to direct HR, IAE, department chairs, deans, or supervisors, as appropriate, to give generous consideration under the circumstances of the COVID-19 pandemic, to new or altered requests for reasonable accommodations (including, but not limited to, telecommuting agreements) from a staff member with a disability as defined by the Americans with Disabilities Act (a physical or mental impairment that substantially limits a major life activity, or a history of a substantially limiting impairment), but who is not necessarily in an at-risk category as defined by the CDC;

And be it further resolved, that the Faculty Senate urges the President's Executive Council to forbid any adverse employment action or retaliation taken by HR, IAE, department chairs, deans, or supervisors as a result of a staff member's request for a telecommuting agreement, whether granted or denied;

And be it further resolved, that the Faculty Senate urges the President's Executive Council to direct HR, IAE, department chairs, deans, or supervisors to make all telecommuting agreements under this resolution, once granted, and all existing telecommuting agreements attributable to the circumstances of the COVID-19 pandemic, effective at least through the end of the Fall Semester 2020.

And be it further resolved that the university seek to maximize the use of telecommuting and other alternative work arrangements rather than minimizing them, and that its default position be to grant requests for such arrangements;

And be it further resolved that the feasibility of such requests is best determined at the level of the unit, not by SMU Human Resources;

And be it further resolved that the university allow such telecommuting and alternative work arrangements to continue until a vaccine for COVID-19 is widely available.