

Memorandum of Understanding
between
NOAA Office of General Counsel and
NOAA Attorneys Guild
regarding
Reconstitution during the COVID-19 Pandemic

A global pandemic has significantly impacted the entire United States, and for much of FY2020 has altered the way NOAA – and the NOAA General Counsel’s Office – has operated. Starting in March 2020, the entire NOAA General Counsel workforce began operating on a mandatory telework basis. Under this status, employees work at their home safe haven, and are permitted up to 20 hours per pay period administrative leave, to be used for child care, elder care, or similar necessity. Full-time telework has helped to maintain attorney health and safety and successfully supported NOAA General Counsel’s continuity of operations during the pandemic. Employee safety and health are a necessity for successfully accomplishing the agency’s mission.

Beginning in July 2020, NOAA leadership, working in coordination with the Department of Commerce, began planning for reconstituting the workforce, which involves tracking certain public health information (infection rate, hospital capacity, etc.), and using this data to inform “gating” decisions on when to allow portions of the workforce to return to the office.

Phase¹	Facility Occupancy
0	None (Full telework)
1	Up to 10% occupancy
2	Up to 50% occupancy
3	Up to normal occupancy

As of the date of the signing of this agreement, NOAA facilities remain open, but largely unoccupied. Most NOAA facilities remain at Phase 0 or Phase 1.

Beyond the parameters of each facility’s gating decisions, local offices – including NOAA General Counsel – have broad discretion on the conditions under which employees will return to the office. In consultation with the NOAA Attorneys Guild, NOAA General Counsel management agreed to provide notice and the opportunity to bargain before requiring any

¹ The parameters in this table are current as of August 2020. Since these criteria were established in the face of emerging requirements and without union input, they are subject to update and change. Alteration in these criteria will not impact any elements of the subsequent agreement.

guild member to return to the office, engage in work-related travel, or attend an in-person public meeting.

Objectives. The primary focus of this agreement is to support the health and safety of all employees – both their physical and mental wellbeing – throughout this public health crisis. NOAA General Counsel management and the NOAA Attorneys Guild also intend this agreement to provide clarity with respect to the telework options and the conditions under which an employee may return to the office.

Criteria.

1. During the term of this agreement, NOAA General Counsel employees may continue up to full-time telework under the same conditions of employment as have been in effect since March 2020, as long as the attorney continues to satisfactorily fulfill work responsibilities, as determined by her/his supervisor.
2. Attorneys will not be required to return the office during the term of this agreement. Prior to attorneys returning to the office on more than a *de minimis* basis, management agrees to provide notice and an opportunity to bargain region or section-specific agreements covering local working conditions.²
3. After region or section-specific agreements are in effect, an employee who wishes to return to his/her office within the region or section covered by an agreement may do so with prior supervisory approval and in accordance with applicable reconstitution Phase parameters. *De minimis access:* An employees may access his/her NOAA worksite office to retrieve mail, gather work-related documents, use the scanner/copier, etc., on a limited, ad hoc basis (less than 1 hour per pay period) without prior supervisory approval, as long as they adhere to all of the safety requirements (state, local, NOAA) established for the facility being entered.
4. During the term of this agreement, NOAA GC management does not intend to authorize work-related travel, nor require attendance at in-person public meetings. Exceptions will require NOAA GC headquarters approval and prior notice to the union and opportunity to bargain.

Term.

This agreement will expire June 30, 2021.

Modification.

Either party may request to revise this agreement at any time during its term, which changes may be incorporated by mutual agreement and after opportunity to bargain. This agreement may be extended with or without modification by mutual agreement.

² These agreements would be bargained by local NOAA General Counsel management and local union stewards. NOAA General Counsel headquarters management and union leadership may review and comment on these agreements prior to them going into effect.

Signed on August 7, 2020

_____/s/
Mitch MacDonald
On behalf of NWSEO, NOAA Attorneys Guild

_____/s/ John Luce
John Luce
On behalf of NOAA General Counsel Management