

**Guidance for Temporary Reassignment of State, Tribal, and Local Personnel During a
Public Health Emergency Declared by the HHS Secretary
Section 319(e) of the Public Health Service (PHS) Act, as added by section 201 of the
Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA), Public
Law 113-5**

Scope

Section 201 of the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA), Public Law 113-5, amends section 319 of the Public Health Service (PHS) Act to provide the Secretary of the Department of Health and Human Services (HHS), upon request by a state or tribal organization, discretion to authorize the temporary reassignment of state, tribal, and local personnel during the time period when the HHS Secretary has declared a federal public health emergency under section 319 of the PHS Act. The temporary reassignment authority is applicable to state, tribal, and local public health department or agency personnel whose positions are funded, in full or part, under PHS programs and allows such personnel to be reassigned on a voluntary basis to respond to the public health emergency in the affected jurisdiction. This authority terminates September 30, 2018.

Background

Historically, state, tribal, and local public health personnel who are funded by the PHS Act were not authorized to work outside of the scope of the funded program. The ability to temporarily reassign these personnel during public health emergencies is an important flexibility for state, tribal, and local governments. State and local health departments and tribal organizations are able to increase the workforce needed to address public health emergencies within the state.

Delegation of Authority

The HHS Secretary delegated the authority to authorize requests for the temporary reassignment of personnel to all heads of HHS agencies with programs funded under the PHS Act, with the Office of the Assistant Secretary for Preparedness and Response (ASPR) serving a coordinating role. Under this delegated authority, approval and denial of temporary reassignment requests will reside with the funding agency. ASPR will serve as an intermediary between state and tribal governments and the various HHS agencies. ASPR will also assume responsibility for meeting reporting requirements to Congress with the assistance of HHS agencies.

Implementation Guidelines

Following the declaration of a public health emergency by the HHS Secretary, the governor of a state, or the tribal organization, or their authorized designees, may request the authority to temporarily reassign state and local public health department or agency personnel funded in whole or part through programs funded under the PHS Act. The requests should be comprehensive and include all HHS programs that will be affected as a result of the approval of the temporary reassignment request. Each state and Indian tribe should submit one comprehensive request per HHS declared public health emergency. This request should delineate all programs for which reassignment is proposed. Notification as to whether or not a particular program is affected by this provision in law will be published in the funding announcements for those programs. No HHS contract, grant, or cooperative agreement can be

conditioned on the requirement that eligible personnel be required to accept temporary reassignment.

Applicability

- Reassignment must be voluntary. The state or Indian tribe shall not require personnel to agree with the reassignment unless otherwise provided under law or regulation of the requesting state or Indian tribe.
- Staff may be reassigned only to those locations covered under the public health emergency. Staff from an unaffected area of the state or tribal boundaries may be reassigned to the affected area of the state or tribal lands.
- Staff should, when possible, be reassigned into activities within their identified scope of practice, skill set, credentialing, and in accordance with the jurisdiction's established preparedness plans.
- Staff should receive, at a minimum, just-in-time training, where applicable, upon reassignment.
- States and Indian tribes are encouraged to develop, in advance, written plans to initiate these guidelines in the event of an HHS declared public health emergency and include the implementation of this provision in any response exercises conducted throughout the year. Such plans are in addition to other such plans required in the jurisdiction's all-hazards public health preparedness and emergency response plans under section 319C-1 of the PHS Act (which authorizes the Centers for Disease Control and Prevention's Public Health Emergency Preparedness program).

Requirements for Submitting Temporary Reassignment Requests

All requests for the authority to temporarily reassign personnel must be submitted in writing to the Secretary by the governor of the state or tribal organization or his/her designees to TemporaryReassignment@hhs.gov. If the governor of the state or tribal organization has authorized a "designee" a copy of the designation must be submitted with each request. A template is available for requests at www.PHE.gov/TemporaryReassignment.

At a minimum, the written request must:

- Identify each federal program from which personnel will be reassigned;
- Identify the number of appropriate personnel from each program to be reassigned;
- Assure that the current public health workforce cannot adequately and appropriately address the emergency;
- Assure that the public health emergency would be addressed more efficiently and effectively through the temporary reassignment of state or local personnel;
- Assure that the reassignment is consistent with the jurisdiction's all-hazards public health preparedness and emergency response plan required under section 319C-1 of the PHS Act.

In addition, states and tribes are requested to agree to:

- Describe the activities to be conducted by the reassigned personnel and expected benefits;
- Outline anticipated impacts that the temporary reassignment will have on the affected programs;

- Assure that the reassignment will last no longer than 30 days or until the Secretary of HHS determines that the public health emergency no longer exists, whichever comes first;
- Assure that the public health emergency is in the geographic area of the state or Indian tribe;
- Assure that, unless otherwise provided under the law or regulations of the state or Indian tribe, that personnel have the opportunity to volunteer for temporary reassignment and were not required to agree to a temporary reassignment;
- Agree to submit an after-action report within 120 days after the termination of the authorized reassignment;
- Assure that the state or Indian tribe will participate in the independent evaluation conducted by the U.S. Comptroller General described in the evaluation section of this guidance; and,
- To participate in an independent evaluation of the temporary reassignment provision conducted by the U.S. Comptroller General, if used within their state or Indian tribe.

HHS strongly urges that state officials coordinate with the local agencies when identifying both programs and personnel that will be affected by the temporary reassignment authorization.

Review and Notification Process

All requests will be subject to a two-step review process. The first review is an administrative review to be conducted by ASPR. The purpose of this review is to ensure that all the requisite information necessary to make a decision is provided. The administrative review will be conducted within one business day of receipt of the request. Requests that have satisfied this review will be directed to the relevant HHS agency or agencies for a technical review. The technical review will assess programmatic impact and result in a temporary reassignment decision. Technical reviews will be expedited. HHS agencies will submit the results of the technical review to ASPR.

ASPR will provide written notification to the governor of the state or Indian tribe regarding the outcome of the request. States or Indian tribes may immediately reassign personnel upon notification of approval. Should the initial or supplemental requests be denied, the state or Indian tribe may address all concerns provided with the denial and resubmit the request for further consideration.

In conjunction with the notification of the temporary reassignment outcome, ASPR will ensure notification to Congress, as required by statute.

Reassignment Duration

The authorization to reassign personnel shall terminate at the end of the declared federal public health emergency or 30 days after the request is approved, whichever comes first. In cases where the public health emergency lasts longer than 30 days, the state or Indian tribe may request an extension for an additional 30 days. The request for extension must contain the same information and assurances that are required for the initial request. The same submission and review process will be followed for the extension request. The extension authorization shall terminate at the end of the declared federal public health emergency or at the end of the

extension, whichever comes first. Should the emergency continue past the initial extension period, a state or tribal organization may submit a second extension request. Any requests beyond two 30 day extensions may be granted at the discretion of the Operational or Staff Division head that holds the affected PHS program. The same submission and review process will be followed for the change request.

Change to Request

States or tribal organizations are urged to be as comprehensive in the requests as possible; however, a change to an already approved authorization may be required should the nature and scope of the declared emergency change. The state is required to submit a revised request outlining the same information and assurances that are required for the initial request(s) and demonstrate what changes are being made to the original approval. The same submission and review process will be followed for the change request. The changed authorization shall terminate at the end of the declared federal public health emergency or at the end of the originally approved request (either the initial or extension), whichever comes first.

Required Reporting

Within 120 days of the end of the emergency or the end of the temporary reassignment authorization, the state or Indian tribe will submit a report to the Secretary, through ASPR, outlining the effect that the temporary reassignment had on each program. Future funding announcements will include a description of the availability of this authority and that adherence to the guidance be included as a term and condition of award. This will allow the states and tribes have adequate notice of this obligation and the reporting requirement is tied to the award of funds. HHS will provide additional guidance on reporting when such requests are approved; however at a minimum, this report must describe:

- The number of persons reassigned from each program;
- The amount of funds used to support the reassigned personnel;
- The actual impact the temporary reassignment had on the programs, both positive and adverse;
- How medical surge capacity was improved through reassignment (if applicable);
- How the reassignment of personnel improved operational efficiencies; and
- How the reassignment assisted the state or Indian tribe in responding to or addressing the public health emergency.

Reports may be submitted through the same process used to submit the request(s) at TemporaryReassignment@hhs.gov.

Evaluation

States and Indian tribes that receive authority to temporarily assign personnel are requested to agree to participate in an independent evaluation of the temporary reassignment provision conducted by the U.S. Comptroller General. Such participation includes providing documentation and other information, as requested, to allow the Comptroller General to submit a report to Congress that, at a minimum, will include:

- A description of how, and under what circumstances, temporary reassignment has been used by states and Indian tribes;
- An analysis of how temporary reassignment has assisted state and Indian tribes in responding to public health emergencies;
- An evaluation of how temporary reassignment has improved operational efficiencies in responding to public health emergencies;
- An analysis of the extent to which, if any, federal programs from which personnel have been temporarily reassigned have been adversely affected by the reassignment;
- Recommendations on how medical surge capacity could be improved in responding to public health emergencies and the impact the reassignment flexibility has had on surge capacity; and,
- An evaluation of adequate notice to states and Indian tribes of how this reporting obligation reflects in funding announcements and how the reporting requirement is tied to the award of funds.

Definitions

In accordance with common practice all terms, unless specifically defined under this section for definitions, will be defined using the commonly accepted definition.

For the purposes of this guidance, the following definitions apply.

- Public health emergency: any incident determined by the Secretary of Health and Human Services to constitute a public health emergency under section 319 of the PHS Act (42 U.S.C. § 247d).
- Current public health workforce: State, tribal, or local public health department or agency personnel funded in whole or in part through programs authorized under the PHS Act.
- Program: an activity supported by a grant, cooperative agreement, contract or other funding mechanism.
- Indian tribe/tribal organization: The terms “Indian tribe” and “tribal organization” have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.
- State: The term “state” includes, in addition to the several states, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Commonwealth of the Northern Marian Islands.
- Reassignment: The transfer of an existing staffing capability to another functional capability.
- Public health programs: HHS programs that are funded under authorities of the Public Health Service Act.
- Salary: Wages and fringe rates.