THE **UNIVERSITY** OF
NORTH CAROLINA SYSTEM

COVID-19 RETURN TO ON-SITE WORK GUIDANCE:
Human Resources Professionals and Administrators

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INTRODUCTION

As the state and the UNC System move toward resuming additional on-site operations, faculty and staff will need significant information about returning to the workplace. Over the coming months, constituent institutions will make many decisions pertaining to resuming on-site operations, providing critical services, and carrying out the University's missions of teaching, research, and public service. Changing circumstances and public health guidance may require continuous revisions to and adaptation of the University's protocols to ensure the health and safety of all community members.

Relatedly, all members of the University community share the responsibility for public health and safety. The UNC System and its constituent institutions will provide guidance regarding face coverings, personal protective equipment, workplace expectations, and facility safety. This guidance is for everyone's benefit and is designed to help members of the University community be confident in their workplace health and safety.

The following information will help institution Human Resources professionals, managers, and supervisors guide employees through this unprecedented transition. Professionals at each institution have the best sense of what is optimal for their faculty and staff, so consider this information in conjunction with individual institutional needs and resources that specifically address your circumstances.

DESIGNATING RETURN TO ON-SITE WORK (ROSW) COORDINATORS FOR INSTITUTIONS

The UNC System has requested that all institutions designate a human resources staff member as their "COVID-19 Return to On-Site Work (ROSW) Coordinator." Depending on the size of the institution, this individual may be assisted by one or more members of the local HR team and/or members of other institutional central offices as deemed appropriate.

The ROSW Coordinator should be fully aware of the UNC System's and their institution's COVID-19 return-to-worksite plans, procedures, and communications. With this information in hand, the designated ROSW coordinator will serve as a resource for HR questions/concerns during the worksite re-opening process. In addition, this role serves as the primary point of contact for UNC System Office Human Resources and as a local source of information and coordination for COVID-19-related HR matters for their institution.

This role is intended to work collaboratively with other identified institutional resources (Environment, Health and Safety, Equal Opportunity, Academic Affairs, etc.) but not to replace their functions. Institutions may choose to use their ROSW coordinator as a primary campus point of contact for questions and concerns or may use currently established communications pathways. If the ROSW coordinator is the primary contact, they should be clearly identified in communications and signage, and contact information should be readily available.

DEFINITIONS

Accommodation: Under the Americans with Disabilities Act (ADA), a modification or adjustment to the work environment, or to the manner or circumstances under which a job position is customarily performed, made to enable a qualified individual with a disability to perform the essential functions of that position.

Flexibility: A more general term encouraging alternative work arrangements, flexible scheduling, and other arrangements to allow employees to be more comfortable in their return to the workplace.

High-risk person is currently defined by **CDC guidance**. While this guidance may evolve as the COVID-19 event progresses, persons at high risk for severe illness from COVID-19 at this time include the following:

- People 65 years and older.
- People who live in a nursing home or long-term care facility.
- People of all ages with underlying medical conditions, particularly if not well controlled, including the following:
  - People with chronic lung disease or moderate to severe asthma.
  - People who have serious heart conditions.
  - People who are immunocompromised.
  - People with severe obesity (body mass index [BMI] of 40 or higher).
- People with diabetes.
- People with chronic kidney disease undergoing dialysis.
- People with liver disease.

Mandatory on-site employee: Under the state's communicable disease policy and **UNC Policy**, mandatory employees are those designated to work on site on specific times/days to perform ongoing essential functions during a public health emergency to provide for the continuity of the organization. As re-opening progresses, additional employees will be considered mandatory on site.

PHASED RETURN TO ON-SITE OPERATIONS

Professionals at each institution have the best sense of what is optimal for their faculty and staff, These plans will include decisions about who will return to on-site work and when, and plans are expected to incorporate a workplace **hazard assessment** per OSHA guidelines. All decisions will be informed by the latest guidance from local, state, and federal government officials and public health authorities, in particular the re-opening guidance provided by the U.S. Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC). See the following specific resources for more detailed information:

- **https://www.osha.gov/Publications/OSHA3990.pdf**
- **https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html**
- **https://www.cdc.gov/coronavirus/2019-ncov/community/colleges-universities/considerations.html**

Each institution should assess gradually expanded staffing based on the following factors:

- Ability to control and manage specific work environments;
- Feasibility of remote work as opposed to the need to perform essential functions on site at a University worksite;
- Need for an employee to access on-site resources, such as specialized equipment or technology;
- Individual employee health risks and/or the risks to immediate family members;
- Availability of face coverings;
- Availability of personal protective equipment (PPE) required by some positions; and
- COVID-19 testing and monitoring capabilities.

All decisions on return to on-site operations, once approved, will be communicated through the employee's direct supervisor, the institution's HR office, and/or other University leadership. Communication tools and methods should be consistent to provide clarity and predictability.

For those jobs and functions that are not conducive to telework, the institution must issue guidance and implement protocols to help employees minimize exposure to COVID-19 while they perform essential job requirements. These protocols may include the following:
- Use of face coverings;
- Use of personal protective equipment, if needed;
- Social distancing;
- Facility cleaning and disinfection;
- Facility access control for vendors, contractors, and other institutional visitors; and
- COVID-19 symptom screening for faculty, staff, students, and visitors.

Confidential health information should not be addressed or handled directly by individual supervisors or departmental personnel, nor should these personnel be tasked with making assessments of employee medical information or physician notes.

As on-site staffing increases and operations expand, each institution will closely monitor and assess the potential spread of COVID-19. As the situation evolves, institutions will continuously adapt existing policies and protocols to mitigate virus spread. If localized outbreaks emerge, tighter restrictions and reduced staffing may need to be implemented again, potentially on very short notice.

EMPLOYEE PRIORITIZATION FOR RETURN TO WORK

Institutions should continue to promote telework to the extent practicable for most non-mandatory employees until the State enters **Phase 3 of its reopening plan**. Management may require employees whose on-site presence is deemed essential to operations or whose job duties cannot be performed remotely to return to on-site work. Employees who are categorized as high-risk per CDC guidelines may seek additional flexibility, which should be given consideration if requested.

Management may also either require and/or permit certain employees to work on-site if they need access to particular equipment, technology, internet connectivity, etc. to perform the essential functions of their job and do not otherwise have such access at their residence.

These decisions should be made on a case-by-case basis for faculty and staff to maintain appropriate social distancing and other safety precautions. Management may also make such determinations for employees who have no ability to telework as long as all relevant safety precautions can be accomplished while on site in the workplace.

Management should keep records of all such determinations, including tracking all positions and employees whose duties can only be performed on site due to operational needs.

SOCIAL DISTANCING AND WORK SCHEDULE ADJUSTMENTS

Institutional HR offices should openly promote and encourage social distancing practices as recommended by **CDC** and **NCDHHS**. These practices may include, but should not be limited to, the following:

- Implementing flexible work schedules to reduce the number of employees at worksites at any given time.
- Splitting employee schedules so that fewer employees are on site at any time. Consider one week on-site/one week off-site scheduling to reduce the number of employees on campus for a longer period and provide consistency in work populations between facility cleaning cycles.
- Staggering work shifts or start times so that fewer employees are entering and exiting campus buildings during any given time interval.
- Limiting the number of institutional visitors at any one time within selected facilities.
- Where multiple employees perform the same or similar tasks, ensuring that only one person works on site each day performing those tasks while others work remotely.

EMPLOYEE TIME AND LEAVE MANAGEMENT DURING THE RETURN-TO-WORKSITE PROCESS

Institutions should consult the most recently updated work and leave provisions from the UNC System Office regarding requirements related to accounting for employee time, leave availability, workers' compensation, leave of absence, Families First Coronavirus Response Act (FFCRA) leaves, etc. for COVID-19 related situations. These provisions will continue to evolve in response to changing situations and guidance from the Office of State Human Resources.

EMPLOYEE SELF-MONITORING/SCREENING FOR COVID-19 SYMPTOMS

Each institution is expected to have protocols for monitoring employees for potential COVID-19 symptoms and for facilitating testing of employees suspected of exposure in concert with local health care entities and/or county public health officials. We recommend working with your institution's Environment, Health, and Safety officials to ensure that **CDC guidance** and North Carolina Department of Health and Human Resources **(NCDHHS) guidelines** are fully addressed and incorporate communications with your county health department, which may also have resources and subject matter expertise to assist with these efforts.

The NCDHHS provides a **symptom screening checklist** template for institutional use. Faculty and staff should be asked to self-monitor for COVID-19 symptoms, and each institution should communicate regularly about how to monitor and seek treatment for possible COVID-19 infection. Institutional protocols should take into account the following specific considerations:

- Information provided by employees to the institution as part of any COVID-19 screening process must be treated as protected health information.
- Any employees (trained medical staff or others) involved in a physical screening process must adhere to **CDC** and **OSHA** guidance, including the use of proper personal protective equipment (PPE).
- Employees should be notified (and receive any necessary training) regarding any daily screening process prior to returning to their worksite. Online training materials, including PowerPoints, videos, or step-by-step checklists will likely be efficient approaches.
- If the screening process indicates COVID-19 symptoms or exposure to COVID-19, the employee should immediately notify their supervisor. The supervisor or HR representative should consult and comply with the institution's response plan and advise the individual to contact their medical provider. (**See NCDHHS "What to Do If You Feel Sick"** and **NCDHHS "Symptom Screening Checklist"**.)

Screening process considerations/suggestions:
- To the extent possible, maximize use of electronic reporting forms rather than paper to decrease challenges with handling and storage. In addition to simple secure web forms, online survey tools, such as Qualtrics, Smartsheet, and SurveyMonkey, may also provide efficient reporting options that can be quickly launched for this purpose.

- Best practice is for employees to self-screen each day before leaving their residence for the workplace. Determine a consistent methodology to ensure all employees conduct daily self-screening. Consider affirmation during system sign on or time system sign on. An enforcement system will be needed. Employees who do not comply with set screening requirements may be subject to disciplinary or other corrective administrative action.
- Provide detailed instructions for employees to follow if their self-screening indicates symptoms of possible COVID-19 infection. Incorporate timely supervisor and HR notification, as well as consideration of the need for potential **workspace cleaning/disinfection**.
- Screening requirements could be scaled down if deemed appropriate as the State of North Carolina progresses through its **three-phase reopening program**.

EMPLOYEE SICKNESS IN THE WORKPLACE

Each institution should also have a response plan in place for actions to take if an employee becomes sick or displays COVID-19-like symptoms while physically in the workplace. Institutions should work closely with their county health department in developing this protocol, incorporating **CDC** and **OSHA** guidance for workspace cleaning and disinfection. The response plan should be communicated to faculty and staff.

EMPLOYEE RELATIONS, EEO, AND ADA CONSIDERATIONS

Communication, compassion, and flexibility are central to an effective employee relations response to COVID-19-related concerns raised by employees who are at high risk or who have formal care responsibilities for high-risk individuals. Managers and institutional HR professionals must keep in mind that individual employees may react very differently to the stresses of COVID-19. Managing through this process will require active listening, empathy, and patience, and institutions are strongly encouraged to explore all available options for alternative work assignments, when requested, and to remember that the EAP is available if needed. These alternative arrangements may include, but are not limited to, telework, alternative or remote work locations, reassignment, and more aggressive on-site social distancing measures. *Employees have a specific responsibility for talking with their supervisors and/or appropriate institutional offices to request an alternative work arrangement and/or some other type of COVID-19-related accommodation. Employees should not presume that such arrangements are an automatic entitlement without management approval.*

Managers and/or HR offices will also likely hear from individual employees who do not meet any formal CDC and/or NCDHHS high risk factors, but who are uncomfortable or have genuine concerns about returning to the workplace. The institution should take all such concerns seriously, and these should also be addressed on a case-by-case basis. Managers should work with employees to explore all reasonable flexibilities in consultation with the institution's HR Office. *However, once an employee flexibility request has been addressed to the extent practicable given operational needs, a refusal to report to a designated work location or fully perform assigned duties may be grounds for disciplinary or other corrective action. HR professionals and managers are urged to seek solutions to avoid such an outcome to the extent practicable.*

For the safety of the entire University community, all employees are expected to fully comply with the COVID-19-related protocols announced by each constituent institution with respect to returning to on-site work. *While employees may be in a position to make individual choices on personal protective measures outside of the workplace, such measures are not discretionary within the workplace when required by the University. Failure to comply with such measures could result in disciplinary action or other corrective measures.*

In spite of COVID-19, time-sensitive employee relations processes (investigations, disciplinary procedures, grievance processes, etc.) must continue to proceed within timelines required by policy while still adhering to necessary safety and social distancing precautions.

Supervisors/managers should consult with their institution's HR office regarding all questions they receive pertaining to COVID-19 related employee relations issues. *Supervisors and managers should be counseled not to make disciplinary decisions or take corrective actions related to COVID-19 without consulting and seeking the support of the institution's HR professionals.*

INTERPRETING AND ANALYZING REQUESTS FOR ACCOMMODATION OR FLEXIBILITY

As employees return to work, it is likely that there will be an increase in requests for additional workplace flexibility from individuals who are concerned about their health and safety. Some of these requests for flexibility may be governed by the Americans with Disabilities Act (ADA), but not all of them will. Such requests must be analyzed and processed appropriately, either as requests for reasonable accommodations under the ADA or as requests for increased workplace flexibility in light of COVID-19. It is essential to remember that, while all reasonable accommodations granted under the ADA require a certain degree of workplace flexibility, not all requests for workplace flexibility are requests for reasonable accommodations under the ADA.

The ADA governs requests for reasonable accommodations made by disabled individuals, which are intended to help those individuals perform the essential functions of their jobs. As defined by the ADA, a person is "disabled" if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a history or record of such an impairment, or is perceived by others as having such an impairment.

COVID-19 in and of itself is a transitory illness and would generally not be a "disability" as defined by the ADA, except in very severe cases. Similarly, an underlying health condition or conditions that would identify a person as high risk is not necessarily a "disability," although it could be.

If a high-risk employee requests a change in his or her working conditions for fear of potentially contracting COVID-19, a threshold determination must be made as to whether the employee is actually "disabled" under the ADA. For example, if an employee had not previously sought an accommodation for an underlying health condition prior to the COVID-19 pandemic, has had no difficulty in performing the essential functions of his or her job prior to the COVID-19 pandemic, and if the employee's work duties or conditions have not changed in a manner that would interfere with the performance of his or her essential duties due to the underlying health condition, then that employee would likely not be considered disabled and thus would be requesting workplace flexibility rather than an accommodation pursuant to the ADA.

The distinction between requests for workplace flexibility due to health concerns related to COVID-19 and requests for reasonable accommodations under the ADA will not always be easy to discern, and each case will have to be analyzed on its own facts. A collaborative approach to processing such requests, involving HR, disability office professionals, and institutional general counsel, is recommended. The process for submitting such requests should be communicated to all employees.

If a request is determined to be for a reasonable accommodation, it should be processed through the normal ADA accommodation channels. If a request is determined to be for flexibility, the decision to grant the request may be made after considering several factors, including feasibility, business need, risk assessment, and the burden placed on other employees. The COVID-19 pandemic is a continuously evolving situation, requiring frequent review and revision of guidance. Accommodations and flexibility allowances granted due to COVID-19 considerations should be reviewed periodically to determine whether they are still appropriate or need to be adjusted in light of current circumstances.

One or more specific institutional offices with staff members trained in handling confidential health information must be designated to receive and review any documentation related to underlying medical conditions. ***Confidential health information should not be addressed or handled directly by individual supervisors or departmental personnel, nor should these personnel be tasked with making assessments of employee medical information or physician notes.***

Additional information: https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws

FAMILY AND MEDICAL LEAVE ACT

Although COVID-19 may not unto itself qualify as a serious health condition under Family & Medical Leave, a more severe case of COVID-19 may qualify. Employees may also qualify if they are the primary caregiver for a parent, child, or spouse who has contracted a more severe case of COVID-19.

Also, the federal **Families First Coronavirus Response Act (FFCRA)** provides eligibility to employees who must provide care to their child because their school or childcare program closed as a result of COVID-19.

The institution's HR office should be prepared to address employee leave requests or questions related to a COVID-19 absence, or other qualifying reasons under FMLA or the Expanded Family and Medical Leave under FFCRA.

Institutional HR personnel should coordinate with related instutional offices to determine if a leave request is truly a qualifying FMLA or FFCRA leave request or is an underlying ADA accommodation. Institution HR offices should review the COVID-19 resources provided by the System Office for guidance to determine employee eligibility and application of FFCRA-related leave. Refer to the System's **Special Work-Leave provisions**. The Expanded FMLA coverage under FFCRA extends through December 31, 2020.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

All EEO related laws and regulations remain in full force and effect during the COVID-19 event. The U.S. Equal Employment Opportunity Commission (EEOC) has issued the following guidance in this regard:

- Institutions must ensure that decisions regarding return-to-worksite schedules for employees during re-opening are based on legitimate business needs.
- Institutions should consider non-discriminatory, objective criteria when determining which employees should return to the worksite. In particular, consider the following:
  - Whether the employee can work remotely, and if so, whether the entirety of their work can be conducted remotely.
  - Whether the employee has job duties that can only be undertaken at the workplace or are specifically required to be done on certain schedules (e.g., financial year-end activities).
  - Whether the employee has specialized skills that are needed on site at the workplace.

Employers cannot select employees if such action might result in disparate treatment based on a protected class. For instance, some studies suggest higher rates of COVID-19 positive test results based upon demographic groups, including race and gender. Employers will need to closely monitor any concerns that employees are being subjected to disparate treatment or harassed in the workplace because of membership in a protected class.

Employees should be informed that all EEOC, ADA, or other employee relations concerns should be communicated directly to the appropriate institution-level office (HR, EEO, disability resources, etc.) using their typical reporting mechanisms.

An employee cannot be prevented from returning to work based solely on their status as a high-risk individual according to CDC guidance.

For further information: https://www.eeoc.gov/ wysk/what-you-should-know-about-covid-19-and- ada-rehabilitation-act-and-other-eeo-laws

EMPLOYEE ASSISTANCE PROGRAM (EAP)

Managing COVID-19 is a new and often stressful experience for the University workforce. Learning to adapt to changes in the work environment and workload, as well as addressing employee concerns, is critically important. And, once the dust settles, the next "normal" will start to present itself. This new normalcy can create emotions that have not been previously recognized or addressed. When returning to the regular work environment, each employee will react to and address this transition differently. To assist with these transitions, please remember that each institution's EAP can be a valuable resource for employees.

The EAP is a University-sponsored benefit program that offers support and resources to address personal or work-related challenges and concerns. ***Best of all, it is free for employees and members of their households, and EAP resources are completely confidential.***

Institutions are strongly encouraged to remind employees of these resources prior to their return to worksite date and increase the visibility of EAP resource information (signage, communications, websites, etc.) across their institutions.

Contact information for all EAP networks is available on the **UNC System HR website**.

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