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THE **UNIVERSITY** OF
NORTH CAROLINA SYSTEM

COVID-19 WORKPLACE GUIDANCE:
Human Resources Professionals and Administrators

CONTENTS

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NORTH CAROLINA SYSTEM

INTRODUCTION

As the state and the UNC System continue to a new normal for on-site operations, faculty and staff will need continuing updates regarding the workplace. Over the coming months, constituent institutions will continue to make many decisions pertaining to on-site operations, providing critical services, and carrying out the University's missions of teaching, research, and public service. Changing circumstances, new COVID variants, vaccine availability, and evolving 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.

Chancellors have the authority to implement operational strategies consistent with System Office guidance that best meet the unique circumstances and local community conditions of each campus. 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. This guidance is for both mandatory and non-mandatory employees working in non-healthcare environments.

The following information will help institution Human Resources professionals, managers, and supervisors guide employees through

> *"One of the most important aspects of our response over the last year has been avoiding a one-size-fits-all approach, recognizing that circumstances and capacities are different at each of our institutions."*
>
> — President Peter Hans
> August 4, 2021

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

All UNC institutions and affiliates have designated 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 is 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 serves 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.

Person at increased risk is currently defined by CDC guidance. While this guidance may continue to evolve as the COVID-19 event progresses, persons at increased risk for severe illness from COVID-19 at this time include the following:
- Older adults.
- People with any of the following medical conditions:
   - Cancer
   - Chronic kidney disease
   - Chronic lung diseases, including COPD, asthma, interstitial lung disease, cystic fibrosis, and pulmonary hypertension
   - Dementia or other neurological conditions
   - Diabetes
   - Down syndrome
   - Heart conditions, such as heart failure, coronary artery disease, cardiomyopathies, or hypertension
   - HIV infection
   - Immunocompromised state

- Liver disease
- Obesity
- Pregnancy
- Sickle cell disease or thalassemia
- Smoking
- Organ or blood stem cell transplant
- Stroke or cerebrovascular disease
- Substance use disorder

On-site employee: Under the state's communicable disease policy and **UNC policy**, certain employees are designated to work on site on specific times/days to perform ongoing essential functions and provide for the continuity of the organization. As re-opening progresses, additional employees will return to on-site work.

ON-SITE OPERATIONS: GET VACCINATED OR GET TESTED REGULARLY

Based on recommendations from public health officials, getting vaccinated is the most effective way to prevent serious illness and slow community spread. Chancellors should exercise their administrative authority over personnel at their institutions by putting a "get vaccinated or get tested regularly" measure in place for their faculty and staff. In developing these plans for faculty and staff, chancellors may wish to evaluate the OSHR policy implementing the Governor's latest Executive Order (EO224) that is effective Sept. 1, 2021.

Each institution will continue to closely monitor and assess the potential spread of COVID-19, including virus variants. As the situation evolves, institutions may need to 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.

Vaccines are free and widely available throughout North Carolina. Visit https://www.vaccines.gov/search/ for vaccine availability. Remember that you can use paid work time to receive a COVID-19 vaccination during regular work hours, and that Paid Administrative Leave is available in case of adverse vaccine reactions on the same day or day after vaccination.

Note on face coverings:

Because of the unique circumstances of each institution, chancellors should adopt face covering protocols that reflect local health conditions and best meet the needs of each campus. Of course, where applicable, campuses must continue to comply with face covering protocols required by Executive Orders, OSHA, standards for health care settings, standards for clinical and laboratory settings, and other similar requirements.

Exceptions may be made, when authorized by management, for an employee who is unable to wear a face covering due to a medical condition or when a specific job duty or task does not accommodate the wearing of a face covering. **However, the wearing of a face covering is not subject to individual employee discretion if required by the institution.** Refusal to comply with the face covering requirement may be handled as appropriate within the discretion of institutional management, and continued refusal may result in disciplinary action.

Employees may wear a self-supplied cloth face covering, as long as it does not interfere with the completion of your work duties, is in good taste, and does not include a design, graphic, or logo that presents an unprofessional image and/or

> *"I think it's reasonable, both for public health and for leadership by example, to ask our faculty and staff to comply with the same protective measures we are asking of our students."*
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would not be acceptable to the general public. Chancellors may adopt policies that modify institution-level requirements to the extent necessary to facilitate teaching and instruction, to accommodate disabilities and medical conditions, and for other reasons deemed necessary.

Face shields are not an acceptable substitute for cloth face coverings. Face shields may be used in addition to cloth face coverings. Individuals who are unable to wear cloth face coverings for medical reasons may request an accommodation. *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.*

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 increased risk per CDC guidelines may seek additional flexibility, which should be given consideration if requested.

Institutional HR offices should promote and encourage continuing protocols 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.
- Travel increases the chances of getting infected and spreading COVID-19, so institutions should review requirements for work-related travel.

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, 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 TESTING AND SELF-MONITORING/ REPORTING 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. This includes following the UNC System's "get vaccinated or get tested regularly" guidance noted earlier. We recommend working with your institution's Environment, Health, and Safety officials to ensure that CDC guidance (https://www.cdc.gov/coronavirus/2019-ncov/community/colleges-universities/ihe-testing.html) and North Carolina Department of Health and Human Resources (NCDHHS) guidelines (https://covid19.ncdhhs.gov/about-covid-19/testing) 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 examine the following specific considerations:

- Information provided by employees to the institution as part of any COVID-19 testing or screening process must be treated as protected health information under HIPAA.
- Employees should be notified (and receive any necessary training) regarding any COVID-19 safety protocols, testing procedures, and daily screening process prior to returning to their worksite.
- 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**

"Symptom Screening Checklist".) Make sure that faculty, staff, and students know they should not come to campus or the worksite if they are sick, and that they should seek guidance from their health care provider or employee safety/health center.
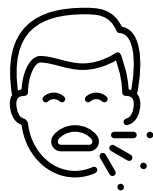
Screening process considerations/suggestions:
- Best practice is for employees to self-screen each day before leaving their residence.
- Provide detailed instructions for employees to follow if their self-screening indicates symptoms of possible COVID-19 infection. Incorporate timely supervisor and HR notification, as well as consideration of the need for potential **workspace cleaning/ disinfection**.
- Screening requirements could continue to be adjusted if deemed appropriate by NCDHHS, the CDC, and other organizations.

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, OSHA**, and **NCDHHS** guidance for workspace cleaning and disinfection. The response plan should be communicated to faculty and staff.

In accordance with applicable federal, state, and local laws and regulations, institutions should notify local health departments, faculty, staff, and students immediately of any case of COVID-19 while maintaining confidentiality in accordance with the Americans with Disabilities Act (ADA), Family Educational Rights and Privacy Act (FERPA), and other applicable laws and regulations.

Inform those who have had close contact with a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and follow CDC guidance if symptoms develop.

If a person with COVID-19 was in the workplace while infectious, administrators must follow all protocols based on the individual's vaccination status and coordinate with local health officials to notify students, faculty, and staff who have been identified through contact tracing as a close contact, while maintaining confidentiality in accordance with FERPA, NCGS 130A-143, and other state and federal laws. Continue to follow CDC guidance on isolation and quarantine protocols, including CDC guidance that recommends exempting fully vaccinated individuals from isolation.

COMMUNICATION AND COMBATING MISINFORMATION

Help ensure that the information faculty and staff are receiving is coming directly from reliable sources. Use trusted resources like the CDC or NCDHHS to promote behaviors that help prevent the spread of COVID-19. Specific recommendations include:

- Clearly communicate vaccine availability and encourage faculty, staff, and students to get vaccinated
- Continue to maintain updated campus dashboards to provide current information to your campus community

- Clearly communicate the expectation that students, staff, and faculty adhere to the institution's COVID-19 rules, policies, and protocols
- Disseminate COVID-19 information and combat misinformation through multiple channels to students, faculty, and staff. Reliable sources include the NCDHHS COVID-19 webpage; NCDHHS COVID-19 Latest Updates; and NCDHHS COVID-19 Materials & Resources
- Post signs, posters, and flyers at main entrances and in key areas throughout campus buildings and facilities such as those found on the Social Media Toolkit for COVID-19 to remind students, faculty, and staff to follow all appropriate precautions and requirements
- Support coping and resilience by:
  - Providing students, faculty, and staff with information on how to access resources for mental health and wellness (e.g., 211 and Hope4NC Helpline 1-855-587-3463
  - Encouraging students, faculty, and staff to take breaks from watching, reading or listening to news stories, including social media if they are feeling overwhelmed or distressed
  - Promoting students, faculty and staff eating healthy, exercising, getting sleep and finding time to unwind
  - Encouraging students, faculty and staff to talk with people they trust about their concerns and how they are feeling

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 increased risk or who have formal care responsibilities for increased 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/ discretion.*

Managers and/or HR offices will also likely hear from individual employees who do not meet any formal CDC and/or NCDHHS increased 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. Institutions should always address safe and healthy working conditions as a priority. These may be subject to assessment on a case-by-case basis while considering operational needs. *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, or providing erroneous or misleading information, 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 and/or legal counsel.*

INTERPRETING AND ANALYZING REQUESTS FOR ACCOMMODATION

As employees return to work, it is likely that there will be an increase in requests for 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. 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 increased risk is not necessarily a "disability," although it could be.

If an increased 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.

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.

Institutional HR personnel should coordinate with related institutional offices to determine if a leave request is truly a qualifying FMLA 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. Refer to the System's Special Work-Leave provisions.

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:

- 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 increased 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 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**.

VERSION HISTORY

June 25, 2020 (Version 1.1): Incorporated updated guidance on face coverings from OSHR and additional travel considerations.

July 10, 2020 (Version 1.2): Incorporated revised CDC interim testing guidance.

July 23, 2020 (Version 2.0): Incorporated new NCDHHS guidance for institutions of higher education, as well as additional testing information.

August 27, 2020 (Version 3.0): Incorporated technical guidance from the Occupational Safety and Health Division, NC Department of Labor, and revised interim guidance for institutions of higher education from NCDHHS.

February 3, 2021 (Version 4.0): Incorporated technical updates and guidance from OSHR and NCDHHS.

August 25, 2021 (Version 5.0): Incorporated vaccination status updates and other guidance updates from OSHR, NCDHHS, and the UNC System.

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

The University of North Carolina   •   System Office   •   Chapel Hill, North Carolina

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