

Navigating the New Normal: Reopening Offices in COVID-19 Attendee Submitted Questions

If an employee who is currently working remotely does not want to return and wants to work remotely “indefinitely,” is this allowed?

“Indefinite is not an acceptable time frame. This also depends on the reason the employee desires to work remote indefinitely. Do they have a health condition that puts them at risk should they be exposed to COVID or is it fear without any basis of a health condition? While the risk of contracting COVID continues to be difficult to assess, the employer does not have to permit a remote working arrangement indefinitely. A reasonable timeframe should be established based on current restrictions and state guidelines and taking into consideration the reasons the employee wants to continue to work remotely. There could be ADA considerations and employers should be mindful of whether they need to engage in the interactive process to identify whether working remote is a reasonable accommodation.

How can you logistically manage multiple location screenings and maintain consistent confidentiality?

In order to maintain confidentiality, temperature screening should be taken by a designated staff, preferably HR or one who is responsible for the HR function or a Manager in Operations. This person should be trained in HIPAA compliance as it relates to the workplace and COVID-19.

Temperature taking should be conducted in an area where privacy can be preserved. The conduction of questioning and findings indicating possible symptoms should be discrete. Results of screenings need to be kept confidential and only disclosed to those who have a need to know. The temperature log needs to be kept confidential. Even if employees can draw conclusions regarding who was sent home or potential positives, names and details should never be released except to the extent to notify those who may have been exposed.

Are there additional suggestions/guidance for employers who have employees working in multiple locations in worksites that are not controlled directly by the employer?

Employers should establish guidelines and policies for their employees. They should reach out to an appropriate staff at the employee worksites to inquire about their practices and policies. Should those worksites not be implementing safe practices and adhering to the guidelines set forth by OSHA and DOH, employers should not require employees to report to the assigned worksites. Communication is important when dealing with multiple employee sites that are not controlled by the employer.

Are there alternate health screening suggestions other than taking the temperature of staff who come to our corporate office on an unannounced basis?

Yes, you can ask the visitor whether they have the following symptoms:

- Fever
- Sore Throat
- Cough
- Chills
- Shortness of Breath
- Difficulty Breathing

- Muscle Aches/Pains
- Headache
- New Loss of Taste or Smell
- Exposure to others with the virus

If you are not assessing your employees, you should not be assessing visitors. Practices must be consistent. You should also take this opportunity to review the requirements to enter the workplace, i.e masks, distancing, etc.

If we reopen our business this summer and an employee does not want to return to work due to an inability to find a summer camp for their child, are they eligible for expanded FMLA even if there is a summer camp open somewhere, but that may be inconvenient for the employee or the employee does not trust the safety of the camp?

If there are not suitable daycare options, employees are eligible for EFMLA. Employers should not impose requirements on securing daycare if it is not a reasonable option. In general, employers should not get involved with determining suitable day care options.

This information is for educational purposes only and should NOT be considered legal advice. If you have additional questions, please email COVID-19@proxushr.com.