

From: Prendergast, Susan B (OPWDD) <Susan.B.Prendergast@opwdd.ny.gov>
Sent: Tuesday, May 26, 2020 7:44 AM
To: Josh Christiana <ChristianaJ@thearcny.org>
Subject: RE: Employee Health Screening and Temperature Records

Good Morning Josh,

I hope you had a nice long weekend and got to enjoy some of the amazing weather. I have reviewed your question with counsel here.

The below guidance document that you reference relates to construction, not health care facilities (the general category our certified settings have been lumped in with) so I would honestly ignore them altogether. There are similar documents that relate to beaches, etc.

As you note, the EEOC notes no objection to collecting and retaining health information, like temperature screens, for employees. It should not go into a personnel file. Agencies should maintain these records in a private room/folder separate from other employee records. Instead of actual temperature data, the logs could simply note that an employee was screened and whether he/she was cleared to work. We recommend agencies maintain these records for the amount of time specified in their individual record retention policies.

Let me know if you have any further questions.

Thank you!
Sue

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From: Josh Christiana <ChristianaJ@thearcny.org>
Sent: Thursday, May 21, 2020 7:40 PM
To: Prendergast, Susan B (OPWDD) <Susan.B.Prendergast@opwdd.ny.gov>
Cc: ChristianaJ@thearcny.org

Subject: Employee Health Screening and Temperature Records

Importance: High

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Good evening. I hope you are doing very well. We have seen some positive trends in the cases of confirmed COVID-19, so we are hopeful that maybe we have turned the corner. I have a situation that I want to run by you and get your opinion.

A Chapter is conducting the required health screenings of employees consistent with OPWDD guidance. They have encountered an employee who has concerns about the recording of their temperature into an official record. The concern pertains to confidentiality.

In listening to the OPWDD presentation on this topic (which was excellent) and reading the guidance, it doesn't appear that providers are required to document the actual temperature, but rather could document that the screening was completed and if the person's temperature was at or beyond the 100.0F maximum. Do you concur?

In fact, we learned that keeping records of employee temperatures is prohibited.

<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ConstructionMasterGuidance.pdf>

Page 7 of the NY Forward Guidance for Construction notes: *Daily temperature checks may also be conducted per Equal Employment Opportunity Commission or DOH guidelines. **Keeping records of employee health data (e.g. temperature data) is prohibited.***

Can you advise how OPWDD is approaching this with their residential sites to avoid keeping employee "health data"?

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For COVID-19 related guidance and resources please visit our webpage at:

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