



Supervisors

What if employee is uncomfortable returning to work or refuses to return to work?

1. Decide if this employee needs to return right now.

Unless the employee is considered essential, returning to worksites during this phase of the Sunrise Plan is voluntary.



3. Talk with the employee.

If the employee is not entitled to FMLA, FFCRA or accommodation, you will need to have a conversation with them to determine why they are hesitant or refuse to return to work.

Talk about their concerns. You can begin conversation with, “We are operating a safe workplace in accordance with state and local safety and health guidelines. There currently is no recognized health or safety hazard in our workplace. Help me understand your concern.”

2. Consult with your unit HR on whether the employee has a right to stay home.

An employee may have the right to remain off work under the [Family and Medical Leave Act \(FMLA\)](#) and the [Families First Coronavirus Response Act \(FFCRA\)](#). Refer to [OHR’s COVID-19 page](#) for more information on paid leaves.

If an employee is not entitled to FMLA and/or FFCRA, you will need to consult with unit HR to determine whether the employee is entitled to accommodation under the Americans with Disability Act

(ADA). Unit HR will consult with the Disability Resource Center (DRC) to engage in an interactive process with the employee to determine whether there is appropriate accommodation that can be provided without undue hardship.

Please Note: Teleworking, requesting PPE, or other similar accommodations that may prevent an employee with a disability from getting sick with COVID-19 may be a reasonable accommodation according to the Equal Employment Opportunity Commission (EEOC).





4. Consider additional options.

If the employee is still concerned, you can consider additional options that may address their concerns right now:

- If an employee is essential or required to return to work pursuant to Sunrise Plan, can they work remotely (either full or partial schedule) to alleviate concerns?
- Can you modify their work schedule or workstation to limit contact with others or pursue other accommodations to address specific safety concerns?

Your HR team

Every campus, college, or administrative unit has a human resources lead or unit HR staff. If you need assistance, as your manager for information on who to contact with your HR questions.



5. Talk with your HR team.

If the employee refuses to return to work, consult with unit HR to determine next steps. There are a variety of state executive orders and federal protections in place to guard against employees being required to work in unsafe working environments that your unit HR staff can discuss with you, including:

- Governor Walz's Executive Order 20-54 provides employees with the right to refuse to work under conditions that they, in good faith, reasonably believe present an imminent danger of death or serious physical harm.
- This includes a reasonable belief that they have been assigned to work in an unsafe or unhealthful manner with an infectious agent such as COVID-19.
- OSHA protects employees from discrimination or retaliation for refusing to work if:
 - Employee has a good faith belief that an imminent danger exists, and that belief has been communicated to the employer;
 - A reasonable person would agree that there is a real danger of death or serious injury; and,
 - There is no time to correct the hazard through regular enforcement channels such as an OSHA inspection.