

Manager's Guide for Staff Failure to Comply with COVID-Safe Practices

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Managers and supervisors of staff play a crucial role in fulfilling UNM's mission while ensuring the health, safety, and well-being of its employees. Therefore, if staff fail to meet the expectations set forth in UNM's Bringing Back the Pack campaign or other standards and policies, managers and supervisors must address these matters quickly and appropriately.

Potential Staff Non-Compliance Areas of COVID-Safe Practices:

1. Refusing to complete UNM's Daily Symptom Screening survey
2. Refusing to report symptoms or a positive test in the COVID-19 Self Reporting Portal
3. Refusing to wear a mask/face covering
4. Refusing to report to work at designated worksite
5. Refusing to participate in cleaning/disinfecting protocols
6. Refusing to maintain social distance in the workplace

Resources Identifying Expectations:

1. Bringing Back the Pack Expectations bringbackthepack.unm.edu/expectations-for-the-pack/index.html
2. Bringing Back the Pack Worksite Protocols bringbackthepack.unm.edu/worksite-protocols/index.html
3. Daily symptom screening communication hr.unm.edu/docs/hr/symptom-screening-announcement.pdf
4. Policy Statement for Self-Reporting hr.unm.edu/docs/hr/eeoc-ada-covid-policy-statement.pdf

Response to Staff Failure to Comply with COVID-Safe Practices:

1. Supervisor identifies that an employee is not complying with the COVID-Safe Practices directives.
2. Ask the employee why they are not following the COVID-Safe Practices directives.
 - a. Does the employee's answer indicate a potential need for reasonable accommodation or job modification? If so, options should be reviewed in the 'Return to Campus – Department Guide', see section titled 'Employee's Right to Reasonable Accommodation or Leave' at hr.unm.edu/docs/hr/return-to-campus-department-guide.pdf.
 - b. Is the employee's answer stating unintentional or mere negligence? If yes, move to #4 a. and discuss with your HR Consultant to determine appropriate approach.
 - c. Is the employee's answer stating an intentional, knowing, willful, and/or blatant disregard to the consequences of violating the expectations? If yes, move to #4 and work with your HR Consultant to begin disciplinary action.
3. If the employee's answers do not provide sufficient information, the supervisor should begin fact-finding.
 - a. Did the employee have a clear understanding of the expectations?

- b. Did the employee receive the appropriate tools and equipment (i.e. face coverings, cleaning/disinfecting items, etc.)?
 - c. Did the supervisor facilitate the safe practice directives (i.e. provided equipment and tools, workstation setup, plexiglass, work schedules, social distancing efforts such as tape on floor marking 6 feet, etc.)?
 - d. Is there a reason that the employee believes they are unable to comply with the expectations? If so, have the employee explain.
 - e. Did the supervisor work with the employee to implement other ways to mitigate the risk of spreading COVID-19 while addressing the employee's concerns? The supervisor should keep in mind that operational needs are a primary consideration. See Department Guide at hr.unm.edu/docs/hr/return-to-campus-department-guide.pdf.
4. In consultation with their HR Consultant, once the supervisor has completed the fact finding, they will need to determine if the employee's actions or inactions were in fact a violation of the expectations of all employees as provided in UNM's Bringing Back the Pack campaign or other standards and policies. If the supervisor determines that the employee violated these expectations, they will then have to determine whether the violation was intentional which will guide the supervisor in issuing discipline or other corrective action addressing the violation.
 - a. If the supervisor determines that the employee's failure to comply was unintentional or mere negligence, such as a mistake or an error in judgement, the employee may receive a verbal coaching or a documented conversation clearly explaining why compliance with these expectations is important (see above) and that further noncompliance may result in disciplinary action up to and including termination of employment. The level of discipline should be determined based on frequency of occurrence and other underlying factors.
 - b. If, in consultation with their HR Consultant, the supervisor determines that the employee's violation of expectations was reoccurring, intentional, knowing, willful, and/or in blatant disregard of the consequences of violating the expectations, the supervisor should consider the employee as having engaged in insubordination that endangered the health, safety, and well-being of students, staff, faculty and visitors to UNM.
 - i. Due to the egregious nature of such insubordination, supervisors should address immediately to reduce further unsafe practices in the workspace. Supervisor should issue the employee a Written Warning as the first step in the progressive discipline process, in accordance with the existing guidance in the Disciplinary Matrix (hr.unm.edu/disciplinary-matrix) regarding violations of UNM's safety standards.
 - ii. If the employee's behavior is deemed to contribute to an unsafe workspace environment, the employee should be sent home until discipline is issued or employee agrees to comply with the expectations (i.e. refusal to wear a mask, refusal to self-report symptoms, etc.)
 - c. The documented conversation and written warning should include language making it clear to the employee that UNM expects all employees to comply with the safety standards identified in the Bringing Back the Pack campaign. The supervisor should explain that UNM implemented the safety standards in

response to the New Mexico Governor's executive orders and Centers for Disease Control's guidance, and that the standards are intended to slow the spread of COVID-19 among its students, faculty, staff, and community. The supervisor should further explain to the employee that UNM considers the employee's continued failure or refusal to comply with these expectations and safety standards to be an egregious violation of its policies which may result in immediate and accelerated disciplinary action up to and including termination of employment.

- d. As part of either the Written Warning or documented conversation process, the supervisor should clearly reiterate the expectations outlined in Bringing Back the Pack and other communications and review those expectations with the employee. These expectations should include at least all of the following:
 1. Completing the UNM's Daily Symptom Screening survey
 2. Wearing a mask/face covering
 3. Reporting to work at designated worksite
 4. Participating in cleaning protocols
 5. Maintaining social distance

If the supervisor identifies additional non-compliance with the COVID-Safe Practices directives, they should conduct additional fact-finding and consult with their HR Consultant for additional disciplinary steps. Managers and supervisors can find their HR Consultant by visiting lobowebapp.unm.edu/apex_ods/f?p=145:1.

UNM Customer/Visitor Non-Compliance

Departments are advised to post signage that clearly states the COVID-Safe Practices required for their area. These include signs stating that masks are required to receive service and may include directional traffic flow signs as well as social distancing markers. Customers/visitors who do not follow these protocols may be informed that they cannot receive service until they comply unless otherwise advised by their department leadership. Department should have disposable masks on hand to offer to individuals who do not have one.