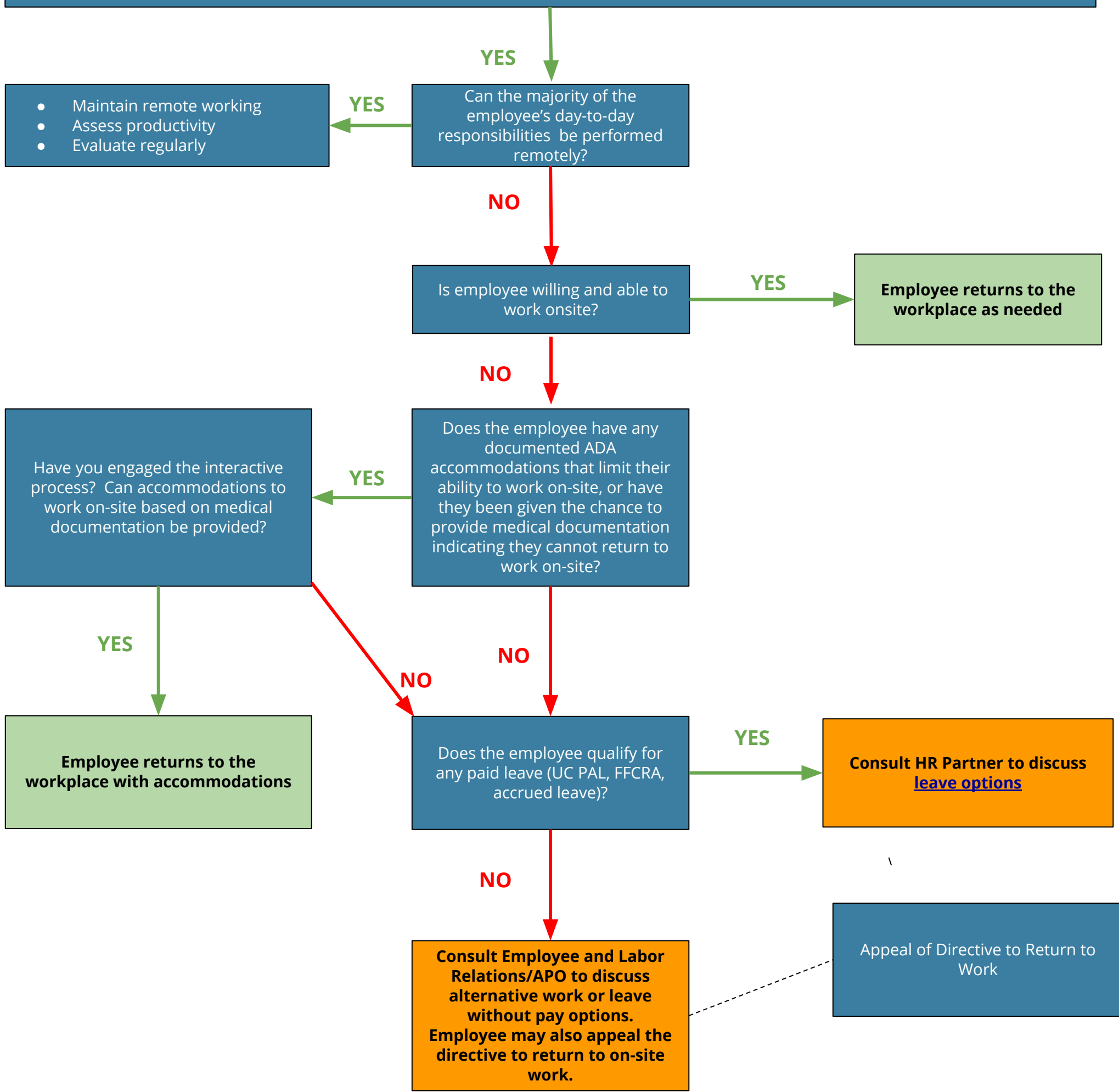


Return to the Workplace Decision Tree

- Has your building and business unit/research group received approval to operate and begin directing additional people to return to work?
- Have you submitted a Workforce Plan for review?
- Have you confirmed with the individuals that you intend to return to the workplace that they are able and willing to return?
- Have you reviewed your choices of individuals to return to ensure that there are no disparate impacts on certain demographics, e.g. age, gender, ethnicity, race?



Decision Tree, Guidelines and Return to On-Site Work Approval Process

All employees who can continue to perform the majority of their day-to-day responsibilities remotely should continue to do so. However, as the shelter-in-place orders are modified and the University begins to resume on-campus operations, additional employees **may be required to physically report to work** given business needs (other than mere convenience or a desire for increased productivity). Consistent with public health guidelines, most employees should continue to telecommute; in the limited circumstances of a physical return being necessary, supervisors should use these guidelines in conjunction with the “Decision Tree” to inform their decision-making. Should supervisors need consultation, they should contact [Employee & Labor Relations \(ELR\)](#) in People & Culture or the [Academic Personnel Office](#). All employees physically returning to the workplace will be required to (1) complete a ten minute [online training](#) prepared by Environment Health & Safety (EH&S) and (2) read and sign “[UC Berkeley’s COVID-19 Health and Safety Guide for Returning to the Workplace](#)” which describes how the campus is changing our physical spaces in order to increase in-person operations, and the responsibilities of each individual in our community to reduce the risk of spreading COVID-19.

Here are some important considerations:

1. During the SiP, was the employee required to physically report to on-site work?
 - a. *If yes*, a supervisor mostly likely can continue to require an on-site physical presence. However, as business needs change, the supervisor should reconsider whether an on-site presence is necessary.
 - b. *If no*, a supervisor must consider (and be prepared to document, if necessary) what has changed about the nature of work being completed on-site that would require the employee’s physical presence. **Mere convenience or a desire for increased productivity is not a sufficient reason to require an employee to return to working on-site.** A supervisor must discuss and receive written approval from *their* supervisor (immediate supervisors for staff and the VCR or Vice Provost for Faculty for academic employees) prior to directing an employee to return on-site.

2. During the SiP, was the employee able to perform the majority of their day-to-day responsibilities from a remote location?
 - a. *If yes*, then the employee most likely should continue to work remotely. A supervisor must be prepared to document the change in business needs if they now want this employee to work on-site. **Mere convenience or a desire for increased productivity is not a sufficient reason to require an employee to return to working on-site.**
 - b. *If no*, then it may be reasonable to consider on-site work.

3. Does the employee have any critical tasks that need to be performed on site, even though most of their work can be performed off site?

Decision Tree, Guidelines and Return to On-Site Work Approval Process

- a. *If yes*, as on-campus operations resume, a supervisor should look to find ways to perform the critical functions that minimize the number of people asked to return, while being cognizant of any labor contracts that govern the work in the unit (e.g., assign the tasks to others who must be on site anyway without assigning work to people outside of the same bargaining unit or classification) and minimize the amount of time on-site for any individual employee.
 - b. *If no*, the employee should continue to work remotely.
4. Is the employee **unable** to perform the majority of their responsibilities because their work requires them to be physically present on campus (e.g. childcare, lab technician work, etc.) but the employee's in-person work is still not permitted by the University?
- a. *If yes*, you should continue to have the employee work at home, identifying other work that can be performed remotely (e.g., other unit work that can be assigned, education/training, utilizing the Job Exchange, etc.), if the employee does not have a full workload.

Decision Tree, Guidelines and Return to On-Site Work Approval Process

Steps for Directing Staff (non-academic) to Return to On-site Work

1. Use a [Workforce Plan](#) (or similar document) and the Decision Tree to determine which employees will continue working remotely and which will be directed to return for on-site work, even if in a limited capacity.
 - a. Consult with individuals about their availability to return to on-site work.
 - b. Consult with Employee and Labor Relations (ELR) for assistance on holding conversations with individuals who have concerns or are unwilling to return to on-site work.
2. Obtain written approval of your Workforce Plan from your supervisor.
3. Based on the approval of your Workforce Plan, inform each individual if and when they will or will not return to on-site work, as well as their right to an appeal if they disagree with a directive to return to on-site work.

Steps for Directing Academic Employees (including faculty) to Return to On-site Work

1. Use a [Workforce Plan](#) (or similar document) and the Decision Tree, determine which employees will continue working remotely and which employees will be directed to return for on-site work. For example, some faculty members may need to teach on-site courses, even if in a limited capacity. A Workforce Plan for the faculty must indicate whether they have assigned teaching for the fall semester; if they do not, a reason must be provided (e.g., teaching relief granted as part of recruitment, normally fulfill year's teaching in spring, etc.).
 - a. Consult with individuals about their availability to return to on-site work.
 - b. Consult with the Academic Personnel Office (APO) or the Associate Vice Provost for the Faculty for assistance on holding conversations with individuals who have concerns or are unwilling to return to on-site work.
2. Obtain written approval of your Workforce Plan from Ben Hermlin, Vice Provost for the Faculty (or designee) or Randy Katz, Vice Chancellor of Research (or designee), as applicable.
3. Based on the approval of your Workforce Plan, inform each individual if and when they will or will not return to on-site work, and inform individuals of their right to an appeal if they disagree with a directive to return to work.

Complaints

If any employee disagrees with your direction to return to work on the campus site, attempt to resolve the matter informally with the employee. Seek the assistance of Employee and Labor Relations or the Academic Personnel Office, as appropriate. If you do not reach informal agreement, inform the employee in writing, such as an email, directing the employee to file a complaint pursuant to the complaint process that applies to the position. Consult with Employee and Labor Relations or the Academic Personnel Office if you do not know which complaint applies.

Decision Tree, Guidelines and Return to On-Site Work Approval Process

The campus has established an On-Site Work Dispute Review Committee (with representation from both Academic and Administrative Units) that will advise you and the campus regarding the merit of the employee's complaint. The Committee will be advised by campus counsel. If you do not accept the committee's decision, then the complaint may be elevated for resolution by your supervisor.

Complaint Process:

1. Complaint form filled out by employee to initiate appeal (describes why essential functions can be performed remotely).
2. Supervisor/Manager responds within two business days (describes why essential functions must be performed on-site).
3. Submissions reviewed by ELR/APO, as appropriate, to review to determine if within the Dispute Review Committee's purview, consult with subject matter experts (e.g., IST), and screen for possible ADA issues (two business days).
4. Complaints heard on a weekly basis