

Memorandum of Understanding

Related to COVID-19

The ___ School District and the ___ Education Association (“_EA”) hereby enter into this Memorandum of Understanding (“MOU”), which is incorporated into the parties’ 20__-__ collective-bargaining agreement, to address issues pertaining to COVID-19.

Whereas the parties seek to minimize the spread of COVID-19; protect students, teachers and educational support personnel, and the public; and establish educators’ rights as it relates to COVID-19, the parties agree as follows:

[If Schools in District Remain Open]

- (1) **Qualifying Conditions:** Employees should stay at home, without fear of retaliation or retribution by the District, and seek medical attention as appropriate, if the employee meets any of the following qualifying conditions:
 - (a) The employee is too ill to work.
 - (b) The employee has been diagnosed with COVID-19.
 - (c) The employee is experiencing symptoms compatible with COVID-19 but has not yet been diagnosed.¹
 - (d) The employee has been exposed to someone who:
 - i. has been diagnosed with COVID-19;
 - ii. has symptoms compatible with COVID-19; or
 - iii. who was themselves exposed to someone diagnosed with COVID-19.
 - (e) The employee needs to care for an ill family member (cross reference relevant CBA provisions].
- (2) **Proof of Illness:** In accordance with CDC guidance, the District shall not require that an employee provide a healthcare provider’s note validating their illness or ability to return to work.²
- (3) **Paid Leave:** Employees unable to work for any of the qualifying conditions set forth in paragraph (1) shall be granted COVID-19-related paid medical leave until such time as the qualifying condition no longer applies. No employee shall be charged or docked with use of a leave day or days when they miss work for a qualifying condition. [Cross reference relevant CBA provisions].
- (4) **Employee Self-Reporting:** Employees will be encouraged to notify the District in the event they have been diagnosed with COVID-19 or are experiencing symptoms compatible with COVID-19. The district shall establish confidential methods for doing so and shall inform employees of such methods. To encourage self-reporting, the District shall not subject any employee to disciplinary action of any sort for providing such notice, failing to provide such notice, or failing to provide

¹ CDC Guidance on Coronavirus (COVID-19), available at: <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

² CDC’s Interim Guidance for Businesses and Employers, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response>.

timely notice. [It is believed that some states and localities may pass laws requiring mandatory reporting by individuals (as opposed to existing mandatory reporting laws that apply to medical professionals). Ensure that MOU is consistent with such provisions.]

- (5) **Privacy Rights:** In the event that the District learns – through employee self-reporting or otherwise – that an employee meets any qualifying condition above, the District will take appropriate action, but in no event will it identify the employee or share the employee’s personally identifiable medical information. [Review state privacy laws, which vary considerably.]

[If/Once Schools are Closed or Reopen on a Limited Basis, Such as to Care for Children of Essential Personnel]

- (1) **Paid Leave:** When a school is closed due to COVID-19, the District shall grant all employees of that school COVID-19-related paid leave, at each employee’s regular rate of pay, until such time as the school is reopened. No employee shall be charged or docked with use of leave while the school remains closed. [cross reference relevant CBA provisions].
- (2) **Insurance and Other Benefits:** The District shall not cancel or otherwise interrupt an employee’s insurance or any other benefit while the employee’s school is closed. Employees shall continue to accrue leave and other benefits during any closure.
- (3) **Work During Closure:** The District may require employees to perform work during a closure due to a pandemic or other health emergency provided that any such assignment meets the following conditions:
- (a) The work is reasonably related to the employee’s job.
 - (b) The employee is qualified to perform the work.
 - (c) The employee is paid at their regular rate of pay for all time spent performing the work.
 - (d) The work does not expose students to a health risk.
 - (e) The work does not create unsafe or hazardous conditions or require the performance of tasks that unreasonably endanger their health or safety.
 - (f) The employee is afforded flexibility in scheduling and performing their work.
 - (g) The District provides the employee with any technological resources necessary to perform the assigned work.
 - (h) Employees shall be permitted to use medical, family, vacation, or any other type of leave to which they are otherwise entitled under the CBA.
 - (i) The employee shall be granted COVID-19-related paid leave in accordance with the following:
 - i. An employee may take such leave, without fear of retaliation or retribution, if the employee meets any of the following qualifying conditions:
 - The employee is too ill to work.
 - The employee has been diagnosed with COVID-19.
 - The employee is experiencing symptoms compatible with COVID-19 but has not yet been diagnosed.

- ii. An employee unable to work for any of the qualifying conditions set forth above shall be granted paid COVID-19-related medical leave until such time as the qualifying condition no longer applies. No employee shall be charged or docked with use of a sick day or days when they miss work for a qualifying condition. [cross reference relevant CBA provisions].
- (j) In accordance with guidance of the CDC, the District shall not require that an employee provide a healthcare provider's note validating their illness or ability to return to work.
 - (k) In the event that the District requires employees to work on site, as opposed to working remotely, any such assignment shall meet the following conditions:
 - i. No employee shall be required, asked, or permitted to perform work for which medical training or certification is necessary unless they have such training or certification.
 - ii. The District shall make available, at no cost to employees, appropriate protective gear and materials, including appropriate masks, gloves, disinfectants, soap, and hand sanitizer.
 - iii. If the District requires less than full staffing, it will first ask employees to sign up to work. Only if an insufficient number of employees sign up will the District direct additional employees to return to work. If the District directs employees to return to work, it will do so in reverse order of seniority where the CBA establishes seniority-related rights [or through another agreed upon method].
 - iv. An employee who returns to work on site shall be granted COVID-19-related paid leave if they meet any of the following qualifying conditions:
 - The employee is too ill to work.
 - The employee has been diagnosed with COVID-19.
 - The employee is experiencing symptoms compatible with COVID-19 but has not yet been diagnosed.
 - The employee has been exposed to someone who themselves has been diagnosed with COVID-19, has symptoms compatible with COVID-19, or was exposed to someone diagnosed with COVID-19.
 - The employee is immunocompromised or is considered high risk according to the CDC or appropriate state or local authorities.
 - The employee needs to care for a family member (cross reference relevant CBA provisions).
- (4) **Employee Self-Reporting:** Employees will be encouraged to notify the District in the event they have been diagnosed with COVID-19 or are experiencing symptoms compatible with COVID-19. To encourage self-reporting, no employee will be subjected to disciplinary action of any sort for providing such notice, failing to provide such notice, or failing to provide timely notice. [It is believed that some states and localities may pass laws requiring mandatory reporting by individuals (as opposed to existing mandatory reporting laws that apply to medical professionals). Ensure that MOU is consistent with such provisions.
- (5) **Privacy Rights:** In the event that the District learns – through employee self-reporting or otherwise – that an employee meets any qualifying condition listed above in paragraphs 3(i)(i)

and 3(k)(4), the District will take appropriate action but in no event will it identify the employee or share the employee's personally identifiable medical information beyond the District employees who, in their official capacity, must receive such information. [Review state privacy laws, which vary considerably.]

In the event that federal, state or local law is enacted or amended to provide employee rights that are greater than those provided in this MOU or the parties' collective-bargaining agreement, those rights will prevail and the parties shall meet as soon as practical to coordinate the provision of those benefits.

The terms of this MOU shall remain in effect until (a) all schools in the District are reopened; and (b) any state of emergency impacting the District has been lifted.

Dated this _____ day of March, 2020

Association President

President, Board of Education