

Questions Asked During and After the Event

1. If I never had child care before, but now choose to stay home, can I stay home and not go to work and get paid?
No. To participate in the federal paid leave program, an employee's child care program must not be available for Covid reasons. If the employee just prefers to stay home with his/her child now, he/she is not eligible for this program.
2. Does taking care of a child nullify the possibility of also being able to work from home? In other words, does taking care of a child automatically equal not being able to work from home?
No, not necessarily. For example, if the child only needs four hours of child care from the employee (because the employee's spouse, for example, always cared for the child during the rest of the day), then the employee could not receive paid leave for the rest of the work day.
3. There is language in the EFMLA bill that says it is only applicable to employees in business smaller than 500. Does this apply to schools?
Yes. It applies to all public employers regardless of size.
4. If an employee indicated they have an underlying health condition that makes them particularly vulnerable to the effects of COVID 19, and they bring a doctor's note to that effect, what are their options for paid leave?
It will depend on the circumstances, but this employee would likely be able to receive two weeks of paid leave, unless he/she could perform his/her job from home.
5. Are temperature checks optional as part of the health screening?
Temperature checks are recommended by CDC. Departing from CDC guidelines may subject you to criticism or to rejection of your plan.
6. Where does the funding for the leave come from for employees? Is it their leave?
Initially, from the employer, but the federal paid leave program includes tax deductions for employers who are required to pay for leave under the law.
7. Craig and Micah, VEA appears to be taking the position that teachers can only be furloughed for 10 days a year. Thoughts?
It has not been tested in court, but many school board lawyers believe it is 20 days. There is no question about at least 10. You should consult your school board attorney for an opinion.
8. Any guidance on employees who are not necessarily high risk, but are not comfortable coming back to work?
If you start to make exceptions based on "fear", where do you draw the line? How do you avoid discrimination claims if you grant the exception to one employee and not another? How will you staff your schools and programs if you get a rash of such requests? Questions like these abound. The best practice will be to say if you are not in the age or medical condition high-risk group, you must report to work unless there is some other basis for excuse.
9. Are you concerned about students relying on masks or cloth face coverings brought from home that are already contaminated as they enter the school building?
There is no CDC guidance that says this enhances the risk of spreading the virus. The mask, even if contaminated, prevents the expelling of particulates by sneeze or cough, and this is the main function for the mask. Having disposable paper masks at school will be important for students who forget a mask, lose it, tear it or otherwise simply do not have one.
10. There has been discussion from various divisions about seeking legal and local health department guidance on placing one child per bus seat but requiring face coverings. This does not align with the current social distancing requirements and therefore has increased liability for Divisions. However, introduction of this possibility simultaneously increases transportation capacity which is a driving factor in the feasibility of varying hybrid delivery models. Thoughts on risk vs reward?

I have seen the same discussion in the media. I think it is reasonably likely the Department of Education would approve that exception if a district can document its transportation need. The trade-off between some enhanced risk and having in-school instruction would seem to weigh in favor of the instruction.

11. How do you recommend asking staff if they have existing conditions preventing their return to school during phase III? What definition would you recommend for vulnerable/pre-existing conditions? If an employee identifies herself/himself as falling into this definition, is it acceptable to ask for a physician's note verifying the need to telecommute (not revealing condition)?

The types of conditions that constitute a high-risk medical condition are clearly defined in the CDC guidance, so there is no need to guess. Doctors will be very familiar with it by now. You should require medical documentation for anyone seeking an accommodation for a high-risk medical condition just as you would for anyone seeking an Americans with Disabilities Act reasonable accommodation. You should inform employees in advance that they can make a request for an accommodation, that it needs to be documented, that you will determine if and how they will perform the essential functions of the job, and that it is their responsibility to initiate the request.