



COVID-19 Employee Frequently Asked Questions

What is the Families First Coronavirus Response Act (FFCRA)?

- A temporary expansion of Family Medical Leave Act (FMLA)
- Provides additional paid sick leave for COVID-19 related reasons
- Applies to every school district and every contracted employee by the district
- Applies through December 31, 2020

Am I eligible for FFCRA?

To be eligible, the employee must have been employed at least 30 days and unable to work remotely AND, one of the following:

1. Is subject to a government self-quarantine order
2. Has COVID-19 symptoms and is actively seeking treatment
3. Caring for a family member in described in 1 or 2
4. Caring for a child whose school or daycare is closed for COVID-19 reasons

How much time off is possible?

1. Is subject to a government self-quarantine order
 - 2 weeks of regular pay (max of \$511/day)
2. Has COVID-19 symptoms and is actively seeking treatment
 - 2 weeks of regular pay (max of \$511/day)
3. Caring for a family member described in 1 or 2
 - 2 weeks of 2/3 regular pay (max of \$200/day)
4. Caring for a child whose school or daycare is closed for COVID-19 reasons
 - 2 weeks of 2/3 regular pay (max of \$200/day) AND THEN
 - an additional 10 weeks of pay at 2/3 regular pay (but not more than \$12,000 in 12 weeks) as long as the leave applies

Does the District have to provide employees the opportunity to work in an alternate workplace?

The District does NOT have to provide an employee the opportunity to work in an alternate workplace as an accommodation.

An alternate workplace may be used as a reasonable accommodation for an employee under ADA, IF the employee is able to perform major job duties of the position from another location.

Not all jobs are suitable for an alternate workplace. If the District has to hire a sub if the person is not on-site, the job is not suitable for an alternate location.

CASE STUDY #1

The school secretary wants to work from home for a few more weeks because she is over 65 and is “fearful” that she is susceptible to Covid-19 transmission. She has provided no medical documentation that she (1) must quarantine, (2) is seeking treatment for Covid-19 or related issues, (3) is caring for a family member described in 1 and 2 or (3) has a child whose school is closed due to Covid-19.

Does the District have to let her work from an alternate location? No. She has no medical documentation to quarantine, no medical documentation that she is treating a COVID-19-related issue, no documentation she is caring for someone with COVID-19 issues, or no COVID-19-related child care issues. Fear alone is NOT enough, as there is no evidence of a disability needing a telework accommodation. Also, it is very unlikely that she could perform major job duties of the position from home.

CASE STUDY #2

The school secretary wants to work from home for a few more weeks because she is over 65 and is “fearful” that she is susceptible to Covid-19 transmission. She has provided medical documentation that she has heart issues that cause her to have a suppressed immune system and makes her very susceptible to COVID-19 and needs to self-quarantine for an indefinite time.

Does the District have to let her work from an alternate location? No. She cannot perform the major duties of the position from home. Is she eligible for leave? She has presented sufficient evidence to get 2 weeks paid leave under the Families First Coronavirus Relief Act. After the two weeks of FFCRA, she may be eligible for unpaid FMLA up to an additional ten weeks. After that time, her job is no longer protected and she must return to work with reasonable accommodations or be terminated.

If I am fearful that I will get COVID-19 at school, may I take leave or work from an alternate workplace?

Fear alone is NOT enough to be eligible for leave or telework. The employee must provide documentation to support one of the following reasons: 1) is subject to a government self-quarantine order; 2) has COVID-19 symptoms and is actively seeking treatment; 3) is caring for a family member with self-quarantine order or has COVID-19 symptoms and is actively seeking treatment; or, 4) is caring for a child whose school or daycare is closed for COVID-19 reasons and no other child care is available.

May an employee request a modified work environment?

When the employee provides medical documentation that an accommodation is needed, the ADA interactive process begins. The employee and supervisor discuss the essential job functions of the position and how the work environment may be modified. Examples: wearing personal protective equipment (mask, face shield, etc.), erecting contact barriers, etc.

If the District cannot provide the accommodation OR even with the accommodation the employee still cannot perform essential job functions, the employee would not be protected under ADA.

What if a certified teacher has signed a contract and refuses to report to work when school resumes in August?

The teacher will receive a certified letter and FMLA forms. The teacher must complete and return the forms with appropriate documentation. If the teacher does not return the forms and documentation, the teacher may receive termination notice.

If there is a school closure and students participate in virtual learning, can the district require teachers to perform instruction from their classrooms?

If the Governor's/ADE's directives allow teachers to be on campus, then, yes, the District could require teachers to perform work from the classroom. The burden would be on the individual teacher to request leave or a work accommodation under FFCRA/FMLA/ADA.

If school days are modified in 2020-21, can the District make any alterations to a teacher's contract (i.e., prorate pay for amount of actual instruction)?

No. Contract law is still applicable during a pandemic.

If we continue in the fall with long periods of closed campuses, will the District be required to pay classified employees (i.e., bus drivers, paraprofessionals, food service)?

Yes. Contract law is still applicable during a pandemic.

Source: Bequette, Billingsley & Kees