

March 13, 2020

Good afternoon. We wanted to get some information out to answer the many questions we are receiving. Please understand that we may not be able to answer individual questions sent to us, so as we have information pertinent to our members, we will send something to everyone.

At this time, we do not know if or when CVUSD will close down schools, but it seems imminent (and prudent!) considering other districts around the state are taking that measure.

What happens to the district's funding if a school temporarily closes to contain the spread of the virus?

The district should not lose funding in this situation. The Education Code contains a hold harmless provision specifying that in the event a school is closed due to an epidemic or emergency order by a federal, state, city, or county official, the district is credited for the estimated average daily attendance (ADA) funding the school would have received if not for the epidemic or emergency order (Educ. Code Secs. 46390, 46392). The Code further specifies that a district unable to operate a full school year due to an epidemic or an emergency order by a federal, state, city, or county official is to receive "the same apportionment from the State School Fund as it would have received" if it had operated for a full school year of 175 days (Educ. Code Sec. 41422).

Will schools that are closed have to make up the days at the end of the year?

The Education Code excuses districts from complying with the full school year requirements in the event of an epidemic or order by a federal, state, city, or county official in response to an emergency (Educ. Code Sec. 41422). See also Educ. Code Sec. 37202 (excusing such schools from the "equal time" requirement).

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Are districts obligated to pay staff at schools that are closed?

Nothing in the Education Code excuses districts from their contractual obligations to pay staff in the event a school is closed due to an epidemic or emergency order. The fact that the Education Code protects the district's funding makes it extremely difficult for districts to argue that they cannot comply with contractual commitments due to the school closure. For these reasons, the past practice in California has been to pay school staff even when schools are shut down due to an emergency.

It is important to understand, however, that the legal basis for this obligation is the commitment the district made in the collective bargaining agreement, which the district cannot modify without bargaining.

What are my legal rights to take a leave of absence if I get coronavirus?

The same sick leave provisions apply to illness from coronavirus as apply to other illnesses. In addition to leave provided for in your collective bargaining agreement, the Education Code guarantees certificated employees who are employed five days a week a minimum of ten (10) paid days of leave due to illness for a school year of service (Educ. Code Sec. 44978).

Employees who have exhausted all available and accumulated sick leave and continue to be absent for up to five months due to illness are eligible for differential pay leave (Educ. Code Sec. 44977 for certificated employees and Sec. 45196 for classified employees).

Additional unpaid leave may be available under the federal

Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Finally, the Education Code specifically gives districts discretion to grant paid leave to certificated staff due to an epidemic. This is in addition to the leave the district already provides, and includes not only leave due to illness, but also due to quarantine. (Educ. Code Sec. 44964). Similarly, districts have discretion to grant additional leaves of absence, including with pay, to classified employees for purposes including illness and quarantine (Educ. Code Sec. 45199; see also Educ. Code Secs. 45190, 45195, 45198).

Can a district force someone off work if s/he is suspected of being infected but is not officially quarantined by any health agency?

As stated above, in addition to other leaves a district provides, Education Code Sections 44964 and 45199 give districts discretion to grant paid leave to certificated and classified staff due to an epidemic – both for illness and quarantine.

What if my contract requires a doctor's note after a certain length of absence?

Part of the CDC's advice is that those exposed to the virus self-quarantine and not see a doctor unless their condition worsens, requiring medical care. Dr. Gandra has stated that employees who have exhausted their leave must still provide evidence of illness, whether it be an email from your doctor, a log of a phone appointment, or evidence of a video conference with your doctor.

Sincerely,

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