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Reply to: Oakland Office

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TO: Jill Deitch, Esq., NJSIG Executive Director
FROM: Matthew J. Giacobbe, Esq.
DATE: April 14, 2021
RE: Return to Work Employment Questions and Answers – COVID-19 UPDATE

On behalf of the New Jersey Schools Insurance Group, you have requested updated guidance on frequently asked questions and answers for member school districts relating to reopening schools and keeping schools open during the ongoing coronavirus disease 2019 (“COVID-19”) pandemic. The questions you have presented are addressed in turn, below.

Please be aware that the U.S. Centers for Disease Control and Prevention (“CDC”), New Jersey Department of Health (“NJDOH”) and New Jersey Department of Education (“NJDOE”) are continuously updating, revising and providing additional guidance on school reopening. The information and recommendations provided in this memorandum are subject to modification based on same.

We have also included a proposed letter to staff regarding re-opening/remaining open during the COVID-19 pandemic and proposed forms for leave and accommodations requests, which NJSIG and its member schools may utilize and edit.

If you have any questions or concerns about this memorandum or proposed forms, please feel free to contact me.

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COVID-19 EMPLOYMENT QUESTIONS

1. A BOE staff member is at an increased risk for severe illness from the coronavirus disease 2019 (“COVID-19”), as identified by the U.S. Centers for Disease Control and Prevention (“CDC”),¹ and they have been advised by a health care provider to self-quarantine indefinitely.

a. Is the district under any obligation to allow the staff member to work remotely/virtually during the period of indefinite self-quarantine recommended by the health care provider?

Yes, under the Americans with Disabilities Act of 1990 (the “ADA”) and the New Jersey Law Against Discrimination (the “LAD”), employers who fail to provide reasonable accommodations to people with disabilities may be found liable for discrimination. See Failla v. Passaic, 146 F.3d 149, 154 (3d Cir. 1998). Under the ADA, when an employee notifies an employer of their disability and requests an accommodation, employers are obligated to engage in a good faith interactive process with them to identify reasonable accommodations. See Taylor v. Phoenixville Sch. Dist., 184 F.3d 296, 319 (3d Cir. 1999). In fact, an employer must consider in good faith the employee’s input prior to arriving at an accommodation for the employee’s disability. Lewis v. Univ. of Pa., 779 Fed. Appx. 920, 923 (3d Cir. 2019). Employees with underlying and serious health conditions may request leave and/or accommodations during the COVID-19 pandemic.

If an employee is identified as being “particularly vulnerable to COVID-19” by their health care provider, then the employee may be considered to have a “disability” or “handicap” under the ADA and LAD, respectively. As such, the employee may request leave or a reasonable accommodation for that reason. Once the School District is notified of an employee’s request or once the School District becomes aware that an employee may need an accommodation, then the School District must begin to engage with the employee in good faith to identify a reasonable accommodation for the employee. To engage in the interactive process, we recommend requiring employees who request leave and/or an accommodation to fill out a form describing their needs and specific request.

b. What State or federal benefits is the staff member entitled to?

Voluntarily Providing FFCRA Leave

Employers are no longer required to provide Families First Coronavirus Response Act (“FFCRA”) leave after December 31, 2020. In December 2020, the Federal Government removed the mandatory requirement for employers to provide FFCRA leave after December 31, 2020 but extended FFCRA tax credits for certain private employers who voluntarily provide FFCRA through March 31, 2021. See Consolidated Appropriations Act of 2021, Section 286.

¹ The CDC advises that older adults, pregnant people and people with certain underlying medical conditions are at increased risk for severe illness from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

The American Rescue Plan Act of 2021 (“ARPA”) does not renew the requirement for employers to provide FFCRA leave after December 31, 2020 but further extends the tax credits for private, state and local government employers who voluntarily provide FFCRA leave from April 1, 2021 through September 30, 2021. See ARPA, Section 3131(h) and Section 3132(h).

Accordingly, local government employers who voluntarily provide FFCRA leave to employees from April 1, 2021 through September 30, 2021 may be eligible for reimbursement through a tax credit. The U.S. Department of Labor (“USDOL”) has not issued guidance on the procedures for this reimbursement.

Employers who voluntarily provide FFCRA leave must follow the new anti-discrimination rule, which provides that employers must provide FFCRA leave to all employees and may not discriminate (1) in favor of highly compensated employees, (2) full-time employees, or (3) on the basis of the employment tenure of the employee.

The ARPA also prevents an employer from picking and choosing which qualifying reasons under the FFCRA it wishes to recognize or extend to employees. If an employer chooses to provide Emergency Paid Sick Leave or Emergency Paid Family Leave or both to employees, the employer must provide the leave as if required under the FFCRA. See ARPA, Section 3131(c)(2)(B) and Section 3132(c)(2)(B).

The ARPA disqualifies employers from receiving tax credits if they violate FFCRA anti-retaliation or nondiscrimination rules described above.

Expansion of Covered Reasons for Voluntarily Providing Emergency Paid Sick Leave

The FFCRA established the Emergency Paid Sick Leave Act, which required employers to provide fully and partially paid sick leave to all employees who were unable to work or telework due to a need for leave under the following 6 categories:

1. The employee is subject to a federal, state or local quarantine or isolation related to COVID-19;
2. The employee has been advised by a healthcare provider to self-quarantine;
3. The employee is experiencing COVID-19 symptoms and seeking a diagnosis;
4. The employee is caring for an individual who is subject to quarantine or is self-quarantining;
5. The employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) because of COVID-19; or
6. The employee is experiencing any other substantially similar condition specified by the U.S. Secretary of Health and Human Services.

The ARPA adds 3 additional covered reasons for providing Emergency Paid Sick Leave, see ARPA, Section 3131(c)(2)(A)(i), including:

7. The employee is seeking or awaiting the result of a COVID-19 test or diagnosis when the employee has either been exposed to COVID-19 or the employer has requested the test or diagnosis;
8. The employee is obtaining a COVID-19 immunization; or

9. The employee is recovering from an injury, disability, illness or condition related to the COVID-19 immunization.

These 3 additional covered reasons apply to employers who voluntarily choose to provide Emergency Paid Sick Leave to employees from April 1, 2021 through September 30, 2021.

Emergency Paid Sick Leave provided under the 3 additional covered reasons would be paid out at the employee's regular rate of pay (up to \$511 per day).

Expansion of Covered Reasons for Voluntarily Providing Emergency Paid Family Leave

The FFCRA established the Emergency Family and Medical Leave Expansion Act, which required employers to provide partially paid family leave to eligible employees who were unable to work or telework to care for a minor child whose school or place of care was closed or unavailable due to COVID-19. Any Emergency Paid Family Leave taken counts toward an employee's total Family and Medical Leave Act ("FMLA") benefits.

The ARPA permits employers to provide Emergency Paid Family Leave for any of the covered reasons provided under the Emergency Paid Sick Leave Act, including the additional covered reasons added under the ARPA. See ARPA, Section 3132(c)(2)(A)(i).

Emergency Paid Family Leave provided for the additional covered reasons would be paid out at two-thirds of the employee's regular rate of pay (up to \$200 per day). In addition, the ARPA removes the 2-weeks of unpaid Emergency Paid Family Leave so employers may provide a full 12 weeks of partially paid leave. See ARPA, Section 3132(c)(2)(A)(ii).

The ARPA re-sets the amount of Emergency Paid Family Leave employers may provide to eligible employees. Specifically, the ARPA permits employers to provide each eligible employee with up to 12 weeks of Emergency Paid Family Leave beginning April 1, 2021, even if the employer previously provided Emergency Paid Family Leave to the employee prior to April 1, 2021.

Alternatives to Voluntarily Providing FFCRA Leave

If employers decide not to voluntarily provide FFCRA leave to employees, then employees will be required to utilize accrued personal and vacation leave to cover certain absences related to COVID-19. The employee may also utilize earned sick leave in accordance with N.J.S.A. 18A:30-1.

Employees may be eligible to receive New Jersey Temporary Disability Insurance ("NJTDI") benefits and Family and Medical Leave Act ("FMLA") for absences related to their own COVID-19 illness or quarantine. Unlike FMLA, the New Jersey Family Leave Act ("NJFLA") is not available for an employee's own illness.

Employees may also be eligible for New Jersey Family Leave Insurance (“NJFLI”) and/or job-protected leave under the NJFLA or the FMLA if a family member, or someone who is the equivalent of family, has COVID-19 or is isolated or quarantined because of suspected exposure to COVID-19. In addition, NJFLA leave may be available for employees whose child’s school or place of care is closed or unavailable due to COVID-19.

If an employee exhausts all of these benefits, the employee may be eligible to receive unemployment assistance.

c. Does the staff member need to use school-provided sick time during the period of self-quarantine recommended by the health care provider?

If a Board voluntarily provides FFCRA from April 1, 2021 through September 30, 2021, as described above, and an employee has utilized all of that leave, then the employee may utilize his/her personal and vacation leave to cover absences related to being “particularly vulnerable to COVID-19.” The employee may also utilize earned sick leave in accordance with N.J.S.A. 18A:30-1.

d. What job protections is the staff member entitled to?

An employee who utilizes Emergency Paid Sick Leave or Emergency Paid Family Leave, upon return to work, has a right to be restored to the same or an equivalent position in accordance with FMLA rights to reinstatement. See 29 C.F.R. §§ 826.130(a); 825.214; 825.215. However, “[a]n Employee is not protected from employment actions, such as layoffs, that would have affected the Employee regardless of whether he or she took leave. In order to deny restoration to employment, an Employer must be able to show that an Employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.” 29 C.F.R. § 826.130(b)(1).

If an employee whose healthcare provider has certified the employee is “particularly vulnerable to COVID-19” requests to return to work after taking FFCRA leave, the employee should provide an updated certification from the employee’s doctor, which indicates that the employee is no longer “particularly vulnerable to COVID-19.” If the employee does not provide the necessary clearance from his/her doctor, needed to ensure there is no direct threat to the employee’s health by returning to work, the Board may require the employee to undergo an examination by the Board’s designated physician.

On March 20, 2020, the State of New Jersey enacted N.J.S.A. 34:11D-12, which states that an employer cannot terminate or refuse to reinstate an employee if the employee has, or is suspected to have, an infectious disease (i.e. COVID-19) as documented by a licensed medical professional, which requires the employee to miss time at work.

2. **A BOE staff member’s spouse (or qualifying family member) is at an increased risk for severe illness from COVID-19, as identified by the CDC,² and the staff member has been advised by a health care provider to self-quarantine indefinitely.**
- a. **Is the district under any obligation to allow the staff member to work remotely/virtually during the period of indefinite self-quarantine recommended by the health care provider because a spouse (or qualifying family member) is high-risk?**

Generally, an employee is not entitled to accommodations if s/he is not ill or disabled.

An employee is not entitled to a reasonable accommodation under the ADA in order to avoid exposing a qualifying family member (e.g. spouse, child, parent, etc.) who is at higher risk of severe illness from COVID-19 due to an underlying medical condition. Although the ADA prohibits discrimination based on association with an individual with a disability, that protection is limited to disparate treatment or harassment. The ADA does not require that an employer accommodate an employee without a disability based on the disability-related needs of a family member or other person with whom she is associated.

However, in accordance with Executive Order No. 107, if an employee is deemed to be non-essential (i.e. tasks may be performed remotely), the employee should be permitted to work remotely. See Executive Order No. 107 ¶ 10 (March 21, 2020), 42 N.J.R. 554(a) (April 6, 2020).³

Exceptions to this mandate exists for essential employees. An essential employee is one whose duties must be physically performed at the work site and cannot be performed or modified to be performed remotely. An essential employee who is absent from work because s/he refuses to perform his/her duties during the COVID-19 outbreak may not be eligible for benefits under the FFCRA, FMLA or NJFLA. If the School District has assignments and tasks for an essential employee to perform during the COVID-19 pandemic at the worksite, but the employee refuses to perform those tasks; then that employee may be subject to adverse employment action. It is recommended that, prior to any adverse action taken against an essential employee for this reason, the district seeks legal advice to address the specific situation.

An employer is free to provide additional flexibilities (e.g. telework, non-business hours, etc.) to accommodate an employee whose spouse is “particularly vulnerable to COVID-19,” but the employer is not required to do so. If an employer chooses to offer flexibilities beyond what the law requires, the flexibilities should be provided uniformly so the employer does not engage in disparate treatment on a protected EEO basis.

² The CDC advises that older adults, pregnant people and people with certain underlying medical conditions are at increased risk for severe illness from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

³ <https://nj.gov/infobank/eo/056murphy/pdf/EO-107.pdf>.

b. What State or federal benefits is the staff member entitled to?

In this scenario, where an employee's spouse (or qualifying family member) is "particularly vulnerable to COVID-19" and the employee has been advised by a health-care provider to self-quarantine, if the Board chooses to voluntarily provide FFCRA leave, the employee would be eligible for FFCRA benefits if the employee could not work or telework while in quarantine.

The USDOL has advised that, under the FFCRA, employees may take Emergency Paid Sick Leave to care for a self-quarantining individual if a health care provider has advised that individual to stay home or otherwise quarantine because he or she may have COVID-19 or is particularly vulnerable to COVID-19 and the provision of care prevents the employee from working or teleworking. Under the FFCRA Regulations, "advised by a health care provider to self-quarantine" means that a health care provider has advised the individual to self-quarantine based on a belief that the employee: (i) has COVID-19; (ii) is suspected to have COVID-19; or (iii) is particularly vulnerable to COVID-19. See 29 C.F.R. § 826.20(a)(3).

An employee may also be eligible for NJTDI, New Jersey Family Leave Insurance ("NJFLI"), FMLA or New Jersey Family Leave Act ("NJFLA") for such absences where a qualifying family member is "particularly vulnerable to COVID-19" and the employee is advised to self-quarantine. If an employee exhausts all of these benefits, the employee may be eligible to receive unemployment assistance.

c. Does the staff member need to use school-provided sick time during the period of indefinite self-quarantine recommended by the health care provider?

If a staff member is not ill or disabled and not eligible for state or federal leave, the staff member may utilize accrued personal or vacation time for such leave. School District employees subject to N.J.S.A. 18A:30-1 may not utilize their earned sick leave to cover absences that are unrelated to their own illness.

d. What job protections is the staff member entitled to?

Under the FFCRA, FMLA and NJFLA, an employee is eligible to take leave without losing his/her job to care for a qualifying family member with a serious medical condition. Under FMLA, the employee has a right to be restored to the same or an equivalent position. See 29 C.F.R. §§ 825.214; 825.215. Under NJFLA, the employee has a right to be reinstated to the same position the employee held immediately prior to taking the NJFLA leave or, if the position has been filled, an equivalent position of like seniority, status, employment benefits, pay and other terms and conditions of employment. See N.J.S.A. 34:11B-7.

3. A BOE staff member has a sick child or spouse (or household member) who has been diagnosed with COVID-19 or advised to self-quarantine due to COVID-19 concerns, and the employee cannot work (or telework) because they are caring for the sick child or spouse (or household) as directed by a health care provider.

a. What State or federal benefits is the staff member entitled to?

If a Board chooses to voluntarily provide FFCRA leave from April 1, 2021 through September 30, 2021, and an employee cannot work (or telework) because the employee is caring for an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19, then the employee may be eligible to receive FFCRA benefits. Under the Emergency Paid Sick Leave Act, such an employee would be eligible for partially paid time off at two-thirds of the employee's regular rate of pay (up to \$200 per day and \$2,000 in the aggregate) for 10 days. In addition, pursuant to the ARPA, the employee would be eligible for Emergency Paid Family Leave.

The individual who the employee is caring for must have been advised by a health care provider to self-quarantine due to concerns that the individual: (i) has COVID-19; (ii) is suspected to have COVID-19; or (iii) is particularly vulnerable to COVID-19. See 29 C.F.R. § 826.20(a)(7).

To receive FFCRA leave, an employee must provide documentation of the following: (1) the employee's name; (2) date(s) for which leave is requested; (3) qualifying reason for the leave; and (4) an oral or written statement that the Employee cannot work (or telework) because of the qualified reason for leave.

In addition, for employees requesting FFCRA leave on the basis that they cannot work (or telework) because they are caring for an individual who has been advised to self-quarantine due to COVID-19 concerns, the employee must also provide the School District with the name of that health care provider who advised the individual being cared for to self-quarantine.

Employees caring for an individual who has been has been advised to self-quarantine due to COVID-19 concerns may also be eligible for leave under the FMLA, NJFLA and NJFLI, among other things. If the employee exhausts all of these benefits, the employee may be eligible to receive unemployment assistance.

b. Does the staff member need to use school-provided sick time during the time they are providing care as directed by a health care provider?

If an employee has utilized all of his/her FFCRA leave, as described above, the employee may utilize his/her personal and vacation leave to cover absences related to caring for an individual who has been has been advised to self-quarantine due to COVID-19 concerns. Pursuant to N.J.S.A. 18A:30-1, School District employees who have a household member diagnosed with COVID-19 may utilize sick leave to cover absences related to quarantine. However, pursuant to N.J.S.A. 18A:30-1, School District employees may not utilize sick

leave to cover absences to care for an individual who is self-quarantined because the individual is “particularly vulnerable to COVID-19.”

c. What job protections is the staff member entitled to?

An employee who utilizes FFCRA leave, upon return to work, has a right to be restored to the same or an equivalent position in accordance with FMLA rights to reinstatement. See 29 C.F.R. §§ 826.130(a); 825.214; 825.215. However, “[a]n Employee is not protected from employment actions, such as layoffs, that would have affected the Employee regardless of whether he or she took leave. In order to deny restoration to employment, an Employer must be able to show that an Employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.” 29 C.F.R. § 826.130(b)(1).

4. A BOE staff member’s spouse (or qualifying family member) has an underlying medical condition documented by a health care provider that makes the staff member fearful that they will expose their spouse to an increased risk for severe illness from COVID-19 if they return to work in the school building. However, no health care provider has recommended that the staff member self-quarantine. The staff member refuses to return to the school building to work for an indefinite amount of time.

a. Is the district under any obligation to allow the staff member to work remotely/virtually during the time they refuse to return to the building?

As noted in the response to Question 2(a), above, generally, an employee is not entitled to accommodations if s/he is not ill or disabled.

An employee is not entitled to a reasonable accommodation under the ADA in order to avoid exposing a family member (e.g. spouse, child, parent, etc.) who is at higher risk of severe illness from COVID-19 due to an underlying medical condition. Although the ADA prohibits discrimination based on association with an individual with a disability, that protection is limited to disparate treatment or harassment. The ADA does not require that an employer accommodate an employee without a disability based on the disability-related needs of a family member or other person with whom she is associated.

However, in accordance with Executive Order No. 107, if an employee is deemed to be non-essential (i.e. tasks may be performed remotely), the employee should be permitted to work remotely. See Executive Order No. 107 ¶ 10 (March 21, 2020), 42 N.J.R. 554(a) (April 6, 2020).⁴

Exceptions to this mandate exists for essential employees. An essential employee is one whose duties must be physically performed at the work site and cannot be performed or modified to be performed remotely. An essential employee who is absent from work because s/he refuses to perform his/her duties during the COVID-19 outbreak may not be eligible for benefits under the FFCRA, FMLA or NJFLA. If the School District has

⁴ <https://nj.gov/infobank/eo/056murphy/pdf/EO-107.pdf>.

assignments and tasks for an essential employee to perform during the COVID-19 pandemic at the worksite, but the employee refuses to perform those tasks; then that employee may be subject to adverse employment action. It is recommended that, prior to any adverse action taken against an essential employee for this reason, the district seeks legal advice to address the specific situation.

An employer is free to provide additional flexibilities (e.g. telework, non-business hours, etc.) to accommodate an employee whose spouse is “particularly vulnerable to COVID-19,” but the employer is not required to do so. If an employer chooses to offer flexibilities beyond what the law requires, the flexibilities should be provided uniformly so the employer does not engage in disparate treatment on a protected EEO basis.

b. What State or federal benefits is the staff member entitled to?

In this scenario, where an employee’s spouse is “particularly vulnerable to COVID-19” and the employee has been advised by a health-care provider to self-quarantine, the employee would not be eligible for federal FFCRA benefits, as discussed in response to Question 2(b), above.

If an employee has not been advised by a health care provider to self-quarantine, the employee is likely ineligible for Federal or State benefits for absences to avoid exposing a spouse.

c. Can the staff member use school-provided sick, vacation, or personal time during the time they refuse to return to the building?

If a staff member is not ill or disabled and not eligible for state or federal leave, the staff member may utilize accrued personal or vacation time for such leave. School District employees subject to N.J.S.A. 18A:30-1 may not utilize their earned sick leave to cover absences that are unrelated to their own illness.

d. What job protections is the staff member entitled to?

An employee may return to his/her position after utilizing personal and vacation leave.

If the employee is deemed to be non-essential (i.e. tasks may be performed remotely), the employee should be permitted to work remotely.

If the employee is deemed to be essential (i.e. tasks must be performed at the workplace) and the employee refuses to come in to work, the employee may be subject to adverse employment action. It is recommended that, prior to any adverse action taken against an essential employee for this reason, the district seeks legal advice to address the specific situation.

5. A BOE staff member has no underlying medical condition documented by a health care provider that the CDC has stated increases the risk for severe illness from COVID-19, but the staff member is afraid of gathering in a group. The staff member is willing to work remotely/virtually, but they refuse to return to the school building to work for an indefinite amount of time.

a. Is the district under any obligation to allow the staff member to work remotely/virtually during the time they refuse to return to the building?

There is no requirement for a School District to provide an accommodation to an employee with undocumented fears or anxiety related to COVID-19. The School District should remain flexible in permitting work from home opportunities for its employees, where practicable.

Pursuant to Executive Order No. 107, employers must provide work from home opportunities to non-essential workers if their tasks can be performed remotely. Executive Order No. 107 ¶ 10 (March 21, 2020), 42 N.J.R. 554(a) (April 6, 2020).⁵ If an employee is deemed to be non-essential (i.e. tasks may be performed remotely), the employee should be permitted to work remotely.

Exceptions to this mandate exists for essential employees. An essential employee is one whose duties must be physically performed at the work site and cannot be performed or modified to be performed remotely. An essential employee who is absent from work because s/he refuses to perform his/her duties during the COVID-19 outbreak may not be eligible for benefits under the FFCRA, FMLA or NJFLA. If the School District has assignments and tasks for an essential employee to perform during the COVID-19 pandemic at the worksite, but the employee refuses to perform those tasks; then that employee may be subject to adverse employment action. It is recommended that, prior to any adverse action taken against an essential employee for this reason, the district seeks legal advice to address the specific situation.

If an employee notifies the School District that s/he has diagnosed anxiety or related condition and requests an accommodation to return to work at the school building, the School District should follow the procedures described in response to Question 1, above, for engaging in the interactive process to identify a reasonable accommodation.

b. What State or federal benefits is the staff member entitled to?

The FFCRA does not permit leave to be taken on the basis of a generalized fear of contracting COVID 19. In addition, leave taken by an employee for the purpose of avoiding exposure to COVID-19 is not protected under the FMLA. Unlike the FMLA, the NJFLA does not entitle employees to take leave for their own serious medical condition.

⁵ <https://nj.gov/infobank/eo/056murphy/pdf/EO-107.pdf>.

c. Can the staff member use school-provided sick, vacation, or personal time during the time they refuse to return to the building?

An employee may utilize his/her personal and vacation leave for absences related to a generalized fear of COVID-19. School District employees subject to N.J.S.A. 18A:30-1 may not utilize their earned sick leave to cover absences related to fears of COVID-19, unless same is specifically supported by a medical certification that the employee is disabled.

d. What job protections is the staff member entitled to?

An employee may return to his/her position after utilizing personal and vacation leave.

If the employee is deemed to be non-essential (i.e. tasks may be performed remotely), the employee should be permitted to work remotely.

If the employee is deemed to be essential (i.e. tasks must be performed at the workplace) and the employee refuses to come in to work, the employee may be subject to adverse employment action. It is recommended that, prior to any adverse action taken against an essential employee for this reason, the district seeks legal advice to address the specific situation.

6. A BOE staff member has been diagnosed with COVID-19, which they caught from a family member over the weekend, and they have been recommended to self-quarantine by a health care provider.

a. What State or federal benefits is the staff member entitled to?

If a Board voluntarily chooses to provide FFCRA benefits from April 1, 2021 through September 30, 2021, an employee who cannot work (or telework) because s/he is experiencing symptoms of COVID-19 and is seeking testing and/or if s/he has been advised by a health care provider to self-quarantine because the employee has or is suspected to have COVID-19 may be eligible for FFCRA benefits. Under the Emergency Paid Sick Leave Act, such an employee would be eligible for fully paid time off at the employee's regular rate of pay (up to \$511 per day and \$5,110 in the aggregate) for 10 days. Under the Emergency Paid Family Leave Act, such an employee would be eligible for up to 12 weeks of partially paid time off (up to \$200 per day).

To receive FFCRA leave, an employee must provide documentation of the following: (1) the employee's name; (2) date(s) for which leave is requested; (3) qualifying reason for the leave; and (4) an oral or written statement that the Employee cannot work (or telework) because of the qualified reason for leave.

For employees requesting FFCRA leave on the basis that a health care provider has advised the employee to self-quarantine due to COVID-19 concerns, the employee must also provide the School District with the name of that health care provider.

In addition, the employee may be eligible to receive NJTDI benefits and FMLA for illnesses and absences related to COVID-19. If the employee exhausts all of these benefits, the employee may be eligible to receive unemployment assistance.

b. Does the staff member need to use school-provided sick time while they are experiencing symptoms?

If an employee has utilized all of his/her FFCRA leave, as described above, the employee may utilize his/her earned sick leave, in accordance with N.J.S.A. 18A:30-1, personal and vacation leave to cover absences related to experiencing symptoms of COVID-19.

c. Does the staff member need to use school-provided sick time during the period of self-quarantine recommended by the health care provider?

If an employee has utilized all of his/her FFCRA leave, as described above, the employee may utilize his/her earned sick leave, personal and vacation leave to cover absences related to being advised by a health care provider to self-quarantine due to COVID-19 concerns.

d. Is the district under any obligation to allow the staff member to work remotely/virtually during the period of self-quarantine recommended by the health care provider?

If an employee is experiencing symptoms of COVID-19, has tested positive for COVID-19 or has been advised by a health care provider to self-quarantine, the employee should be permitted to telework if s/he is able. In such an instance, the employee would not be eligible to use FFCRA benefits if s/he can telework.

e. What job protections is the staff member entitled to?

An employee who utilizes FFCRA leave, upon return to work, has a right to be restored to the same or an equivalent position in accordance with FMLA rights to reinstatement. See 29 C.F.R. §§ 826.130(a); 825.214; 825.215. However, “[a]n Employee is not protected from employment actions, such as layoffs, that would have affected the Employee regardless of whether he or she took leave. In order to deny restoration to employment, an Employer must be able to show that an Employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.” 29 C.F.R. § 826.130(b)(1).

On March 20, 2020, the State of New Jersey enacted N.J.S.A. 34:11D-12, which states that an employer cannot terminate or refuse to reinstate an employee if the employee has, or is suspected to have, an infectious disease (i.e. COVID-19) as documented by a licensed medical professional, which requires the employee to miss time at work.

An employee may return to his/her position after utilizing sick, personal and/or vacation leave.

- 7. A BOE staff member was exposed to a family member over the weekend who had an active COVID-19 infection, and the staff member has been advised to self-quarantine by a health care provider or public health authority.**

The employee would be eligible for Federal and State benefits, remote work accommodations and job protections as discussed in response to Question 6, above.

- 8. A BOE staff member has recently voluntarily traveled outside of the immediate region (New York, Connecticut, Pennsylvania and Delaware), and the staff member has been advised to self-quarantine by a health care provider, public health authority or the New Jersey Travel Advisory upon their return to the State of New Jersey.**

The State of New Jersey currently has an Incoming Travel Advisory and discourages all non-essential interstate travel. The Travel Advisory recommends that all travelers and residents returning to New Jersey from any U.S. state or territory beyond the immediate region (New York, Connecticut, Pennsylvania, and Delaware) are advised to self-quarantine at their home, hotel, or other temporary lodging following recommendations from the CDC (self-quarantine is voluntary, but compliance is expected):

- If travel is unavoidable, travelers should consider getting tested with a viral test (not an antibody test) 1-3 days before the trip and again 3-5 days after the trip.
- If travelers test positive, they should self-isolate for at least 10 days and should postpone travel during that time.
- If travelers test negative, they should quarantine for a full 7 days after travel.
- If testing is not available (or if the results are delayed), travelers should quarantine for 10 days after travel.

The New Jersey Travel Advisory does not apply to:

- Fully vaccinated individuals and individuals who have recovered from COVID-19 within the last 3 months.
- Individuals returning to New Jersey after traveling for less than 24 hours or those traveling to New Jersey for less than 24 hours.
- Individuals in transit through the state to another destination (e.g., highway rest stop, travel connections).
- Individuals returning from essential travel, including:
 - Traveling to and from the state for work.
 - Traveling to and from the state for medical reasons, including individuals providing comfort and support to a patient.
 - Military personnel traveling to the state by order or directive of a state or Federal military authority.
 - Individuals traveling to comply with a court order, such as child custody.
- Essential personnel or critical infrastructure workers.

Employers should issue specific policies regarding the New Jersey Travel Advisory to encourage and ensure that employees comply with the Travel Advisory and relevant CDC guidance regarding domestic and international travel.

b. Does the staff member need to use school-provided sick time during the period of self-quarantine?

If a staff member voluntarily travels outside of the immediate region, as described above, then the staff member will be required to quarantine for the relevant period upon return, unless the staff member provides proof of a qualifying exemption/exception to the Travel Advisory. Employees who do not qualify for an exemption/exception to the Travel Advisory's quarantine requirements may be required to work from home during the quarantine period. If the nature and duties of the employee's job cannot be performed from home, the employee may be required to use accumulated sick, personal or vacation leave time during the quarantine period. School District employees subject to N.J.S.A. 18A:30-1 may utilize their earned sick leave to cover absences related to the travel advisory quarantine. If the employee has no accumulated sick, personal or vacation leave time, then their leave will be unpaid.

c. What State or federal benefits is the staff member entitled to?

If a Board voluntarily chooses to provide FFCRA leave, then employees who return from travel and have to quarantine pursuant to the New Jersey Travel Advisory may be eligible to receive FFCRA leave if they cannot work or telework during the relevant quarantine period. If a returning employee has already exhausted her FFCRA benefits, then the employee will be required to utilize her accrued sick, personal or vacation time. School District employees subject to N.J.S.A. 18A:30-1 may utilize their earned sick leave to cover absences related to the travel advisory quarantine.

d. What job protections is the staff member entitled to?

An employee who utilizes FFCRA leave, upon return to work, has a right to be restored to the same or an equivalent position in accordance with FMLA rights to reinstatement. See 29 C.F.R. §§ 826.130(a); 825.214; 825.215. However, “[a]n Employee is not protected from employment actions, such as layoffs, that would have affected the Employee regardless of whether he or she took leave. In order to deny restoration to employment, an Employer must be able to show that an Employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment.” 29 C.F.R. § 826.130(b)(1).

An employee may return to his/her position after utilizing sick, personal and/or vacation leave.

9. If a parent/student/staff member is exhibiting symptoms of COVID-19 as delineated by the CDC (i.e., fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, diarrhea), can a district prohibit such person from entering a school building, based on the concern that such person is a direct threat to other parents/students/staff members?

Yes, if a student, staff member or visitor has symptoms of COVID-19, s/he may not be permitted in the school building and should be instructed to seek appropriate medical attention and possible testing. The student would be excused from school in accordance with existing school illness management policy (e.g., until symptom-free for 24 hours without fever reducing medications).⁶ The staff member would be excused from work and may be eligible to use FFCRA benefits, if the Board voluntarily chooses to provide such leave from April 1, 2021 through September 30, 2021, earned sick leave and other benefits for absences relating to COVID-19 symptoms and diagnosis.

The CDC does not currently recommend universal symptom screenings (screening all students grades K-12) be conducted by schools. Rather, CDC strongly encourages parents or caregivers to monitor their children for signs of infectious illness every day. Students who are sick should not attend school in-person.⁷

The CDC list of symptoms is available here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

10. For a parent/student/staff member who thinks or knows they had COVID-19, and had symptoms of COVID-19, can a district require medical documentation/clearance before letting such person enter a school building if, consistent with the CDC guidelines: (1) it has been at least 10 days since their symptoms first appeared, and (2) they have had no fever, without fever-reducing medication, for at least 24 hours, and (3) their symptoms have improved?

During a pandemic health crisis, under the ADA, an employer would be allowed to require a doctor's note, a medical examination, or a time period during which the employee has been symptom free, before it allows the employee to return to work. Specifically, an employer may require the above actions of an employee where it has a reasonable belief – based on objective evidence – that the employee's present medical condition would:

- impair his ability to perform essential job functions (i.e., fundamental job duties) with or without reasonable accommodation, or
- pose a direct threat (i.e., significant risk of substantial harm that cannot be reduced or eliminated by reasonable accommodation) to safety in the workplace.

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html> (determining when to end home isolation).

⁷ <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/symptom-screening.html>.

Pursuant to Executive Order No. 192, employers who permit employees to be physically present at the worksite have an affirmative duty to protect employees, visitors and all others who come into physical contact with its operations.⁸ See Executive Order No. 192 ¶ 1 (Oct. 28, 2020), 52 N.J.R. 2079(a) (Dec. 7, 2020).

Employers are required to notify employees in advance if the employer will require a fitness-for-duty certification to return to work. Similar to FMLA leave, the employer may have a uniformly applied policy or practice that requires all similarly situated employees who take leave for COVID-19 to submit a certification from the employee's health care provider that the employee is COVID-19 free and is able to resume work. If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied.

Visitors to school buildings should be limited or prohibited, with limited exceptions. Visitors may be required to answer screening questions to determine symptoms and exposure and have their temperature checked prior to entering school buildings.

The CDC guidance on when an individual may end home isolation available here: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>.

11. For a parent/student/staff member who has tested positive for COVID-19, but had no symptoms of COVID-19, can a district require medical documentation/clearance before letting such person enter a school building if, consistent with the CDC guidelines, 10 days have passed since their COVID-19 test?

Yes, a district may require medical documentation/clearance or screening before letting a person into the school building, as noted in response to Question 10, above.

12. For a parent/student/staff member who has tested positive for COVID-19, but had no symptoms of COVID-19, can a district require medical documentation/clearance before letting such person enter a school building if, consistent with the CDC guidelines: (1) they have no fever, (2) their respiratory symptoms have improved, and (3) they have received two negative test results in a row, at least 24 hours apart?

Yes, a district may require medical documentation/clearance or screening before letting a person into the school building, as noted in response to Question 10, above. However, the CDC is no longer recommending a test-based strategy to determine when to discontinue home isolation, except in circumstances where an individual is severely immunocompromised.

13. Can a district impose its own policies or procedures (for example: use of cloth face coverings) that are more restrictive than state health directives, such as an executive order?

Yes, a district may require additional protective policies and procedures that go beyond requirements in executive orders. At no time may a district implement policies and procedures that are less restrictive than required by law, including executive orders.

⁸ <https://nj.gov/infobank/eo/056murphy/pdf/EO-192.pdf>.

With respect to requiring face coverings and masks, limited exceptions should be provided when wearing a face covering would inhibit the individual's health (e.g. the individual cannot remove the mask on their own) or where the individual is under two (2) years of age. The district must consider Federal, State and local health authority guidelines on safety and health policies and procedures. As of July 30, 2020, face coverings or masks are required at all times for indoor gatherings, with limited exceptions. See Executive Order No. 152 ¶ 1 (June 9, 2020), 52 N.J.R. 1301(a) (July 6, 2020) (establishing requirements for indoor gatherings).⁹

14. Can a district mandate that employees receive a COVID-19 vaccine?

Yes, the U.S. Equal Employment Opportunity Commission (“EEOC”) has advised that an employer can require employees to receive a COVID-19 vaccine in order to return to the workplace. However, employers must provide exemptions and/or reasonable accommodations for employees who cannot receive a COVID-19 vaccine due to medical disability or who cannot receive a COVID-19 vaccine due to a sincerely held religious belief, practice or observance.

At this time, we do not recommend that districts mandate employees to receive a COVID-19 vaccine.

⁹ <https://nj.gov/infobank/eo/056murphy/pdf/EO-152.pdf>.

**Proposed Memorandum to Faculty and Staff for
Returning to Work/Continuing In-Person Learning**
[Board Not Voluntarily Providing FFCRA Leave]

Date

Dear Faculty and Staff:

This memorandum is intended to notify you of the _____ Board of Education's (the "Board") expectations for faculty and staff during the remainder of the 2020-2021 school year. This memorandum also provides information regarding available leave options for employees who may be unable to perform their duties in-person. Please contact Human Resources if there are any matters that are not sufficiently addressed within this memorandum.

First, and as you are aware, Executive Order No. 175 permitted limited in-person instruction at schools in New Jersey for the 2020-2021 school year. Recently, the State has advised that all schools should be open for full-time in-person instruction for the 2021-2022 school year. The New Jersey Department of Education ("NJDOE"), New Jersey Department of Health ("NJDOH") and U.S. Centers for Disease Control and Prevention ("CDC") have issued guidance that the Board is relying upon to develop and modify School District operations to protect health and safety of faculty, staff and students during the COVID-19 pandemic.

As you are aware, New Jersey pre-K through 12th grade educators and staff are eligible to receive the COVID-19 vaccine. The State is continuously expanding COVID-19 vaccine eligibility. The Board will not require faculty or staff to obtain a COVID-19 vaccine to return/continue to work in-person.

The health and safety of our faculty, staff and students remains paramount. During the last year, the Board has relied upon its dedicated faculty and staff and their invaluable commitment to students under extremely challenging circumstances. Such continuous commitment has provided critical support services to students to help identify students with learning deficits, students experiencing abuse, and students battling with depression and/or suicidal ideation.

The Board has implemented protective measures and procedures for reopening, which will be continued throughout the 2021-2022 school year, subject to current and applicable public health and safety requirements and recommendations, including:

- All faculty, staff, students and visitors must wear a face covering or mask while in School District buildings, with the exception of those working alone in single occupancy office spaces. Other limited exceptions may be granted for health purposes on an individual basis. Faculty and staff may choose their own face covering or mask or use a mask provided by the Board;
- All faculty and staff will maintain a 6-foot distance from their colleagues and students;
- Students must be situated at least 3-feet from each other in classrooms, pursuant to updated CDC

guidance issued on March 19, 2021, and students must maintain 6-feet of distance in common areas, hallways and when eating meals;

- Faculty, staff and students will frequently wash their hands and/or use hand sanitizer (of at least 60% alcohol) when soap and water are unavailable;
- No faculty or staff member will report to work in-person if they have tested positive for COVID-19; have had close contact with someone confirmed to have COVID-19 in the past 14 days; or are experiencing any symptoms of COVID-19, including:
 - Cough
 - Shortness of breath or difficulty breathing
 - Fever (at or above 100.4°F) – all faculty and staff should check their own temperatures each day prior to reporting to work
 - Chills, or repeated shaking with chills
 - Headache
 - Sore throat
 - Muscle pain
 - New loss of taste or smell
- If a faculty or staff member becomes ill while at work, s/he must immediately notify his/her supervisor. The individual will be immediately sent home to seek appropriate medical care.

The Board will continue to require faculty, staff and students who are exposed to COVID-19 to quarantine based on applicable public health requirements. However, in accordance with CDC and NJDOH guidance, the Board will not require individuals who are fully vaccinated and individuals who have recovered from COVID-19 within the previous 3 months to quarantine following a potential exposure to COVID-19, unless the individual experiences symptoms of COVID-19.

You may be aware that, as of December 31, 2020, employers are no longer mandated to provide Federal Families First Coronavirus Response Act (“FFCRA”) benefits to their employees for COVID-19-related leave. As a result, faculty and staff will be required to utilize accrued sick, personal or vacation leave for absences related to COVID-19.

For those faculty and staff members who, as a result of personal circumstances, cannot return to work in-person for the School District’s 2021-2022 school year, please contact _____ by or before _____, 2021. For some, difficult decisions must be made due to serious health conditions or lack of childcare, which may prevent them from working in-person. Faculty and staff members are reminded to review the Board’s Policies concerning employee benefits and leaves of absence, along with the respective collective negotiations agreement regarding how paid and unpaid leaves may affect their health benefits, pension contributions and compensation. Faculty and staff members are further invited to contact Human Resources with any questions.

For more information concerning applicable leave entitlements, please contact _____.

Employees who are seeking a reasonable accommodation to perform the essential functions of their position, please contact _____ for a copy of their job description. That job

description, along with **Form A** (*attached*) must be submitted to the faculty and staff member's medical doctor for his/her review and completion.

Employees may be eligible to take job-protected leave under the New Jersey Family Leave Act ("NJFLA") or the Family and Medical Leave Act ("FMLA") if a family member, or someone who is the equivalent of family, has COVID-19 or is isolated or quarantined because of suspected exposure to COVID-19. You cannot take leave under NJFLA based on your own COVID-19 diagnosis, but you can use accrued sick leave for necessary absences. If you are requesting FMLA or NJFLA leave, please submit a request in writing to _____.

NJFLA leave may also be available for employees whose child or place of care is closed or unavailable due to COVID-19. Employees who are seeking leave due to unavailability of childcare, please submit a request in writing to _____ and a completed **Form B** (*attached*).

It is important that the Board receives your responses by _____, 2021 so that the Board can assess its staffing needs for the 2021-2022 school year.

Sincerely,

FORM A
Request for Reasonable Accommodation
(you must present a copy of your job description to your physician)

Employee to Complete:

Employee Name: _____

Job Title: _____

Work Schedule (days and times): _____

Work Site(s): _____

Fully vaccinated against COVID-19: YES DATE: _____

FIRST DOSE DATE: _____

NO

Tested positive for/diagnosed with YES DATE: _____
COVID-19 and recovered within

previous three (3) months: NO

Physician to Complete:

Physician's Name: _____

Office Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Information Concerning Employee:

a. Nature of medical condition:

b. Anticipated duration of condition:

- c. How the condition impacts the Employee's activities of daily living (i.e., walking, thinking, breathing, focusing):

- d. How the condition impacts the Employee's ability to perform a duty or duties set forth in the Employee's job description (attached):

- e. Whether the Employee requires one or more workplace accommodations to perform any duty or duties listed in his/her job description;

- f. What workplace accommodations would enable the Employee to perform the duty or duties otherwise impacted by the medical condition:

- g. How each identified workplace accommodation will enable the Employee to perform the duty or duties impacted by the medical condition:

- h. Next scheduled examination date (during which the Employee's need for an accommodation will be re-assessed):

Physician's Signature: _____ **Date:** _____

FORM B
Requests for Leave Due to Unavailability of Childcare (COVID-19)

Employee Name: _____

Job Title: _____

Work Schedule (days and times): _____

Work Site(s): _____

Name of the employee's child(ren) for whom childcare is needed: _____

For each child, please identify:

Name of the school, place of care, or childcare provider that has closed or become unavailable due to COVID-19:

Period for Leave Request: _____

If additional unpaid leave is requested, please advise as to the anticipated dates for the leave:

Employee attestation:

I, _____, attest that no other suitable person is available to care for my child(ren) during the requested leave period, and therefore leave from work is necessary.

Employee Signature: _____ **Date:** _____

Proposed COVID-19 Quarantine Policy

[_____] School District

COVID-19 QUARANTINE REQUIREMENTS FOR ALL EMPLOYEES

PURPOSE

The _____ Board of Education (the “Board”) believes the health, safety and welfare of School District employees is paramount. To limit the continued spread of the coronavirus disease 2019 (“COVID-19”) and provide a safe and healthy school environment, the Board implements the following Policy to encourage employees to follow the State of New Jersey Incoming Travel Advisory and U.S. Centers for Disease Control and Prevention (“CDC”) guidance.

NON-ESSENTIAL TRAVEL

Due to the ongoing COVID-19 pandemic, the State of New Jersey revised its Incoming Travel Advisory (the “Travel Advisory”) to continue to discourage all non-essential travel. Travelers and residents returning to New Jersey from any U.S. state or territory beyond the immediate region (New York, Connecticut, Pennsylvania and Delaware) should self-quarantine at their home, hotel, or other temporary lodging following recommendations from the CDC:¹⁰

- If travel is unavoidable, travelers should consider getting tested with a viral test (not an antibody test) 1-3 days before the trip and again 3-5 days after the trip.
- If travelers test positive, they should self-isolate for at least 10 days and should postpone travel during that time.
- If travelers test negative, they should quarantine for a full 7 days after travel.
- If testing is not available (or if the results are delayed), travelers should quarantine for 10 days after travel.

You do not need to quarantine or get tested before or after domestic travel if you are “fully vaccinated” or have clinically recovered from COVID-19 in the past 3 months.

You do not need to quarantine after international travel if you are “fully vaccinated” or have clinically recovered from COVID-19 in the past 3 months, but you may be required to get tested after returning from international travel.

“Fully vaccinated” means:

- 2 weeks after their second dose in a 2-dose vaccine series (e.g., Pfizer or Moderna), or
- 2 weeks after a single-dose vaccine (e.g., Johnson & Johnson/Janssen).

All travelers should continue to:

- Wear a mask over your nose and mouth
- Stay 6 feet from others and avoid crowds
- Wash your hands often or use hand sanitizer
- Monitor for COVID-19 symptoms after travel
- Isolate and get tested if you develop symptoms of COVID-19

¹⁰ <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html>.

The Travel Advisory does not apply in the following instances:

1. Individuals returning to New Jersey after traveling outside of the state for less than 24 hours or those traveling to New Jersey for less than 24 hours.
2. Individuals in transit through the state to another destination, provided that the time spent in the state is only the amount of time necessary to complete the transit, make use of travel services, such as a highway rest stop, or make necessary travel connections.
3. Individuals returning from essential travel, including:
 - a. Traveling to and from the state for work.
 - b. Traveling to and from the state for medical reasons, including individuals providing comfort and support to a patient.
 - c. Military personnel traveling to the state by order or directive of a state or Federal military authority.
 - d. Individuals traveling to comply with a court order, such as child custody.
4. Essential personnel or critical infrastructure workers.

Information on the Travel Advisory can be found on the New Jersey COVID-19 Information Hub.¹¹

KNOWN EXPOSURE TO COVID-19

The CDC and New Jersey Department of Health advise that if an individual is a “close contact” (any individual within 6 feet of an infected person for a total of 15 minutes or more) or has otherwise been exposed to COVID-19, the individual should self-quarantine for 14 days from their last exposure (if asymptomatic) or should self-quarantine for 10 days after symptom onset. The individual should consider getting tested for COVID-19.

Individuals are not required to quarantine following a known exposure to COVID-19 in the following instances:

1. Individual has tested positive for COVID-19 in the past 3 months and recovered, as long as they do not develop new symptoms. If new symptoms develop after an exposure, the individual should follow instructions for what to do if you’re sick.¹²
2. Individual is fully vaccinated against COVID-19 and have remained asymptomatic since the current COVID-19 exposure.¹³

POLICY REQUIREMENTS

This Policy applies to all School District employees:

1. School District employees who **travel to a U.S. state or territory beyond the immediate region and/or internationally**, must receive a negative COVID-19 test and quarantine for seven (7) days after returning from travel or quarantine for ten (10) days after returning from travel, so long as the Travel Advisory is in effect. These individuals will be required to work from home during the quarantine period. If the nature and duties of the individual’s job cannot be performed from home, the individual will be required to utilize accrued sick, vacation or other leave time. If the individual has no accrued vacation or other leave time, the leave will be unpaid.

¹¹ <https://covid19.nj.gov/faqs/nj-information/travel-and-transportation/are-there-travel-restrictions-to-or-from-new-jersey>.

¹² <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/isolation.html>.

¹³ <https://www.cdc.gov/vaccines/covid-19/info-by-product/clinical-considerations.html>.

2. School District employees who **test positive for COVID-19 and/or are diagnosed with COVID-19**, must self-quarantine for 10 days from the date of the positive test (if asymptomatic) or 10 days after symptom onset and at least 24 hours with no fever without fever-reducing medication and other symptoms of COVID-19 are improving (if symptomatic). These individuals will be permitted to work from home during the quarantine period, if possible. These individuals will be permitted to utilize accrued sick, vacation or other leave time to cover absences. If the individual has no accrued vacation or other leave time, the leave will be unpaid.
3. School District employees who are **identified as a “close contact”** (any individual within 6 feet of an infected person for a total of 15 minutes or more) **or otherwise exposed to COVID-19**, must self-quarantine for 14 days from their last exposure (if asymptomatic) or for 10 days after symptom onset and at least 24 hours with no fever without fever-reducing medication and other symptoms of COVID-19 are improving (if symptomatic). These individuals will be required to work from home during the quarantine period. If the nature and duties of the individual’s job cannot be performed from home, the individual will be required to utilize accrued sick, vacation or other leave time to cover absences. If the individual has no accrued vacation or other leave time, the leave will be unpaid.
4. The **quarantine requirements** listed above do not apply to:
 - a. Individuals who have tested positive for COVID-19 in the past 3 months and recovered, as long as they do not develop new symptoms.
 - b. Individuals who are fully vaccinated against COVID-19 and meet the criteria issued by the CDC, as long as they do not develop new symptoms.
5. The **testing requirements** listed above do not apply to:
 - a. Individuals who have tested positive for COVID-19 in the past 3 months and recovered, as long as they do not develop new symptoms.
 - b. Individuals who are fully vaccinated against COVID-19 and are returning from domestic travel, as long as they do not develop new symptoms.
6. The Board reserves the right to determine which employees qualify as Critical Infrastructure Workers for the purposes of being exempt from the Travel Advisory. The Board reserves the right to permit Critical Infrastructure Workers who have had an exposure to COVID-19 but remain asymptomatic to continue to work in-person subject to additional screening, social distancing, and mitigation practices prior to and during their work shift, as outlined by the CDC.¹⁴
7. Any School District employees seeking to use vacation time and/or personal leave, including time for travel to another state or country, are required to provide the state of destination and get written pre-approval from their supervisor. The Board reserves the right to deny any vacation and/or personal leave requests due to the Travel Advisory if such leave and subsequent quarantine period would adversely affect School District operations and educational continuity, unless prohibited by a controlling collective negotiated agreement. If an employee travels outside of the immediate region and thereafter is required miss work as a result of the required quarantine period, the Board

¹⁴ <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-infrastructure-sectors.html>.

reserves all rights to take appropriate action with regard to the employee and/or employees whose actions adversely affect the School District's operations.

8. The Board reserves the right to request any documentation and/or records to effectively administer this Policy and ensure that employees are complying with the State's Travel Advisory and CDC guidance. The Board reserves the right to take any necessary actions to verify that School District employees who quarantine are following all CDC and New Jersey Department of Health recommendations and guidelines for effective quarantine.
9. The Board reserves the right to require employees returning from travel to get tested for COVID-19 prior to returning to work.
10. The Board reserves the right to make limited exceptions to this Policy on an individual, case-by-case basis.
11. The Board reserves the right to revise, modify and/or update this Policy in accordance with new requirements, policies and guidance issued by State or Federal officials.

EFFECTIVE DATE

This Policy shall take effect immediately.