Pandemic Response: Protecting Students and Educators

**Updated: March 19, 2020**

The recent outbreak and spread of coronavirus (COVID-19) has prompted a great deal of media attention and questions and concerns on the impact it will have on schools. Gov. Tim Walz and the Minnesota Departments of Health and Education have told all students to stay home from schools on or before Wednesday, March 18 and continuing until at least March 27. Unless your local school district closes for students and staff, non-licensed and licensed staff should report to their worksites during this time and spend time preparing distance learning strategies and plans in the event that schools would need to close to students and staff for an extended period of time.

Issues around compensation and benefits, working conditions and make-up time will be determined by a combination of your current collective bargaining agreement, new provisions negotiated between our locals and districts, and legislated or executive actions at the state level. This situation remains fluid and so guidance will be updated frequently as we learn more and as the fluidity of this situation warrants.

**Guidance**

1. **Work with your school district to clarify expectations for all employees on compensation, benefits, and working conditions during the pandemic.**
2. **Ensure that you maintain open communication with the district ahead of and during school closures.**
3. **Negotiate an MOU laying out the expectation that employees will be financially held harmless during any closure due to a pandemic. MDE’s guidance states that funding will continue as if instructional days are not lost, therefore employees should continue to be paid and receive insurance benefits during the duration of a state-mandated closure.**

## Funding

The comprehensive guidance from the Minnesota Department of Education issued on March 15 states, regarding funding:

*Funding MDE’s Emergency Operations Plan includes provisions for ensuring ongoing payments and other school district supports in the event of emergency situations such as a widespread infectious disease outbreak.* ***Regularly scheduled cash outflows to districts will not be disrupted due to an infectious disease outbreak closure. Aid payments are not expected to change due to the loss of instructional days. General education revenue will be calculated as if students received instruction on those days.*** *Federal payments are made through the SERVS system on a draw/reimbursement basis. To the extent that expenses are incurred during this period, draw requests will be processed on a weekly basis according to the normal schedule. No disruption to SERVS payments are anticipated.*

This guidance means that we anticipate funding for employee compensation and benefits to be in place for all non-licensed and licensed staff.

## Staying safe and healthy

Educators who are sick should stay home. Sick leave provisions in your contract govern your right to stay home when ill, and guidance from the CDC and the Minnesota Department of Health are adamant that sick workers stay home.

Education Minnesota’s position on using leave is that:

* If the district elects to close, employees should be covered under paid administrative leave.
* If the district remains open under the terms of the executive order creating 8 days of paid preparation time and employees cannot report for work, they may use accumulated sick time to cover time away from work unless other provisions apply.

In some events, employees that need an extended leave that does not correspond with school closures directed by the state will need to access leave provisions under the Family and Medical Leave Act.  
  
If members have been advised by a medical provider or public health official to self-quarantine due to exposure or higher risk of infection or illness, we advise that local leaders notify your district and request to use accrued sick leave to follow these recommendations. If a district denies the request, contact your Education Minnesota Field Representative for advice on next steps. We further recommend that locals consider bringing an MOU for consideration using the terms of pandemic leave laid out in the next section of this guidance.

## Blanket protections for all employees

In order to ensure community health and that employees are held harmless financially, we recommend working with your district on broad protections in an MOU that addresses the possible impacts of an extended school closure. The following sample language is drawn from contracts in Minnesota and nationwide to provide the broadest possible protections. These provisions are written to encompass all district employees.

**Pandemic Leave**

The District will adhere to recommendations of the Center for Disease Control concerning self-isolation of infected persons during pandemics. Employees will be placed on paid administrative leave for absence due to illness during any pandemic as identified by the Center for Disease Control. Employees will not be expected to provide a written explanation from a health provider to excuse the absence unless the Center for Disease Control guidelines explicitly recommend that infected individuals visit a health care provider.

Paid leave will be provided for a catastrophic disaster or pandemic that occurs in the employee’s school and/or community which causes the closure of the District or the employee’s school. Such leave will be for the duration of the closure of the school.

Health insurance benefits under section \_\_ of the Master Agreement will continue in full force and effect throughout the duration of pandemic leave.

No employee shall be required to make-up time lost due to a pandemic or catastrophic disaster, except that the District reserves the right to re-schedule such hours as are necessary to meet the minimum number of instructional hours as required by the State of Minnesota.

The Union shall be consulted before the re-scheduling of any make-up time where scheduling would differ from the adopted school calendar for make-up time.

These provisions ensure that all employees, licensed and non-licensed, are protected.

## Working during the pandemic closure

The terms and conditions of employment for those employees who are asked to report to work during the pandemic to provide childcare to children of healthcare workers and first responders, to provide meals to students in need, to travel to student homes for instructional purposes, or to maintain building facilities are covered by the terms of the existing collective bargaining agreement. If there are issues that are not covered or contemplated by the collective bargaining agreement, we advise locals to flag those issues with field staff to develop a plan to address those issues as they arise. **This will require flexibility from all.** A broad sample demand to bargain is included below.

For educators who are supplying childcare during the initial 8-day school closure period or a longer period associated with distance learning, maintaining clean facilities is paramount. Education Minnesota recommends an agreement stipulating that employer will provide cleaning supplies. Education Minnesota further recommends that deep cleaning provisions are performed in facilities where staff and students will be spending time and that all facilities staff have appropriate training.

1. The District will ensure that each worksite has adequate cleaning supplies, including disinfecting wipes, hand soap and hand sanitizer. Non-custodial staff are not required to clean or sanitize classrooms; however, these supplies will be available for their use. If supplies are not available and employees purchase such supplies with their own money, they shall be fully reimbursed when receipts are submitted.
2. All facilities and custodial staff will be properly equipped and trained to perform sanitization and deep cleaning of facilities where staff and students are spending time. Best practices for training and equipment should be defined by the Center for Disease Control’s Disinfection and Sterilization protocols.

Education Minnesota recommends that employees approach these situations with flexibility. Imperfect solutions outside the norm may be necessary. Employees should not perform tasks that do not feel safe but we encourage employees to creatively approach each situation and problem-solve.

## Distance learning / online learning issues

The following questions or considerations will need to be made, potentially in a meet and confer or bargaining discussion around working conditions of educators during a period of prolonged district learning.

* Clarify expectations about employee work locations on distance learning days (for example, are employees expected to work from home or will there be onsite access points such as the school media center available for those without internet access?)
* Clarify expectations about availability of employees on distance learning days.
* Internet access is presumed for distance learning. Locals should attempt to assess who needs internet access via member survey and work with employers to ensure that educators have technology and broadband access for the duration of a closure.
* Discuss district reimbursement for internet access for days that employees are required to work from home
* Discuss privacy protections for employees who have concerns about sharing personal contact information with families during the shutdown.
  + Consider using online programs or apps like whatsapp, Google Voice, Google Hangouts, Skype, etc. for protecting personal contact information
* Work to ensure training is available for any online platforms that are in use. Most online platforms have training videos available. Consider using small groups like PLCs to assist with training as needed.
* Ensure that contract language is in place for people who may be unable to work on because they are sick or providing care to family members
* Clarify duties and responsibilities for unit members without direct student instruction responsibilities.

More information, resources, and best practices on distance learning are available on educationminnesota.org.

## Sample demand to bargain

For the many unknown issues that will arise during the course of a prolonged school closure, the following demand to bargain may be helpful in ensuring that districts and unions are addressing employment issues as needed. This demand to bargain is written to be adapted by all employee groups.

March\_\_, 2020

Superintendent’s Name

Address 1

Address 2

Town, MN Zip Code

Dear Superintendent \_\_\_\_\_\_\_\_,

As a result of the unprecedented conditions arising from the global Covid-19 pandemic, the state has provided a hold-harmless provision around instructional time and funding according to [guidance from the Minnesota Department of Education](https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE032072&RevisionSelectionMethod=latestReleased&Rendition=primary) that calls for a closure period to plan for potential distance learning for any needed period of time. Governor Walz has also indicated that districts should incorporate non-instructional staff into their distance learning plans to ensure that all employees are paid throughout a closure period.

We are sending you this demand to bargain letter to ensure we reach understanding on [*compensation and benefits / terms and conditions of employment / a specific issue that has come up*] for members of our union during a potential prolonged period of closure and distance learning.

Please provide us with dates when you would like to schedule a conversation over the phone to address these issues, copying our field staff \_\_\_\_\_\_ at [email address].

We are confident that we will be able to collaborate on a solution that addresses the most pressing employment issues while keeping a focus on the safety and health of students, staff, and our community.

Sincerely,

Union president

Cc: Field Staff

## Sample MOU for adaptation

The following template is a framework for necessary modifications of the collective bargaining agreement for a limited time only. Specific questions or wording should be addressed with field staff who can contact the Education Minnesota negotiations department for additional questions. Locals should not contact negotiations directly.

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**[District]**

**AND**

**[Union]**

WHEREAS, the recent outbreak and spread of coronavirus (COVID-19) has prompted many necessary changes for school districts and educators for the duration of the 2019-20 school year; and

WHEREAS the district and the union agree that the current collective bargaining agreement between the parties governs terms and conditions of employment; and

WHEREAS [**briefly summarize the current situation or problem that cannot be addressed by the CBA**]

NOW THEREFORE, be it resolved; that for the [**time period**] only, the following language [supersedes or supplements] the language in **Article \_\_, Section \_\_ (Name of article/ section)** of the collective bargaining agreement.

**New terms and conditions to govern the situation here**

The parties further agree:

This agreement addresses the 2019-2021 collective bargaining agreement only and sets no precedent, nor shall it be introduced by either party in any proceeding as evidence of a past practice.

For the District: For the Union

Dated: Dated: