

## **Common Questions and Answers**

The new laws were put together quickly and still need to be flushed out with regulations. Questions remain and will arise. The below answers are not meant to provide legal advice as we have not yet sought legal counsel and determined that they are true and accurate to the extent of the new laws put in to place due to COVID-19.

### **I am an individual in high-risk and/or living with an individual in high-risk, do I need to report in-person to my worksite when called back to work?**

CDC and OHA define high-risk as being over the age of 60, or having an underlying medical condition such as diabetes, asthma, and heart disease. Per the Governors order these high risk individuals are not required to report in-person to their worksite. Where possible, we will determine accommodations that are appropriate, and how we can best utilize your talents in some other way to meet the needs of the District and our students and families along with the essential elements of the charges outlined in the Governors order.

### **Can I take leave if I need to stay home to be with my children while schools are closed under the Governor's Executive Order?**

For employees who are required to report to work (in person, remotely or a combination of the two), the Bureau of Labor and Industry (BOLI) has stated that employees may use OFLA leave during the current closure to care for their children. The employee can then use sick leave or other paid leaves for this time off. Paperwork related to OFLA/FMLA leave is available on the Fern Ridge School District website.

### **Do I need to use my accrued sick leave if I have an absence related to COVID-19?**

Employers shall not require employees to use accrued sick leave for any of the below related cases to COVID-19:

1. Employees who need to self-isolate after diagnosis of COVID-19.
2. Employees who are experiencing symptoms consistent with a COVID-19 infection and need to obtain diagnosis or care.
3. Employees required to quarantine or self-isolate by public officials.
4. Employees who need to take care of a family member who has been diagnosed, is experiencing symptoms consistent with a COVID-19 infection, or who has been ordered to quarantine or self-isolate.
5. Employees who need stay home with a child whose school or place of care has closed due to the corona virus.
6. Employees whose immune systems may be compromised for various medical reasons and are not eligible for telework.

### **What do I do if I have planned OFLA/FMLA during the time of the Governor's Executive Order?**

Under the FMLA regulations, whenever an "employer's business activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employer closing the plant for retooling or repairs), the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement

If the school implements an online student learning platform that requires employees to work from home, then any employee on FMLA leave would have the leave count against their FMLA leave entitlement during any days on which they would otherwise be required to work. For example, if employees are only required to work for half a day, then an employee on FMLA leave would be charged a half-day of FMLA leave.

**Am I eligible for OFLA/FMLA if I have a condition that makes me more at risk from COVID-19, but I am not experiencing symptoms?**

OFLA/FMLA leave is typically available when an employee has a "serious health condition" as defined in the law. Unless the condition itself qualifies as a "serious health condition," an employee would likely not qualify to take OFLA/FMLA leave. Each situation is unique and we encourage employees to discuss their situation with their Administrator and the Business Office.

**I had preplanned days scheduled off during the closure period of March 13<sup>th</sup> through March 27<sup>th</sup>. What happens to those days?**

These days will not be counted against your leave banks. At this time we ask that you keep your scheduled leave in Frontline/AESOP until it is decided how substitutes are being handled per the Governors order and if we need to track their anticipated scheduled days during this closure.

**I have sick, personal, bereavement, or vacation days scheduled during March 30<sup>th</sup> through April 28<sup>th</sup>. Am I able to make any changes or adjustments to the days?**

All previously approved leave will remain in effect as determined prior to our school closure.

**Will payroll still be processed on time?**

Payroll on Friday, March 20<sup>th</sup> was processed. All physical checks were mailed to the address on file on Wednesday, March 18<sup>th</sup>. If you had a direct deposit, your direct deposit was deposited on the 20<sup>th</sup>. April's payday will occur on Monday, April 20<sup>th</sup>, 2020 as normal.

**Does any of the governor's guidance override our collective bargaining agreements?**

The Governor has declared a state of emergency under ORS 401.165. Her powers under a state of emergency are set out in ORS 443.441 and 401.165 through 401.236. During a state of emergency, the Governor has broad powers to control state agencies and state resources. A

significant question is how the Governor's authority under the statutes set out above interacts with the existing collective bargaining agreements.

The Governor may exercise her powers under the state of emergency statutes in a way that modifies existing collective bargaining agreements. Where there is a conflict between the Governor's executive order and the collective bargaining agreement, the executive order prevails.