

Common Questions and Answers

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Common Questions and Answers (Updated 4/5/20)

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.

What is Emergency Paid Sick Leave Act? See New Federal Poster on website:

https://www.fernridge.k12.or.us/wp-content/uploads/2020/03/FFCRA_Poster_WH1422_Non-Federal.pdf

Am I required to use my accrued sick leave prior to the Emergency Paid Sick Leave (EPSL) provided by the Families First Coronavirus Act (FFCRA)? No. Emergency Paid Sick Leave is part of the FFCRA and is in addition to sick leave granted by your collective bargaining agreement.

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 and am unable to telework or report to work in person? 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. Employee may also be eligible for EPSL. Paperwork related to OFLA/FMLA leave is available on the Fern Ridge School District website at <https://www.fernridge.k12.or.us/wp-content/uploads/2018/12/Family-Medical-Leave-Packet.pdf>. Information regarding EPSL can be found at https://www.fernridge.k12.or.us/wp-content/uploads/2020/03/FFCRA_Poster_WH1422_Non-Federal.pdf

What do I do if I have planned OFLA/FMLA during the time of the Governor’s Executive Order? Under the OFLA/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, the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement . The District was closed March 16, 2020 through March 27, 2020.

On March 30th, 2020 the District began implementation of supplemental student learning as well as meeting all conditions in the Governor Executive order which requires employees to be eligible to work from home or in person. OFLA/FMLA leave entitlement would take again be tracked at this point.

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.

I had preplanned days scheduled off during the closure period of March 16th through April 28th. What happens to those days? The days between 3/16/20 and 3/27/20 will not be counted against your leave banks as these were considered COVID-19 mandated closure days. Leave in Frontline between the dates of 3/16/20 and 4/28/20 have been removed, unless you were/are on OFLA/FMLA. Any absent days (i.e. not eligible to work from home or at the District) between 3/30/2020 and 4/28/2020 should be in-put in Frontline. Please contact your Administrator or the Payroll Office with questions.

Will payroll still be processed on time?

Checks will be mailed out on Friday, April 17th, 2020. Direct deposits will occur on Monday, April 20th, 2020. The District highly encourages employees to sign up for direct deposit if you are not already taking advantage of this. The direct deposit form can be found at <https://www.fernridge.k12.or.us/wp-content/uploads/2013/09/Authorization-for-Direct-Deposit1.pdf>

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.