



# School District Webinar on COVID-19

April 3, 2020

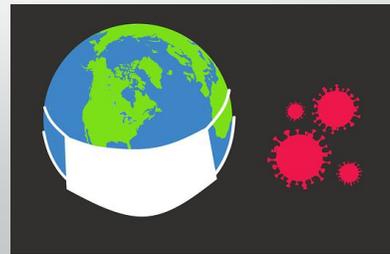
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# Topics Related to COVID-19

- Families First Coronavirus Response Act (FFCRA)
- Open Meetings Act
- Unemployment Benefits
- Remote Learning



## The Families First Coronavirus Response Act

How employees can qualify for two new forms of paid leave

## FFCRA - Overview

- Commenced April 1, 2020
- Many provisions related to child nutrition, SNAP, and health insurance
- Two key provisions for employers:
  - Emergency Paid Sick Leave (Sec. 5101, *et seq.*)
  - Emergency Paid Family Leave (Sec. 3101, *et seq.*)

## Emergency Paid Sick Leave

- ALL public employees eligible
  - No hours or tenure requirement
- Entitled to two weeks of paid sick leave under specific circumstances
  - Full-time employees = up to **80 hours** (hard cap)
  - Part-time employees = up to the “**number of hours** that such employee works, **on average**, over a 2-week period”

## Emergency Paid Sick Leave

For those with varying hours, if the employer is uncertain how many hours would have been worked during the leave period, use **average** based on previous 6 months worked

If the employee did not work during the previous 6 months, then use “the reasonable expectation of the employee at the time of hiring”

## Emergency Paid Sick Leave - 6 Reasons

- If the employee cannot work or telework because:
  - (1) Subject to federal, state or local **quarantine or isolation order** related to COVID-19
    - This includes Governor Pritzker’s “Stay at Home” order
  - (2) Advised by a health care provider to **self-quarantine** due to COVID-19 concerns
  - (3) Experiencing symptoms of COVID-19 and **seeking a medical diagnosis**
  - (4) **Caring for** an individual subject to quarantine or isolation order, or who has been told to self-quarantine
  - (5) Caring for child whose **school or place of care has closed**, or whose child care provider is unavailable, due to COVID-19 precautions
  - (6) Experiencing **sickness** similar to COVID-19

## Emergency Paid Sick Leave

- Employee receives **100%** of compensation under the 1<sup>st</sup> 3 reasons:
  - Subject to federal, state or local **quarantine or isolation order** related to COVID-19
  - Advised by a health care provider to **self-quarantine** due to COVID-19 concerns
  - Experiencing symptoms of COVID-19 and **seeking a medical diagnosis**
- Employee receives **66.67%** compensation under the last 3 reasons:
  - **Caring for** an individual subject to quarantine or isolation order, or who has been told to self-quarantine
  - Caring for child whose **school or place of care has closed**, or whose child care provider is unavailable, due to COVID-19 precautions
  - Experiencing **sickness** similar to COVID-19

## Emergency Paid Sick Leave - Compensation

- For reasons (1), (2), & (3), employee entitled to full regular rate of pay
  - Maximum **\$511/day** (capping salaries > \$132,860)
- For reasons (4), (5), & (6), employee entitled to two-thirds regular rate of pay
  - Maximum **\$200/day** (capping salaries > \$78,000)
- Employers can provide more than these amounts



## Emergency Paid Sick Leave – Accrued Leave

- Employer cannot require employees to use other accrued paid leave first
- Employees cannot carry over emergency paid leave into 2021

**WE'RE  
TEMPORARILY  
CLOSED**

## Emergency Paid Family Leave

- Temporary expansion for Family and Medical Leave Act (FMLA)
- Employees must have worked 30 calendar days to be eligible
  - Ignores normal FMLA requirements (12 months; 1,250 hours; 50 or more employees)
  - Includes employees laid off after March 1, 2020 and then re-hired
- Part-time employees are eligible

## Emergency Paid Family Leave

Offers two weeks **unpaid** family leave, then 10 weeks **paid** family leave

- Employees receive **at least two-thirds** of their regular rate of pay for number of hours normally scheduled to work
- Varying work schedule: If employer is uncertain how much the employee would have worked, use an average of the hours per day over the six months prior to leave (x 14)

## Emergency Paid Family Leave – Eligibility

Caring for a minor child whose school or place of care has been closed, or whose child care provider is unavailable, due to a public health emergency



## Emergency Paid Family Leave - Compensation

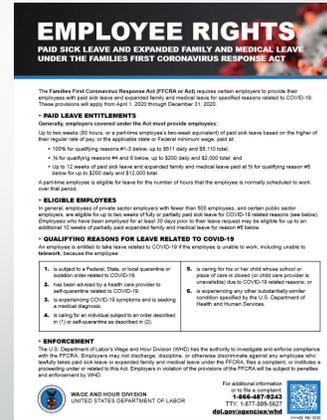
- Maximum compensation (at two-thirds) is **\$200/day**, \$10,000 in aggregate (capping salaries > \$78,000)
  - Employers can provide more than this amount
- Most employees are entitled to reinstatement to the same or equivalent position after leave

## Emergency Paid Family Leave – Accrued Leave

- Employer cannot require employees to use other accrued paid leave first
- Employees can choose to use other leave, including Emergency Paid Sick Leave (reason #5), for those two unpaid weeks
- Emergency Paid Family Leave counts against an employee's annual allotment of 12 weeks of regular FMLA leave

## FFCRA – Notice

- Employers must conspicuously post the Department of Labor’s “FFCRA Notice”
  - Available at [www.dol.gov/agencies/whd/pandemic](http://www.dol.gov/agencies/whd/pandemic)
  - Should be posted at all worksites
- “Posting” can be satisfied by emailing or direct mailing to employees, or posting on an employee information internal or external website



## FFCRA – Employer Costs

- School districts are not eligible for federal tax credits to reimburse emergency paid leave costs
- However, emergency paid leave compensation is not considered “wages” for social security tax purposes
  - Employers must set up separate payroll coding to ensure FICA not taken out of employees’ checks
  - Employers can also choose not to pay their portion of FICA for that compensation

## FFCRA – Other Employer Provisions

- Employees must provide documentation tailored to the COVID-19 reason
- If an employer has no work available, paid leave benefits do not need to be provided to former or furloughed employees
- Paid leave benefits end the day after the reason for leave ends
- Unlawful to discharge, discipline, or discriminate against employee who takes emergency paid sick leave
- More guidance available at [www.dol.gov/agencies/whd/pandemic](http://www.dol.gov/agencies/whd/pandemic)

## Holding Public Meetings During the COVID-19 Outbreak

How the Open Meetings Act intersects with new “social distancing” measures

## Federal Coronavirus Guidelines

CDC social distancing guidelines (March 16, 2020):

- Social gatherings limited to no more than 10 people
- Work from home whenever possible
- Avoid discretionary travel

## Governor's Executive Order 2020-07

- On March 16, 2020, Governor J.B. Pritzker issued an executive order **banning** all events with more than 50 people in attendance.
- This same executive order temporarily suspends the portions of the Open Meetings Act that require in-person meeting attendance (5 ILCS 120/2.01) and specific justifications for audio or video participation (5 ILCS 120/7).
  - A public body can conduct meetings via phone and/or video conference without a quorum physically present.

## Public Participation

- The Order **encourages** public bodies to postpone public business where possible
  - Strike a balance between taking care of necessary business and keeping meetings fully accessible to the public
- The Order **encourages** public bodies to provide video, audio, and/or telephonic access to meetings so the public can “monitor” the meeting
  - Websites and social media should also alert the public to meeting changes
  - The Order does not require letting the public participate in, or even observe, these video- or phone-based meetings



## Attorney General's Guidelines

- IL Attorney General issued OMA guidelines on March 17, 2020.
- Public bodies are encouraged to **cancel** any public meetings that might draw crowds of more than 50.
- If a public body must hold a meeting in person instead of remotely, consider:
  - Having the meeting in a large room, such as a gym or auditorium.
  - Providing a video or audio feed to another room to reduce the size of the gathering
  - Recording the entire meeting, putting the recorded open session on your website as soon as practical after the meeting.
  - Clearly marking the location of the meeting in the notice and with signage.

## Attorney General's Guidelines

- The AG **urges** to provide remote access to in-person meetings for members of the public:
  - Consider taking public comment submissions by email, then reading comments at meetings.
- For conference call or web-assisted meetings, **ensure** that the public has a means to both observe **and** comment
  - Conference call (or other log-in) information should be included in the public meeting notice.



## What Does This Mean For You?

- In-person meetings cannot be attended by more than 50 individuals.
- Public bodies are encouraged to cancel meetings if there are no critical issues to address.
  - Meetings that are held, in-person or electronically, should be limited to necessary agenda items
- If holding a web meeting via a platform such as Zoom, we recommend providing the public with information on how to access the meeting. For instances, a link to the webinar, or a call-in number at the top of the meeting's agenda.

## What Does This Mean For You?

- Provide ways for the public to comment on meetings, such as:
  - Allowing the public to comment by video or audio, in real time, during the required “public comment” section of the meeting. The public body can still impose reasonable restrictions to public comment, such as time limits and muting participants except during that portion of the meeting; or
  - Alternatively, directing the public to comment via email, or write in, and then reading those comments at the meeting

## Unemployment Benefits during the Pandemic

How the CARES Act affects employers

## Changes to Unemployment Benefits

- Eligible individuals will receive an **additional \$600 per week** in federal unemployment benefits, on top of the unemployment assistance offered by their states (maximum in Illinois is \$471).
- Unemployment is extended for an **additional 13 weeks** past the unemployment period offered by the individual's state, for a maximum of 39 weeks of unemployment in Illinois.
- The standard one-week waiting period to collect unemployment has been **waived**.

## Eligibility Determination

- To be eligible for the extended federal unemployment benefits, an individual's unemployment must be related to COVID-19.
- Under the CARES Act, individuals will have to self-certify they:
  - Are no longer working for a reason related to COVID-19; and
  - Are otherwise able to work.

## Unemployment Eligibility - 6 Reasons

1. The individual, someone in the individual's home, or someone the individual is caring for has COVID-19;
2. The individual must stay home and care for a child after the child's school shutdown due to COVID-19;
3. The individual's place of employment is shut down due to Covid-19;

## Unemployment Eligibility - 6 Reasons

4. The individual is unable to get to the workplace due to a COVID-19 quarantine (including if a healthcare provider has advised the individual to self-quarantine);
5. Lost or forced to quit job due to COVID-19; or
6. The individual has suddenly become the breadwinner because the Head of Household has died of COVID-19.

## Eligibility

- Individuals who do not typically qualify for unemployment may qualify under the CARES Act, such as those who are:
  - Self-employed;
  - Part-time workers; or
  - Lacking in sufficient employment history.
- Those who are not eligible to receive extended unemployment benefits are:
  - Individuals who are able to work remotely;
  - Individuals who quit a job solely out of fear of COVID-19;
  - Individuals who are receiving paid sick leave or other paid leave.

## Illinois Unemployment Assistance

- Illinois Department of Employment Security (IDES) emergency rules
  - Workers temporarily laid-off due to COVID-19 are eligible for benefits without having to actively seek other employment
    - As long as the worker is prepared to return to work when the employer reopens
  - Workers confined to home due to COVID-19 (sickness, care for others, or quarantine), are eligible for benefits
    - Worker must be able to perform work from home and actively seek that employment
- No changes have been made regarding employers' unemployment contribution rates

# Local Government Grants

Where public bodies can find relief

## Other Provisions of the CARES Act

- \$139 billion shared among the 50 states for unbudgeted costs related to COVID-19
  - You must *apply*
  - If granted, the funds would be paid to the local government directly before the end of April
- Other Grants
  - \$30.75 billion for Education Stabilization Fund
    - Distributed through States



## Disaster Declaration

- Public Assistance (PA) grant program
  - Available to all local units of government
  - May be entitled to up to 75% of COVID-19 response costs
- Reimbursable costs:
  - Management, control, and reduction of immediate threats to public health and safety (emergency operations centers, training, disinfection of eligible public facilities)
  - Purchase and distribution of consumable goods (including personal protective equipment)
- To submit initial Request for Public Assistance (RPA):
  - Fill out FEMA Form 009-0-49, no later than **April 12, 2020**
  - E-mail form to [PA.grants@illinois.gov](mailto:PA.grants@illinois.gov).

## Remote Learning during the Pandemic

## Calendar Issues

- Officially, schools are closed only through April 30, 2020.
- Beginning March 31, 2020, schools can use Remote Learning Days and up to 5 Remote Learning Plan Days.
- The Act of God days, remote learning days, and remote learning plan days all count toward the 176 days of pupil attendance required under law. There is no need to amend your calendar.

## Remote Learning Day Plan Must:

- Be accessible to all students
- Meet State learning standards, when applicable
- Allow students to confer with an educator, as necessary
- Address unique needs of students in special populations (special ed, EL, homeless or vulnerable student populations)
- Address transitions from remote learning to on-site learning upon a declaration that Remote Learning Days are no longer deemed necessary

## Remote Learning Day Plan Must:

- Be discussed with your union(s)
- Be posted on your school or district website, with a copy provided to students and staff.

## Academic Expectations

- Students will not be required to master and will not be penalized for failure to master new content. There should be no educational harm to a student's grade due to remote learning, no child's grade should be lowered during the remote learning period.
- Allocate age-appropriate time expectations for remote learning.
- Focus on the needs of high school seniors to ensure that they meet all graduation requirements; consider whether local graduation requirements beyond State requirements should be waived.

## Academic Expectations

- Outline district, school, teacher, student, and family responsibilities to further support student engagement.
- The 62 page Remote Learning Recommendations [<https://www.isbe.net/Documents/RL-Recommendations-3-27-20.pdf>] are recommendations only, and should be considered in light of your district's or individual school's local needs and capacities.
- Focus on students' other needs: emotional, physical, nutritional, social, etc.

## Special Education: ***Substantive*** Considerations

- Must still provide FAPE (free appropriate public education)
- Under *Endrew F.*, a school provides FAPE if it offers an IEP reasonably calculated to enable a child to make progress "*appropriate in light of the child's circumstances.*"
- Consider each child's needs, individually, in light of the remote learning plan for that child's grade.
- Consider developing an Individual Remote Learning Plan for each student with an IEP.

## Special Education: *Procedural* Considerations

- Use service logs to record date/minutes/goals/activities/student responses.
- Meticulously document all efforts of engagement with families regarding IEPs and Section 504 plans.
- Notify parents of the inability to ensure confidentiality, and obtain parent consent to do teletherapy on electronic platforms/apps.
- Timelines have not been relaxed.

## Employment Issues

- Pay all employees their salary, hourly pay, stipend pay, and benefits as if they were performing all of their normal work.
- Employees are expected to participate in work activities in some form.
- Be prepared to communicate the needs with the applicable unions, focusing on:
  - the continuity of education through remote learning,
  - the provision of meals,
  - other necessary student and staff support measures, and
  - ensuring the performance of essential district functions and operations.

## Employment Issues

- Follow the statutory timelines regarding evaluations and notices of non-renewal of teachers.
- Follow all RIF timelines, notice requirements and procedures for non-certified staff.
- Pause all timelines concerning PDPs and remediation plans until schools reopen.

## Employment Issues

- Unless a collective bargaining agreement precludes it, convene the summative evaluation meeting with a teacher remotely *if* all classroom observations have occurred and all professional practice and student growth data has been collected. If those activities have not occurred, the teacher should be rated as 'proficient.'
- Unless a collective bargaining agreement precludes it, complete the annual evaluation of non-certified staff remotely *if* all underlying requirements have been completed.

## Bidding Requirements

- All construction bids may be communicated, accepted or opened electronically. No other type of bid is exempt from the in-person requirements of the bidding laws.



Any  
Questions