

Parish/School Return to Work, Leave of Absence (LOA), and Quarantine FAQ's – August 17, 2020

GENERAL:

Are we required to provide paid leaves in accordance with the FFCRA?

RCAB parishes and schools are not required to provide leaves under the FFCRA. Separately incorporated entities with less than 500 employees will likely be covered. Please consult with the Legal Department for more information.

Are we required to approve a request from an employee who requests a leave of absence because he/she is living with one or more family member(s) who are high risk?

An employee who lives with someone who falls into a vulnerable population is not protected under MA or federal laws. Nevertheless, you should discuss the situation with the employee and see if there is a way that you can find a workable solution.

Importantly, if the employee is providing care to a family member, he/she may be due time off under the MA Earned Sick Time Law, or as a caregiver under the FMLA. Please contact HR if you need help with the process for an FMLA leave.

Are we required to accommodate an employee who requests a leave because he/she does not have childcare/cannot work from home?

RCAB parishes and schools are not required under federal or state law to provide leave under these circumstances, but if you are able to offer a personal leave, you should consider doing so. You may ask the employee to provide documentation of the specific need - closed childcare provider, etc. In any event, you should be sensitive to the possible employee relations and/or media impact before making a final decision. An employee that is not able to return to work due to lack of childcare may qualify for Pandemic Unemployment Insurance (PUA) benefits. A PUA Guidebook has been published by the MA Department of Unemployment and is available here: <https://www.mass.gov/doc/pandemic-unemployment-assistance-guidebook/download>.

Are we allowed to ask employees who say they cannot wear a mask for medical reasons for a doctor's note?

If an employee says that he/she cannot wear a mask for medical reasons, we should engage in an interactive discussion process with them. As part of that process, we may decide we need additional information and choose to ask for medical documentation. As always, please work with HR when you receive requests for exceptions to policies due to medical reasons.

Can employees refuse to return based on a belief that the work environment is unsafe?

We do not have to continue to retain staff who have a generalized fear of returning to work. However, a refusal to return to work could be protected if the employee believes that the workplace is unsafe and that he/she will be in imminent danger if they return.

You should first be sure that your school or parish operations are fully compliant with all state and federal safety guidelines. You should then inform the employee of overall compliance and the specific safety measures that have been put in place.

If an employee still chooses not to return, you should work with HR and Legal to determine possible next steps.

Do we have to continue to retain employees who tell us that they are afraid to return?

A generalized fear of COVID is not by itself a legally protected reason not to return to work, but more information is needed before a decision can be made. If for example that fear was the result of a mental impairment that was covered by the ADA, we would need to enter into an interactive discussion with the employee to determine if a reasonable accommodation could be made.

This same condition might qualify the employee for an FMLA leave to deal with their own serious health condition.

Do we have to continue to retain employees who need to utilize mass transit to get to work but are afraid to do so?

We do not however, you should discuss the situation with the employee to be sure that you understand the specific reason(s) they are afraid. As mentioned above, it is possible that a more serious health issue may exist, and that may require we engage in an interactive discussion.

Should leaders in our parishes and schools initiate conversations with older staff or others who we believe may be at higher risk?

While it is acceptable to send a note to all staff inviting them to self-identify if they have concerns, you should not make assumptions about a person's risk based on their age or other physical or mental characteristics. Initiating conversations with certain individuals - even if intended to be in their best interests – would constitute different treatment and could be considered discriminatory.

Does an employee have to present documentation if he/she indicates that they have been advised not to return to work?

To ensure consistency and equity in our processes, we should ask staff to present documentation to justify a request for a leave or other accommodation. We should however be flexible, especially in cases where the need for the request is obvious or otherwise known, and take into account that getting a doctor's note may be challenging at the present time.

SCHOOLS:

Are we allowing teachers or staff to take a year-off if they request it? Do we need to guarantee them a job the following school year?

The school should engage teachers or staff who request an extended leave of absence in a discussion to be sure they understand the reason(s) for the request. If that reason is based on a medical condition covered by the ADA, you can discuss whether the school might be able to provide a reasonable accommodation, including a LOA. This medical condition may also qualify the individual for a job-protected leave, up to 12-weeks under the FMLA.

It is important to note that accommodations in the form of a leave of absence are typically approved for relatively short periods of time (1-4 months) and then re-evaluated. Considering the pace of change in the conditions related to the Coronavirus, having the ability to re-evaluate the situation periodically may prove helpful.

If you determine that a shorter LOA is not adequate under the circumstances, you may decide to grant a longer (up to 1-year) leave request. This type of leave would typically be considered a personal leave and would not include a guarantee of employment in the future, although principals have discretion in these decisions. In addition, an employee on an extended personal leave will be considered inactive and will therefore need to make arrangements for benefits continuation (if applicable).

If a school cleaning staff cannot clean the bathroom after one student uses it, can the teacher be asked to do the cleaning?

According to the “Fall Reopening and Facilities Operations Guidance, July 22, 2020 Edition” (the “Reopening Guidance”) issued by DESE, Page #15 addresses the responsibility for cleaning as follows: “... *Responsibility: Dedicated custodial staff should handle all disinfecting requiring chemicals for facilities (e.g. classrooms, bathrooms, mask break areas) and high touch objects (e.g. door handles, light switches, water fountains). For other surfaces, determine cleaning responsibility on a case -by- case basis.*”

The guidance also contains the following:

Page #4 - *“School cleaning and disinfecting: For high touch surfaces, cleaning and disinfecting should occur multiple times per day between uses.”*

Page #14 - *“Bathroom use. Consider not allowing students to use the bathroom during transition times, and otherwise using a sign out system to reduce the number of students in a bathroom at one time.”*

Page #15 - *“Frequency: Cleaning and disinfecting should occur at least daily for shared spaces and furniture. For high-touch services (e.g. door handles, light switches, water fountains, toilet seats) cleaning and disinfecting should occur three to four times per day and/or between uses*

Our pastor would like to use parish religious education staff to teach religion in our school. Is that allowed under the state guidelines for student groups/cohorts?

Yes, if parish religious education staff are asked to go into the school to teach religion, this is allowed.

We have a part time teacher who also works at another school, who has notified us that she will not be coming back to our school as she does not feel it is safe for the children to have a teacher travel between schools. Is it acceptable for a teacher to work at two different schools?

Yes, as long as health and safety requirements are followed including but not limited to not entering school with a fever or symptoms of COVID-19.

Is a nurse required to be at school for the 7:30 drop-off in case a child is ill?

While we are not aware of a requirement that a nurse be present, each school must make and adhere to its own plan to isolate students with COVID-19 symptoms in a medical waiting room per Page #10 of “Reopening Guidance” regardless of the time of day when symptoms are noted.

Will each school be putting together a pool of subs to cover teacher illness and/or quarantine/isolation?

This is a good idea. The CSO is also accumulating a list of substitutes. The website will be shared with School Leaders when ready.

Must each student's temperature be taken before they are allowed to enter the school?

No, Page #10 of the 6/25, DESE Guidelines states "As noted in previous guidance, temperature checks are not recommended as screening for all students due to the high likelihood of potential false positive and false negative results." The guidelines on page 11 continue - "*While there are no screening procedures required at the point of entry, school staff should observe students throughout the day and refer students who may be symptomatic to the school healthcare point of contact.*"

Some of our schools intend to ask parents if the child is ill or has a fever and document the responses. The CSO is working with FACTS to add fields in the Student Information System to capture this data.

Are we required to pay teachers or other staff who exhaust their sick time when they are out due to a quarantine or because of their own COVID-related illness?

Once teachers have exhausted all sick time or other paid-time due to them (vacation, STD, or personal for ex.), we are not obligated to continue to pay them. Having said that, especially in cases where they are in quarantine in accordance with state guidance, we should at least consider whether it might be possible to pay or supplement their paid time during the quarantine period. They may also qualify for PUA benefits. See the Guidebook referenced above.

There is an additional safety consideration here as well, that is that staff who are not paid may choose not to report an exposure in the future due to the lack of pay.

One of our employees notified us that they had recently traveled to a state outside New England. As a result, per Governor Baker's order they will need to quarantine for 14 days. Working from home is not a viable option. (Note: the following responses assume that the employee remains asymptomatic during the 14-day quarantine period.)

1. Can I require that they use vacation or sick time?

Employees may elect to use paid time during quarantine periods but should not be required to do so.

2. If they do not have accrued time, do I need to pay them?

You need to pay non-exempt employees for hours actually worked, and exempt employees must receive their normal weekly pay if they work any portion of a week. While you are not required by state or federal law to pay beyond that, if you have the means, you should consider paying for quarantine periods. Failure to do so puts employees in a very difficult position and may be a disincentive to reporting future travel or exposure to COVID. This may in turn increase the risk of COVID within the workplace. There may be PUA benefits available. Please check the PUA Guidebook for information.

3. Do they continue to accrue sick and/or vacation time during a 14-day quarantine period?

Employees on an unpaid status would not normally continue to accrue sick and/or vacation time unless the school policy states that they will do so.

4. Can I pay them less than their normal pay rate if I pay the state minimum wage, or the minimum salary for exempt employees?

Yes, you may choose to pay less than the normal rate for periods that would otherwise be unpaid.

How do benefits work for a leave/extended leave of absence?

For those periods of time that an employee is receiving pay (vacation, sick, personal, STD, paid leave, etc.) employee contributions continue, and benefits continue as well. For protected leaves under FMLA, arrangements must be made to pay for benefits, and benefits are retained for the period of the leave.

Once an employee moves into an unpaid status, if the employee is on an approved leave of absence, benefits can continue for up to 6 months of total absence from work, as long as premiums continue to be paid by the school through the monthly invoice. The Benefits Office should be contacted for specific guidance.

QUARANTINE:

If an employee lives in the same house as someone who tests positive for COVID, does that employee now need to take 14 days off work to quarantine? Is that time off covered? Paid?

An employee exposed to a COVID-positive individual should quarantine for up to 14 days (depending upon the date of the exposure). If this person is asymptomatic, they may use accrued paid time. While you are not required by state or federal law to pay beyond that, if you have the means, you should consider paying for quarantine periods. Failure to do so puts employees in a very difficult position and may be a disincentive to reporting future exposure to COVID. This may in turn increase the risk of COVID within the workplace. Employees whose pay is impacted because of a quarantine may qualify for PUA benefits. Check the PUA Guidebook for more information.

How do we determine if/when an entire class needs to be quarantined?

Under the current guidance from the MA Department of Public Health (DPH), it is unlikely that an entire class would need to be quarantined IF strict social distancing and face covering requirements are being observed. In conjunction with the Department of Elementary and Secondary Education (DESE), the following guidance is issued:

Definition of a close contact

- If a student or staff member tests positive for COVID-19, their close contacts will be defined as only those who have been within 6 feet of distance of the individual for at least fifteen minutes, while the person was infectious. The infectious period begins 2 days prior to symptom onset. If someone is asymptomatic, the infectious period is considered to begin 2 days prior to the collection of their positive test. While previous guidance stated that all students in an

elementary classroom would be defined as close contacts, this new guidance provides a narrower definition of a close contact which mirrors DPH guidance.

Policy of when a close contact may return to school

- All close contacts should be tested but must self-quarantine for 14 days after the last exposure to the person who tested positive, regardless of test result. After further consultation with the medical community, we are updating this guidance as the virus can cause illness from 2-14 days after exposure and even asymptomatic individuals can transmit the virus. Going forward, even if an individual identified as a close contact receives a negative test result, they must continue to self-quarantine for the full 14 days as the virus may take up to 14 days to cause illness.

Policy of when a student/staff person may return to school after COVID-19 symptoms

- If a student or staff member has COVID-19-like symptoms, they may return to school after they have tested negative for COVID-19, have improvement in symptoms, and have been without fever for at least 24 hours without the use of fever reducing medications. If a provider makes an alternative diagnosis for the COVID-19-like symptoms, the individual may return to school based on the recommendations for that alternative diagnosis (e.g., influenza or strep pharyngitis).
- If a student or staff member presents COVID-19-like symptoms and chooses not to be tested, they may return to school 10 days from start of symptoms, as long as their symptoms have improved and they have been without fever for at least 24 hours prior to their return to school without the use of fever reducing medication.

What if a student is in contact with a symptomatic person outside of school, do we all quarantine?

No. After being in the presence of someone who has been exposed, but has not him or herself been the COVID-positive person, people are asked to monitor their own health and contact their own physicians with any symptoms, questions or concerns, and then follow that physician's directions.

What if a student's sibling is sick? Do all classes with the same family members have to quarantine? Does just the sibling have to quarantine?

Same response as above. If someone is not directly exposed to someone COVID-positive but has been in the presence of someone who has been exposed, they should monitor their own health for symptoms and follow up with their doctors with any concerns or questions. Should additional family members later test positive for COVID, anyone who has been in close contact with them (within 6 ft for more than 15 minutes) will have to quarantine.

If we use town buses and a town public school bus student is found to be COVID-positive, do the students who ride that bus have to quarantine?

Merely riding on the same bus does not require quarantine unless a student was riding the bus at the same time and was in close contact (within 6 ft for more than 15 minutes). Then, they would have to quarantine.