

President's Message 3-9 to 3-13

First and foremost, please take care of yourself and your family. We are in uncharted territory. We must allow the experts to tell our District officials what to do. I hope you will agree that MEA should work with the District, err on the side of caution, and do what is safe for us, our students, and our community. Just as with the new normal with fire season, the Governor and legislature will have to adjust Ed Code to meet the exigencies and unexpected consequences of school closures to the Coronavirus. The information and recommendations coming from the state department of health is changing on a daily basis, and sometimes within hours, so we need to remain patient because things will almost certainly change after you read this newsletter.

Last week the word from the District was if one student or employee gets sick, this specific site would close. More likely, the entire District would shut down. If someone in VC got it, and there is a causal link to MUSD, we will probably shutter the doors as well. It will take a minimum of 2-3 days for school to return to session if we close. This is how long it will take to clean the school/schools. But as some of you pointed out, why deep clean, open the doors to the school, if they may close again after another case arises. I am pretty sure that no one really has the right answer at this point. My guess is that doors will stay closed rather than close, reopen, and then close.

Next, although not necessarily a Union issue, according to the District and CTA, all programs will receive ADA if school is cancelled. All programs, including distance learning, will continue to deliver curriculum. The delivery of curriculum should not be too complicated. We just have to show that we, if audited, offered instruction.

There is a process for recovery of ADA funds called the J13A. Also, Jerry Brown's "rainy day" fund is flush with cash reserves. There is currently no threat of teachers and districts not receiving funding.

As I write this, it is my understanding that MUSD's Cabinet is in emergency session. My sense is that after the CDC labeled the virus a "pandemic," and after Governor Newsom prohibited meetings of more than 250 people, public school shutdowns will happen—it probably not a question of if, but when.

The following is CTA's advisory that I edited for brevity and for our specific purposes

Will schools that are closed have to make up the days at the end of the year?

Districts will have to monitor class-meeting cancellations to determine if the related class hours for course sections fall below the minimum to properly award a unit of credit as provided by Title 5, Section 55002.5 of the regulations. If that occurs, a district will have to make up lost instruction to meet at least that minimum level. Section 55002.5 includes both inside class and outside-of-class hours in the total hours of student work required to earn a unit of credit. Accordingly, if districts anticipate substantial loss of in-class instruction time, they should work with the local association to create out-of-class alternatives to ensure total hours of student work remains at the level required by Section 55002.5.

Translation: by continuing to offer curriculum during school closures, MUSD will meet the Section 55002.5 requirements

What are my legal rights to take a leave of absence if I get coronavirus?

The same sick leave provisions apply to illness from coronavirus as apply to other illnesses. In addition to leave provided for in your collective bargaining agreement, the Education Code guarantees full-time faculty who are employed five days a week a minimum of ten (10) paid days of leave due to illness for a school year of service (Educ. Code Sec. 87781).

Employees who have exhausted all available and accumulated sick leave and continue to be absent for up to five months due to illness are eligible for differential pay leave (Educ. Code Sec. 87780 or 87786 for faculty employees and Sec. 88196 for classified employees).

Additional unpaid leave may be available under the federal Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA). Finally, the Education Code specifically gives districts discretion to grant paid leave to faculty due to an epidemic. This is in addition to the leave the district already provides, and includes not only leave due to illness, but also due to quarantine (Educ. Code Sec. 87765). Similarly, districts have discretion to grant additional leaves of absence, including with pay, to classified employees for purposes including illness and quarantine (Educ. Code Sec. 88199).

Translation: your legal rights do not change, and the District does have the ability to grant longer absences if you are quarantined or sick due to an epidemic

Can a district force someone off work if s/he is suspected of being infected but is not officially quarantined by any health agency?

As stated above, in addition to other leaves a district provides, Education Code Sections 87765 and 88199 give districts discretion to grant paid leave to certificated and classified staff due to an epidemic – both for illness and quarantine. Therefore, if a district wishes to compel someone to take leave due to suspected illness or exposure, chapters should insist that such leave be paid under Section 87765 or 88199 and not be deducted from the employee's accumulated leave time.

Translation: if the District tells you to go home because you are sick, MEA will insist that you will still receive your salary

What if my contract requires a doctor's note after a certain length of absence?

Part of the CDC's advice is that those exposed to the virus self-quarantine and not see a doctor unless their condition worsens, requiring medical care. MEA will work with the district to allow flexibility so that unit members who are ill, or are caring for ill family members, do not have to leave their homes to acquire or present such notes and potentially infect others.

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leave due to illness for a school year of service (Educ. Code Sec. 87781). A prorated amount of leave is due to part-time faculty.

Employees who have exhausted all available and accumulated sick leave and continue to be absent for up to five months due to illness are eligible for differential pay leave (Educ. Code Sec. 87780 or 87786 for faculty employees and Sec. 88196 for classified employees).

Additional unpaid leave may be available under the federal Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Translation: same as illness, you maintain you do not lose your leave of absence rights.

Can a district force someone off work if s/he is suspected of being infected but is not officially quarantined by any health agency?

Education Code Sections 87765 and 88199 give districts discretion to grant paid leave to certificated staff due to an epidemic – both for illness and quarantine. If the District compels someone to take leave due to suspected illness or exposure, MEA will insist that such leave be paid under Section 87765 or 88199 and not be deducted from the employee's accumulated leave time.

Translation: the District can, but they must pay you

What if my contract requires a doctor's note after a certain length of absence?

Part of the CDC's advice is that those exposed to the virus self-quarantine and not see a doctor unless their condition worsens, requiring medical care. MEA works with the District to allow flexibility so that unit members who are ill, or are caring for ill family members, do not have to leave their homes to acquire or present such notes and potentially infect others.

Do I have to deliver curriculum while schools are closed?

The short and pointed answer is yes. Please continue to teach. If schools continue to deliver curriculum, we are less likely to have to make up any school days as per Title 5, Section 55002.5. It is my unsolicited advice to the District that if schools close, that teacher's meet for the in-service on Monday, the 16th so that sites can hear concerted messages for their administrator and plot respective courses. The entire day should be devoted to planning and converting curriculum to a more digital format. Let's have some patience in this area. None of us have taught through a pandemic.

Will I get paid during a school closure?

This is what CTA language states, "In the event of an emergency closure of District facilities, including but not limited to natural disaster, quarantine, or government order, unit members shall receive their daily rate of pay and benefits. If make-up days are required by law, the District shall negotiate said days with the Association."

Stay well and safe. I will keep you posted.

Brian