

Updated March 10, 2021



The information below is a courtesy provided to PAGE members by the attorneys in the PAGE Legal Department. The information does not constitute legal advice nor does it establish an attorney-client relationship. As always, we encourage members to contact the PAGE legal team directly with questions and concerns: Call 770-216-8555 or 1-800-334-6861 (then choose option 1) or send an email to legal@pageinc.org.

Though some of the issues listed below may have been resolved by time of publication, we include them here for reference should similar concerns arise moving forward.

Coronavirus Frequently Asked Questions

About Online Learning

Am I still responsible for keeping student information confidential?

Yes, to the best of your ability. To ensure that student confidentiality is maintained, it's important to follow your district's guidelines for online teaching. Only use approved systems to administer online content. Do not invite anyone into your class sessions that does not have an educational need to be there. Do not take and share screen shots of your classes for anything other than educational purposes.

Can I record my students?

Again, follow the districts requirements. Some districts require classes to be recorded while others do not allow classes to be recorded. When in doubt, ask your administrator.

Can I get in trouble for something a student, parent or admin sees on my screen?

Yes, it's important to remember that you are a professional and need to maintain the same professionalism on screen that you would maintain in your classroom. This includes, dressing professionally, controlling the sounds in the background, and controlling what can be seen in the background of your screen.

Does my duty to report abuse/neglect extend to things I see online?

Yes, you are required to report suspected abuse/neglect within 24 hours of any event that causes you to suspect abuse may be occurring. This includes things you may see online with your students.

If my community has high levels of spread of the virus, can the school board delay the start of school?

The school board does have the authority to delay the start of school due to community spread. In fact, some Georgia districts have already done this. Ultimately, it will be a local decision that should be made in accordance with the guidance developed by the Georgia Department of Education in collaboration with the Georgia Department of Public Health.

What is the best way to address safety concerns if I believe my district is not doing all it should to protect the employees?

If you have any concerns about the safety procedures put in place in your school, we recommend that you address these concerns with your principal and suggest specific solutions. Making your administration aware and having an open dialogue is imperative. If you are concerned about retaliation, put your concerns in writing in an email to your principal. Many times, your administration is just as concerned and looking for ideas to keep students and staff safe. If a principal dismisses your concerns without a response, you can then take your concerns up the chain of command.

Is it required that students and staff wear masks and follow social distancing guidelines while in the school building?

There is no state mandate for masks. Each local school system will have rules or procedures about wearing masks and/or face shields as well as procedures about social distancing. Educators who have concerns should wear their facemasks and/or face shields and talk with their principals about how this will be handled at their schools.

What should I do if my school system or school asks me to sign a waiver regarding the coronavirus?

Generally, we advise avoiding signing any waiver unless and until you have discussed the matter with an attorney. We do not believe that a district can require you to sign a waiver nor do we think a waiver would be enforceable if an employer is guilty of gross negligence. In addition, an employer cannot waive its responsibility under workers' compensation laws.

If you are asked to sign a waiver, do not sign it. You should be non-committal if you are asked whether you will eventually sign it. Be sure to contact the PAGE Legal Department as soon as

possible to discuss the matter with an attorney. You will probably be asked to submit a copy of the waiver to the department for review.

Can I be held liable by the parents if a child in my classroom gets coronavirus at school?

This is highly unlikely. So long as you follow the safety procedures put in place by your district, you will not be liable for resulting infections.

Can I be disciplined for being absent at this time?

Yes, if your absence is **unapproved**. To avoid this situation, an employee should always seek an approved leave by their supervisor or central office.

What is the FFCRA?

Important Note: The FFCRA expired on December 31, 2020. However, if a school district voluntarily decides to extend the leave benefits provided under the FFCRA, they may do so.

The Families First Coronavirus Response Act (FFCRA) is a federal law that provides two weeks of paid leave for employees in any of the following categories:

- 1- anyone subject to a federal, state or local quarantine order
- 2- anyone advised by a health care provider to self-quarantine related to COVID-19
- 3- anyone experiencing COVID-19 symptoms and seeking a medical diagnosis
- 4- an employee caring for an individual subject to (1) or (2).
- 5- an employee caring for a son or daughter if the school or place of care of the child is closed, or the childcare provider is unavailable, due to COVID-19 concerns
- 6- is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

Under categories 1-3, employees are eligible for 100 percent of their pay for two weeks. Under categories 4-6 employees are eligible for two-thirds pay for two weeks. Reason 5 qualifies employees for an additional 10 weeks of pay. Please see the following DOL flyer for more in-depth information.

What if my child's school or daycare closes due to coronavirus and I am required to report to work?

The FFCRA allows for 10 days of paid leave at two-thirds pay if an employee must care for a son or daughter if the school or place of care of the child is closed, or the childcare provider is unavailable, due to COVID-19 concerns. There is also up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or childcare provider is closed or unavailable for reasons related to COVID-19.

If I am diagnosed with coronavirus or if I have to be quarantined due to exposure to the virus, do I have to use my own sick leave time?

Under the FFCRA, the employee can utilize up to two weeks (80 hours) of **paid sick leave** at the employee's regular rate of pay when the employee is unable to work because the employee is quarantined pursuant to federal, state, or local government order, has been advised by a health care provider to self-quarantine, and/or is experiencing COVID-19 symptoms and seeking a medical diagnosis.

This means that employees do not have to use their own accrued sick leave for the first 10 days and will be paid their regular rate of pay. After the first 10 days, employees can use their own accumulated sick leave.

Can I use sick days if I have been near someone who was diagnosed with coronavirus?

Sick leave may be used when an educator is quarantined as a result of exposure to someone diagnosed with coronavirus. O.C.G.A. § 20-2-850 reads, in part, "Personnel may utilize sick leave upon the approval of the local school superintendent or an appointed designee for absence due to illness or injury or necessitated by exposure to contagious disease or to illness or death in the immediate family."

Under the FFCRA, employees are provided with ten days of paid sick leave that is not deducted from their personal sick leave account, but if you are not experiencing symptoms, yet are worried because you have been near someone with COVID-19, you must get a health care provider to advise you to self-quarantine in order to qualify for these ten days.

What kind of documentation do I have to provide for absences?

That depends on the reason for the absence. If, for example, the absence is due to injury, illness, temporary disability or exposure to contagious disease, or if a family member has one or more of those ailments, you should have a doctor's note just in case. While your employer may or may not ask for documentation, it has the right to do so if you seek to use sick days.

What accommodations must a district provide if an employee has a disability or underlying health issues?

The Americans with Disabilities Act (ADA) states that employees may ask their employers for reasonable accommodations for health issues. Generally, you will need a letter from your doctor stating what your health issue is and what accommodations you will need. An accompanying letter from you specifically requesting the accommodation is encouraged. As an initial matter, the request is sent to your principal. Once the accommodation request is submitted with all necessary documentation, the duty falls on the employing school system to

engage in an interactive process with the employee regarding the request. This can include follow up questions about the request, requests for additional medical documentation, and/or proposed accommodations from the employer's end. The goal is for the employer and the employee to communicate and come to a consensus on accommodating the employee's medical needs.

Can a district cut a contracted employee's pay?

Due to the global pandemic and the economic fallout, the General Assembly approved the state budget, which included a \$950 million cut to Quality Basic Education Fund (QBE). These cuts may result in districts making some hard decisions that could include furloughs, salary freezes, or reductions in staff. We recommend that you attend your local board meetings to stay abreast of budget decisions that are being considered and let your voices be heard. The PAGE Legal Department would need to review your contracts to determine the legality of these decisions.

Am I eligible for unemployment benefits?

Employees who lose their jobs through no fault of their own are eligible for unemployment benefits. Unemployment benefits are managed by the Georgia Department of Labor. For more information on coronavirus and unemployment benefits, see this link from the Georgia DOL: <https://dol.georgia.gov/gdol-covid-19-information>

Will worker's compensation cover coronavirus/COVID-19?

Possibly. With any worker's compensation case, the claimant will have to prove causation. This would mean sufficiently proving that the claimant contracted the virus at work or during the course of employment. This may prove difficult with the rate of exposure to the virus becoming higher as time goes on. In Georgia, if the claimant feels like he/she came into contact with the virus at work, the first step is to notify the employer within 30 days. If the claim is rejected by the employer, the claimant can file a claim with the State Board of Workers' Compensation. The success of these claims is still a developing body of law. For more information on Worker's Compensation, see this link from the State Board of Worker's Compensation: <https://sbwc.georgia.gov/frequently-asked-questions/workers-compensation-law-faqs>

What should I do if a child in my classroom tests positive for coronavirus?

Employees should follow their building and district procedures for reporting positive tests. Employees should refrain from sharing health records, including positive COVID-19 test results of students, with any party that does not have a right to know. Doing so could violate the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA).

Am I obligated to report that a child in my classroom has symptoms of coronavirus?

Districts may have policies that address the reporting of a child who has symptoms of coronavirus. Where a district or building administrator has provided a directive or procedure to report, an employee is obligated to report and should follow that procedure. Where the district is silent, it is still best practice to give notice of a student showing symptoms of coronavirus to your building administrator and/or school nurse.

How many TKES evaluations will I receive this year? Will I receive a Summative evaluation?

The Georgia Department of Education suspended TKES evaluations for 2020-2021. The GaDOE, however, will leave the TKES platform open for school systems to use as they wish. No evaluations will be reported to the state for the year. For the state superintendent's press release regarding TKES for 2020-2021, click here: <https://gov.georgia.gov/press-releases/2020-06-18/gov-kemp-gadoe-issue-joint-statement-georgia-will-seek-standardized>

Will I be penalized by the GaPSC if I have to get out of my contract due to coronavirus concerns?

That depends on how one ends a contract. If an educator is released from their contract or the employer accepts their resignation, the GaPSC will not take action. If the educator unilaterally terminates the contract and is reported to the GaPSC, they will likely be investigated. Please call the PAGE Legal Department if you believe you need to get out of your contract.

What should I do if I have more questions?

Call the PAGE Legal Department at 770-216-8555 or 800-334-6861 (then choose option 1) or email us at legal@pageinc.org.

Published July 28, 2020

Updated January 22, 2021

Updated March 10, 2021