



GENERAL INFORMATION BULLETIN

January 11, 2021

GIB No. 4-21

RECENT DEVELOPMENTS ON COVID ISSUES

Action for Chapter Presidents: Please share the latest information concerning classified employees' rights during the COVID-19 pandemic with members of your chapter.

A. SUBJECT MATTER

Throughout the COVID-19 pandemic, CSEA has provided answers to frequently asked questions about members' health and safety, their rights on the job and bargaining options for chapters. As we enter the second calendar year of the pandemic, new questions about vaccines, testing, quarantines, stimulus funding, and legal challenges are addressed below.

1. Vaccine/Testing

Can my employer require I get vaccinated?

Yes, if it has bargained first with CSEA over such a requirement AND you do not have a disability or religious objection. If you do, your employer would by law have to first engage in an interactive process with you and provide reasonable accommodation. In many classified positions, the only accommodation achievable will be an unpaid leave of absence.

In bargaining over such a proposed employer requirement, CSEA would push (for example) for confirmation of your legal right to lost pay and medical expenses if the vaccine were to cause you a severe allergic reaction (which are fortunately very rare). To date, no CSEA employers have insisted on vaccinations (as most employees are eager to receive one). For more info, contact your Labor Relations Representative (LRR).

Can I be required by my employer to get tested for COVID in order to be allowed to work?

Yes, if the employer has bargained first with CSEA. The EEOC has held that this is not an illegal invasion of medical privacy. For more info, contact your LRR.

2. Quarantines/Leave Status

Am I entitled to pay if I have to stay home because I was exposed to someone who tests positive for COVID?

Yes, the new Cal/OSHA regulation on COVID requires the employer pay for an employee to stay home if they have an exposure to a positive case within 6 feet of more than 15 minutes within 24 hours. However, the regulation allows employers to require use of sick leave, which is unlike the situation this past fall where federal law required employers provide an added 80 hours of paid COVID leave on top of existing sick leave. This law (the FFCRA) expired December 31, 2020. CSEA's Governmental Relations Department is working with

other unions and legislators to extend these leave rights. CSEA's Field Operations Department is negotiating with districts to continue the 80-hour leave provisions. For more information, contact your LRR.

Am I entitled to leave if my district wants me to return to work but I still don't have childcare due to my childcare provider (or child's school) still being closed?

The federal law requiring employers provide paid leave for this purpose (the FFCRA) expired December 31. However, some districts will allow their employees to use other paid leaves for this purpose. Also, California Labor Code section 230.8 requires certain larger employers provide unpaid leave of up to 40 hours for childcare emergencies, and probably applies to school districts. For more information, contact your LRR.

Can my employer make me stay home and quarantine just because I traveled out of state? If so, do they have to pay me?

First, under Educational Employment Relations Act (EERA), an employer must bargain with CSEA over such a new requirement before unilaterally imposing it. Second, the underlying requirement is subject to legal challenge under California Labor Code sections 96(k) and 98.6, which bar adverse actions against employees "for lawful conduct occurring during nonworking hours away from the employer's premises." However, courts have interpreted these statutes more narrowly as designed to protect political activities. There is also a constitutional right to interstate travel, but it involves a balancing test weighing the interests of the employer against those of the employee. Given the health threats from travel (airplane travel in particular), a legal challenge might not be successful, but districts would risk paying penalties and legal fees if they guess incorrectly that an unpaid travel quarantine is lawful. Contact your LRR immediately if you hear of your district trying to require an unpaid travel quarantine.

3. Stimulus Funding

Does the December 2020 stimulus bill contain any money to help districts?

Yes, while the Republicans refused to provide additional funding to states, this bill provides significant additional funds for any district which receives Title I money (the vast majority of districts). The Elementary and Secondary School Emergency Relief (ESSER) funding for districts provided earlier in 2020 under the CARES Act has been roughly quadrupled by the stimulus bill. There are some limits on how these ESSER funds can be used, but the permissible uses are quite broad. For more information, see the [California Department of Education website](#) and contact your LRR.

Does the stimulus bill impact classified employees in any other way?

The bill does NOT extend the paid leaves provided earlier in 2020 by the Families First Coronavirus Relief Act (FFCRA), but merely extends some tax credits for private employers. The bill does augment unemployment benefits by \$300/week for 11 weeks and extend unemployment benefits for independent contractors. The bill also provides a stimulus check of \$600 per household member, with certain income limits. If, like most people, you pay the IRS through your bank account, this money is going straight into your account. If you haven't seen it yet, then a good summary of how to collect these funds has been posted by the AARP at <https://www.aarp.org/money/taxes/info-2020/irs-timeline-to-send-stimulus-funds/>.

4. Legal Changes

Are there any legal changes effective in January 2021 that I should know about?

Yes. The state minimum wage went up from \$13/hr to \$14/hr for employers with more than 25 employees. Family leave rights have been extended in California to include time off to take care of sick grandparents, grandchildren, siblings and domestic partners. Also, the small employer exemption was reduced from 50 employees down to 5 employees (SB 1383). For more information, contact your LRR.

5. Additional Information

Additional answers to frequently asked questions about classified employees and the coronavirus are available at www.csea.com/cvfaq

B. REQUIRED ACTION

By Chapter Presidents, Regional Representatives and Labor Relations Representatives: For discussion at chapter meetings and RPMs.

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION



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PREVIOUS BULLETIN INFORMATION:

GIB 3-21, dated 1/8/21, and titled "Life Member Honor Roll" was given general distribution.