Frequently Asked Questions Regarding Educators and Coronavirus/COVID-19 – Emergency Paid Sick Leave Act

If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless you elect to use existing vacation, personal, or medical or sick leave under your employer’s policy. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

What documents do I need to give my employer to get paid sick leave or expanded family and medical leave?
When requesting paid sick leave or expanded family and medical leave, you must provide your employer either orally or in writing the following information:

• Your name;
• The date(s) for which you request leave;
• The reason for leave; and
• A statement that you are unable to work because of the above reason.

If you request leave because you are subject to a quarantine or isolation order or to care for an individual subject to such an order, you should additionally provide the name of the government entity that issued the order. If you request leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice, you should additionally provide the name of the health care provider who gave advice.

If you request leave to care for your child whose school or place of care is closed, or child care provider is unavailable, you must also provide:

• The name of your child;
• The name of the school, place of care, or child care provider that has closed or become unavailable; and
• A statement that no other suitable person is available to care for your child.

In addition to the above information, you must also provide to your employer written documentation in support of your paid sick leave as specified in applicable IRS forms, instructions, and information.

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA if required by your employer.

If I am or become unable to telework, am I entitled to paid sick leave or expanded family and medical leave?
If your employer permits teleworking—for example, allows you to perform certain tasks or work a certain number of hours from home or at a location other than your normal workplace—and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for paid sick leave, then you are entitled to take paid sick leave.

Similarly, if you are unable to perform those teleworking tasks or work the required teleworking hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, then you are entitled to take expanded family and medical leave. Of course, to the extent you are able to telework while caring for your child, paid sick leave and expanded family and medical leave is not available.

What do I do if my public sector employer, who I believe to be covered, refuses to provide me paid sick leave or expanded family and medical leave?
If you believe that your public sector employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act or expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act, the Department of Labor encourages you to raise your concerns with your employer in an attempt to resolve them. Regardless whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you paid sick leave or expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit www.dol.gov/agencies/whd. Your call will be directed to the nearest WHD office for assistance to have your questions answered or to file a complaint.

Click here for more information provided by the United States Department of Labor.