



**ATTORNEY CLIENT PRIVILEGED COMMUNICATION
ATTORNEY WORK PRODUCT
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**NJEA LEGAL SERVICES
COVID-19 WORKDAY CHANGES AND THE CONTRACTUAL IMPLICATIONS
FREQUENTLY ASKED QUESTIONS**

This document discusses the impact of possible workday changes on contractual matters. Please refer specific questions to your local association leadership and your UniServ field representative.

Question: Students may be eating lunch in their respective classrooms. If our contract provides teachers with a duty-free lunch period, can we be directed to take our lunch period in the classroom with students?

Answer: In order to minimize interaction between students in different classes/clusters/cohorts, some districts may require that students eat lunch in their respective classrooms rather than in the cafeteria. This may impact members' contractual duty-free lunch periods. Creating a requirement that students eat lunch in their classrooms is likely within the authority of a school board, particularly during an emergency situation. Moreover, school boards have a managerial prerogative to assign staff to supervise students during emergencies, even if those assignments infringe upon lunch and preparation periods. However, to the extent that this change interferes with a member's duty-free lunch period, the impact of requiring students to eat lunch in their classrooms is negotiable.

As the impact of such a change is mandatorily negotiable, local associations should review the district's reopening plan, if available, or seek answers from the district on what the plan is for student lunch periods and whether the plan accommodates teachers' contractual duty-free lunch periods. If the plan appears to interfere with teachers' duty-free lunch periods, local associations, with the support of their UniServ field representatives, should demand to negotiate the impact of the change. Such negotiations could involve additional compensation or relief to allow teachers to have a duty-free lunch period elsewhere. If a district refuses to negotiate on this issue, field representatives may decide to contact a network attorney about the possibility of filing an unfair labor practice charge with PERC.

As many of the issues in this guidance concern potential CNA violations, local associations and field representatives also have the option to file grievances for contract violations. Even if an unfair labor practice is being filed, local associations may wish to file grievances to ensure that the right to file same is not waived.

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Question: Our contract has a set start and end time for the school day, with a specified amount of student contact time. If our district imposes a staggered start/end to the school day, will we be required to work beyond the contracted hours of work? Are we required to arrive before the contracted hours?

Answer: One method a school district may adopt to maximize social distancing between students is to stagger the start and end times of the school day so that less students are entering and exiting the school building at the same time. A school district has the authority to change the start and end times of the school day for students, especially if the reasoning is for the health of students and staff. However, the length of a teacher's work day is a core term and condition of employment and is mandatorily negotiable. Accordingly, any change to teachers' work hours would have to be negotiated prior to taking effect.

Local associations should review the district's reopening plan, if available, or seek answers from the district on whether they are planning to stagger start and end times and whether that may affect employees' contractual work hours. If so, local associations, with the support of their field representatives, should demand to negotiate on this term and condition of employment. If a district refuses to negotiate on this issue, field representatives may decide to contact a network attorney about the possibility of filing an unfair labor practice charge with PERC. Additionally, the local association may file a grievance.

Question: Will teachers be permitted to have more or less student contact time than what our contract states?

Answer: With changes to school schedules (start and end times, switching between in-person and remote learning on a daily or weekly basis), teachers' student contact time could be affected. Student contact time is a term and condition of employment and any proposed changes must be negotiated with the local association.

Local associations should seek answers from the district on whether teachers' student contact time or work load will be increased or otherwise altered by proposed reopening plans, and if so, demand to negotiate on this term and condition of employment. If a district refuses to negotiate on this issue, field representatives may decide to contact a network attorney about the possibility of filing an unfair labor practice charge with PERC. Additionally, the local association may file a grievance.



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Question: Can special area/special services employees refuse to travel to each class for instruction or to provide services if they believe they are being put at a higher risk for exposure?

Answer: Not necessarily. Absent other factors, a special area/special services employee may be required to travel to different classes to provide instruction or services, especially if the district's reopening plan seeks to keep students in their own clusters or cohorts to limit contact and increase social distancing within the school building. Refusal to perform one's job functions, even during this public health crisis, may result in disciplinary charges against a member.

If an employee suffers from a documented health condition that may require a workplace accommodation related to this scenario, such as not travelling between classrooms or working remotely, they should obtain medical documentation of the condition and speak with local leadership and/or a field representative to discuss possible accommodations. For more detailed information concerning accommodations, please refer to NJEA Legal Services' "Accommodations for Return to School During Covid-19" guidance.