

**ATTORNEY CLIENT PRIVILEGED COMMUNICATION
ATTORNEY WORK PRODUCT
DO NOT FORWARD OUTSIDE NJEA MEMBERSHIP**

**NJEA LEGAL SERVICES
MEDICAL SURVEYS, SCREENINGS, AND HEALTH
RELATED CONCERNS DURING COVID-19
FREQUENTLY ASKED QUESTIONS**

This document discusses frequently asked questions regarding employer surveys, screening, and other health related concerns. Please refer specific questions to your local association leadership and your UniServ field representative.

Question: My employer has asked me to complete a survey about whether I have Covid-19 symptoms or exposure to Covid-19. Am I required to complete the survey?

Answer: Yes, the Equal Employment Opportunity Commission, the agency that enforces federal anti-discrimination laws has issued guidelines which state that during a pandemic, you can be required to complete a survey or report Covid-19 symptoms or exposure to your employer prior to your return to work and after you return to work, as frequently as your employer requires it. Your responses to the survey should be treated as a confidential medical record.

Question: The district has asked the local association to conduct a medical survey of its members. Should the local survey its members?

Answer: No. The local should not be involved in creating, conducting, or distributing these surveys to its members.

Question: My employer has asked me to complete a survey about whether I have a medical condition that will impact my ability to return to work in person, or whether I will need a workplace accommodation and/or leave time if and when schools return to in-person instruction. Must I answer these survey questions?

Answer: Unless you have made a formal request for an accommodation or leave time, you are not required to provide medical information in connection with a workplace survey. Consequently, you are not required to share with your employer in advance of making a request whether you plan to request a leave or accommodation. Only when you formally make a request for a leave or accommodation must you provide information related to the leave or accommodation. If you are asked to complete a survey that would require you to notify the district in advance of your plans to seek an accommodation or leave, you should contact your local union representatives and seek guidance about whether to respond to the survey before you do so.

If you do intend to request an accommodation or leave, you should notify your district as soon as you are aware of your need. The more lead time you give your employer before school starts, the more likely you will have the issue resolved in time to make the smooth transition back to work. Any time you request a medical accommodation or leave time pursuant to sick leave, family leave

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or the Families First Coronavirus Relief Act, the medical information that you may share in connection with those requests is confidential medical information.

Question: Must I submit to screening conducted by my employer in the form of temperature checks, symptom checks and symptom surveys?

Answer: Yes. In the current climate during a pandemic, your employer may conduct these screening checks to determine if you have symptoms of Covid-19.

Question: What questions may my employer ask in connection with these screening questions?

Answer: Your employer may ask questions related to any symptoms of Covid-19 known to the medical community at the time the screening is conducted. Your responses should be treated as a confidential medical record. As the medical community learns more about Covid-19, the list of allowable screening questions may change. For a current list of Covid-19 symptoms recognized by the Center for Disease Control (CDC), visit this link: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.

Question: Must I submit to a Covid-19 test conducted by a medical professional as required by my employer?

Answer: Yes. Unless you have a valid medical reason that is documented by a medical professional opining that you are unable to take a Covid-19 screening test, you must submit to a Covid-19 screening test if requested by your employer. The test and subsequent negative result can be a prerequisite before you are required to return to work. If you have a medical reason not to take the Covid-19 test, you should speak with your union representatives as you may be excluded from school if you are unable to establish that you are negative for Covid-19.

Question: If I test positive for Covid-19 during one of these screenings, can I be excluded from work?

Answer: Yes. You can be excluded from work if you test positive for Covid-19 during a routine screening.

Question: May my employer disclose to public health authorities that I tested positive for Covid-19?

Answer: Yes. Your employer should disclose to public health authorities that you have tested positive for Covid-19. However, your employer may not disclose to other school employees or the community that you tested positive for Covid-19. Your employer, under the direction of public health authorities, may disclose to other employees that they have been exposed to someone that has tested positive (such as someone working in the same building or wing), but they cannot reveal your identity or identifying details to other employees.

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Question: My employer is requiring me to wear a mask and/or other personal protective equipment while I work. Can my employer require that I wear the PPE?

Answer: Yes. Your employer can require that you wear PPE at the present time. The employer must provide you with the PPE. You are not required to provide or to pay for PPE that the employer has required that you wear. If you have a medical condition that renders you unable to use PPE, you should speak with your union representatives immediately to discuss your options and whether you are entitled to a workplace accommodation.

Question: If I call out sick may my employer ask questions about whether I have symptoms of Covid-19?

Answer: Yes. Your employer has a duty to protect other employees and students from Covid-19 and can ask you if you suffer from any Covid-19 symptoms. Your employer must keep your answers to these questions confidential as they constitute your medical information. The laws which protect against disclosure of your private medical information still apply to your Covid-19 information.

Question: If I am excluded from school due to Covid-19 or suspected Covid-19, will I be paid?

Answer: The paid time off available to you may include time under the Families First Coronavirus Recovery Act (FFCRA), sick time, vacation time or personal time. You should request to use your paid leave under FFCRA first, as it will expire as of December 31, 2020, and you are permitted to use FFCRA leave prior to using your contractual paid time off. You should also check with your local union representatives to see if there is any additional paid leave available to you, as this may change based on the applicable contract. If you do not have paid time off available to you, you may be entitled to take unpaid New Jersey Family Leave or federal Family Medical Leave time so that your health benefits do not lapse during your unpaid absence. You may be required to provide proof of your recovery or recovery of your sick family member before you return to work.

Question: May my employer require me to engage in precautions like washing my hands or using hand sanitizer?

Answer: Yes. Your employer may set reasonable work rules which require you to wash your hands or use sanitizer during your work day.