

Texas AFT Coronavirus FAQs

The answers to these questions are based on current law as of March 17, 2020. Subsequent events, including but not limited to congressional action to address the pandemic, may alter the answers to these questions.

Who makes the decision to close a school district due to coronavirus infections or concerns?

The decision is made by the local school district, the local health authority, Texas Department of State Health Services or the Governor of Texas. The superintendent may act to close schools on a temporary basis without school board action. The Commissioner of Education does not have the authority to close schools for health-related reasons.

Will I get paid if my school district or campus is closed?

If you are a teacher or other employee who has an employment contract, you are legally entitled to be paid in accordance with the contract. A contract between a school district and an educator must be for a minimum of 10 months service, or 187 working days.

The situation is different if you are a support or classified employee, such as a paraprofessional, clerical, or cafeteria worker. Hourly, non-exempt employees are not legally entitled to be paid for days that they do not work and are not off on some type of authorized leave. The school board may take action to pay such employees who are not working through no fault of their own. The school board would have to adopt a measure providing for pay under such circumstances.

In the event of closure, could the Commissioner reduce the number of days of required service currently required by law?

While Tex. Education Code Section 25.081(b) allows the Commissioner to reduce the minimum number of school days during the school year due to a “disaster” or “calamity,” this action on the Commissioner’s part “does not reduce an educator’s salary.” Tex. Educ. Code Section 21.401(c).

In the event of closure, could the Commissioner reduce the number of minutes per year that schools are currently required by law to operate?

Under Tex. Educ. Code Section 25.081(b), the Commissioner may approve the operation of schools for fewer than the number of minutes required by law due to a “disaster” or “calamity” through a waiver. Currently, the required number of minutes is at least 75,600 minutes. TEA has indicated that it will require schools to make up the first two days of closure by using bad weather, make-up days or adding additional minutes per day. If the school has closed due to coronavirus, the Commissioner has stated that he will grant waivers, up to the waiver cap of 4,200 minutes, provided that the district commits to supporting students instructionally while at home. TEA General Guidance, March 12, 2020.

May a school district require employees to attend work even if students are not present?

Yes.

If the school district alters its instructional calendar, can teachers and other employees be compelled to work make-up days?

Generally, teachers and other contract employees may be required to work the number of days specified in their contracts, and by the school calendar and other work schedule documents adopted by the school district prior to the beginning of the school year, without additional pay. However, this could vary depending on specific facts. Members faced with this situation are advised to contact their local union for a more detailed analysis.

May a school district require teachers and other contract employees to work beyond the number of days/months specified in their contracts without additional pay?

There is case law stating that if a district requires a teacher to work beyond her last scheduled work day without additional pay, it is a breach of contract. *North East ISD v. Kelley*, 2010 WL 5019850 (Tex. App. – Austin 2010, pet. rev. denied, 2011). This requires a review of the contract and related documents. Members faced with this situation are advised to contact their local union for a more detailed analysis.

What if my district/campus is open but I do not wish to come to work because of coronavirus concerns, although no one at the campus has been diagnosed with the virus.

Do I have to go to work? Generally speaking, if an employee chooses not to attend work while school is in session and the employee is not eligible for leave, the employee would be subject to disciplinary action. As far as eligibility for leave is concerned, this situation would be governed by your school district's local leave policy. In districts that subscribe to TASB's policy service, this is DEC (Legal) and (Local), and may be accessed through your district's website. In order to use the leave that is provided by your school district, you will need to satisfy your district's policy for use of leave, such as providing medical certification.

What if my district/campus is open, no one at the campus has been diagnosed with the virus, but I am at high risk for infection? If you have a medical condition that puts you at particular risk, you are advised to obtain medical certification of this fact. Under the Americans with Disabilities Act, the school district must accommodate physical and mental impairments. Under these circumstances, the district may be obligated to grant you leave, either paid if you have paid leave available or unpaid if you do not. Additionally, depending on the specific facts, an employee may be eligible for Family Medical Leave Act (FMLA) leave for a serious medical condition. FMLA provides for 12 weeks of unpaid leave to take care of your own serious medical condition or to take care of someone in your immediate family. You should review your district's FMLA policy for the terms and conditions for taking FMLA.

If I get the virus because of exposure at work, would I be eligible for workers compensation? You may be eligible for worker's compensation for a work-related illness. However, you would need to establish through medical documentation that you contracted the illness through exposure at work, as opposed to off-duty. If this occurs, you should contact the district immediately to make them aware of your illness and get information about how to file a claim.

What if a student comes to school and I suspect the student might be ill with coronavirus?

You should immediately contact the school nurse and/or the central office. You should refrain from communicating your suspicions or any health related concerns to other students or their families. Refer questions from others to the central office. A school district may exclude a student for attending school if the student shows symptoms of a communicable disease, including a fever, and not let them return to school until the student is cleared to return. 25 Tex. Admin. Code Section 97.7.