

Distribution of this Bulletin

Please ensure this bulletin is circulated to all administrative staff in both the district office and schools as appropriate.

COVID-19: Issues and Resources

NOTE: The information and advice in this bulletin is subject to review and amendment as matters related to COVID-19 continue to evolve.

Broader Public Sector Coordinated Framework — School District Questions

Today the provincial government declared a [provincial state of emergency](#) to support the province-wide response to the COVID-19 pandemic:

“Declaring a state of emergency allows the Province, through the minister, to implement any provincial emergency measures required with access to land and human resource assets that may be necessary to prevent, respond to or alleviate the effects of an emergency. This includes securing the critical supply chains to make sure people have access to essential goods and services, and that infrastructure necessary in a response is readily available....

The state of emergency is initially in effect for 14 days, once issued, and may be extended or rescinded as necessary. The state of emergency applies to the whole province and allows federal, provincial and local resources to be delivered in a coordinated effort.”

As you know, the provincial government announced on March 17 that, “Under the direction of the Provincial Health Officer, the Minister of Education has suspended in-class instruction in all schools until further notice.”

BCPSEA is working within a coordinated framework with organizations across the broader BC public sector facilitated by the Public Sector Employers’ Council (PSEC) Secretariat as well as the Ministry of Education. Please forward any questions you may have to your BCPSEA [labour relations liaison](#).

We continue to review the broader employment-related implications as well as specific questions from districts regarding, for example, if and under what circumstances to pay employees, which employees will be required to work, etc. We will provide responses to districts’ questions as issues are considered and responses determined. **In order to respond to certain questions BCPSEA will need to understand the district’s specific plan for continuity of learning in light of the suspension of in-class instruction.**

BCPSEA will be contacting districts individually through their BCPSEA labour relations liaison and will also be scheduling regional conference calls. A “frequently asked questions” document and information on the conference calls will follow shortly.

Please note that BCPSEA is also engaged in discussions at the provincial level with the BC Teachers' Federation and representatives of support staff unions, including the Canadian Union of Public Employees, to keep them apprised of our advice and recommendations to districts.

❖ Sick Employees

Employees who are exhibiting symptoms of illness, whether they are diagnosed with COVID-19 or any other illness, would access the sick leave available to them in the normal manner. The Provincial Health Officer (PHO) is asking employers to permit employees to access sick leave without requiring a medical note in order to avoid undue stress on the health care system. Given the PHO's request, districts' normal practices and/or collective agreement requirements will not apply on a without prejudice and precedent basis.

Prior to returning to work, employees who have been diagnosed with COVID-19 or any other illness requiring an extended absence from work **should present the district with medical clearance from a recognized medical practitioner that they are healthy and able to safely return to work.**

❖ Employees who have recently returned from international travel

[The PHO issued a recommendation on Thursday, March 12](#), "against all non-essential travel outside of Canada, including to the United States."

On Tuesday, March 17, an [Order of the Provincial Health Officer](#) was issued regarding **international travel and the requirement to self-isolate for 14 days upon return.**

Travel to the United States includes travel of short duration across the border; e.g., to fill up with gasoline, pick up parcels, purchase groceries, etc.

- **Asymptomatic employees who travelled BEFORE the PHO non-essential travel recommendation:** Where possible, employers should consider whether having the employee work from home is a viable option within any current policies that may be applicable.

If working from home is not a viable option, employers may permit employees to access available sick leave banks **on a without prejudice or precedent basis**, given that self-isolation was not avoidable.

It is strongly recommended that prior to granting paid sick leave, districts notify their local union in writing that the access to sick leave for unionized employees in this circumstance is without prejudice and precedent to interpretation of the collective agreement, and will be subject to review as issues related to the COVID-19 pandemic continue to evolve.

- **Asymptomatic employees who travelled AFTER the PHO recommendation:** If an employee chooses to ignore the recommendation and continues to travel out of the country, upon their return they will be required to self-isolate; i.e., stay away from work for 14 days, and they may need to access the vacation or unpaid leaves of absence available to them. We realize that in many cases, this will mean that teachers who do not have "vacation" banks may be on leave without pay. This is the common approach across the broader public sector. There may be individual nuances that employers may wish to consider on a case by case basis, including such issues as the date the employee departed; e.g., how long after the PHO recommendation did they depart and did they have a reasonable amount of time to change their travel plans.

❖ **Asking employees to provide their travel information**

Employers may have to collect, use, and disclose personal information in order to prevent or manage the risk and/or reality of COVID-19 in the workplace. As a measure to ensure the health and safety of the workplace and administer its collective and other employment agreements, employers may request basic information about employees' travel plans to confirm whether employees have travelled internationally and the dates of any international travel without violating privacy laws.

You will want to ensure that when requesting such information from employees, you are clearly explaining the purpose of the request, which is to maintain the health and safety of the workplace.

It may not always be possible to provide notice of a COVID-19 transmission risk without expressly or implicitly identifying the individual source of the risk. As an exception, privacy legislation permits the use and disclosure of personal information without knowledge or consent in an emergency that threatens the life, health, or security of others. Determining whether an "emergency" exists should be made on consultation with a recognized medical authority and legal counsel.

❖ **Asymptomatic employees who believe they may have been exposed to COVID-19 and have not travelled internationally**

Employees who believe they have been exposed to COVID-19 should be directed to call 811, their primary medical practitioner, or their local regional health authority to obtain and follow the medical direction provided. If the employee is instructed by a recognized medical authority to self-isolate, the employer can either direct the employee to work from home if that is a viable option OR the employer can permit access to the available sick leave bank on a without prejudice or precedent basis, given that self-isolation was not avoidable. The employer can also consider providing a general paid leave depending on the individual circumstances.

Employees should be directed to keep the employer updated regarding the status of any medical assessment or direction they receive from a recognized medical practitioner. If an employee is not responsive to the employer's requests or if there is concern about the employee's need to self-isolate, the district should contact their BCPSEA labour relations liaison for assistance.

❖ **Asymptomatic employees who have not been exposed to COVID-19 but are expressing discomfort and anxiety about being at work due to pre-existing health issues**

Asymptomatic employees who have not been instructed by a recognized medical authority to self-isolate may be permitted to work from home if that is a viable option. If working from home is not a viable option, the employer may consider permitting the employee to take an unpaid leave of absence or to access vacation leave. Depending on the individual circumstances, the employer may also consider providing a general paid leave of absence for a defined period of time, which would be subject to review at a specified date.

❖ **Employers' obligations to communicate to employees**

This is a reminder that employers have an obligation to provide a safe and healthy workplace under the *Workers Compensation Act* and the *Occupational Health and Safety Regulation*. This includes taking reasonable and responsible measures to protect employees, such as:

- information about workplace hazards and risks, subject to privacy obligations
- information about how to mitigate those risks including handwashing, sanitizing, recommended prevention measures
- communicating the expectation that all employees will follow the direction of public health officials, including avoiding all non-essential international travel and general and specific self-isolation directives
- training, assistance, or supervision to ensure employees can safely perform their work.

Next Steps and Questions

As noted above, BCPSEA is engaged in provincial-level coordination with the Public Sector Employers' Council Secretariat, the Ministry of Education, and other public sector organizations. As this situation continues to evolve, employers should check public health information regularly.

We also encourage frequent communication with your employees.

If you have any questions at this time, please contact your [BCPSEA liaison](#). As also noted on page one of this bulletin, BCPSEA will be arranging regional conference calls and providing further updates. More information will follow shortly.

Attachment for ease of reference: BCPSEA e-mail to school districts, Friday, March 13, 2020

Resources

- [811 — HealthLinkBC](#) (provincial health information phone line operated by the Ministry of Health)
- [BC Provincial Health Officer](#)
- [BC Centre for Disease Control](#)
- [BC Ministry of Health](#)
- [Regional Health Authorities](#)
- [Health Canada](#)
- [Government of Canada travel advisories](#)
- [Employment Standards Act](#)
- [WorkSafeBC](#)
- [Harris Workplace Law bulletins](#)
- [Roper Greyell bulletins](#)

Attachment for ease of reference: E-mail to school districts Friday, March 13, 2020

We have just completed a call with the Public Sector Employers' Council (PSEC) Secretariat and the other public sector employers' associations. Following is the interim guidance provided:

- **It is important to communicate to all employees that they are expected to comply with the recommendations of the Provincial Health Officer (PHO) including the recommendations with respect to out of country travel** and further, that employees also have obligations under the *Workers Compensation Act* to take reasonable care to protect the health and safety of themselves and others in the workplace — there are basic expectations during the current public health crisis and **there may be consequences if employees fail to comply with these expectations.**
- Given [the PHO's recommendation issued Thursday, March 12](#), “against all non-essential travel outside of Canada, including to the United States,” if an employee chooses to ignore the recommendation and continues to travel out of the country, upon their return they will be required to stay away from work for 14 days and they may need to access the vacation or unpaid leaves of absence available to them. We realize that in many cases, this will mean that teachers who do not have “vacation” banks may be on leave without pay. There may be individual nuances that employers may wish to consider on a case by case basis, including such issues as the date that the employee departed; e.g., how long after the PHO recommendation did they depart and did they have a reasonable amount of time to change their travel plans. We also recognize that there is varying (if any) collective agreement language that may be applicable to these circumstances and we will provide further information once we have had the opportunity to do a fulsome review. Please call your BCPSEA labour relations liaison if you need assistance with interpretation of your language.
- Flowing from employees' obligations under the *Workers Compensation Act*:
 - Before coming to work, employees should seek specific advice from public health officials (such as by contacting 811, public health authority, or other public health office) if they may have symptoms of COVID-19, have been in direct contact with a person who is or may be infected with COVID-19, and/or have been in direct contact with a person who has travelled internationally within the last 14 days.
- Further to our communication to districts yesterday (attached again for ease of reference), districts are advised that they are not to sign any Letters of Understanding that may be provided to them by their local unions.

As a measure to ensure the health and safety of the workplace and administer its collective and other employment agreements, employers may request basic information about employees' travel plans to confirm whether employees have travelled internationally and the dates of any international travel [without violating privacy laws](#). You will want to ensure that when requesting such information from employees, you are clearly explaining the purpose of the request, which is to maintain the health and safety of the workplace. We will work over the March break to gain greater clarity on what this might look so that you will be equipped to address this issue with your employees prior to school opening.