

OSSTF COVID-19 GENERAL FAQ

August 17, 2020

NOTE: This FAQ and all FAQs issued by OSSTF are a starting point for identifying potential hazards in any workplace, and non-exhaustive. Specific questions should always be referred to your local representatives and if necessary to Province Office for further guidance and to keep the Federation informed.

1. If there is an outbreak, does the whole class or the entire school have to quarantine?

This will be decided on a case-by-case basis with direction coming from the local public health unit to the employer. Members should inform their local bargaining unit if they believe unsafe quarantine procedures have been implemented.

2. If a member has to quarantine, are sick days being used?

If there is quarantine language in the CA and the situation meets the criteria, that language should be followed. Sick leave may also be another option based on the facts of the case.

3. If a member contracts COVID-19, is it a WSIB claim if there was COVID in the school?

If the member feels they contracted the virus through work, members are encouraged to fill out the appropriate WSIB forms.

4. Can a member be accommodated with work from home (because of a medical condition, or if a dependent has a compromised immune system)?

This will depend on the nature of the medical condition, documentation of same, and the availability of work with a particular employer. If the member has a medical condition, a Functional Abilities Form, or similar document for non-school board employers, may be needed. If a member cannot work due to a dependent having a compromised immune system, the employer may request a medical certificate stating as such. Remember, a member only needs to be offered a reasonable accommodation not their perfect accommodation, and if that is not possible or available, paid sick leave may be an option. However, paid sick leave will not be an option for the employee if the absence is caused by a family member; in that case, some form of family leave may be available but it may not be paid, depending on the collective agreement language.

5. What happens when students do not comply with the mask rule?

This will vary by employer but there should be clear procedures for members to follow to report this and to be provided with support and guidance by in-school administration. Members are encouraged to report these concerns to local administration and their Local Bargaining Unit.

6. What happens when a student forgets their mask?

Employers should be planning for this situation and have an ample supply of masks available. Members are encouraged to report these concerns to local administration and their Local Bargaining Unit.

7. Will the Employer supply masks?

The Employer shall provide masks and any other necessary and suitable PPE for members.

8. Can I wear my own mask?

We are recommending members wear the masks provided by their Employer and early information seems to suggest that the Province will also be requiring this and providing masks. If a Member has a medical condition that requires a particular type of mask, they should notify their Employer of that need and are encouraged to advise their Local Bargaining Unit if they feel the Employer is not providing the PPE that they medically require.

9. Can we have my entire class two metres apart?

This will vary between Employers and worksites, but two metres should be strived for in all classrooms. The overall safety of physical distancing measures in place in any given room will depend on the spacing of workstations, direction of traffic, furniture and other fixtures that affect movement, as well as other factors. Local Bargaining Units will be working with Employers to ensure safe physical distancing measures are in place. Members are encouraged to report what they perceive to be unsafe or ineffective physical distancing measures to their Bargaining Unit and Employer.

10. Why will elementary students only need to be one metre apart?

Currently this is a position taken in the Sick Kids report that the government is relying upon. Provincially and locally, we need to push back against this as our information indicates that two metres apart is the safest standard for physical distancing.

11. Are we allowed to share teaching materials?

We are advising members to not share teaching materials with other people.

12. Should Education Workers be allowing students to access shared materials?

We are recommending no, in order to reduce the potential for the spread of the virus. If the Employer directs the sharing of materials, disinfection protocols are a necessity and must be developed and directed by the Employer.

13. How often will work areas be cleaned?

The employer is responsible for developing cleaning procedures but locals should be asking to see the procedures as it should demonstrate some increased cleaning as per recommendations in the reopening guide.

14. Who is doing the cleaning?

Custodians should be doing the majority of the cleaning but others may be expected to assist with some disinfecting/cleaning. If the Employer is requiring bargaining unit members who are not normally required to do this kind of work, to engage in cleaning, your members should be encouraged to let the Bargaining Unit know, so that the situation can be monitored. Remember the general rule is still work now and grieve later. This is why it is important for the Bargaining Unit to have up-to-date information.

15. If teachers and/or in class education workers are expected to do some cleaning, what training will they get?

Workers would be required to get training about how to use the products safely, training on how to do the tasks safely, and how to use appropriate PPE.

16. What are the distancing expectations in classrooms and other areas of schools and worksites?

The current recommendation is still 2 metres for physical distancing in order to protect education workers. Passive signage, directional arrows, consideration of furniture location, and closing some spaces to large gatherings may also be required.

17. The Occupational Health and Safety Act says some kinds of workers cannot refuse unsafe work. Are education workers in this category?

No, not generally. The Act excludes workers like police and firefighters because of the nature of their work. However, generally, Education workers have the right to refuse to perform any specific job or task, which they have reasonable grounds to believe, is dangerous to you or to any other person. Teachers must ensure their students are safe before they exercise this right.

18. Can I refuse work because of the COVID-19 pandemic?

A work refusal simply because COVID-19 exists is unlikely to be successful. There must be a link between COVID-19 and your reasonable belief that you are at risk for injury or illness. In the case of COVID-19, a potential danger would include a risk of exposure that is not being properly managed, such as an employer failing to provide you with appropriate personal protective equipment or the training to use it.

19. Can I invoke the right to refuse unsafe work if I am not provided the proper personal protective equipment (PPE) required to be safe?

Yes. Employers must provide you with the PPE you need to perform your job safely. Different jobs and tasks have different requirements for PPE depending on the likelihood for exposure. There may be stronger controls in place that negate the need for PPE in some circumstances (like an engineering control that keeps workers separated from those who may be carrying the virus), but these exceptions may be rare and must be carefully considered on a case-by-case basis. The bottom line is that employers are required to provide training on the proper use and care of PPE before it is used for the first time. If the training is not provided, you have the right to refuse the work or task.

20. Can my employer make me use only one set of PPE for an entire day?

Your employer must take all reasonable precautions to keep you safe while at work. During the ongoing pandemic, it may be necessary to wear PPE longer than normal. If your PPE becomes soiled in any way that renders it unable to provide you with the protection it has been designed for, then you will need a replacement. If your employer is seeking to impose arbitrary rules around PPE supply that prevent you from working safely including obtaining a timely replacement, and you have a reasonable belief that a situation has become dangerous, then you have the right to refuse to perform the work or task.

21. Can a group of workers refuse work where their health and safety is in danger?

The right to refuse unsafe work is an individual process. Multiple workers can refuse to perform work they think could cause injury or illness, but each worker must make their own refusal and give their own reason when they report the refusal. You are not protected from discipline if you stop working “in solidarity” or for “sympathetic reasons” because your co-worker has refused to perform unsafe work.

22. What if my employer is saying that my right to refuse dangerous work is “insubordination”, or threatens me with discipline?

It is important to clearly make the distinction between an unsafe work refusal and insubordination. To do this, indicate from the outset that your refusal is based on a concern for your own health and safety or that your continued working in this manner will affect the health and safety of others. We recommend putting the refusal in writing as soon as you can. There are no required phrases or words to initiate the process, but you should clearly state your reasons, so it is not confused with being insubordinate. You cannot be subject to reprisals or threats of reprisal by the employer, or by anyone acting on behalf of the employer, for exercising your right to refuse work that you believe endangers your health and safety or that of another worker. Reprisals or threats can include, but are not limited to disciplinary actions or warnings, penalties, withholding of pay, demotions, suspension, and termination. Legal action can be taken if the Employer engages in reprisals or threats of reprisals.