



What Public Employers Are Seeing From Their Unions During The COVID-19 Outbreak

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Just when employers think they have a grasp on this fluid situation, the COVID-19 outbreak continues to raise more unforeseen questions related to employee wages, hours, leaves, and insurance. Public employers at both state and federal levels – spread across law enforcement, education, the military, and various agencies overseeing health, welfare, transportation, and infrastructure – have grappled with responses to the outbreak and appropriate measures for social distancing, especially for those employees who work in essential positions.

Although the current public health emergency does not eliminate legal bargaining obligations, it may impact what is deemed reasonable notice and an opportunity to bargain given the need for prompt action. The following are common concerns we are seeing raised by union leadership:

- **Leave/Furlough:** In instances where an employee is exposed, quarantined, or furloughed, to what extent can they use paid sick leave, paid time off, or other forms of accrued leave? While the Families First Coronavirus Response Act (FFCRA) requires state and federal government employers to provide their employees with paid sick leave or expanded family and medical leave for [specified reasons related to COVID-19](#), employers may be required to bargain with the union over the effects of a leave or layoff.
- **Criteria for Return to Work:** Employers may need to reduce the amount of hours being worked, change employees' schedules, implement remote work, or perhaps require mandatory quarantine. While employers are subject to certain state and federal laws, such as those set out by the Occupational Safety and Health Administration,

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when considering work capabilities and protective measures, decisions regarding an employee's terms and conditions of work [may require bargaining](#) or discussion with the union before temporary measures are implemented.

- **Healthcare Changes:** Depending on the length of the COVID-19 disruption, employers may find it necessary to seek changes to expensive healthcare plans. As this is likely an area that is covered by the collective bargaining agreement, making changes in this area may also require bargaining or discussion with the union.

Even during this unprecedented and chaotic time, public employers will want to remain cognizant of the obligations they owe to their unions and to keep an ongoing dialogue to ensure timely notice of necessary changes.