

**Memorandum of Understanding
By and Between
The Franklin Pierce School District
and
The Franklin Pierce Education Support Personnel**

**Agreement Regarding Terms of Employment and
Delivery of District Services Impacted by the COVID-19 Crisis**

The District and Association agree upon this Memorandum amidst the COVID-19 pandemic in order to resolve questions regarding employment and District services in this unprecedented time.

For the 2020-21 school year, the Franklin Pierce School District is planning a sustainable and flexible online/remote-only instructional model. There are also potential stages for in-person/online hybrid models that would allow education to pivot at any time between remote, hybrid and in-person learning. These stages will be determined by the impacts of a changing health situation, available resources, and direction from the Office of Superintendent of Public Instruction (OSPI), our Governor and our Health Department(s). As the public health situation continues to evolve, the District and the Franklin Pierce Education Support Personnel will continue to work together to address any concerns that may arise as the District navigates these models. Our model of reopening schools, including all potential hybrid learning models, will balance the health and safety of our students, staff and entire district-community, positive and justice-driven educational outcomes, the social-emotional needs of students and staff, and thoughtful financial stewardship.

The District may, in its discretion, make home assignments available to employees under the conditions outlined herein to avoid the necessity for use of paid leave.

1. **Health and Safety:** District wide health and safety protocols will be designed to comply with guidance of all applicable public health agencies. Strict compliance with all relevant District safety and health rules will be an essential function of each employee's job (see CBA, Article 6). Effective on the date of this MOU, the Franklin Pierce School District Health and Safety Protocols are described in Appendix C, and additional protocols for ensuring employee workspace safety are described in Appendix A.
2. **Compensation:** Permanent employees and those employees hired into permanent positions on probationary status, Long-Term Substitutes, and Temporary Employees will continue to be compensated under the terms of the Collective Bargaining Agreement in the event of school closure(s) related to Coronavirus/COVID-19. There shall be no reduction of compensation during school closure(s) so long as the employee's work assignment is appropriately adapted to the District's adopted learning platform and/or District operations during such closure(s).
3. **Leaves:** COVID-19 presents unique health, family, disability and staffing challenges for the District and its employees. The following provisions are included to provide clear, objective, and practical options for the District and the employees facing those challenges. In all cases, strict compliance with all relevant District safety and health rules will be an essential function of each employee's job.
 - a. **Employees with COVID-19/Suspected COVID-19:** Employees who have been diagnosed with COVID-19, or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis, may not come to work at a District work site and may access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Alternative assignment for work/services which may be provided from home, if available and if the employee is well enough and chooses to work remotely (see paragraphs 3.j and 3.k below).

- ii. Emergency Paid Sick Leave (EPSL) under the federal Families First Coronavirus Response Act (FFCRA), with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$511/day) by other paid leaves identified below.
- iii. Leave for illness, injury or emergency;
- iv. Shared leave;
- v. Personal leave
- vi. Washington Paid Family Medical Leave (PFML);
- vii. Worker's compensation (Under certain circumstances, claims from health care providers and first responders involving COVID-19 may be allowed. Other claims that meet certain criteria for exposure will be considered on a case-by-case basis.)
- viii. Family Medical Leave Act (unpaid leave except for continued health insurance benefits);
- ix. Unpaid leave of absence for the period of the temporary disabling condition;
- x. long-term disability benefits; and
- xi. Unemployment benefits.

If an employee has no option other than an unpaid leave after accessing these benefits to the extent available, the District and Association will meet to discuss whether any other options may be available to the employee.

- b. **Employees Quarantined Due to Possible Exposure to COVID-19:** Employees who have been advised by a public health agency to quarantine at home due to possible exposure to COVID-19 may not come to work at a District work site and may access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below).
 - ii. EPSL with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$511/day) by (a) paid administrative leave if the quarantine was due to reported exposure at a District work site; or (b) other paid leaves identified below if the quarantine was due to reported exposure elsewhere;
 - iii. Paid administrative leave if the employee has exhausted EPSL, an alternative work assignment for work/services provided at home is unavailable, and the quarantine was due to reported exposure at a District work site;
 - iv. Leave for illness, injury or emergency;
 - v. Personal leave;
 - vi. Worker's compensation (Under certain circumstances, claims from health care providers and first responders involving COVID-19 may be allowed. Other claims that meet certain criteria for exposure will be considered on a case-by-case basis.)
 - vii. Unpaid leave of absence for the period of the quarantine; and
 - viii. Unemployment benefits.
- c. **Employees Caring for Someone with COVID-19/Suspected COVID-19:** Employees who are caring for an individual who is subject to quarantine because that individual has been diagnosed with COVID-19, or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis, may not come to work at a District work site and may access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
 - ii. EPSL with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$200/day) by other paid leaves identified below;
 - iii. Leave for illness, injury or emergency;

- iv. Shared leave;
 - v. Personal leave;
 - vi. Washington Paid Family Medical Leave (PFML);
 - vii. Family Medical Leave Act (unpaid leave except for continued health insurance benefits);
 - viii. Unpaid leave of absence for the period of time the employee is unable to come to work at a District work site; and
 - ix. Unemployment benefits.
- d. **High-Risk Employees:** Employees who are at high risk of severe illness or death from COVID-19 as that term is defined by the Governor's proclamation may choose to come to work at a District work site when required by the employee's assignment or may choose to access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
- i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
 - ii. EPSL with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$511/day) by other paid leaves identified below;
 - iii. Leave for illness, injury or emergency;
 - iv. Personal leave;
 - v. Unpaid leave of absence for the 2020-21 school year; and
 - vi. Unemployment benefits.

Documentation of high-risk status: No documentation will be required for an employee who is "high-risk" as a result of being age 65 or older. For employees who have a health condition that falls within the "at increased risk" category, as defined by the Centers for Disease Control, no documentation will be required except for documentation of the underlying condition (e.g. an employee who is at high risk as a result of Type II diabetes mellites need only present documentation of that diagnosis and does not need to present a doctor's statement indicating that the condition places them at higher risk). Employees with a condition that falls within the list of conditions the CDC indicates "might be at an increased risk for severe illness from COVID-19" must submit verification of both the diagnosis and a doctor's statement indicating that the employee's particular circumstances place the employee at increased risk for severe illness from COVID 19.

- e. **High-Risk Individual in the Employee's Household:** Employees who themselves are not at higher risk but have someone in the household who is at higher risk of severe illness or death from COVID-19 as that term is defined by the Governor's proclamation may choose to come to work at a District work site when required by the employee's assignment or may choose to access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
- i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
 - ii. EPSL with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$200/day) by other paid leaves identified below;
 - iii. Leave for illness, injury or emergency;
 - iv. Personal leave; and
 - v. leave of absence for the 2020-21 school year.
- f. **Employees with Children Impacted by School Closure:** An employee who must care for the employee's child because of a school closure or unavailability of the care provider due to COVID-19 precautions may choose to come to work at a District work site when required by the employee's assignment or may choose to access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:

- i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
- ii. EPSL for eligible employees at the statutory amount (\$200/day);
- iii. Emergency Family and Medical Leave (EFML) under the FFCRA (partially unpaid, and partially paid at 2/3 regular wages up to a maximum of \$200/day);
- iv. Emergency leave per Section 13.4.2 of the CBA (up to a maximum of (5) days per year.
- v. Personal leave; and
- vi. Unpaid leave of absence for the 2020-21 school year.

The District will seek community partners to provide childcare options to employees.

- g. **Employees Who Cannot Wear a Face Covering or Other Required PPE:** An employee whose assignment requires work at a District work site and who cannot wear personal protective equipment (PPE) required for the employee's assignment, including but not limited to a face covering, may choose to access any or all of the following benefits upon presentation of appropriate documentation from the employee's health care provider and under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
 - ii. Leave for illness, injury or emergency;
 - iii. Personal leave;
 - iv. Unpaid leave of absence for the 2020-21 school year; and
 - v. Other accommodations identified through the interactive process of the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination (WLAD).
- h. **Employees Who Choose to Not Wear a Face Covering or Other Required PPE:** An employee whose assignment requires work at a District work site and who does not have a documented inability to properly wear PPE required for the employee's assignment, including but not limited to a face covering, but nevertheless does not wish to do so, may not attend work onsite and may access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Personal leave;
 - ii. Unpaid leave of absence at District's discretion; and
 - iii. Resignation.
- i. **Employees Who Otherwise Choose to Not Work at a District Work Site Due to Concern for Safety:** Employees who allege their workplace is unsafe are encouraged to immediately report their concerns to their supervisor (see CBA, Article 6) and/or the workplace safety committee (see Appendix A-2). Such employees may in limited circumstances also have recourse through the Department of Labor & Industries under WAC 296-360-150.

An employee whose assignment requires work at a District work site and who does not fit within the conditions of paragraphs 3.a through 3.h above may choose to access any or all of the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:

- i. Alternative assignment for work/services which may be provided from home, if available (see paragraphs 3.j and 3.k below);
 - ii. Personal leave; and
 - iii. Unpaid leave of absence for the 2020-21 school year.
- j. **Alternative Work Assignments Provision One:** When an employee's assignment requires work/services at a District work site and the employee cannot work at a District

worksite for the reasons outlined above, or is a high-risk employee and chooses to not work at a District work site, the District will attempt to accommodate these circumstances by assigning the employee to available work that can be provided remotely from home on the condition that the employee is qualified, prepared and willing to provide such services. When choosing from among multiple employees for the same available assignment, the District will prioritize employees in the following order:

- i. Employees who hold the appropriate training, or classification for the position;
- ii. Employees quarantined due to possible exposure to COVID-19;
- iii. Employees caring for someone with COVID-19/suspected COVID-19;
- iv. High-risk employees or employees with a high-risk individual in the employee's household;
- v. Employees with children impacted by school closure;
- vi. Employees who cannot wear a mask or other required PPE; and

If two or more employees have equal priority under the conditions above, the District will use District seniority to make the assignment. If a remote assignment is created and assigned to an employee with the expectation that it will continue for the entire school year, the District will not be required to reassign employees previously awarded such assignments in order to accommodate remote assignments for other employees whose need for an alternative assignment arises later in the school year.

- k. **Alternative Work Assignments Provision Two:** To maximize the District's options for meeting the educational, social and emotional needs of students in the unusual circumstances of the 2020-21 school year, the Association and District agree to the following limited opportunity for temporary reassignment of employees:
 - i. An employee may be temporarily assigned to provide services outside the employee's normal job description if work within the employee's job description is unavailable due to the temporary closure of school facilities;
 - ii. Such employee may only be assigned to perform work for which the employee is appropriately trained, classified and prepared to perform;
 - iii. Such assignment shall not, without the employee's agreement, exceed the hours normally assigned to such employee;
 - iv. Unless otherwise agreed, such as to accommodate a request for part-time work, such employee shall be paid the regular salary, wages and benefits the employee would receive from the employee's normal assignment;
 - v. Such employee's temporary assignment may not result in displacing any other employee performing services within their regular job description;
 - vi. Such employees shall not be assigned job duties associated with job classifications with a higher rate of pay than the employee's rate of pay;
 - vii. Such temporary assignments may, with advance notice to the Association, include a reassignment of employees (a) to work within the jurisdiction of another bargaining unit, or (b) from other bargaining units to work residing within the jurisdiction of this bargaining unit; provided, the other bargaining unit agrees to similar provisions, and further provided that union dues, if any, paid by the employee will continue to be paid to the representative of the employee's original bargaining unit;
 - viii. An employee temporarily reassigned under paragraphs 3.a through 3.i of this MOU retains a right to return to the employee's original assignment upon resumption of normal school operations, subject to existing contract rights of the District. Any reduction in force (RIF) will be conducted under the procedures of the CBA, Section 17.5, based on employees' original assignments and regardless of temporary alternative work assignments;
 - ix. This provision applies exclusively to the assignments and job duties of FPESP-represented employees, unless agreed to by other bargaining units. FPESP-represented employees will not be assigned job duties performed by job

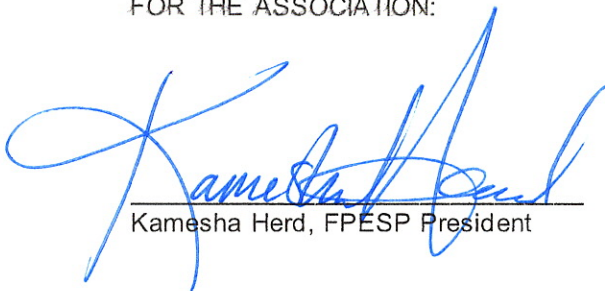
classifications in other bargaining units without the agreement of any affected bargaining unit(s).

4. **Possible Limitations:** All the contractual, insurance and statutory leave benefits referenced above have specific rules or external agencies that govern their application, and the terms of this agreement will be interpreted consistent with those rules and agencies. Some of the leave entitlements may require documentation from a health care provider. The leave entitlements within the FFCRA (both EPSLA and EFMLA) currently expire December 31, 2020, and the parties agree to meet prior to that date to reconsider whether the leave entitlements above will be amended. If the Governor or appropriate health agencies issue changes in the definition of "high risk employees," the parties agree to meet as soon as possible to address future guidance for such employees based on these decisions and/or proclamations.
4. **Work from home:** The District will work with employees who work from home to ensure employees have access to adequate equipment and technology to perform their work assignments, subject to the availability of such equipment.
5. **Evaluation:** The District shall engage in evaluations for ESP employees as consistent with the CBA, Article 5, and with the Franklin Pierce Schools Health and Safety Protocols.
6. **Instructional and Service Delivery Model:** Effective on the date of this MOU, the instructional and service delivery model is described in the District's Reopening Plan. Timelines of transitions to models with more in-person instruction will be based upon the public health guidelines issued by the state Department of Health.
7. **Joint Committees:** The District and the Association will review the status of and contractual deadlines for joint FPESP and FPSD committees and revise as appropriate.
8. **Communication:** The District will continue to provide updates regarding recommendations and requirements from appropriate Public Health authorities at the state and county level and OSPI related to school operations and appropriate measures under way to minimize the spread of COVID-19.
9. **Effective Dates:** This MOU shall be in effect for the 2020-21 school year and shall sunset on the last work day of the school year, or at such time it is determined to be safe to bring all students and staff back for in-person instruction. All other provisions of the collective bargaining agreement shall remain in full effect. This MOU is not precedent-setting and is intended to address the specific and unprecedented health emergency presented by COVID-19.

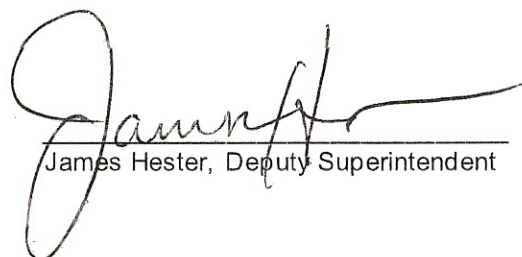
Agreed to this 25th day of August, 2020. Signed this 25th day of August, 2020.

FOR THE ASSOCIATION:

FOR THE DISTRICT:



Kamesha Herd, FPESP President



James Hester, Deputy Superintendent

APPENDICES

A. Workspaces –

1. Ensure adequate workspaces such as social distancing, barriers, cleaning protocols as defined by L&I and the Health Dept.
2. Dedicated COVID compliance person in every building. Clerical staff will report health and safety concerns to the designated COVID compliance person. Member may request alternate workspace to include work from home if the health and safety concern can't be immediately addressed.
3. Appropriate PPE available for clerical staff to include PPE necessary to cover the health room or isolation room when necessary as well as adequate training in appropriate screening/coverage/visitor protocols.
4. Workspace cleaning supplies provided, to include disinfecting products for high touch areas, hand sanitizer, gloves, etc.

B. Public Access –

Remote Learning –

- Doors locked
- Limited access by appointment in a designated area meeting L&I and Health Dept. guidelines
- Signage directing vendors, deliveries and public to call for assistance
- Employee to have choice to work from home or on site

Hybrid –

- Minimize office hours for the public
- Limit public access to designated areas that meet the L&I and Health Dept. guidelines
- Signage for modified operation

C. Health & Safety Plan

- Building safety plans shall be emailed to staff in that building as building-based plans are amended.

D. FPSD Distant Learning Schedule (Elementary, Middle, High)

- Attachment

E. Every site to have clerical meeting w/admin by August 31st to discuss office protocols.