

**Memorandum of Understanding
By and Between
Franklin Pierce Education Association
and
Franklin Pierce Schools**

**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, Franklin Pierce Schools 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 OSPI, our Governor and our Health Department(s). As the public health situation continues to evolve, the District and the Franklin Pierce Education Association 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 prioritize and 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.

It is the strong preference of the District that teachers deliver all of their lessons from the most professional and engaging setting for our students. The District believes the most professional and engaging setting is for lessons to be delivered from the teacher's classroom. Exceptions will be made for teachers who have been approved for a remote work assignment based on one of the leave categories negotiated in this MOU. If a teacher is not approved for a remote work assignment through one of the approved leave categories in this MOU and still wishes to work remotely they must request and be approved for a remote work assignment from their evaluator. Such requests will be granted provided there are sufficient assurances that the quality of the educational services offered from the alternate setting will not be compromised, and in this case the employee may be required to return to the worksite if a professionally engaging environment is not provided from the alternate setting. Remote work assignments will not be an option for teachers whose students return to schools for small group instruction unless those teachers are approved for a remote work assignment based on one of the leave categories in this MOU. This standard for determining alternate assignments will be reviewed toward the end of September, at which time FPEA will meet with the District to establish future guidelines.

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. Effective on the date of this MOU, the Franklin Pierce Schools Health and Safety Protocols are described in written guidance from State and Local health officials. See OSPI Document: Reopening Washington Schools 2020.
2. **Compensation:** Employees on continuing contracts, or who have been offered leave replacement contracts for 2020-2021, will continue to be compensated under the terms of the Collective Bargaining Agreement as a result of the school closure(s) related to Coronavirus/COVID-19. There shall be no reduction of compensation for any supplemental contract already in place, as a result of the school closure(s) related to Coronavirus/COVID-19 so long as the work related to the contract is appropriately adapted to the learning platform or assignment. For contracts not yet issued for 2020-2021, the determination of need for the position will be made on a case by case basis. Staff who received a supplemental stipend contract in 2019-20 from Appendix C, D and/or E in the Collective Bargaining Agreement, and have not been offered the same supplemental stipend contract for 2020-21, may apply for an alternative supplemental stipend contract.
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 paragraph 3.j and 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 to the extent available through SEBB; and
- xi. Unemployment benefits.

If these benefits leave an employee in a situation where the employee will experience a substantial hardship, the District and Association will meet upon request 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 paragraph 3.j and 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 paragraph 3.j and 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(s) 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 paragraph 3.j and 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 a high risk as a result of Type II diabetes mellitis 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. **Higher 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 k below);
 - ii. EPSL, if applicable, 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/Loss of Child Care:** 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 paragraph 3.j and k below);
 - ii. EPSL for eligible employees at the statutory amount (\$200/day);
 - iii. Emergency Family and Medical Leave (EFML) for eligible employees 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 39.10 of the CBA (up to a maximum of five (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 child care 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 paragraph 10 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 the following benefits under the terms of the applicable collective bargaining agreement (CBA) or law:
 - i. Personal leave; and
 - ii. Resignation or unpaid leave at District discretion.
- 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 and/or the workplace safety committee. 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 1-8 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. Personal leave; and
 - ii. 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 (for the reasons outlined above), or is a high-risk employee and chooses to not, work at a District work site, the District will consider the feasibility of assigning the employee to available work that can be provided remotely from home or another alternate worksite on the condition that the employee is qualified and able 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, licensing, endorsement or other qualifications 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. Higher risk employees or employees with a higher 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;

If two or more employees have equal priority under the conditions above, the District will use District seniority to make the assignment. Once an assignment of such work is made, 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, licensed (if applicable) 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 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;
 - vi. The temporarily reassigned employee 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 to reduce the workforce and/or reassign employees within the same bargaining unit; and

- vii. This provision applies exclusively to the assignments and job duties of FPEA-represented employees, unless agreed to by other bargaining units. FPEA-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).
 - I. **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. **Evaluation:** The District shall engage in certificated educator evaluations for the 2020-21 school year as described in the guidance issued by OSPI on August 7, 2020.
- a. For employees on a modified comprehensive evaluation focusing in two areas, the areas of focus will be selected pursuant to Section 11B.8(A) of the CBA, which states: "The criterion area to be evaluated shall be proposed by the teacher prior to, or at the first pre-observation conference, must be approved by the evaluator, and may have been identified in a previous comprehensive summative evaluation as benefiting from additional attention or as an area of expertise to be further developed."
 - b. Employees who were on a Plan of Assistance in 2019-2020, or who were previously notified they would be on a Plan of Assistance starting in 2020-2021, will receive a full comprehensive evaluation in 2020-2021 and will have their plans of assistance modified as necessary to reflect the unique circumstances of online instruction.
5. **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.
6. **Re-Opening Work Groups:** Workgroups will continue to meet as needed during the 2020-2021 school year. Staff will continue to be compensated for their time

outside of their contracted work day or be provided release time from their teaching duties.

7. **Communication:** The District will continue to provide updates regarding recommendations and requirements from appropriate public health authorities at the state and county level and the Office of the Superintendent of Public Instruction related to school operations and appropriate measures under way to minimize the spread of the virus.
8. **Specialists:** Given the unique situation of 2020-2021, in order to support the modified schedule that has been planned, it is understood that specialists may have more than the seven (7) class periods per day set forth in Section 24.2 of the CBA.
9. **Work Day:** It is understood that there will be an increase in individually directed planning time overall during the remote instructional model. Therefore, at alternative educational settings (GATES, ELC), a full 30 minutes before and after school may not be available as during normal operations for "WAC time."
10. **Conferences:** The District may move conference dates, in consultation with the Association, to accommodate meetings with parents and students during the first few days of school.
11. **Professional Development:** For the 2020-2021 School Year only, the following changes will be made to 23.3. and 8.8:
 - 23.3—Staff will have the option to participate in professional development prior to PRAD week. This could include attending sessions at New Teacher Orientation or courses that have been approved by the District. Staff will consult with their Building Principal for prior approval. If a staff member exercises this option, they can trade these trainings for a portion of their 7 PD requirement and/or 5 Evening Event requirement.
 - 8.8—Rather than inserting time during PRAD week for Safe Schools Training, staff will complete their Safe Schools Training on their own time and be able to trade this time for a portion of their 7 PD requirement and/or 5 Evening Event requirement.
12. **Effective Dates:** This MOU shall be in effect for the 2020-21 school year and shall sunset on the last instructional day of the school year, or earlier if 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 13th day of August, 2020.
2020.

Signed this _____ day of July,

FOR THE ASSOCIATION:

Pamela Kruse
Pam Kruse, President - FPEA
Schools

FOR THE DISTRICT:

Lance Goodpaster
Lance Goodpaster—Franklin Pierce