

Memorandum of Understanding Between The Ferndale School District and The Ferndale Education Association

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.

As the public health situation continues to evolve, the Ferndale District and the Ferndale Education Association will continue to work together to negotiate the impacts of these models. Our instructional model will prioritize 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.

1. **Health and Safety:** The District will not direct employees to work in conditions that are out of compliance with prevailing Washington State Labor and Industries Division of Occupational Safety and Health rules or other applicable federal, state, or local occupational health and safety rules or the guidelines of the Whatcom County Health Department.

Employees who allege their workplace is unsafe should 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.

- a. **PPE, Handwashing, and Enforcement.** The District will provide personal protective equipment to all employees and students in accordance with Department of Health requirements. Staff may utilize their own compliant PPE.

The district shall provide adequate facilities and supplies for staff and student handwashing as required by OSPI's guidelines. The administration will convey requirements and enforce the use of PPE and frequent handwashing by all persons on District property. These expectations include intervention when anyone refuses to comply with District rules for the proper use of PPE, handwashing and other applicable procedures. Staff who encounter students or adults who refuse to comply will contact their administrator who will intervene.

- b. **Social Distancing and Enforcement.** Consistent with Department of Health guidance, every effort shall be made to keep three (3) feet of distancing between students during regular classroom activities, and six (6) feet of physical distancing between students during high-risk activities such as eating. Classrooms and workspaces shall be arranged to ensure six (6) feet of distance between adults and students. All meetings between adults shall be held in spaces that accommodate six (6) foot distancing between participants.

The District will use best efforts to convey requirements in first languages of all and enforce the application of social distancing norms among students and adults. These norms include immediate intervention when anyone refuses to comply with District social distancing guidelines. Staff who

encounter students or adults who refuse to comply will contact their administrator who will intervene.

- c. **Compliance.** In instances where students refuse to comply with health and safety requirements, including PPE and social distancing, administrators will contact and work with parents/guardians as necessary to intervene, discuss the situation, and develop a plan to allow the student to return when compliant.
- d. **Learning Configurations.** The District will make every effort to implement jointly developed solutions regarding the configuration of learning groups, i.e., how students are grouped for the purposes of instruction or the delivery of support services.
- e. **Alternate Facilities Configurations.** The parties recognize it may be necessary or desirable to utilize various non-customary facilities configurations to provide for social distancing. The District will make every effort to implement jointly developed solutions.
- f. **Staff Meetings.** Staff meetings may be held in person if all health and safety requirements are met. If an employee has a need to join a staff meeting remotely, they will request to do so with their supervisor ahead of the staff meeting.
- g. **High-Contact Roles.** Certain staff roles, e.g., special education teachers, specialists, primary teachers, etc., require interaction with students and colleagues which may involve physical assistance, physical restraint, or closer proximity to students than is consistent with social distancing requirements.

The responsibilities of these staff may increase their risk during this pandemic. The District will work with these staff to jointly determine and implement steps to provide increased protection and training for staff and students in these circumstances. The parties recognize solutions may be unique to the circumstances and specific to staff assignments. The District will make every effort to implement jointly developed solutions. Reasonable costs associated with these solutions will not inhibit implementation of solutions aimed at protecting health and safety.

- h. **Cleaning.** The District will adhere to all Department of Health or other governmental requirements concerning cleaning and sanitizing facilities. The intent of the parties is to ensure continuous, vigorous efforts to maintain the cleanest possible work and learning spaces to the greatest degree reasonably possible. In instances where staff become aware of acute situations requiring attention or less than adequate measures, staff will contact their administrator who will intervene. Staff with unique needs resulting from their assignment will work with the District to ensure adequate supplies are available, protocols and timelines are in place, and cleaning standards are met.
- i. **Indoor Air.** The District will ensure all HVAC systems are monitored, routinely maintained, promptly repaired, and comply with Department of Labor and Industries and Health Department requirements to ensure systems are functioning properly to provide maximum fresh air supply, filtration and circulation to help prevent the spread of the COVID virus. As necessary, the parties will discuss concerns related to such indoor air or environmental standards related to COVID as are established by governmental authorities to ensure appropriate implementation and compliance.

If a room or office space lacks an exterior door or window and the HVAC system is unable to localize fresh air to those locations.

If a room or office space lacks an exterior door or window and the HVAC system is unable to localize fresh air to those locations, the District will consult with the WCHD to determine what mitigation is necessary and then work with individual teacher(s) to implement additional prevention strategies, which may include an alternate work location, a portable HEPA air cleaner (DoH recommendation), additional PPE, or other mutually agreed upon measure(s) to ensure the employee's safe working conditions.

- j. **Check-In, Exclusion, and Contact Tracing Protocols.** The District will adhere to all Department of Health or other governmental requirements concerning the check-in, admittance, and exclusion of students, staff, and others to and from buildings.

Students and staff who display COVID-19 symptoms shall be immediately isolated and removed from the classroom setting. The district shall provide a safe room for isolated students to wait for their parent/guardian. This room shall be designated specifically for this purpose. Only trained personnel shall be required or expected to supervise students who are excluded with COVID-19 symptoms. Trained personnel providing supervision shall be provided appropriate PPE and training for working with COVID-19 infected patients.

In the event a student or staff member tests positive for COVID, or if anyone exhibits symptoms of illness during onsite activities, the District will follow the procedures established in consultation with the WCHD to take appropriate steps. This may include excluding those exposed from onsite activities for an appropriate period of time until cleared to return, notifying those who may have been exposed, and taking such other action as health authorities advise.

2. Workload. Individual or staff team/group-specific circumstances that prompt concerns over increased workload resulting from programmatic changes, alternate learning modalities, modified responsibilities, etc., will be discussed between administrators and staff.

A. Instruction during outbreaks and student quarantine:

- i. Teachers will not be required or expected to create packets or additional work (including assignments on online platforms) for students beyond what students are required to complete in class.
- ii. In the event more than half of any scheduled class is quarantined due to COVID-19 exposure the teacher(s) will work with their building administrators to establish a mutually agreeable plan to deliver instruction to the class.

B. If, due to a vaccine mandate, the District anticipates staffing shortages that would lead to increased workload on certificated staff, then FEA and the District will meet no later than October 8th to discuss and negotiate mutually agreeable measures to alleviate this increased workload.

C. The District will pay a \$400 monthly stipend pro-rated for FTE to nurses in recognition of the continued and expected high workload impacts the COVID-19 pandemic has on FEA medical staff. The District will meet with nurses on a monthly basis to ensure that the stipend and other resources are adequate to meet the additional workload requirements being experienced by nursing staff.

3. Vaccinations. All eligible employees and students are encouraged to be vaccinated against COVID-19. The district will partner with local healthcare providers to provide vaccine access and information to employees.

Per Proclamation 21-14.1 COVID-19 Vaccination Requirements, all education employees are required to be fully vaccinated for COVID-19 and will be required to provide proof of such vaccination by October 18, 2021.

- A. **Employee Vaccine Status:** Employees may show vaccine cards, attestations from a healthcare provider, or records from the state vaccine database to demonstrate vaccination status. The district may keep records of vaccine status in compliance with all applicable state and federal laws.
- B. **Vaccine Leave:** Employees may access up to one (1) paid day of COVID-19 leave to be vaccinated and to recover from vaccine side-effects. This leave is also eligible to employees who receive third doses or booster shots on the advice of their healthcare providers.
- C. **Exemptions:** Exemptions for medical or religious purposes shall be established and executed consistent with guidelines established by state DOH and OSPI.

4. Leaves: COVID-19 Leave (Revised 1.24.22)

Employees who are required to quarantine at home due to a verified exposure at a district worksite shall be afforded a cumulative total of up to ten (10) days of paid administrative leave in the 2021-22 school year for the duration of the quarantine or illness, provided the employee seeks COVID-19 testing.

If an accommodation is granted, the District may require the employee to follow additional protocols to protect public health and safety including rapid COVID tests at their worksite or other agreed upon location on a regularly scheduled basis, not to exceed two (2) times per week.

A verified exposure shall include a case where there is a positive or presumed positive case within a class or caseload to which the staff member is assigned in the seven calendar days prior to the staff member becoming symptomatic or testing positive, whether or not the staff member is identified as a close contact.

For the purposes of this agreement, a student will be presumed positive if the staff member becomes symptomatic within 7 days of being in contact with a positive or probable case, as above.

To receive COVID leave the staff member must comply with all district testing and with the mitigation requirements under the staff member's control.

If a staff member believes that they should have received COVID leave and the request is denied, the staff member can request an appeal within five days of the denial. The appeal will be reviewed by the Executive Director of Human Resources, the school nurse responsible for the school where the alleged exposure happened and another executive director. A response to the appeal will be heard no less than five working days following the appeal being requested.

5. Alternative Work Assignments and Employees in High-Risk Categories: The District will make every reasonable effort to accommodate and provide an alternative working assignment to high-risk employees. High-risk employees seeking accommodations will not be discharged, replaced or discriminated against for seeking accommodations or utilizing leave to protect against COVID-19.

6. Communication: The District will continue to provide updates regarding recommendations from appropriate public health agencies—including the Whatcom County Health Department 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.

Every effort will be made to provide FEA representatives with reasonable notice of any potential changes to the current instructional models before announcements are made to the public. The parties will have the opportunity to meet and bargain these impacts before proposed instructional model changes are implemented.

The parties shall meet regularly to discuss and negotiate any impacts to working conditions and if public health agencies change recommendations for in-person work.

7. Safety and Discipline: Ensuring the safety and health of students and staff shall be the district's priority. Students shall be required to follow all safety protocols.

A. Protection of School Employees: School employees who experience or witness insulting, intimidating, and/or abusive behavior toward a staff member by students, staff, volunteers, or other visitors to the worksite for enforcing any PPE or safety protocols will immediately report the incident to the Building Principal, building COVID supervisor, or nearest administrator.

- i. Per RCW28A.635.100 and RCW28A.635.020 these behaviors are a gross misdemeanor and may be reported to authorities by the building administrator.
- ii. An employee reporting an incident will not be retaliated against.
- iii. As necessary, employees experiencing this type of altercation will be provided the opportunity to take paid sick leave to address any trauma they may have experienced.

B. Violations of Safety Protocols by students: Students who willfully and knowingly violate safety protocols may be excluded from the classroom; however, this cannot be considered disciplinary, in accordance with the collective bargaining agreement and state law. <https://www.k12.wa.us/sites/default/files/public/studentdiscipline/pubdocs/8-31-2%282020-21SYDisciplineQA%29%20%28002%29.pdf> Student discipline for any infraction described above shall be proportionate to the age and cognitive ability of each child. In the event a student willfully and knowingly violates safety protocols towards a staff member in any manner that may cause harm (for example, purposefully removing a mask and coughing or sneezing on the employee), the employee shall have access to COVID-19 testing if requested and shall have access to COVID-19 leave as described in this MOU for any required quarantine period.

8. Effective Dates: This MOU is not precedent-setting and is intended to address the specific and unprecedented COVID crisis. This Memorandum applies to all FEA represented employees. All matters

arising under this Memorandum shall be governed by and construed under and in accordance with the laws of the State of Washington. If any part of this Memorandum is invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable. Disputes relating to this Memorandum will be subject to the grievance and arbitration provisions of the Collective Bargaining Agreement.

This Memorandum of Understanding will remain in place for the duration of the 2021-2022 year or the end of the declared COVID state of emergency, whichever comes first. All other provisions of the Collective Bargaining Agreement remain in full effect. Given the evolving nature of the issues arising during this crisis, the parties will bargain the impact of changes to terms and conditions of employment either addressed or not yet addressed in this MOU as necessary.

Agreed to this 14th day of September, 2021.

Signed this 15th day of September, 2021.

FOR THE ASSOCIATION:

FOR THE DISTRICT:
