

FAQs: COVID-19 and school employee rights and protections in the workplace

It is critical that Minnesotan workers be provided with safe and healthy working conditions. This is especially true when those workers are responsible for educating and caring for Minnesota's children. One of the most effective ways for employees to stay safe and healthy in the workplace is to be knowledgeable about the rights and protections afforded to them. This document addresses some of the most commonly asked questions and reviews worker rights and protections related to COVID-19, such as workplace safety and health, paid and unpaid leave rights, workers' compensation and other worker protections.

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Safety and health in the workplace

Q: My employer is not following the guidelines issued by the Centers for Disease Control and Prevention (CDC) or Minnesota Department of Health (MDH) related to COVID-19. I have raised those concerns with my employer, but they have not addressed them. Where should I report these issues?

- You can contact Minnesota OSHA (MNOSHA) Compliance at osha.compliance@state.mn.us, 651-284-5050 or 877-470-6742 with questions or to file a complaint.

Q: I have concerns about safety at work. What employment protections do I have if raise concerns or complaints about safety in the workplace with my employer or MNOSHA Compliance?

- Your employer may not retaliate against you for reporting health and safety concerns at work. MNOSHA Compliance's Discrimination staff members are available to discuss your employment situation if you believe your employer retaliated against you for:
 - making a safety or health complaint;
 - reporting a workplace injury; or
 - complaining to MNOSHA Compliance.
- A complaint needs to be filed with MNOSHA Compliance **within 30 days** of the adverse employment action. For more information, contact MNOSHA Compliance at osha.compliance@state.mn.us, 651-284-5050 or 877-470-6742.

Q: Can a worker refuse to work if they believe it is unsafe?

- You have the right to refuse to work under conditions you, in good faith, reasonably believe present an imminent danger of death or serious physical harm to you. Serious physical harm may include a work illness that results in permanent disability, temporary total disability or medical treatment. A reasonable belief of imminent danger of death or serious physical harm includes a reasonable belief of the employee that the employee has been assigned to work in an unsafe or unhealthful manner with an infectious agent. Coronavirus is considered to be an infectious agent.
- Your employer may not fire you or otherwise discriminate against you for your good faith refusal to perform assigned tasks if you have asked your employer to correct the hazardous conditions, but they remain uncorrected. If you have refused in good faith to perform assigned tasks, and your employer does not reassign you to other work, you may contact MNOSHA Compliance to request assistance. MNOSHA Compliance will contact your employer to try to resolve your concern. If MNOSHA Compliance determines you would have been placed in imminent danger of death or serious physical harm by performing the work, then you are entitled to receive pay for the work you would have performed.
- Contact MNOSHA Compliance at osha.compliance@state.mn.us, 651-284-5050 or 877-470-6742 with questions.

Q: How do I file a complaint with MNOSHA Compliance about a safety or health concern at work?

- You (or your union representative) have the right to file a confidential safety and health complaint and request a MNOSHA Compliance inspection of your workplace if you believe there is a serious hazard or if you think your employer is not following CDC and MDH guidelines or OSHA standards. The complaint should be filed as soon as possible after noticing the hazard and provide specifics about the safety or health concern including a description, location and timing.
- For more information about filing a complaint, visit www.dli.mn.gov/business/workplace-safety-and-health/mnosha-compliance-filing-complaint or contact MNOSHA Compliance at osha.compliance@state.mn.us, 651-284-5050 or 877-470-6742.

Q: Is my employer required to provide me with personal protective equipment? Are cloth face coverings considered personal protective equipment?

- Personal protective equipment (PPE) is equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses. These injuries and illnesses may result from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards. Personal protective equipment may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests and full body suits. Minnesota law requires employers to provide suitable PPE "... by and at the cost of the employer." An example of when PPE must be provided by an employer is when an employee is asked to use cleaning products that require certain PPE (eye, face or skin protection) as indicated on the safety data sheet.
- Cloth face coverings are not considered PPE because they are used as source control. While the coverings are not considered PPE, employers are encouraged to provide face coverings for all workers to ensure compliance with Executive Order 20-81. If an employer provides face coverings for workers, the law provides that the employer can deduct from a worker's wages

the cost of a uniform as long as it does not reduce the worker's pay below the minimum wage for hours worked. The amount of the deduction for a face covering may not exceed the cost of the face covering to the employer. The maximum deduction for all items that are part of a uniform allowed by law is \$50. If the employer provides the face covering and deducts the cost of the face covering from the worker's wages, the employer must reimburse the worker the full amount deducted for the face covering when the worker's employment ends and the worker returns the face covering to the employer. If an employer chooses not to provide the face covering, workers are responsible for acquiring their own face covering and wearing it while at work to comply with the executive order.

Q: Do schools have the right to require students who have COVID-19 symptoms to a) go home, b) get tested for COVID-19, c) share test results with the school?

- a) Yes, schools must ensure individuals with symptoms consistent with COVID-19 are not in school.
- b) No, the school cannot require that a student be tested for COVID-19. If the child has symptoms consistent with COVID-19, or they have been exposed to a confirmed case of COVID-19, schools should encourage students to be tested for COVID-19. In either case, the schools must follow MDH and CDC guidance and ensure sick people are not at school, and that people who have been exposed to COVID-19 are not in school during the incubation period (two to 14 days after exposure).
- c) No, parents would need to sign a release of information for the test results to be shared with the school. All lab-confirmed cases of COVID-19 are reported to MDH, which instructs people sick with COVID-19 to stay home to prevent the spread of COVID-19 to others.

Q: The MDH guidance contains a link to a decision tree for students who have COVID-19 or its symptoms, but it doesn't discuss what schools should do for the other students and staff members who have been exposed to that student. How long must a school or classroom shutdown if a student or staff member in that classroom has symptoms or tests positive? In other words, what event triggers a quarantine obligation and who decides?

- In general, the first step in the process is to conduct contact tracing to identify close contacts of anyone with a confirmed case who attended school while infectious. Close contact is when someone is within six feet of the ill person for at least 15 minutes. All close contacts of a confirmed case will be notified of their exposure and asked to self-quarantine at home for 14 days since their last exposure to the confirmed case.
- The decision to close a classroom or school is made on a case-by-case basis and depends on the length of time the ill individual spent in the space, whether six feet of distancing was maintained consistently, the extent of the ill person's activities while infectious in the school facility and the extent to which all close contacts can be identified. Schools will work collaboratively with local and state health officials to identify close contacts of a case and evaluate the extent of the exposure to determine if a full classroom or school closure is warranted.

Q: Are districts obligated to notify the staff when someone in the school community – either a student or a staff member – reports a positive COVID-19 test result, when the district is aware of such a result?

- Schools must report all confirmed cases of COVID-19 to the Minnesota Department of Health or the local public health agency. MDH or the local public health agency is obligated to conduct a case investigation and identify anyone who has potentially been exposed to the confirmed case. MDH or the local public health agency notifies all people who have been exposed and provides them with information about how to protect themselves, their families and their communities.
- Schools are asked to assist in the notification process of all close contacts. See www.health.state.mn.us/diseases/coronavirus/schools/casenotify.pdf for more information about the contact tracing process in schools.

Q: Will there be any type of trigger in terms of the number of new cases in a community at which all in-person or hybrid instruction will be prohibited? Any idea of what it will be?

- At this time, there is not a specific trigger in terms of the number of new cases in a community at which all in-person or hybrid instruction will be prohibited. The challenge in using one single metric in isolation, such as the number of new cases at the county level, is that the metric may be influenced by testing that has occurred in the county that is unrelated to spread in the general community or spread that is likely to impact a school. For example, in a small county where a long-term care facility outbreak occurs, the number of new cases could significantly increase as a result of facility-wide testing that is conducted to help control the spread of illness in the facility; however, that same increase may not necessarily represent an increased risk for transmission in the school setting or within the community as a whole.

At-risk employees and family members

Q: I am an at-risk employee and my employer is requiring me to come to work. What recourse do I have?

- Individuals with disabilities have the right to request "reasonable accommodations" from employers that are subject to the Americans with Disabilities Act (ADA) and/or the Minnesota Human Rights Act. If you have a disability that affects your risk for contracting COVID-19 or being harmed if you do contract the virus, you have the right to request a reasonable accommodation from your employer. When requesting a reasonable accommodation, describe the nature of the accommodation requested and how it will assist you in performing the essential functions of your job. Whether a requested accommodation is reasonable will depend on the specific circumstances. Contact Minnesota's Discrimination Helpline at 833-454-0148 if you believe your employer denied you a reasonable accommodation.
- If your employer is unable to provide a reasonable accommodation upon your request, you may be eligible for unemployment. Minnesota unemployment insurance law provides that an applicant is eligible for unemployment insurance benefits if the applicant quits employment because the applicant's serious illness or injury made it medically necessary that the applicant quit.

Q: I live with a family member who has an underlying health condition that places them at greater risk if they contract COVID-19 and I am unable to work from home. What are my options?

- Workers who live with family members who are at greater risk if they contract COVID-19 are encouraged to ask for reasonable accommodations from their business that will allow them to continue working while maintaining the safety and health of their family member.
- If your employer is unable to provide a reasonable accommodation, you may be eligible for unemployment insurance benefits. Minnesota unemployment insurance law provides that an applicant is eligible for unemployment insurance benefits if the applicant quits employment to provide necessary care because of the illness, injury or disability of an immediate family member of the applicant.

Testing and contact tracing

Q: Will school-wide or community testing be available if my school experiences numerous COVID-19 cases?

- Testing events, including school-wide or community testing, may be recommended in certain situations where there is substantial or ongoing transmission occurring at the school. School administrators, in partnership with local public health agencies, MDH and state testing leaders, will assess the need for a testing event.

Q: How will I be informed if a coworker or student I have been in contact with tests positive for COVID-19?

- When a confirmed case of COVID-19 is identified at a school, MDH or local public health agency staff members will work with school officials to identify anyone who has had close contact with the confirmed case while they were infectious. All close contacts will be notified they have been exposed to a confirmed case and provided with instructions about what they should do to protect themselves, their families and their communities. Public health officials will work with school officials to prepare notification letters that will then be provided to everyone who is a close contact. See *What to do when notified of a lab-confirmed case of COVID-19 in a school or child care setting* at www.health.state.mn.us/diseases/coronavirus/schools/casenotify.pdf for more information about the contact tracing process in school settings.

Q: Can my employer require that I be tested for COVID-19?

- The U.S. Equal Employment Opportunity Commission (EEOC) has issued guidance stating that during a pandemic, ADA-covered employers may ask employees if they are experiencing symptoms of the pandemic virus. For COVID-19, these include symptoms such as fever, chills, cough, shortness of breath or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with ADA.
- ADA requires that any mandatory medical test of employees be "job related and consistent with business necessity." Applying this standard to the current circumstances of the COVID-19 pandemic, employers may take steps to determine if employees entering the workplace have COVID-19 (see www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#A.2) because an individual with the virus will pose a direct threat (see www.eeoc.gov/transcript-march-27-2020-outreach-webinar#q1) to the health

of others. Therefore, an employer may choose to administer COVID-19 testing to employees before they enter the workplace to determine if they have the virus.

- EEOC has also advised ADA does not interfere with the guidance outlined by CDC that employees experiencing symptoms of COVID-19 should leave the workplace. You can view additional guidance from EEOC at www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws.
- When an employer requires an employee or applicant to undergo a medical evaluation, including a COVID-19 test, in order to work, Minnesota law requires that the employer pay the cost of the test or medical examination.

Privacy of medical information

Q: Can my employer disclose the identity of an employee who has tested positive for, or otherwise been diagnosed with, COVID-19 to coworkers who were in close contact with the infected employee during the relevant 14-day period?

- An employer should not disclose the identity of an employee who has tested positive for, or otherwise been diagnosed with, COVID-19 to coworkers without the consent of that employee. However, an employer can provide employees with information that would help them evaluate exposure. Employers can generally identify that "an employee has tested positive for COVID-19" or that "an employee has been exposed to COVID-19," but the employee should not be identified.

COVID-19-related employment protections

Q: Can my employer terminate my employment if I have to miss work because I have contracted or was exposed to COVID-19?

- Under a state health law, if you have contracted or been exposed to COVID-19 and MDH recommends you stay home (self-isolate or self-quarantine), your employer may not discharge, discipline or penalize you for missing work. This protection also applies if you need to care for a minor or adult family member for whom MDH recommends self-isolation or self-quarantine. (The adult family member must have a disability or be a vulnerable adult.) This employment protection is available for 21 workdays.

Q: If I am not displaying symptoms of COVID-19 but have had close contact with someone diagnosed with COVID-19, should I self-quarantine?

- MDH recommends anyone who has had close contact with a confirmed case of COVID-19 should self-quarantine at home for 14 days from the last date of exposure. People who have been close to someone with COVID-19 may have been exposed to the virus, which means they have a greater chance of getting it themselves and then of spreading it to others. To prevent the spread of COVID-19, people who have been exposed need to stay home.

Q: Can I telework while self-quarantining due to contracting COVID-19 or due to COVID-19 exposure? Can my employer require me to telework under these circumstances?

- Depending on the situation, an employee may pivot to teleworking while self-quarantining or self-isolating.
- Generally, an employee may telework if:
 - the employer has work for the employee to perform;
 - the employer permits the employee to perform that work from the location where the employee is self-quarantining; and
 - there are no extenuating circumstances, such as serious COVID-19 symptoms, that prevent the employee from performing that work.
- An employee may be eligible for 80 hours of paid sick leave under the Families First Coronavirus Response Act if the employee is unable to work or telework due to COVID-19 (see leave section below).

Inability to work, and paid and unpaid leave

Q: I understand the federal government enacted emergency paid sick leave legislation and expanded benefits under the Family Medical Leave Act (FMLA) related to COVID-19. What does that legislation provide?

- The federal Families First Coronavirus Response Act (FFCRA) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The U.S. Department of Labor's Wage and Hour Division administers and enforces the new law's paid leave requirements.
- These provisions expire Dec. 31, 2020, unless otherwise extended by Congress.
- FFCRA applies to certain public employers, including school districts. It applies to private employers with fewer than 500 employees.
- Generally, FFCRA provides that employees of covered employers are eligible for:
 - two weeks (up to 80 hours) of paid leave at the employee's regular rate of pay (up to \$511 a day and \$5,110 in the aggregate), where the employee is unable to work because the employee is quarantined (pursuant to federal, state or local government order or advice of a health care provider) and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
 - two weeks (up to 80 hours) of paid leave at two-thirds the employee's regular rate of pay (up to \$200 a day and \$2,000 in the aggregate), where the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state or local government order or advice of a health care provider) or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19; and
 - up to an additional 10 weeks of expanded family and medical leave at two-thirds the employee's regular rate of pay (up to \$200 a day and \$10,000 in the aggregate), where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

- For more information about this law, visit www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave or call the U.S. Department of Labor's Wage and Hour Division at 612-370-3341.

Q: What documentation must I provide to my employer to access the paid sick leave or expanded FMLA in the FFCRA?

- An employee must provide his or her employer documentation in support of paid sick leave or expanded family and medical leave. Such documentation must include a signed statement containing the following information:
 - the employee's name;
 - the date(s) for which leave is requested;
 - the COVID-19 qualifying reason for leave; and
 - a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason.
- An employee must provide additional documentation depending on the COVID-19 qualifying reason for leave.
 - An employee requesting paid sick leave because they are subject to an isolation or quarantine order must provide the name of the government entity that issued the quarantine or isolation order to which the employee is subject.
 - An employee requesting paid sick leave because they have been advised by a health care provider to self-quarantine must provide the name of the health care provider who advised him or her to self-quarantine for COVID-19-related reasons.
 - An employee requesting paid sick leave to care for an individual must provide either the government entity that issued the quarantine or isolation order to which the individual is subject or the name of the health care provider who advised the individual to self-quarantine, depending on the precise reason for the request.
 - An employee requesting to take paid sick leave or expanded family and medical leave to care for his or her child must provide the following information: (1) the name of the child being care for; (2) the name of the school, place of care or child care provider that closed or became unavailable due to COVID-19 reasons; and (3) a statement representing that no other suitable person is available to care for the child during the period of requested leave.
 - For leave taken under FMLA for an employee's own serious health condition related to COVID-19, or to care for the employee's spouse, son, daughter or parent with a serious health condition related to COVID-19, the normal FMLA certification requirements still apply.

Q: Can an employer require an employee to use accrued paid time off (PTO), vacation or sick leave?

- If an employee is eligible for paid leave under the provisions of FFCRA, an employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid leave pursuant to that legislation.
- An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the unpaid portion of the leave provided in the expanded FMLA under FFCRA. However, this may not be necessary if the employee is eligible and chooses to use the paid sick

leave under FFCRA for the 10-day unpaid portion of the expanded FMLA. The U.S. Department of Labor's Wage and Hour Division administers and enforces FFCRA's paid leave requirements.

- Whether an employer can require the use of personal leave benefits outside of the application of FFCRA will depend on the applicable leave policy, employment contract or a collective bargaining agreement.

Q: What does an employee need to show to an employer to be able to return to work?

- Returning to work for an employee with COVID-19 should be made in consultation with the employee's health care provider and the employer using the return-to-work guidelines provided by CDC and MDH.

Q: I am not feeling well or have been asked to quarantine because of a potential exposure, but I'm concerned about losing income if I can't work. What can I do?

- You may be eligible for workers' compensation if your illness is due to your employment. See the workers' compensation section below for more information about workers' compensation benefits.
- You may be eligible for paid sick leave under FFCRA (see question above).
- In addition, the state's unemployment program was recently expanded to ensure those whose presence in the workplace would jeopardize the health of others will have access to unemployment income for the time they are unable to work. To get more information about unemployment insurance or to apply for benefits, visit www.uimn.org.
- You may also have access to paid time off through your employer. You should review any applicable leave policy, employment contract or collective bargaining agreement for more details.
- If your employer allows you to take time off for your own illness, your employer must also allow you to take time off to care for an ill minor child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. Your employer must allow you to use your sick time in the same manner as the employer would allow you to use the leave for yourself. Under current law, this provision may not apply to all employees and all employers. Contact the Minnesota Department of Labor and Industry (DLI) at 651-284-5075, 800-342-5354 or dli.laborstandards@state.mn.us with questions.
- The cities of Duluth, Minneapolis and St. Paul have sick and safe time ordinances that require employers to offer paid time off when employees are sick:
 - Duluth sick and safe time leave (see <https://duluthmn.gov/city-clerk/earned-sick-safe-time/about-earned-sick-safe-time/>);
 - Minneapolis sick and safe time leave (see <http://sicktimeinfo.minneapolismn.gov/>); and
 - St. Paul sick and safe time leave (see www.stpaul.gov/departments/human-rights-equal-economic-opportunity/labor-standards-enforcement-and-education/earned).

Workers' compensation

Q: What should an employee do if they think they contracted COVID-19 while working?

- The employee should notify their employer as soon as possible after they develop symptoms they think could be COVID-19. There are time limitations for reporting an injury to the employer. See www.dli.mn.gov/sites/default/files/pdf/infosheet_reporting_work_injury.pdf.
- The employee should keep a record of when they developed symptoms and when they notified their employer of those symptoms.
- The employee should seek medical care from a health care provider and request a test for COVID-19. If a test is not available, the employee should request that the health care provider document a test was not available and further document their symptoms and provide a diagnosis of whether they believe the employee has COVID-19.
- The employee should provide a copy of the test results or the diagnosis to their employer or their employer's insurer.

Q: What are an employer's obligations when an employee reports an injury or illness that may be work-related?

- The employer must file a first report of injury with the workers' compensation insurer or claim administrator. The insurer or claim administrator must notify the employee in writing within 14 days whether the employee's claim is accepted or denied.
- If the employer does not file a report of injury with its insurer or claim administrator, the employee may call DLI for help at 800-342-5354.

Q: What are an employee's rights if their workers' compensation claim is denied?

- Information about options if an employee's workers' compensation claim is denied is available at www.dli.mn.gov/business/workers-compensation/claim-process-claim-denied.

Q: Does the recent workers' compensation law, which provides that certain identified employees are presumed to have contracted a workers' compensation occupational disease if they become ill with COVID-19, apply to all school employees?

- No, an employee is entitled to the presumption if they contract COVID-19 on or after April 8, 2020, while employed in one of the following occupations:
 - a licensed peace officer under Minnesota Statutes, section 626.84, subdivision 1, a firefighter, a paramedic or an emergency medical technician;
 - a nurse or health care worker, correctional officer or security counselor employed by the state or a political subdivision (such as a city or county) at a corrections, detention or secure treatment facility;
 - a health care provider, nurse or assistive employee employed in a health care, home care or long-term care setting with direct COVID-19 patient care or ancillary work in COVID-19 patient units; and
 - a person required to provide child care to first responders and health care workers under Executive Orders 20-02 and 20-19.

Q: Can I still make a workers' compensation claim related to COVID-19 if I am not covered by the COVID-19 presumption?

- Yes, an employee who has COVID-19 but who does not fall into one of the occupations covered by the presumption can still claim a workers' compensation injury or occupational disease if they believe their illness is due to their employment.
- The employee should notify their employer as soon as possible. The employee can also call DLI at 800-342-5354 for assistance.

Q: What benefits are available to employees under workers' compensation law?

- Workers' compensation benefits include medical treatment, monetary benefits for wage loss and permanent disability, dependency benefits under Minnesota Statutes, section 176.111, and vocational rehabilitation benefits.

Q: Where can I find additional information about workers' compensation benefits?

- Information about workers' compensation benefits is available at:
 - www.dli.mn.gov/workers/workers-compensation-workers; and
 - www.dli.mn.gov/business/workers-compensation/work-comp-minnesota-workerscompensationsystem-employee-information.

Q: Can my employer ask or require me to sign a waiver of liability that prevents me from filing a claim for workers' compensation if I contract COVID-19?

- No, agreements to waive workers' compensation rights are prohibited by Minnesota law. Employees cannot sign away the right to file a workers' compensation claim and an employer may not discriminate against a worker for reporting an injury. The law also prohibits employers from encouraging employees to not report an injury, asking an employee to agree to hold an employer harmless for an injury or relinquishing rights an employee may have to workers' compensation benefits.

Q: Can an employee choose not to make a workers' compensation claim even if they believe they are eligible?

- The *employer* is required to report an injury or illness that may be related to an employee's employment, including COVID-19, if the injury or illness wholly or partly incapacitates the employee from performing labor or service for more than three calendar days. The employer must report the injury to its workers' compensation insurer within 10 days after it has received notice of, *or has knowledge of*, the injury or illness. The insurer must then report the injury to DLI.
- There is no law that requires an employee to accept workers' compensation benefits, although failure to do so may complicate the employee's later claim for benefits for the injury or illness. There are legal time limits within which an employee must notify the employer of a work-related injury or illness (unless the employer has actual knowledge). If the employee does not notify the employer within these time limits, the claim may be denied, even if the employee later develops complications due to COVID-19. See www.dli.mn.gov/sites/default/files/pdf/infosheet_reporting_work_injury.pdf.

Q: Will exposure to COVID-19 constitute an injury for the purposes of filing a workers' compensation claim?

- Exposure to COVID-19 alone does not constitute a workers' compensation injury. An employee must actually contract COVID-19 due to their employment to be entitled to workers' compensation benefits.

Q: What information will school staff members need to submit with a first report of injury if they contract COVID-19 at school?

- When an employee notifies the employer of a COVID-19 workers' compensation claim, the employer may ask whether the employee has been tested or has seen a medical provider and the circumstances that led the employee to believe they have contracted COVID-19 at work. The employee should provide what information they have at the time they notify the employer of the illness. If the employee has not yet seen a medical provider, the employee should promptly do so for a test or diagnosis of the illness. After the employer reports the injury to its insurer or claim administrator, the insurer or claim administrator will further investigate the claim and may contact the employee and any medical providers for additional information.

Q: Will school employees have access to COVID-19 incident rates in school facilities to establish their exposure to the illness?

- DLI is not authorized to release this data. However, the employee may be able to get this information through the discovery process if the employee files for a hearing on a denied workers' compensation claim.
- COVID-19 case information broken down in various ways can be found on the MDH Situation Update for COVID-19 webpage at www.health.state.mn.us/diseases/coronavirus/situation.html.

Q: Should employees report their own efforts to minimize exposure to COVID-19 to the workers' compensation insurer or claim administrator?

- An employee is not required to report their own efforts to minimize exposure to COVID-19 to establish a workers' compensation injury or illness. Minnesota employers that are in operation during the COVID-19 peacetime emergency are required to establish a COVID-19 Preparedness Plan for the health and safety of their employees. However, to investigate a claim, a workers' compensation insurer may ask an employee questions about when and where an employee contracted COVID-19.

Q: Must insurers submit the first report of injury to the state even if they deny the claim? How can an employee find out if this has happened?

- Yes, insurers must file the first report of injury with DLI (if the employee has been disabled from work for three full or partial calendar days), even if the insurer denies the claim. The insurer's denial of liability must be filed with the state and a copy must be sent to the employee. Information about an employee's options if their claim is denied is available online at www.dli.mn.gov/business/workers-compensation/claim-process-claim-denied.

Q: If a workers' compensation claim is accepted, how will an employee's wage loss be calculated if they were not employed or paid during the summer months?

- If the employee is unable to work at all because of an accepted work injury, wage-loss benefits are paid based on the employee's weekly wage on the date of injury. The average weekly wage for part time or irregularly scheduled employees is based on the employee's earnings during the 26 weeks prior to the injury, including any vacation or holiday pay the employee received during that period. The weekly compensation temporary total disability benefit is two-thirds of the employee's average weekly wage at the time of injury, subject to statutory minimums and maximums.
- More information and resources about workers' compensation benefits are available on the DLI website (see www.dli.mn.gov), including *An employee's guide to the Minnesota workers' compensation system* at www.dli.mn.gov/sites/default/files/pdf/eeguide2wc.pdf.
- Employees and employers can also call DLI's workers' compensation hotline at 800-342-5354 (press 3) for more information.