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**NJEA LEGAL SERVICES
TRAVEL ADVISORY AND RELATED QUESTIONNAIRES**

On June 24, 2020, Governor Murphy implemented a travel advisory advising individuals traveling to New Jersey from states with significant community spread of COVID-19, a list of which is updated on a rolling basis, to self-quarantine for 14 days after leaving that state. In response to that advisory, some school districts are requiring members to complete travel questionnaires. This document addresses some of the common questions about those questionnaires and the advisory itself. **For more individualized support, UniServ Representatives should continue to reach out to the network attorney assigned to their region for COVID-19 related issues.**

The Travel Advisory

The travel advisory advises individuals traveling to New Jersey from states with high levels of COVID-19 cases to self-quarantine for 14 days at their home or a hotel (or other temporary lodging), only leaving to seek medical care or for food or other essential items. The Department of Health (DOH) FAQs state that “self-quarantine is voluntary, but compliance is expected.” The advisory was issued through an announcement by the Governor, not an executive order, and there are no enforcement mechanisms in place or stated penalties. It also does not grant authority to school districts, colleges, or other local government entities to enforce the advisory. However, given the scrutiny of public service employees and to avoid risk of disciplinary action, we are advising members to comply with the advisory if they travel to one of these states.

For more information about the advisory, visit these links.

Announcement of travel advisory: <https://www.nj.gov/governor/news/news/562020/20200707a.shtml>

List of states identified as needing to quarantine when return to NJ from (check regularly for updates): <https://covid19.nj.gov/faqs/nj-information/general-public/which-states-are-on-the-travel-advisory-list-are-there-travel-restrictions-to-or-from-new-jersey>

Department of Health FAQs:

https://nj.gov/health/cd/documents/topics/NCOV/Travel_advisoryFAQs_6-25-2020.pdf

Questionnaires

Some districts have issued surveys to their employees in response to the travel advisory requiring them to report their travel plans or have their travel plans pre-approved by their employer. Despite the

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lack of authority of the school district to enforce the travel advisory, members should be advised if they refuse to respond to the questionnaires, they may be subject to discipline.

This document responds to some of the common questions that have arisen as a result of these questionnaires, with suggestions on how to address issues. However, since each questionnaire is unique, UniServ Representatives should continue to work with the network attorney assigned to their region for COVID-19 related questions.

Applicability to 10 month employees

Some of the questionnaires require reporting of travel plans effective June 24, 2020, the date the travel advisory was announced, without distinguishing between 10 and 12 month employees. If this is the case, local leadership and/or the UniServ Representative should clarify with the district that it is only effective as of June 24th with respect to 12 month employees, and becomes effective for 10 month employees for travel beginning two weeks before the first day they are required to report to work.

Reporting travel plans/requiring pre-approval

We are unaware of any legal authority, absent contractual language or an established practice, which would require an employee to have their travel plans pre-approved by their employer or under which a school district can demand to know where an employee has been on their off-time. If a vacation request is denied based on travel to a particular state, the matter should be grieved unless the local has unusual contract language or established past practice allowing management to impose travel restrictions. As for reporting travel plans (reporting not requiring pre-approval), local associations and/or UniServ Representations should demand to negotiate terms that are narrowly focused to respond to the health concern. For example, questioning whether the individual will be traveling to a state on the quarantine list, rather than asking for a specific location would be acceptable.

Quarantine upon return and use of leave

Some districts are requiring its employees to quarantine for a 14-day period after returning from one of the listed states, and requiring that they use their paid sick/vacation/personal days and/or unpaid leave. Under the EEOC guidelines, employers can require an employee to quarantine if there is a reasonable basis to believe that the employee has actually been exposed or is presenting with symptoms. However, we are aware of no legal requirement that the employee has to expend their paid leave or take unpaid leave if they are required to quarantine. In fact, if the employee works in a position that can be performed remotely, there is no reason they cannot request to work virtually during this 14-day period. If remote work is not possible, the Emergency Paid Sick Leave Act (EPSLA) provides for up to 80

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hours of partially paid leave for those full-time employees subject to a local order to quarantine or isolate. An argument can be made that a directive by the Superintendent to quarantine is equivalent to a local order to quarantine. Part-time employees are entitled to something less than 80 hours of leave based on the number of hours they would normally work over a two-week period. It is not required that an employee exhaust their paid time off prior to utilizing leave under the EPSLA. Locals should be encouraged to attempt to negotiate paid administrative leave or the temporary expansion of sick leave banks for quarantine days.

Household members quarantining after travel to a listed state

As of the time of this writing, we have not heard of districts asking about the travel of members of an employee's household. However, the DOH mentions this as a possibility in its FAQs. If this occurs, employees may be entitled to limited partially paid sick leave under the EPSLA if they are caring for an individual subject to a state quarantine order. Additionally, the employee may be entitled to unpaid family leave either under the federal Family and Medical Leave Act (FMLA), if they are caring for a family member with a serious medical condition, or under the New Jersey Family Leave Act (NJFLA), if a health care provider or public health authority recommends that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of the family member in need of care by the employee would jeopardize the health of others.

Medical questions included in the travel questionnaire

Some questionnaires have included questions asking employees to report symptoms and other medical information. A separate NJEA guidance document will be issued regarding these types of surveys. However, it should be noted that if an employee discloses personal medical information, the district is obligated to maintain it as a confidential record, as required by disability law, and shall only be disclosed in the limited need to know basis permitted by the ADA.