

# Classroom Concerns: Your Questions Answered



## CAMERAS IN THE CLASSROOM/ LIVESTREAMING

### Is livestreaming legal?

Yes. There is nothing in state or federal law that specifically prohibits it.

### Are there any prohibitions to livestreaming?

Because it is a change in working conditions, it is subject to negotiation. You should check with your CEAUniServ Rep/local association leaders, who are likely in the midst of bargaining over this subject.

### Does livestreaming violate FERPA?

While livestreaming itself is not an educational record maintained by the district, and thus not a FERPA issue, incidents that occur during livestreaming, just as in class instruction, may lead to creating an educational record to be shared with the district—inviting FERPA. At that point, that written record would be a FERPA document.

For additional protection, each district should achieve consent by each classroom student's parent to have their children shown during a livestream. However, if the district is neither requiring nor advising teachers to obtain waivers, and the teacher is following this district directive and acting in good faith, teachers can be assured that they are protected from personal liability by the state indemnity statute.

### Will I be made aware there are cameras for purpose of surveillance in my school?

In the event that the district decides to have cameras in the classroom, the CEA UniServ Representative should be notified so that he/she could bargain concerning the decision and the impact of this issue.

## TRAVEL ADVISORY – QUARANTINE

### What if I travel back from an “affected state” that is on Connecticut’s travel advisory right before the start of school?

On July 21, 2020, the governor issued Executive Order No. 7III, which repealed the advisory “self-quarantine” contained in the previous Executive Order No. 7BBB. As of July 24, 2020 any individual traveling to Connecticut from an “affected state” shall fill out a Travel Health Form and self-quarantine for a period of 14 days from the time of last contact with such affected state. The list of affected states is fluid; therefore, individuals should continue to check the State of Connecticut website for the latest information at [ct.gov](http://ct.gov).

### What if I live in one of the affected states but work in Connecticut?

If you live in a state bordering Connecticut, you should be checking the website daily for the latest information on the list of affected states. On August 4, Rhode Island was added to Connecticut’s list of affected states requiring a 14-day quarantine. (That mandate has since been lifted.) However,

according to the Governor’s Office, the 14-day quarantine will not apply to anyone who visits Rhode Island for less than 24 hours or who lives in Rhode Island but works in Connecticut.

### Where do I get the Travel Health Form?

Prior to or upon re-entering the state of Connecticut, you must fill out the Travel Health Form, which will ask where you plan to quarantine. If you are flying, that form will be provided to you by the airline. If you are traveling by car, etc. you are asked to download the form at [ct.gov/travelform](http://ct.gov/travelform) and submit it online.

### What if I fly from a state that is not on the list but have a layover in an affected state—does the quarantine still apply?

No.

### How long do I have to stay in the affected state for the quarantine to apply?

At least 24 hours.

### What will happen if I do not comply with the Executive Order?

Failure to self-quarantine or complete the Travel Health Form may result in a civil penalty of \$1,000 for each violation.

### Will I be paid for my 14-day quarantine, or do I have to use my own sick or personal time for the period of quarantine?

You do not have to use your own sick or personal time. Pursuant to the

Emergency Paid Sick Leave Act (EPSLA), individuals who are subject to a federal, state or local government order or the advice of a healthcare provider to quarantine for 14 days are entitled to 80 hours of sick leave pay at their regular rate of pay, up to a maximum of \$511p/d. You may however, use whatever sick time accruals you have pursuant to your collective bargaining agreement to cover the delta to reach your maximum salary rate for those 80 hours.



**Does the fact that I voluntarily chose to go to a state that I knew would automatically invoke the 14-day quarantine rule negate my eligibility for EPSLA?**

No. However, we have not seen guidance on this issue yet, though we suspect it is one of the things the DOL will weigh in on sooner or later because EPSLA and EFMLEA predate these kinds of state-specific travel restrictions. That being said, the law on its face does not make any distinctions about why someone is under quarantine as long as it is government-ordered or doctor-advised.

**Is there a way to get a waiver of the directive to quarantine?**

Yes.

a) **Testing Alternative** – If an affected traveler is unable to self-quarantine for the required period, the requirement will not apply, provided that he/she has had a negative test result for COVID-19 in the 72 hours prior to arriving in Connecticut. If a test was obtained in the 72 hours prior to travel but the result is still pending at the time of arrival in Connecticut, such travelers shall remain in self-quarantine in Connecticut until the test result is received.

b) **Exempted Travel** – Workers who are deemed “essential” traveling from affected states to Connecticut who work in critical infrastructure as designated by the Cybersecurity and Infrastructure Security Agency, including students in exempt healthcare professions, are exempted from the self-quarantine requirement when such travel is related to their work in Connecticut. This includes any state, local, and federal officials and employees traveling in their official capacities on government business. If a worker was in an affected state for a reason other than Connecticut-related work (e.g., vacation), that worker must self-quarantine and complete the Travel Health Form.

**Can I just get a test when I get back from an affected state and return to work if it's negative?**

No, that will not exempt you from the requirement to quarantine for 14 days.

**DISTRICT MANDATED WAIVER OF LIABILITY**

What if my school district wants me to sign a waiver indemnifying the district from liability if I get COVID or if I bring it home to a family member who gets sick and/or dies?

You should not sign any waivers, and if your district is asking you to do so, you should immediately contact your Uniserv Representative. Most districts understand that these waivers send the wrong message and create bad publicity, in that by asking you to sign a waiver, the district is admitting

that it may not be able to ensure a safe workplace. The important legal aspects to remember regarding these waivers are as follows:

- You cannot waive a workers’ compensation claim, which is the exclusive remedy for injury or illness against your employer;
- You cannot waive the kind of claims that are not covered by workers’ compensation, such as intentional or reckless harm;
- You cannot waive the rights of family members or other 3rd parties; and
- You cannot waive state workplace safety protections, such as OSHA.

**CHILD CARE**

**My child’s school is moving to full or partial distance learning. Is my child’s school “closed” for purposes of EFMLEA/EPsLA entitlements?**

Yes. A student’s school is deemed closed if the student is provided online instruction.

If I am home with my child because his or her school or place of care is closed, or childcare provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or whose childcare provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise

For more questions and answers, go to [cea.org/2020-coronavirus](http://cea.org/2020-coronavirus).

unpaid under the Emergency and Family Medical Leave Expansion Act unless you elect to use existing vacation, personal, or medical or sick leave under your employer’s policy. After the first ten workdays have elapsed, you will receive two-thirds of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or whose childcare provider is unavailable, due to COVID-19 related reasons.

### **Can I take my paid leave pursuant to the FFCRA intermittently?**

Maybe. Prior to August 3, 2020, the Department of Labor’s (DOL) final rule provided guidance that permitted employees to take leave intermittently but only if the employer and the employee agree and, only in the instance the employee’s need to care for a child whose school or place of care is closed or where childcare is unavailable—all due to reasons related to COVID-19. However, a Federal District Court in New York in the case of *State of New York v. U.S. Department of Labor*, No. 1:20-cv-03020 (S.N.D.Y. Aug. 3, 2020) struck down the requirement to obtain employer consent to take such intermittent leave. (It should be noted that it has not yet been determined if this case will be appealed or if it applies to Connecticut)

### **Do I have to provide documentation prior to taking FFCRA leave?**

Maybe. The New York court also struck down the need for employees to submit documentation supporting the need for leave to their employer prior to taking FFCRA leave. This ruling did not strike down the need to provide documentation; it concerned the timing of providing such information.

(Again, because we do not know if this case will be appealed or if it applies to Connecticut, we advise that you be ready with documentation when requesting leave.)

### **What if my district offers child care—am I still eligible for EFMLA/EPFLA?**

The DOL has not defined what “suitable” means. However, an argument may be made that any employee could still be entitled to EPFLA/EFMLA if they can show that the district’s childcare option is not “suitable” because, for example, they have a very young child or a child with special needs for which the daycare is not equipped. They could also try a general claim about “suitability” if there are concerns about COVID exposure in the daycare environment and employees are worried about their child’s safety. Moreover, if the district is charging for daycare and the member did not incur such a charge previously because a family member provided such a service or the child was in school, we do not believe that the district’s offer would be suitable. The Connecticut Department of Labor answered an inquiry informally that a teacher was not required to use the district-provided childcare at all and could instead opt to take the federal leave.

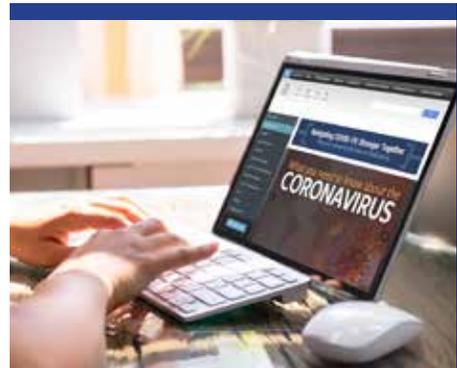
### **Can I augment my EFMLA/EPFLA paid leave with contractual benefits?**

Yes. During those 12 weeks of paid leave, you may use any applicable contractual benefits.

### **What do I do if I am denied paid leave to provide childcare during distance learning?**

If you are denied paid leave per the FFCRA, you should contact your Local President or CEA UniServ Rep and call 1-866-4US-WAGE (1-866-487-8243) or visit [dol.gov/agencies/whd](https://www.dol.gov/agencies/whd) to request enforcement of your FFCRA rights.

**If you have additional questions about returning to school next year, contact your local president who can connect you with your CEA UniServ Representative for further guidance.**



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