

Proposed Amendments to *Employment Standards Act* Introduced: COVID-19 Leave — Paid Leaves for Vaccination

On April 19, 2021, the provincial government introduced Bill 3 – 2021 to amend the *Employment Standards Act* (ESA) to provide employees with a new paid leave of absence to be vaccinated against COVID-19.

What These Proposed Amendments Mean for School Districts

Although this Bill is not currently enacted (expected in the coming days), it is important to note that this tabled amendment to legislation contemplates:

- an effective date of April 19, 2021 (“the date it receives First Reading in the Legislative Assembly”)
- no retroactive right to paid leave for time taken off work to be vaccinated before April 19, 2021.

As a result, it is recommended that school districts keep records of employees who have taken leave for receiving a COVID-19 vaccines starting April 19, 2021.

Once this new section 52.13 of the ESA is passed, it will provide employees with up to three (3) hours of paid leave to be vaccinated against COVID-19. The leave is available each time an employee needs time off to be vaccinated. The paid leave is in addition to the unpaid COVID-related leaves provided under section 52.12 of the ESA.

Questions and Answers

1. To whom does this leave apply?

This leave applies to any employee for the purpose of receiving their COVID-19 vaccine(s). This leave does not apply to the employee assisting family members to receive a COVID-19 vaccine.

2. Prior to April 19, 2021, if an employee had been granted and deducted sick leave under their collective agreement or employment contract, should that sick leave be reinstated?

No, there is no retroactive application for this leave prior to April 19, 2021.

3. Do all employees require leave from work to obtain their vaccination?

No, they may have already received one or more doses, or may have an appointment scheduled outside of working hours.

4. Do employees automatically get three hours of paid leave to obtain a vaccination?

No, the proposed legislation provides for up to three hours. If less than three hours is required, that is the amount of leave that should be taken.

5. Can the employer request documentation to support an employee's request for leave?

Yes, if necessary, employers can request confirmation that the vaccination was received by the employee and/or information about the location and time of their appointment, such as an appointment confirmation email. Please note that, as with other COVID-19 leaves under the ESA, an employer cannot request a medical note (from a medical practitioner, nurse practitioner or registered nurse) to confirm entitlement to the leave.

6. What if there are other provisions in the collective agreement or employment contract?

The ESA provides the minimum leaves of absence to which employees are entitled. School districts should provide employees with the greater of their entitlements under their collective agreement or employment contract and the ESA, depending on the employee's individual circumstances.

Questions

BCPSEA will notify districts immediately if there are any changes to the proposed legislation before it receives Royal Assent.

However, in the meantime, it is recommended that districts start preparing to manage employee requests for leave to be vaccinated as described above.

Should you have any questions, please do not hesitate to contact your BCPSEA liaison.