

**MEMORANDUM OF UNDERSTANDING BETWEEN
TAHOMA SCHOOL DISTRICT AND
TAHOMA EDUCATION ASSOCIATION REGARDING
TERMS OF EMPLOYMENT AND DELIVERY OF EDUCATIONAL SERVICES
AFFECTED BY COVID-19 FOR THE 2020-21 SCHOOL YEAR**

The Tahoma School District (“District”) and Tahoma Education Association (“Association”) agree upon this Memorandum amidst the COVID-19 pandemic in order to resolve questions regarding employment and District services in this unprecedented time.

A. Modes of School Operation for 2020-21.

1. Consistent with its management rights, prerogatives, and responsibilities, the Tahoma School Board and its designated administrative agents will determine the mode by which school will be conducted for the 2020-21 school year. Modes of school operation may include, but are not limited to: (a) remote (i.e., online) instruction for all students; (b) remote instruction for most students, with certain high-needs students (e.g., some special education students, English-language learners, and Learning Assistance Program students) receiving in-person instruction; (c) a “hybrid” approach that combines in-person instruction for all or most students with remote instruction; and (d) a return to regular school operations, with modifications to address any ongoing effects of COVID-19. The parties recognize and agree that the District may change modes at its discretion consistent with the recommendations of the Washington State Department of Health (“DOH”) and in consultation with the King County Public Health Department (“KCPH”) as the COVID-19 situation evolves (e.g., if a hybrid or in-person model is being used and the rate of infection worsens, the District may need to return to a remote or more restrictive hybrid model).

2. The daily schedule for K-12 instruction under any mode of school operation will be as determined by the District consistent with the Continuous Learning Plan.

3. The District will provide the Association leadership and employees with reasonable advance notice of a change in the mode for school operation.

4. The parties intend this MOU to address those foreseeable changes to wages, hours, and working conditions anticipated to arise from use of remote or hybrid models. Should the District make further changes to school operations consistent with its management rights affecting wages, hours, or working conditions that are not addressed by this MOU, the parties will meet upon request of the Association to discuss any impacts of such changes on mandatory subjects of bargaining. These concerns may be brought up in labor management meetings or by Association’s request.

B. Health and Safety of Students and Staff.

1. The District will implement District-wide health and safety protocols that will be designed to comply with applicable guidance of all relevant public health agencies, which will

include at least the following: the federal Centers for Disease Control and Prevention (“CDC”); Proclamations by the Governor; DOH; OSPI; the Washington State Department of Labor and Industries (“L&I”); Occupational Safety and Health Administration; and KCPH. Health and safety protocols will be consistent with the District’s Continuous Learning Plan. Strict compliance with all relevant District safety and health rules will be an essential function of each Association employee’s position. The District’s health and safety protocols as they exist as of the effective date are outlined in the “Continuous Learning Plan,” although the parties recognize that the District may revise such rules as guidance from federal, state, and local authorities changes.

2. Prior to the start of the 2020-21 school year, the District will make reasonable efforts to provide notice to all employees, parents/guardians, and students of relevant health and safety protocols as they exist at that time. Should health and safety protocols change during the school year, the District will provide reasonable notice to the Association leadership and affected employees.

3. The District will provide training opportunities for all Association employees on health and safety protocols then in existence prior to the start of the 2020-21 school year.

4. The District will provide the appropriate Personal Protective Equipment (“PPE”) to Association employees when required to meet state health and safety standards. Employee requests for additional PPE will be made to employees’ supervisors. The District will respond to PPE requests in a timely manner.

5. Meetings of employees, including professional development, may be held in-person during remote or hybrid instruction, provided that the number of employees present and physical setup of the meeting is consistent with then-existing state requirements. Any employee may work with supervisors to allow remote options as appropriate.

C. Work and Compensation of Employees.

1. It is the strong preference of the District that certificated staff deliver all of their lessons from the most professional and engaging setting for our students. The District believes that the most professional and engaging setting is for lessons to be delivered from the teacher’s classroom. Association members may work remotely provided that the quality of the educational services offered in the alternate setting will not be compromised. Employees may be required to return to the worksite if a professionally engaging environment is not provided from the alternate setting.

2. Based on student need, the District may direct Association members to work onsite at a location determined by the District. Remote work assignments will not be an option for Association members whose students return to schools for small group instruction or student evaluation unless those staff members are approved for a remote work assignment based on one of the leave categories in Section D of this MOU. In the event that this requirement conflicts with

OSPI guidance or a future proclamation by the Governor, the District will align its plan with OSPI or a future proclamation by the Governor.

3. Regular Association employees on continuing, provisional, and long-term leave-replacement base and PLE contracts of at least 20 workdays will receive the compensation and benefits (if eligible) called for by their employment contracts for the 2020-21 school year, provided that such employees remain eligible and available to work or are on an approved paid or unpaid leave.

4. The District will compensate Association employees for those supplemental contracts (including those in Addendum 2, 3, and 4 of the CBA) that the District determines in advance of award can and will be appropriately adapted to the instructional mode and health and safety rules then in effect. The District will meet with the Association before making a final determination.

5. The District will not employ substitutes, including long-term substitutes, for positions that become temporarily vacant unless the District determines that such substitute personnel are needed.

6. The parties recognize that use of remote or hybrid modes of instruction may necessitate additional reassignment of Association employees to meet emerging needs. Therefore, the parties agree that reassignments related to remote or hybrid learning are to accommodate urgent needs of the District. The District will provide reasonable notice to the employee of any reassignment.

7. Upon the request of the District, any meeting or conference called for by the CBA may be conducted remotely via video conference platform determined by the District for the 2020-21 school year.

D. Leaves Related to COVID-19. COVID-19 presents unique medical, family, disability, and staffing challenges for the District and its employees. The following provisions are included to provide clear, objective, and practical options for the District and the employees facing those challenges.

1. **Employees with COVID-19/Suspected COVID-19.** Employees who have been diagnosed by a healthcare provider with COVID-19, or who are experiencing symptoms of COVID-19 and are seeking a medical diagnosis, may not come to work at a District worksite and may access any or all of the following benefits under the terms of the CBA or law:

a. Emergency Paid Sick Leave ("EPSL") under the federal Families First Coronavirus Response Act ("FFCRA"), with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$511 per day) by other paid leaves identified in this section, below:

- b. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).
- c. Shared sick leave.
- d. Washington Paid Family Medical Leave ("PFML").
- e. Worker's compensation, if applicable per Employment Security Department rules.
- f. Federal Family Medical Leave Act ("FMLA"), which provides unpaid leave except for continued health insurance benefits unless an employee elects to simultaneously use other accrued, paid leave.
- g. Unpaid leave of absence for the period of the temporary disabling condition.
- h. Long-term disability benefits.
- i. Unemployment benefits.

2. Employees Quarantined Due to Exposure to COVID-19. Employees who have been ordered or advised by a public health agency to quarantine at home due to exposure to COVID-19 may not come to work at a District worksite and may access any or all of the following benefits under the terms of the CBA or law:

- a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).
- b. EPSL under the FFCRA, with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$511 per day) by other paid leaves identified in this section,
- c. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).
- d. Worker's compensation, if applicable per Employment Security Department rules.
- e. Unpaid leave of absence for the period of the quarantine.
- f. Unemployment benefits.

3. Employees Caring for Someone with COVID-19/Suspected COVID-19. Employees who are caring for an individual who is subject to quarantine because that person has been diagnosed with COVID-19, or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis, may not come to work at a District worksite and may access any or all of the following benefits under the terms of the CBA or law:

- a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).
- b. EPSL with supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$200 per day) by other paid leaves identified in this section, below;
- c. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).
- d. Shared sick leave, if applicable.
- e. Washington Paid Family Medical Leave ("PFML").

f. Federal Family Medical Leave Act (“FMLA”), which provides unpaid leave except for continued health insurance benefits unless an employee elects to simultaneously use other accrued, paid leave.

g. Unpaid leave of absence for the period the employee is unable to come to work at a District worksite.

h. Unemployment benefits.

4. Higher-Risk Employees. Employees who are at higher risk of severe illness or death from COVID-19, as that term is defined by the Governor’s Proclamation 20-46.2 or a subsequent, binding proclamation, may choose to come to work at a District worksite when required by the employee’s assignment or may choose to access any or all of the following benefits under the terms of the CBA or law:

a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).

b. EPSL with supplementation up to the employee’s regular daily salary if the employee’s salary exceeds the statutory EPSL cap (\$511 per day) by other paid leaves identified in this section, below.

c. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).

d. Non-illness leave.

e. Unpaid leave of absence.

f. Unemployment benefits.

5. Higher-Risk Individual in the Employee’s Household. Employees who themselves are not at higher-risk but have someone in the household (i.e., someone with whom they share a residence) who is at higher risk of severe illness or death from COVID-19, as that term is defined by the Governor’s Proclamation 20-46.2 or a subsequent, binding proclamation, may choose to come to work at a District worksite when required by the employee’s assignment or may choose to access any or all of the following benefits under the terms of the CBA or law:

a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).

b. EPSL with supplementation up to the employee’s regular daily salary if the employee’s salary exceeds the statutory EPSL cap (\$200 per day) by other paid leaves identified in this section, below.

c. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).

d. Non-illness leave.

e. Leave of absence.

6. Employees with Children Affected by School Closure. An employee who must care for the employee’s child because of a school closure or unavailability of the child’s care provider due to COVID-19 may choose to come to work at a District worksite when required by the employee’s assignment or may choose to access any or all of the following benefits under the terms of the CBA or law:

- a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).
- b. EPSL with possible supplementation up to the employee's regular daily salary if the employee's salary exceeds the statutory EPSL cap (\$200 per day) by other paid leaves identified in this section, below.
- c. Emergency Family and Medical Leave ("EFML") under the FFCRA (which is partially unpaid and partially paid at 2/3 regular wages up to a maximum of \$200 per day), with possible supplementation up to the employee's regular daily salary by other paid leaves identified in this section, below.
- d. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).
- e. Non-illness leave.
- f. Unpaid leave of absence.

7. Employees Who Cannot Wear a Face Covering, Shields, or Other Required PPE.

An employee whose assignment requires work at a District worksite and who cannot wear personal protective equipment ("PPE") required for the employee's assignment, including but not limited to a face covering, may choose to access any or all of the following benefits upon presentation of appropriate documentation from the employee's healthcare provider and under the terms of the CBA or law:

- a. Alternative work assignment determined by the District that may be performed from home, if available (see Section E, below).
- b. Leave for illness, injury, or emergency (i.e., accrued paid sick leave).
- c. Non-illness leave.
- d. Unpaid leave of absence for up to the entire 2020-21 school year.
- e. Other accommodations identified through the interactive process of the Americans with Disabilities Act ("ADA") and the Washington Law Against Discrimination ("WLAD").

8. Employees Who Choose to Not Wear a Face Covering, Shield, or Other Required PPE. An employee whose assignment requires work at a District worksite and who does not have a documented inability to wear PPE required for the employee's assignment, including but not limited to a face covering, but nevertheless does not wish to wear such PPE, may choose to access any or all of the following benefits under the terms of the CBA or law: non-illness leave.

9. Employees Who Otherwise Choose to Not Work at a District Worksite Due to Concern for Safety. An employee whose assignment requires work at a District worksite and who does not fit within the conditions of Sections 1-8, above, may choose to access any or all of the following benefits under the terms of the CBA or law: non-illness leave, if available. Employees who allege their workplace is unsafe are encouraged to immediately report their concerns to their supervisor and/or the workplace safety committee. Such employees may in limited circumstances also have recourse through L&I under WAC 296-360-150.

10. Documentation. When an employee requests leave under Section 1-7, above, the District may require, and an employee will provide within five (5) business days (or such other

number of days as required by law), written documentation that the employee qualifies for such leave. For example, in the case of an employee diagnosed with COVID-19, the District may require a doctor's note. In any event, the District will request only such documentation as is consistent with federal and state law. The District will take reasonable steps to maintain the confidentiality of medical information received under this Section 10.

11. Possible Limitations. All the contractual, insurance, and statutory leave benefits referenced above have specific rules or external agencies that govern their application, and the terms of this MOU will be interpreted consistent with those rules and agency interpretations. The leave entitlements of the FFCRA (both EPSL and EFML) will expire should federal legislation discontinue those benefits.

E. Alternative Work Assignments and Temporary Reassignment.

1. When an employee's assignment requires work at a District worksite and the employee cannot work at a District worksite for one of the reasons discussed in Sections D (1)-(7), above, the District will attempt to reasonably accommodate those circumstances by assigning the employee to available work that can be provided remotely from home on the condition that the employee is qualified, prepared, willing, and available to provide such services.

2. When choosing from among multiple employees for the same available alternative assignment, the District will prioritize employees in the following order:

- a. Employees who hold the appropriate training, licensing, endorsement, or other qualifications for the position;
- b. Employees quarantined due to possible exposure to COVID-19;
- c. Employees caring for someone with COVID-19/suspected COVID-19;
- d. Higher-risk employees, or employees with a higher-risk individual in the employee's household;
- e. Employees with children affected by school or care provider closure; and
- f. Employees who cannot wear a mask or other required PPE.

3. If two or more employees have equal priority under the conditions above, the District will use seniority to make the assignment.

4. If a remote assignment is created and assigned to an employee with the expectation that it will continue for the entire school year, the District will not be required to reassign an employee previously awarded such remote assignment in order to accommodate a remote assignment for another employee whose need for an alternative assignment arises later in the school year (even if the latter employee would have higher priority under the factors, above).

5. To maximize the District's options for meeting the educational, social, and emotional needs of students in the unusual circumstances of the 2020-21 school year, the Association and District agree to the following limited opportunities for temporary reassignment

of employees (which may apply in either the case of an alternative work assignment per Sections 1-4, above, or when an employee continues to work onsite):

- a. An employee may be temporarily assigned to provide services outside the employee's normal job description if work within the employee's job description is unavailable due to the temporary closure of school facilities;
- b. Such employee may only be assigned to perform work for which the employee is appropriately trained, licensed (if applicable), and prepared to perform.
- c. Such assignment will not, without the employee's agreement, exceed the hours normally assigned to such employee.
- d. Such employee will be paid the regular salary, wages, and benefits the employee would receive under Article 2 of the CBA.
- e. Such employee's temporary assignment may not result in displacing any other employee performing services within his or her regular job description.
- f. The temporarily reassigned employee retains a right to return to the employee's original assignment upon resumption of regular school operations, subject to existing contract rights of the District to reduce the workforce and/or reassign employees within the same bargaining unit.

F. Expectations Specific to Remote Instruction.

1. Employees who are working remotely (either because remote work is being used for certain staff or because they have been granted alternative assignments) will do at least the following in addition to other duties as assigned:
 - a. Check their District-issued email accounts and respond to emails and phone calls in accord with Article II, section (B)(8).
 - b. Remain available for phone calls with their supervisor or District personnel during working hours.
 - c. Attend designated District/school online staff meetings, grade-level meetings, and team meetings as scheduled during working hours.

G. Expectations Specific to Hybrid Instruction.

1. Should the District determine to transition to a hybrid mode of operation during the 2020-21 school year, the District will construct a schedule that meets the requirements of the public health and safety requirements and the Governor's Safe Start Washington phased plan requirements (if applicable). The District will meet and negotiate in good faith regarding impacts on wages, hours, or working conditions arising from hybrid instruction not addressed herein upon request by the Association.

H. School Calendar and Work Year.

1. The parties do not presently anticipate changes to the Board-approved calendar for the 2020-21 school year, other than that the following dates originally intended as possible

snow makeup days may be used to make up days that instruction could not be provided across the District due to COVID-19: January 25, March 19, and May 28.

2. It is currently anticipated that school will be in session through June 18, 2021. If this end date changes for any reason, the District and the Association will meet to negotiate impacts.

I. Communication. The District will provide notice of COVID-19 health and safety information to all employees via District email and communication directly with the Association's President in advance of communicating such information to families, except in the case of emergency endangering the health or safety of students or families.

J. Professional Development. The District and the Association agree that the ongoing effects of COVID-19 present new challenges that may necessitate additional training. Employees may be required to attend professional development related to COVID-19. If such trainings are offered outside of an employee's normal working hours, those hours will be paid at the employee's per diem rate.

K. Contact with Students. Employees will not communicate or have contact with District students outside of their assigned job duties, consistent with the District's policy/procedure on maintaining professional staff/student boundaries (No. 5253).

L. Evaluation: The District shall engage in certificated educator evaluations for the 2020-21 school year as described in the Bulletin 063-20 issued by OSPI on August 7, 2020.

1. For employees on a modified comprehensive evaluation focusing in two areas, the areas of focus will be approved by the evaluator as addressed in WAC 392-191A-120.

2. As reflected in the August 7, 2020 OSPI guidance, certified classroom teachers may still be moved to a normal eight (8) criteria comprehensive evaluation at the request of the teacher or the direction of the evaluator if notified in writing by December 15.

M. Enforcement. This MOU may be enforced through the typical grievance procedure in the CBA.

N. Effective Date. This MOU will be effective on August 20, 2020, and remain in effect for the 2020-21 school year. It will expire on the last instructional day of the school year, unless the parties earlier agree in writing to terminate it. All provisions of the current CBA for 2018-2021 not modified herein will remain in effect. This MOU is not precedent-setting and is intended to address only the specific and unprecedented health emergency presented by COVID-19. Neither party may cite this MOU or introduce it into evidence in any future arbitration or other legal action, other than one to interpret or enforce this agreement.

FOR THE DISTRICT:

Mark Koch

8-20-2020

Date

FOR THE ASSOCIATION:

David [Signature]

8-20-2020

Date