

COVID 19 – Frequently Asked Questions

DISCLAIMER: *This information is of a general nature. For specific advice related to your situation, please consult your collective agreement, Local, or National Representative.*

For information from the Saskatchewan Government on [COVID-19](#), click [here](#).

For information from the Federal Government on [COVID-19](#), click [here](#).

Do I have to take Employment Insurance (EI) if I get laid off or can I use my vacation and banked time?

The decision to lay off is part of Management Rights but is subject to the terms of the collective agreement. If you are laid off, you should be paid out all vacation leave and any banked time that you are owed. You may also be entitled to have your unused sick leave paid out. If your employer does not pay out your vacation leave or banked time, grievances should be filed. Once you have been laid off, it is recommended that you apply for EI.

My employer is requiring me to use my vacation, but I don't want to.

According to *Brown & Beatty*, unless a collective agreement provides otherwise, arbitrators have traditionally held that management has the right to fix the vacation schedule to facilitate its operations, including the right to schedule a plant shutdown and to require its employees to take their vacations during the shutdown, or to declare certain days to be holidays during which the plant will be closed.

What happens to my vacation hours? Do they just pay them out?

If an employer is unable to operate or is unable to provide employees with a safe workplace, it is CUPE's position that employees should work from home if possible. If they are not able to work from home, CUPE is asking for employees to be put on paid leave. As stated above, management has wide discretion when it comes to vacation. In an unprecedented global pandemic, employers are likely entitled to force employees to take vacation leave. If you are laid off, you should be paid out your vacation leave.

I work another job-The Employer is saying I need to make a choice between which one I keep?

This is a complex question and depends on a variety of factors. Consult your Local or National Representative. However, in general, employers cannot force employees to quit their other job, but if there is a conflict between the jobs, one employer could end the employment relationship. During a public health emergency, if an employer has legitimate concerns about an employee's health, the employer could prevent the employee from coming to work. If that happens, an employee should work from home. If that is not possible, the employee should request to be put on paid leave or another form of leave available under the collective agreement.

Is the employer required to provide me with layoff notice as a result of the business closure?

Yes, employers must provide workers with layoff notice as set out in the collective agreement. Recently, the Sask Party government made changes which allow employers to not provide layoff notice. It is CUPE's position that these changes do not apply to workers covered by collective agreements. If your employer does not provide you with layoff notice, a grievance should be filed.

Do I have to go to work if I feel unsafe?

Section 3-31 of *The Saskatchewan Employment Act (SEA)* gives employees the Right to Refuse Dangerous Work. If you feel your workplace is unsafe, tell your supervisor or manager. Your workplace Occupational Health and Safety Committee will investigate. If there is no Occupational Health and Safety Committee, then an occupational health officer from the Government of Saskatchewan must investigate.

If the Occupational Health and Safety Committee agrees that the workplace is unsafe, then the problem needs to be fixed before work can continue. If the Committee thinks the workplace is safe without any modification, you can request that an occupational health officer investigate the matter (section 3-32(a) of the *SEA*). You are entitled to keep refusing until the occupational health officer has investigated the matter and advised you that the workplace is safe (section 3-32(b) of the *SEA*).

If you disagree with the decision of the occupational health officer, it is possible to appeal this decision. Contact your Local or your National Representative.

When you inform your employer of your right to refuse dangerous work, you should do so at the workplace. This means that you should go to work to tell your supervisor or manager that you are invoking your right to refuse dangerous work. After you do this, you should stay at the workplace until the investigation is complete.

My co-worker may have the coronavirus, what do I do?

You should talk to your co-worker if it is possible to do so safely. If it is not possible, you should contact your manager. Individual workers have obligations to help create and maintain a safe workplace. Section 3-10 of *The Saskatchewan Employment Act* states that every worker must "take reasonable care to protect his or her health and safety and the health and safety of other workers who may be affected by his or her acts or omissions."

I think I might have the virus, what do I do?

Call the Healthline at 811. You may also want to use the self-assessment tool available [here](#). If you suspect that you have the virus, do not go to work. Call your manager and explain the situation.

Do I still get paid if I am unable to come to work, i.e. the employer tells me to stay home, but I'm not sick?

CUPE's position is that employees who are told to stay home should be placed on paid leave, but this is subject to the terms of your collective agreement. If the employer refuses to put you on paid leave, then you would be entitled to any rights under the collective agreement. For example, that might include sick leave, vacation leave or layoff notice.

Can I just use all my sick time, even though I'm not sick?

Some employers are allowing employees to use their sick time even though they are not sick. CUPE's position is that employees who are unable to work because of the pandemic should receive paid leave.

If we have a collective agreement in place, don't they have to follow it?

Yes, employers are obliged to follow collective agreements. If an employer does not follow the collective agreement, grievances should be filed and pursued per the grievance procedure set out in collective agreements. In-person grievance meetings should be replaced by conference call or video-conferencing. While some arbitrations have been postponed, some arbitrators are preparing to conduct hearings by video-conferencing.

What are some of the income protections I keep hearing about?

In addition to EI, the Government of Canada has launched the Canada Emergency Response Benefit (CERB). CERB provides a taxable benefit of \$2,000 every four weeks for up to 16 weeks to eligible workers who have lost their income due to COVID-19. Eligible workers are those who have not voluntarily quit their job and had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application. On April 15th, the Government of Canada expanded the eligibility criteria to include people who are still working, but making no more than \$1,000 per month, seasonal workers who have exhausted their EI regular benefits and are unable to return to their regular seasonal work due to COVID-19, and workers who recently exhausted their EI benefits and are unable to find a job because of COVID-19.

More information on CERB can be found [here](#).

How do I apply for E.I. or CERB?

If you have stopped working because of COVID-19, the Government of Canada is encouraging you to apply for the Canada Emergency Response Benefit. A single portal has been established to assist workers with the application process, which involves a few simple questions to help direct you to complete the application best suited to your situation. If you became eligible for EI regular or sickness benefits on March 15, 2020 or later, your Employment Insurance claim will be automatically processed through the Canada Emergency Response Benefit.

You can apply for EI or CERB [here](#). Your employer will need to issue a Record of Employment (ROE) before you can apply for EI. Employers should indicate that the reason for the cessation of employment is "A - Shortage of Work." To access CERB, you will need to provide your personal contact information, social insurance number and confirmation that you meet the eligibility

requirements. The Government of Canada may require additional documentation to verify your eligibility at a future date.

Can I use my seniority to bump others? Can I transfer my seniority?

You may be able to use your seniority to bump into a different position. It depends on vacancies in your workplace and your collective agreement. Consult your collective agreement, Local, or your National Representative.

Can I apply for early retirement?

Yes, however there may be consequences with respect to your pension and/or benefits. Consult your pension plan provider, as well as your collective agreement, Local, or National Representative.

What happens if I need to stay home to take care of my kids? Do I need to use my vacation?

Under recent changes to *The Saskatchewan Employment Act*, employees are now entitled to unpaid “public health emergency leave” to care for themselves or family members during this public health emergency. Depending on your collective agreement, you are likely entitled to use your paid sick leave. Some employers are also allowing employees to use vacation to care for family members.

I am a casual working in group homes. Can I work in more than one home during the pandemic?

Currently, there is no prohibition against working in more than one group home though it does increase the risks of contracting COVID-19 and also the risks of giving it to someone else. If your employer knows that you are working in more than one group home, it can likely prevent you doing so on the grounds of ensuring both public and client safety.

I have positions in long term care and a group home setting. Should I take a leave from one job, so I don't cross contaminate? Does my employer need to grant me a leave? Will it be paid?

Reasonable steps should be taken to avoid cross-contamination. Talk to your employer. If your employer refuses to grant you leave, contact your Local or National Representative. Any leave is likely to be unpaid unless you access your sick leave or vacation leave.

Can the employer change my job duties or reassign me if my position is no longer needed (activity programs, days programs etc.)

It depends on your collective agreement and the job description. Most job descriptions include something like “other duties as assigned.” Typically, employers can modify duties or location as part of the Management Rights clause in your collective agreement. The question is whether there has been a “substantial qualitative change” to your duties, but in a public health emergency, employers will likely be given more latitude by arbitrators. If you have any questions, please contact your local union.