



A Union of Professionals

# Guidance for Local Leaders on Information Requests and Bargaining About ‘Essential Employees’ (Private Sector)

“Essential employees” carry out the fundamental services that allow our schools, hospitals and other key social institutions to continue functioning during the COVID-19 pandemic. Some members of many AFT locals are likely to be designated as essential. It is important that these employees have the resources they require to remain safe on the job and that there is clarity about who is deemed to be an essential employee.

Whether your labor-management relationship is cooperative or not, you have a right to be part of planning and discussion regarding these matters. In addition to seeking information in a spirit of collaboration to engage in discussion or bargaining around these issues, you may find the following sources useful as a basis upon which to assert your rights, as a union, to information about your employer’s policies and practices during this time:

- Collective bargaining agreements, meet-and-confer policies, handbooks, or other jointly

agreed-upon labor-management documents;

- The National Labor Relations Act (consult your local counsel or the AFT Legal Department with any specific questions); and
- Emergency proclamations by local, state or federal authorities.

The following checklist is a helpful resource for making informational requests and setting the agenda for a meeting with the employer. It contains some **basic questions and actions local union leaders should pursue with their employer.**

## As a general principle, you will want to know:

- Whether there are existing designations for who is an essential employee in a health emergency such as the current COVID-19 pandemic and who has the power to designate employees as essential;
- What essential employees should expect regarding communications from the

Find these resources and more at [www.aft.org/coronavirus](http://www.aft.org/coronavirus)

The American Federation of Teachers is a union of 1.7 million professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

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- employer, work assignments, hazard or overtime pay, and other aspects of their work;
- What “essential employees” can do if they (or people they take care of) become ill and they are unable to come to work;
- How the designation of “essential employee” alters any existing rights or contractual expectations for those employees; and
- Contact information for all employees to ensure our union is able to represent the interests of the bargaining unit on issues related to the current health emergency.

## Some questions to ask your employer regarding essential employees:

Be sure to check out AFT’s COVID-19 toolkit for more information about the virus and how to protect your workplace and members, including general guidance on information requests and requests to bargain.

1. Are there written policies in place for determining who is designated an “essential employee”? If written policies exist, please provide a copy of all such policies. If not, are there specific plans to develop such policies, and when will they be provided to our union?
2. How does the employer expect any relevant federal, state, or local emergency decrees or executive orders to impact existing collective bargaining language or other existing policies regarding the designation, expectations, protections and rights of essential employees?
3. Are any employees currently designated as essential employees? If so, who and how many? Please provide the full contact information (work and personal) of these employees. Are there particular job classifications, work sites or roles that are receiving such designation? What are the duties or tasks that make these employees essential at this time? Who makes these decisions?
4. If employees have been determined to be essential, how was that determination communicated to the employee? What is the timeframe or what are the conditions during which they will continue to be considered essential? In what manner can our union expect such information to be communicated from the employer to our union?
5. How and when is the need for the designation of “essential employees” reviewed? How and when will our union have opportunities to give input or otherwise have a role in the review process?
6. If employees are designated as essential, will they be expected to take on tasks different from or in addition to those they normally perform in their workplaces? If so, what training, necessary equipment, or other additional support will they receive to carry out these tasks?
7. Are there additional protections the employer plans to provide to ensure that employees are safeguarded against any allegation of wrongdoing/negligence, given that this is an emergency situation, and we are dealing with new and unknown challenges and limited resources to handle them?
8. How will essential employees be compensated for fulfilling these critical roles during the crisis? Will they receive overtime, hazard pay or other forms of additional compensation? What is the timeframe and method for providing any such added compensation?
9. In addition to any existing grievance procedure, what are the procedures for essential employees to challenge assignments that do not meet safety-at-workplace standards?
10. What additional support will the employer provide in terms of dependent care so that essential employees are able to come to work? Will essential employees have access to convenient workplace parking and other basic needs so that they are able to work?
11. Is there a plan in place for essential employees to take temporary respite or routine time

off to avoid burnout? How and when can essential employees and our union have opportunities to give input or otherwise have a role in that decision?

12. What additional provisions and protections exist if essential employees become ill, believe they may be ill, or have likely been exposed to others who are ill? Will these essential employees have access to additional paid leave beyond any existing sick leave policies?
13. If essential employees or their dependents require medical care related to this health emergency or as a result of working during this time, will the employer/state agencies cover the cost of any such treatment? If the employer does not cover these costs, what arrangements has the employer made to ensure that essential employees are held harmless for related medical costs?
14. Please provide the names and contact information (work and personal phone, email, address) for all employees (both essential and nonessential) so that our union can

help ensure full reach of information and communication, and so our union is able to represent the interests of the bargaining unit on issues related to the current health emergency.

It is critical for you as a community member, worker, union member and union leader to be cognizant of the extraordinary circumstances that we as a society face and the need for us to step up and face them together. It is equally important that we make sure your safety, rights and those of your colleagues who will be on the frontlines of these efforts are recognized and protected. Please use the tools and ideas listed above to keep yourself and your fellow workers safe as you step up to help us all navigate these difficult times.

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