

Dear Brothers and Sisters of the FOP/Ohio Labor Council, Inc.,

The FOP/Ohio Labor Council stands ready to support our members during this pandemic. The FOP/OLC knows that, as law enforcement officers and support personnel, your work life has been impacted more than others. We know that many of you have questions about the impact of the Coronavirus on the operations of your department and your legal and contractual rights. We will try to answer some of those questions with the caveat that, due to the unprecedented nature of this threat, this is a rapidly evolving situation. There are likely questions that have not yet arisen and some questions that do not yet have answers.

COLLECTIVE BARGAINING AGREEMENT

As issues arise, the first document you should review is your Collective Bargaining Agreement to see if your question is addressed. If you need assistance determining whether a particular provision in the agreement applies to your situation, we are available to assist you in that determination. Our Staff Representatives and Attorneys stand ready to assist by cell phone and by email.

Your Collective Bargaining Agreement might have a provision that allows for a waiver or suspension of the terms of the agreement when an emergency is declared. The declaration of such an emergency could result in the tolling of your grievance procedure. However, in the absence of such a tolling, be cognizant of the timelines contained in your grievance procedure.

QUARANTINE/POTENTIAL EXPOSURE

Law enforcement personnel who are exposed to the Coronavirus may be quarantined or directed to self-isolate at home. Currently, the recommended period is 14 days but that could change. Due to the contagious nature of this disease, it is reasonable to expect that an Employer may order you not to report to work, if they have a reasonable belief that you have been exposed. For any of the following circumstances review your Collective Bargaining Agreement:

- If you are directed to self-isolate by a doctor or departmental order request paid leave in writing, i.e., injury/contagious disease, administrative, etc.
- If you or a family member is sick from the Coronavirus as a result of a contact outside of the workplace, request Sick Leave under your Collective Bargaining Agreement.
- For on-the-job exposures to Coronavirus, if you are sick or placed on quarantine request paid leave in writing, i.e., injury leave/contagious disease, administrative, etc.

It is unknown whether an employee who contracts the Coronavirus as a result of an on-duty contact would be entitled to Workers' Compensation benefits. At this point, it is the advice of the FOP/OLC that the employee should file a Workers' Compensation claim. It is our position that members who test positive and are quarantined could potentially collect Temporary Total Disability Benefits starting on day 8 of a 14-day quarantine. Any questions regarding Workers' Compensation issues can be directed to Attorney Mark Heinzerling at (614)496-9667.

CONFIDENTIALITY

Typically, an employee's medical information is not a public record. However, it is unknown how information concerning an employee's possible exposure or a positive test result for the Coronavirus may be permitted to be used to protect the health and safety of the public and other employees. Due to the contagious nature of the Coronavirus, coupled with the Employer's duty to provide safe working conditions, it is unlikely that the Employer would face any legal repercussions for a disclosure in the interest of public safety.

The Equal Employment Opportunity Commission (EEOC) has provided guidance stating that an Employer may: 1) ask employees if they are experiencing symptoms similar to those caused by the Coronavirus; 2) ask the employees about possible exposure to the Coronavirus; 3) send employees home if they display symptoms associated with the Coronavirus; 4) may take the temperature of employees to determine whether they have a fever; 5) ask an employee why he/she has been absent from work if the Employer suspects it is for a medical reason.

PHYSICAL EXAMINATIONS

Most Collective Bargaining Agreements contain a provision permitting an Employer to order a physical examination. Even if your Agreement is silent on this issue, due to the safety sensitive positions of law enforcement officers and support personnel, your Employer will likely be able to require you to submit to an examination for suspected Coronavirus.

CONCLUSION

While there may be issues resulting from the Coronavirus that are not addressed by current law or your Collective Bargaining Agreement, we encourage you to work with your Employer to preserve public safety during this pandemic. However, we also want to ensure that your rights are protected during this health crisis. We must guard against blatant violations of the Collective Bargaining Agreement. We stand ready to assist you in addressing any employment issues that might arise throughout this pandemic.

We value you as members of the FOP/OLC and express our sincere gratitude for the sacrifices you make every day to protect and serve the public. We stand united with you during this threat. We are here to provide guidance, assistance and protection for our membership. Please do not hesitate to contact us with questions as the situation evolves.

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