

ADA and Whistleblower Protections



Times are uncertain for everyone. For educators, students, and parents, the start of the school year will be anything but normal. We are certain, however, that it's critical for schools to take proper actions to create a safe school environment.

The CDC has recommended protocols for schools to implement before re-opening for students and staff. They include:

- Cleaning and disinfecting facilities and equipment
- Screening and monitoring staff and students
- Providing healthy hygiene supports, including personal protective equipment and handwashing stations
- Providing for social distancing
- Isolating staff and students who have coronavirus or have coronavirus-like symptoms

But if you have an underlying health issue, these protocols may not be enough. Such a condition may qualify as a disability through the Americans with Disabilities Act (ADA), which means you can request accommodations that may help you remain on the job in a similar capacity.

There are no magic words for making a successful request. Most school systems have forms that must be completed by a doctor and filed with human resources. This begins a collaborative process that's intended to produce a suitable, reasonable accommodation. These may include:

- PPE/social distancing/other transmission-reduction measures
- Transfer to a vacant position with less contact with other people
- Telework/remote work
- Medical leave

Be proactive. Notify your employer and your local association about your possible need for accommodations so that your request is filed in a timely manner. If your request is denied, you should find out why so you can resolve the request or, if necessary, contact your local association for support.

MSEA intends to monitor employers' responses to requested accommodations and the reasons for denial as well as any possible unequal treatment or retaliation to be sure educators are treated fairly and respectfully.

For more information and support on requesting accommodations, contact your local UniServ director.

Whistleblower Rules

Don't be afraid to speak up.

If your workplace is not following coronavirus mitigation protocols to protect your health and safety, there are specific whistleblower protections that prohibit employers from retaliating against educators for reporting conditions that are a substantial danger to public health or safety or that provide information to a state agency such as the Maryland Occupational Safety and Health Division (MOSH).

Your first stop in reporting is the school system. If you don't get results, go straight to your union.

The union can help in reporting and organizing a communication and information campaign to be sure the school system is aware of unsafe or unhealthy conditions. Your union can file a grievance under the collective bargaining agreement, or even file a complaint with the Commissioner of Labor and Industry that is responsible for promoting and enforcing safe and healthy work environments. There may also be some circumstances where an employee may refuse to report to a work area if there is no reasonable alternative in order to avoid a situation that may result in serious injury or death.

Before you or a colleague takes such action, we strongly recommend contacting your local UniServ director and at the same time file a complaint with MOSH, which can seek an injunction against the employer or a grievance.

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