







**AGC of California
Union Contractors Council
COVID-19 Union Guidance**



					
AGC of CA Questions	Northern California District Council of Laborers	Northern California Carpenters Regional Council	Cement Masons Local 400	Operating Engineers Local 12	Southwest Regional Council of Carpenters
<p>1. In the event of a project work stoppage directed either by a government agency, private or public owner, or at the discretion of a general contractor, the only MLA sections that would apply for payment to a tradesman would be for the appropriate level of show up time and a Saturday make-up day if applicable. Please verify.</p>	<p>If the project work stoppage is directed by a government agency or an owner, then payment would be pursuant to LMA Sections 10, 20, and 28, including show up time and Saturday make up. If work stoppage is at the general contractor's discretion, its obligations depend upon the timing of the stoppage and reasons for the stoppage (and subject, of course, to the grievance procedure).</p>	<p>There is a problem with your query. It is too broad i.e. "discretion of general contractor". So the broad answer is No. Pursuant to Section 30 of the AGC Master Agreement, after 40 hours of employment, an Employer may only discharge an employee for just cause. Further, Section 30 also provides that if an individual shows up to work, and no employment is provided, then the individual worker is entitled to four (4) hours pay plus fringe benefit contributions to the Trust Funds. Notwithstanding the MLA, the employer may have obligations mandated by Federal, State or Local Law. If that becomes operative, we will look at the requirements of MLA and said mandate, and we should discuss.</p>	<p>If the project work stoppage is directed by a government agency or an owner, then payment would be pursuant to MLA Sec.7 and Sec.9, which include Saturday Make Up and Shift Work. If work stoppage is at the general contractor's discretion, its obligation depends upon the timing of the stoppage and reasons for the stoppage and subject, of course, to the grievance procedure.</p>	<p>If there is a work stoppage directed by a government agency or owner, the MLA and other CBAs would still be applicable. All provisions related to show-up time and payment of wages would certainly apply in these circumstances, but there may be other provisions of the bargaining agreements that may also apply. It is difficult to generalize, and we believe each matter must be evaluated on a case-by-case basis.</p>	<p>Under Section 1608 when a contractor is prevented from working for "reasons beyond the control of the Contractor" then workers are paid according to time-worked, and a Saturday make-up day would be available in such a situation. If the Contractor decides to shut the project down on their own initiative, then Show-Up time rules should be followed and a Saturday make-up day would not be available.</p>
<p>AGC of CA Comments: If a tradesman is notified there is no work available before they leave the house, then no show-up time pay is required. Also, if no work is available, a contractor is not required to lay off a tradesman but might be requested to do so in order for that tradesman to collect unemployment.</p>					
<p>2. What would the Union's policy be if a tradesman were directed to self-quarantine? Is this an allowable layoff?</p>	<p>A layoff due to self-quarantine would be permissible provided the decision is made by a medical provider or the Laborer himself.</p>	<p>No. See response to No. 1 above, which includes how we will address government mandates.</p>	<p>A layoff due to self-quarantine would be permissible provided the decision is made by a medical provider of the Cement Mason himself.</p>	<p>If an Operator would be directed to self-quarantine because of exposure or contracting COVID-19 such may qualify as a disability. It would be a violation of the contract as well as state and federal law to layoff an individual because of a disability.</p>	<p>A carpenter directed to self-quarantine should be paid show up time and paid at the time of lay off pursuant to Section 902.2. In determining if a worker is sick we would recommend that employers refer to the drug testing policy and follow similar procedures as under Appendix L(5) for their own protection: a. . . where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Observation must be made by at least two (2) persons, one of whom may be a Union employee. This provision shall be applied in a non-discriminatory manner and shall utilize the reasonable suspicion checklist and reporting form attached hereto as Attachment 1, or a comparable checklist. Supervisors will administer the program in a fair and confidential manner. . ."</p>
<p>AGC of CA Comment: If a tradesman self-quarantines and does not report to work, you probably do not want to lay them off. This allows the tradesman to return to work once they are deemed not a risk and would not open up any compliance issues. If the tradesman requests a layoff, then it is probably okay to layoff provided you receive the request in writing.</p>					
<p>3.If an employer sends a tradesman home because they show symptoms of being sick, would that be appropriate to the Union? a.Would there be any preconditions for return to work that Unions would object to or require, ie doctor's note, 14 day quarantine period?</p>	<p>The decision that the Laborer is too ill to be working must be made not by the Employer but by a medical provider. The Employer may send the Laborer to a medical provider but must pay the Laborer for the day's work. If the Laborer returns from quarantine, the Employer may request a release from the medical provider.</p>	<p>See CDC website re Coronavirus and response to No. 1 above. a. See CDC website re Coronavirus and response to No. 1 above.</p>	<p>The decision that the Cement Mason is too ill to be working must be made not by the Employer, but by a medical provider. The Employer may send the Cement Mason to a medical provider, but must pay the Cement Mason in accordance with the MLA. If the Cement Mason returns from quarantine, the Employer may request a release from the medical provider.</p>	<p>If an employer sends an operator home those Operators would be eligible for certain reporting-time/minimum pay, and possibly other compensation under the bargaining agreement. It's not clear what you mean by "appropriate", but we understand that as an employer your members must adhere to certain guidelines set by federal and state public health departments and organizations. As stated above, we encourage you to do so, but also remind you that the terms and conditions of the bargaining agreement continue to apply.</p>	<p>This is outside of the terms of the CBA so we will defer to the CDCs recommendations on when it is appropriate for people to return to work.</p>
<p>AGC of CA Comment: As guideline for determining COVID-19 symptoms, use the attached CDC document entitled, "Symptoms of Coronavirus Disease 2019." These documents are linked from the North American Building Trades Union's website and were additionally provided by the Northern California Carpenters Regional Council.</p>					
<p>4. Is a general rule for any Coronavirus disruption no work/no pay?</p>	<p>The general rule, subject to the limitations above, is that there is no compensation in the absence of work, subject again to the grievance procedure.</p>	<p>See response to No. 1 above.</p>	<p>The general rule, subject to the limitations above, is that there is no compensation in the absence of work, subject again to the grievance procedure.</p>	<p>Again, it is difficult to generalize, and it is better to evaluate certain situations on a case-by-case basis.</p>	<p>If work slows and there are needs for lay offs then the standard lay off rules would apply pursuant to 902.2.</p>
<p>5. Is there any consideration in providing tradesman with greater paid time off from the funds? If so, under what circumstances and how would it be allocated?</p>	<p>At present there are no such funds. Are the Employers proposing the establishment of such funds to which they would contribute?</p>	<p>See CDC website re Coronavirus and response to No. 1 above. Also, "greater paid time off from funds" is covered by the Vacation/Holiday/Sick Leave Trust. Information is below. Again, if there are governmental mandates effecting Sick Leave or other paid time off, we will address at that point.</p>	<p>At the present there are no such funds.</p>	<p>Currently, there is no specific decision to adjust the terms of the Vacation/Holiday fund. Such decisions would be made by the Trust Funds, not Local 12. However, if any changes are made, we're sure the Trust Funds will inform signatory contractors.</p>	<p>I do not believe this would be possible as we do not have any established means of redirecting funds from one Trust to another, such a transfer would also likely be impermissible under Taft-Hartley / ERISA requirements. However, I will look into this and see if there is any additional information I can offer.</p>