

Frequently Asked Questions on COVID-19
(updated April 1, 2020)



| | Question | Answer |
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| 180 Days | What is the final determination regarding the 180 day requirement? Will LEAs need to extend their school year? | Act 13 of 2020 waives the requirement of 180 days or 990/900/450 hour of instruction for the 2019-20 school year. PDE will provide a simplified form for LEAs to use to report their total days/hours. School entities will not be penalized for providing less than a 180-day school year. Completed forms will be deemed approved. PDE guidance strongly encourages LEAs to adjust their calendars as appropriate (e.g. use snow days, Act 80 days, extend the school year, etc.) to provide as much instruction as possible, but LEAs are not required to do so. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |
| Assessments - PSSA/Keystone | What is the determination regarding mandated testing requirements for this current school year? | PDE has cancelled all state assessments for the 2019-20 school year (PSSA, Keystone Exams, PASA, NOCTI and NIMS) pursuant to emergency authority and Act 13. PDE's actions are supported by the USDOE's action granting PA's request for waivers from such federal assessment. See PDE's FAQ at https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |
| Board of Directors | What should LEAs do with regard to holding committee or board meetings during the shutdown period? | The federal Coronavirus Task Force has recommended that gatherings of ten or more people be avoided. See PSBA's guidance on options for remote participation in school board meetings. https://www.psba.org/wp-content/uploads/2020/03/PSBA-Guidance-on-Remote-Board-Meeting-Attendance.pdf |
| Early Intervention | Are pre-school Early Intervention services suspended during the school closure? | As is the case for LEAs in K-12 education, providers of Preschool Early Intervention services are expected to make a good faith effort to provide continuity of services during the period of school closure. |
| Employee Issues/Concerns | Can employees be required to work during the time schools are closed? | Yes, subject to any limitations on the physical presence of school staff imposed by applicable orders of the governor or other officials with such authority. In addition to the educators needed to remotely deliver continued education services during the closure, schools should explore ways that other staff also can continue to perform useful work even though students are not present, whether on site or from home if that capacity exists. |
| | Can employees who are at home be required to work from home? | Yes. However, the usefulness of working from home will depend on the nature of the employee's job and whether the technology and other tools needed to perform it are available at home. |
| | If employees are allowed or required to work from home, are there overtime and other Fair Labor Standards Act (FLSA) issues to worry about? | Yes. To ensure compliance with the federal Fair Labor Standards Act (FLSA) and related state laws, it is important to keep in mind the distinctions between exempt and nonexempt employees. Generally, employees who are nonexempt from the minimum wage and overtime requirements are paid only for hours worked, and the FLSA requires that employers keep track of those hours and pay overtime wages for hours of work that exceed 40 hours in one week. If the employer is not confident that the hours worked at home by nonexempt employees can be accurately tracked, allowing or requiring hourly employees to work from home may be legally risky. |
| | Will the state be willing to place a moratorium or delay requirements for Act 45 hours? | Act 13 of 2020 extends for one year the deadline for all professional educators with active certification to complete Act 48 or Act 45 requirements. |
| | Will there be an extension of deadlines for administrators who have to get their fingerprint clearance done during this time when most/all businesses being closed? | The Federal government has not waived clearance deadlines or allowed for an extension. The PA Department of Human Services opened 43 Clearance Sites as of Monday, March 30 to perform fingerprinting for the FBI Clearance. Available sites are listed at https://www.identogo.com/locations . |
| | What guidance should we provide employees that were furloughed prior to the passage of Act 13? | If there were furloughs in your school entity prior to Act 13 you may have had employees that applied for Unemployment Compensation. Provisions of Act 13 now require you to provide no more or no less compensation than otherwise would have been provided to each employee. Given the proximity of the passage of Act 13 to furloughs it is unlikely that any individuals received UC benefits. Therefore, there are two options available to individuals who have submitted claims. The first is to withdraw their claim with reason provided. In this case the reason would be the passage of Act 13, which guarantees their pay. The second option is referred to as the "do nothing option," which means that individuals would not submit any bi-weekly claims, which would result in not UC benefits being paid and the original claim expiring in one year. |
| | As we continue to pay employees during the school closure and if we decide to add days to our calendars prior to June 30, what do we do with employees that will be potentially working above their agreed-to amount for the year? | If professionals exceed the number of bargained-for work days for their annual salary, either the CBA would require additional payment or the district and the union would have to agree on how those persons would be paid for extra work. For nonexempt employees who are salaried who exceed their bargained-for work days or hours, the same result might occur under the CBA and there would have to be an examination of any FLSA issues. Nonexempt hourly employees should be paid for their hourly work. If they are paid when not working, it is possible those hours might be rescheduled and worked as pre-paid, but there would need to be an examination of the FLSA. |
| | Will COVID-19 acquired on the job equate to a workers comp claim? | Employees who believe they have contracted an infectious disease on the job, such as a pandemic influenza, may file a claim for workers' compensation. For the claim to be compensable under workers' compensation coverage, the illness must arise out of, or be obtained in the course and scope of, an employee's work. Further, the illness must be caused by conditions specific to the work performed. The burden to show that the illness is work-related falls on the employee. It is likely that most employees will have difficulty proving where they caught COVID-19 in light of the pandemic status of this virus. Employees would need to show that something that the district required the employees to do made them particularly susceptible to the virus. |
| | What should LEAs do regarding completion of Instructional I/Instructional II evaluations to meet teacher effectiveness requirements and regulations? | |
| | What if an observation of professional practice has not been completed for an educators evaluation? | At this point, there has been no specific guidance provided or decision made on this topic, however, it is reasonable to assume that this issue will be addressed in the future to acknowledge the inability to conduct evaluations during this timeframe. |
| | Will there be any special considerations for Temporary Professional Employees? What happens is an evaluation can not be performed in they are in their last year - will they still meet criteria for tenure? | |
| | Should school entities continue to pay contractors (particularly busing contractors)? | Paying a contractor during the period of school closure is a local decision, however, Act 13 of 2020 allows school entities to re-negotiate their transportation contracts, focusing on personnel and fixed costs, to continue paying the contractor during the closure if they choose to do so. If a school entity does renegotiate its contract, the contractor must provide weekly proof that it has maintained its complement of employees in place as of March 13, 2020 and has not furloughed anyone. If a school entity renegotiates the contract and pays the contractor pursuant to the provisions in Act 13, the school entity will receive transportation subsidy payments in 20-21 at the normal rate (regardless of the fact that schools were closed for a period of time). |
| What happens when employees refuse to participate/attend (even if deemed essential) due to COVID-19 concerns? | LEAs should address these issues on a case-by-case basis after consultation with a solicitor. | |
| How will school employees retirement procedures be impacted by school closures? | Act 13 of 2020 provides that no employe of any school entity who was employed as of March 13, 2020 shall receive more or less PSERS credit or contribute more or less than the employe would otherwise have contributed had the pandemic of 2020 not occurred. See Act 13 guidance from PSERS https://www.psers.pa.gov/About/Documents/Information%20for%20Employers%20and%20Members%20Regarding%20Act%2013%20of%202020.pdf | |
| Are building principals and secretaries considered "essential" personnel when there are no students or teachers in school? | PDE has issued guidance on this topic suggesting that those employees designated as essential is a local decision that should take into account the context of school and community needs. School administration however has been cited as one example of essential employees, along with food preparation, and distribution staff, information technology and continuity of operations staff. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx | |

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| | Are custodial staff required to report to work? | PDE has issued guidance on this topic suggesting that those employees designated as essential is a local decision that should take into account the context of school and community needs. Examples of essential responsibilities may include, but are not limited to, school administration, food preparation, and distribution staff, information technology and continuity of operations staff (e.g. payroll and building operations). https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |
| | What does it mean when an employee who is a member of the PA National Guard is placed on "state active duty"? | Pennsylvania's Military Code entitles state and local government employees to 15 days paid leave for purpose of performing active or other duty as members of the Reserve Components of the United States Armed Forces, which includes the Reserve and the National Guard. State workers are entitled to an additional 15 days under certain circumstances when serving as members of the Reserve Components. Members of the National Guard are sometimes placed on "state active duty," a non-federal status, usually in connection with a disaster emergency of some kind. The Military Code entitles state and local government workers who are placed on "state active duty" to paid leave for the duration of their activation. The governor's March 6, 2020 emergency proclamation authorizes the appropriate officials to place members of the National Guard on state active duty as necessary to respond to the emergency. |
| | May a district send employees home if they display influenza-like symptoms during a pandemic? | Yes. The Centers for Disease Control and Prevention advises employees who become ill with symptoms of influenza-like illness at work during a pandemic to leave the workplace. Typically, advising workers to go home is not a "disability-related" action if the illness is akin to seasonal influenza. Additionally, this would likely be permitted under the Americans with Disabilities (ADA) if the illness is serious enough to pose a "direct threat." Generally, districts may ask such employees if they are experiencing influenzalike symptoms with the understanding that the confidentiality of such information must be maintained. If the pandemic influenza becomes severe, even if these inquiries are deemed disability-related under the ADA, they may be justified by a reasonable belief, based on objective evidence, that the severe form of pandemic influenza poses a direct threat. |
| Facilities | Can schools keep playgrounds, basketball courts, etc. open for community use during the closure? | No. Pursuant to Governor Wolf's order, playgrounds, basketball courts and other recreational or community facilities should not be kept open. |
| | Can schools still be used as polling locations for the primary? | The Governor has signed in to law legislation moving the 2020 primary to June 2, 2020. The Act allows for the consolidation of polling stations, but at this time there is no guidance regarding the use of school buildings as election polling places. |
| Financials-Payments | Should school districts start to put plans in place for moving to home-based learning? If so, is there any emergency funding that will be available to help equip those families that do not currently have internet access in their homes? | Act 13 of 2020 requires school entities make a good faith effort to plan to offer continuity of education through alternative means during the period of closure. In providing continuity of education, PDE's guidance provides some options, including planned instruction and enrichment and review. Per PDE, these options can take a variety of forms, including online/digital learning opportunities; non-digital learning opportunities (e.g., materials sent home with students); and other approaches designed in partnership with local IUs and regional PATTAN centers. The decision to employ one or more of these methods is made at the local level based on feasibility, availability of resources, access and equity considerations, and in accordance with aggressive social distancing guidance. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx . |
| Food Service | How should a SD document meals served under a waiver? | Per the USDA guidance, separate meal counts and records must be maintained for meals served under a COVID-19 waiver. To receive reimbursement, total meals must be reported to the State agency for submission to FNS. |
| | Are all meal pattern requirements still in practice for any meal served under the waiver? | Per USDA guidance, the meals must meet the regular menu planning requirements of the SFSP or SSO. Offer versus serve will not apply and all meals must be unitized, meaning a complete reimbursable meal that meets the requirements of the menu planning method used, including milk, must be distributed. Shelf-stable milk may be used. USDA commodity foods may also be used. Additionally, the federal Families First Coronavirus Response Act provided for additional meal pattern flexibility, permitting waivers to be granted if the standards cannot be achieved due to a supply chain disruption due to COVID-19. |
| | What employees can a SD use to serve meals? | School entities may use essential staff to ensure students have access to meals. |
| | To what extent must SDs that are <50% FRL track eligibility when providing meals? What are guidelines for how to direct these meals to low-income students? | PDE recently obtained a waiver from USDA to utilize recent and local level determinants for approving area eligibility, such as local unemployment claims data and justification of local needs (loss of jobs, business closures, etc.). As a result, effective immediately, LEAs and Community Organizations (COs) may request approval from PDE for sites to operate as "area eligible" based on current, local economic data. Sites approved by PDE as COVID-19 area eligible sites may provide meals under the SSO or SFSP to all children in the community for free. However, LEAs and COs must obtain approval from PDE and must follow program requirements in place. |
| | Do students need to be present for the provision of meals? | USDA guidance has recently been updated to indicated that students do not need to be present for the provision of meals under the waiver. |
| Online Learning | If an LEA implements alternative instructional plans (online or student work sent home) during the closure, will it count as school days? Or will we they making up these days in June? | Act 13 requires districts to make a good faith effort to offer continuity of education through alternative means during the period of closure. In providing continuity of education, PDE's guidance provides some options, including planned instruction and enrichment and review. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |
| | Will there be any statewide pricing for online learning platforms like those offered through CAOLA if we end up having to move to a fully remote model? | PDE is making online course content available through Edgenuity and Odysseyware available at no cost to al LEAs. LEAs should contact their local Intermediate Units for information on this opportunity. |
| | If the colleges involved in our College in the High School programs are granting credit to their college students through online instruction, will PDE approve our schools delivering the same courses and count for instructional days and credit? | At this point, there has been no specific guidance provided or decision made on this topic, however, it is reasonable to assume that this issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak. |
| Other | Will filing deadlines be pushed back for PIMS, PURTA, fed stuff, other stuff? | At this point, there has been no specific guidance provided or decision made on this topic, however, it is reasonable to assume that this issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak. |
| | What is in the federal Families First Coronavirus Response Act? | The Families First Coronavirus Response Act is federal legislation to address the COVID-19 outbreak, which includes the requirement that schools provide 2 weeks of paid sick leave and up to 12 weeks of paid family and medical leave for employees affected by COVID-19. The Act also provides for blanket waivers to ensure that students eligible for free and reduced-price lunches are able to receive meals during school closures. |
| | How can we comply with state audits and compliance monitoring? | Many elements of audits by the Bureau of School Audits under the Department of the Auditor General and monitoring by Division of Federal Programs, Division of Food and Nutrition and other state agencies are conducted by collecting information electronically prior to any on-site visits at schools. School entities can continue to collect data and documentation to provide to auditors and compliance monitors electronically, to the extent it is possible for staff to access that information virtually. Please communicate with auditors and compliance monitors regarding your school entity's situation; they will likely work with your school entity to reschedule on-site visits during the current closures. |

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| | May districts share health information with public health authorities that request health information about employees or students? | Public health authorities use protected health information (PHI) to identify, monitor and respond to disease, death and disability among populations. To achieve this goal, they recognize the importance of protecting individual privacy while maintaining the quality and integrity of health data. To accomplish the public health objectives and to meet certain other societal needs (i.e., administration of justice and law enforcement), the HIPAA Privacy Rule expressly permits PHI to be shared for specified public health purposes. Accordingly, districts may disclose PHI, without individual authorization, to a public health authority that is legally authorized to collect or receive such information for the purpose of preventing or controlling disease, injury or disability. Under FERPA, the federal law that protects the privacy of student education records, parents and eligible students must provide consent before a district discloses personally identifiable information (PII) from an educational record. However, there is an exception that allows such disclosures, without prior written consent, of PII from student education records to appropriate parties in connection with an emergency, if the knowledge of that information is necessary to protect the health or safety of a student or other individuals. Typically, public health officials are the types of appropriate parties to whom such disclosures under this exception may be made. |
| School Closures | What is the legal authority of the governor to order schools to be closed? | Pennsylvania's Emergency Management Services Code gives the governor extensive and sweeping powers in the event of a disaster emergency, which went into effect when Governor Wolf signed a "Proclamation of Disaster Emergency" on March 6, 2020. The Code provides, "Under this part, the Governor may issue, amend and rescind executive orders, proclamations and regulations which shall have the force and effect of law." The proclamation further delegates extensive emergency powers to the heads of specified commonwealth agencies, including the secretary of education. The proclamation authorizes the secretary of education: "in his sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Education is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency." |
| | What does "closed" mean? | This has been a point of some confusion. Early announcements simply said schools would be closed or shut down for 10 days, without further explanation. Some school officials report being told by officials at PDE that this meant a complete shutdown, without any educational activity. Informal guidance issued by The Pennsylvania Department of Education (PDE) on March 15, 2020, clarifies that this means only that students will not come to school for in-person classes. School districts are not required to provide instruction during the closure but have the option of providing educational services by other means, such as online instruction and/or materials sent home with students, and may implement continuity of education plan to the extent feasible. This is a matter of local decision. |
| Special Education | How will the closure affect special education timeline requirements—mainly for annual IEP meetings (usually held one day short of a calendar year), IEP meetings following an evaluation or re-evaluation (30 days after ER/RR date), or ER/RR dates (60 days after parent permission)? | School entities may be able to hold IEP or Section 504 Service Agreement meetings through virtual means or conference calls during the period of closure. Schools should ensure that accommodations are made to ensure that communication and participation is provided in the native language or mode of communication needed by the parent/guardian. School entities should consult with their school solicitor, PDE, PaTTAN, and/or the local intermediate unit for additional guidance on postponing meetings when necessary or providing accommodations for participation. If a meeting is postponed, documentation should be created for communication to the parent/guardian and the reason for the delay, and filed with the appropriate IEP or Section 504 Service Agreement. |
| | Must accommodations/504 plans be addressed in online learning environments? | Per PDE's guidance, when a school is closed because of COVID-19 response efforts and does provide educational services to the general student population, districts/schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student's IEP or Section 504 plan. Once school resumes, a child's IEP team (or appropriate personnel under Section 504) must make an individualized determination whether and to what extent compensatory services may be needed, consistent with applicable requirements, including to make up for any skills that may have been lost during the closure within a reasonable timeframe. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |
| | Do timelines for the completion to paperwork/evaluations still apply during the closure? | At this point, there has been no specific guidance provided or decision made on this topic, so LEAs should do their best to meet the timelines they can in the light of the school closures; however, it is reasonable to assume that this issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak. |
| Transportation | Do school districts still need to transport nonpublic school students? | Governor Wolf's order requires that all schools—including private, parochial and nonpublic—be closed. Additionally, PDE guidance is clear that nonpublic transportation will not be provided. https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx |