

School Finance Hot Topics – July 18, 2018

Upcoming Deadlines

- Financial Statements for the 2017-18 year: September 28, 2018
- Quarterly Medicaid Cost Report for the April – June 2018 Quarter: August 21, 2018

Notary Public Changes

HB 4207 passed during the 2018 Legislative Session and became effective on June 3, 2018. This legislation made major changes to WVC §39-4 regarding notary publics. The changes include:

- Authorized an online electronic application process to apply to receive a commission to act as a notary public;
- Removed the oath of office and requires an applicant to swear or affirm under penalty of perjury that answers to questions in the application are true, and if appointed, the applicant will perform faithfully all notarial acts in accordance with the law;
- **Eliminated the \$1,000 bond requirement.**

Supplemental Wages Paid by a School Support Organization

In a situation where an approved school support organization wishes to provide supplemental wages for an employee of the LEA, such as an athletic coach or band director, the funding should be provided to the LEA who can pay the employee. The school support organization should not pay the employee directly. This would also apply in situations where a school support organization wishes to provide funding for an additional paid position, such as an additional assistant coach. The funds should be provided to the LEA, which can properly post for the position.

It is recommended that all LEAs have a local policy regarding such additional wages funded through school support organizations. Having a local policy allows the LEA to ensure consistency among schools within the county and to ensure all personnel and payroll laws are properly followed.

Food for Staff

As a reminder, county boards of education are not permitted to utilize public or quasi-public funds to provide food for staff. This includes federal and state grant funds.

Appendix C of State Board Policy 1224.1, the Accounting Procedures Manual for the Public Schools in the State of West Virginia, references various Attorney General Opinions and Superintendent

Interpretations that describe unallowable/unauthorized uses of public or quasi-public funds. Examples from Appendix C include:

- Food and Drinks for Board of Education Meetings
- Food and Drinks for Principal Meetings
- Food and Drinks for meetings of the Public
- Coffee and Donuts for Staff
- Meals solely for School Officials, Administrators, Faculty and Other Personnel

Please keep in mind, however, that WVC §18-5-13 does allow schools to expend funds for student, parent, teacher and community recognition programs using funds generated through a fundraiser or donation-soliciting activity. Some schools have used this statutory provision to raise funds for food for staff for teacher appreciation week. State Board Policy 1224.1, Section 18 indicates that, prior to commencing the fundraising or donation-soliciting activity, the school must publicize that the activity will be for that purpose and must designate the funds generated from the activity for that purpose.

Food and beverage may only be purchased with Title I Part A and/or Title III funding for parent involvement activities. The expenditures must be reasonable and necessary to ensure the participation of parents and the activities must extend through a mealtime to warrant the purchase of food and/or refreshments. Purchases of food must be supported with original receipts along with event sign-in sheets and agendas in order to ensure allowability. When reviewing reasonableness, food costs should be kept at or below the federal per diem cost for that meal (preferably just providing a beverage and light snack.) Food is not allowed to be purchased with Title I/III for regular school events such as open houses, parent teacher conferences, celebration, recognition or appreciation events, school meetings such as PTA or PTO, Staff meetings, or meetings of the general public. Title II, RLIS and SIG funds may not be used for the purchase of food and beverage for any reason.

Number of Assistant Superintendents Allowed

WVC §18-5-32(b) contains a limitation on the number of assistant superintendents that a local board of education may employ. The statute indicates that “the board may not employ more than one assistant superintendent for each two hundred teachers or major fraction thereof.” To determine the number of teachers employed by the board, the board could refer back to the definition of teacher from WVC §18-1-1. That statute defines teacher as “a teacher, supervisor, principal, superintendent, public school librarian or any other person regularly employed for instructional purposes in a public school in this state”

School Calendar Follow-Up Questions

At Spring ASBO, there were several follow-up questions related to the payroll implications of school calendar issues. Those questions were discussed with WVDE's General Counsel, Heather Hutchens, and the responses are below:

Q1: If an employee is on a leave of absence for the full year, do you reduce their leave balance for the 5 equivalent time days if they don't work those days?

A1: If the other 200-day school employees are not required to make up those days as the result of equivalent time, you should NOT reduce their leave balance for those five equivalent time days since that was a benefit provided to the other 200-day school employees. A long-term leave situation should not be treated differently from a short-term leave situation.

Q2: For employees who have extended contract terms (ex: 210, 215, 220, etc.), are they entitled to the 5 equivalent time days like the 200 day employees? Or can county boards require those extended day employees to actually make up the days to get in their full number of contract days?

A2: If the employee is stationed at a school location, they should be given the same benefit as the other school-level employees even though they have a longer contract term. If the 200-day employees at the school location were not required to make up five days due to equivalent time, the extended contract employee should be given that same benefit. As mentioned at Spring ASBO, if the employee is stationed at the central office, they can be required to work their full number of contract days.

Q3. During the teacher strike, many county boards did not require extended contract employees to report to work. As a result, there are many employees statewide that are unable to complete their full contract term prior to June 30, 2018. Should those employees have their pay docked for not working their full contract term?

A3: Employees in the situation described should not have their pay docked for failing to work their full number of contract days since they were specifically instructed not to report to work on those days. As a result, it was not their fault that they were unable to make up all of the days. However, if there are central office employees who were instructed to report to work during the teacher strike but failed to do so, those employees should be docked for failure to complete the full contract term.

When making school cancellation announcements, county boards of education should carefully consider what employees should be required to report, keeping extended contract employees in mind to help ensure they are actually able to complete their full contract term.

Go 365 – PEIA

PEIA discontinued the Humana Go 365 Wellness Program effective April 30, 2018. The program was discontinued in part due to guidance issued by the IRS which indicated that the incentives offered under the program, such as gift cards, fitness equipment, etc. are taxable income to the recipient. The IRS guidance also makes it clear that the employer of the recipient is responsible for including the value of the incentives in the taxable income of the recipient on his or her W-2.

Although the exact process has not yet been determined with PEIA, PEIA will be providing a file for each county board of education that reflects the value of the Go 365 incentives awarded to employees of the county board for inclusion on the W-2s. Because the Go 365 program was discontinued so early in the 2018 year, the file should be received in sufficient time to easily incorporate the amounts in WVEIS before year-end. It should not cause any delays to county boards regarding the issuance of W-2's to employees.

Bus Driver Recruitment and Retention

A county board of education recently sent a proposed bus driver recruitment and retention plan to the CSBO listserv that contained a provision to employ up to five long-term substitute bus operators on a regular basis. The plan indicated that the selection of the long-term bus operators would be based on seniority, but that substitute bus operators could waive their opportunity to serve on a long-term basis. The plan indicated that if the most senior long-term substitute became eligible for full-time employment but chose not to bid on the open position, he was no longer eligible to serve as a long-term substitute operator and would instead be returned to the regular rotating substitute calling order. The plan further said that the long-term substitute operator would not be afforded “sick days” and would be returned to the regular rotating substitute calling order if he missed more than 8 days during the school term.

While we understand that the recruitment and retention of bus drivers is a problem statewide and that such a plan may help address many of the issues in that regard, WVC §18A-4-15 (see code text below) is very specific with regards to the employment of substitute service personnel. **There is no mechanism in the statute to employ long-term substitutes in the manner proposed in the plan.** Even if there were a mechanism to employ long-term substitutes in such a manner, all long-term service substitutes are afforded certain rights, privileges and benefits of a regular employee, which would include sick leave.

§18A-4-15. Employment of service personnel substitutes.

(a) The county board shall employ and the county superintendent, subject to the approval of the county board, shall assign substitute service personnel on the basis of seniority to perform any of the following duties:

(1) To fill the temporary absence of another service employee;

(2) To fill the position of a regular service person as follows:

(A) If the regular service person requests a leave of absence from the county board in writing and is granted the leave in writing by the county board; or

(B) If the regular service person is on workers' compensation and absent.

(C) If an absence pursuant to paragraph (A) or (B) of this subdivision is to extend beyond thirty working days, the county board shall post the position of the absent employee under the procedures set forth in section eight-b of this article. If a substitute service person is employed to fill the position of the absent employee and is employed in the position for twenty or more working days, the substitute service person:

(i) Acquires regular employment status with the exception of regular employee job bidding rights;

(ii) Does not accrue regular seniority; and

(iii) Is accorded all other rights, privileges and benefits pertaining to the position until the regular employee returns to the position or ceases to be employed by the county board;

(D) If a regular or substitute employee fills a vacancy that is related in any manner to a leave of absence or the absence of an employee on workers' compensation as provided in this section, upon termination of the absence the employee shall be returned to his or her original position or status;

(E) A service person may not be:

(i) Required to request or to take a leave of absence; or

(ii) Deprived of any right or privilege of regular employment status for refusal to request or failure to take a leave of absence;

(3) To perform the service of a service person who is authorized to be absent from duties without loss of pay;

(4) To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer, retirement, permanent disability, dismissal pursuant to section eight, article two of this chapter, or death of the regular service person who had been assigned to the position. Within twenty working days from the commencement of the vacancy, the county board shall fill the vacancy under the procedures set forth in section eight-b of this article and section five, article two of this chapter. The person hired to fill the vacancy shall have and be accorded all rights, privileges and benefits pertaining to the position;

(5) To fill the vacancy created by a regular employee's suspension.

(A) If the suspension is for more than thirty working days, the county board shall post the position of the suspended employee under the procedures set forth in section eight-b of this article.

(B) If a substitute service person is employed to fill the suspended employee's position, the substitute service person:

(i) Acquires regular employment status with the exception of regular employee job-bidding rights;

(ii) Does not accrue regular seniority; and

(iii) Is accorded all other rights, privileges and benefits pertaining to the position until the termination by the county board becomes final or the suspended employee is returned to employment.

(C) If the suspended employee is not returned to his or her job, the county board shall fill the vacancy under the procedures set forth in section eight-b of this article and section five, article two of this chapter; and

(6) To fill temporarily a vacancy in a newly created position prior to employing a service person on a regular basis pursuant to section eight-b of this article.

(b) Service personnel substitutes shall be assigned in the following manner:

(1) The substitute with the greatest length of service time in the vacant category of employment has priority in accepting the assignment throughout the period of the regular service person's absence or until the vacancy is filled on a regular basis pursuant to section eight-b of this article. Length of service time is calculated from the date a substitute service person begins assigned duties as a substitute in a particular category of employment.

(2) All service personnel substitutes are employed on a rotating basis according to their lengths of service time until each substitute has had an opportunity to perform similar assignments.

(3) Any regular service person employed in the same building or working station and the same classification category of employment as the absent employee shall be given the first opportunity to fill the position of the absent employee on a rotating and seniority basis. In such case the regular service person's position is filled by a substitute service person. A regular service person assigned to fill the position of an absent employee has the opportunity to hold that position throughout the absence. For the purpose of this section only, all regularly employed school bus operators are considered to be employed within the same building or working station.

(c) The county board shall return a regular school service person to the same position held prior to any approved leave of absence or period of recovery from injury or illness. The school service person:

(1) Retains all rights, privileges and benefits which had accrued at the time of the absence or accrued under any other provision of law during the absence; and

(2) Has all rights, privileges and benefits generally accorded school service personnel at the time of return to work.

(d) The salary of a substitute service person is determined:

(1) Based upon his or her years of employment as defined in section eight of this article;

(2) As provided in the state minimum pay scale set forth in section eight-a of this article; and

(3) In accordance with the salary schedule of persons regularly employed in the same position in the county in which he or she is employed.

(e) A substitute service person shall execute a written contract with the county board pursuant to section five, article two of this chapter, prior to beginning assigned duties.

(f) The following method shall be used to establish a fair, equitable and uniform system for assigning service personnel substitutes to their duties for the first time:

(1) The initial order of assigning newly-employed substitutes is determined by a random selection system established by the affected substitute employees and approved by the county board; and

(2) The initial order is effective only until the substitute service personnel have begun their duties for the first time.

(g) A substitute service person who has worked thirty days for a school system has all rights pertaining to suspension, dismissal and contract renewal as are granted to regular service personnel in sections six, seven, eight and eight-a, article two of this chapter.

ProStart Hospitality Agreements

It has become increasingly common for WVDE to hold events at schools or to utilize a particular ProStart program for catering services for events. Historically in such situations, WVDE has issued a grant award to the county board of education to reimburse them for any facility related costs (ex: janitorial services, etc.) incurred or to put funds back into their ProStart program. However, WVDE has recently determined that since these functions are related to hospitality services, we should follow the state requirements for hospitality instead of issuing grant awards.

After discussing this issue with several CSBOs and reviewing the purchasing requirements of State Board Policy 8200, we have determined that the hospitality paperwork should be issued to the MCVC or county board of education (instead of an individual school within a county). Upon receipt of an Event Checklist from the WVDE Office utilizing a particular school or MCVC for space or for catering services, the WVDE Office of Internal Operations will complete the appropriate purchase orders/contracts and send those contract documents to the Chief School Business Official or MCVC Director. Upon completion of the event, a detailed invoice will need to be sent to WVDE for payment. Payment will be remitted to the county board of education (not the individual school/center within the county) or the MCVC via the OASIS system.

Please note that it is permissible for the individual school to prepare the invoice on behalf of the central office if that is the desire of the county. For example, for ProStart programs, invoicing may be part of the course curriculum. Even if the invoice is prepared by the individual school, it is recommended that the central office review the invoice prior to it being submitted to WVDE. In many instances, the amount of the invoice (particularly for catering by a ProStart) may not match the maximum amounts included in the contract document if the final participant count for the event changes from the estimate used in the contract documents. WVDE is limited to specific per diem amounts per participant depending on what meal/snack is being catered. Each county will need to establish their own local process for invoicing for such events.

A new revenue source code will be added to the Chart of Accounts for county boards to record hospitality revenues: 03195 – Hospitality Reimbursements.

If you have any questions regarding this new hospitality process and related paperwork, please contact Ashley Cole or Phillip Uy in the WVDE Office of Internal Operations at 304-558-2686. If you have questions regarding the proper treatment in WVEIS or other school-finance related questions, please contact the Office of School Finance at 304-558-6300.

PEIA Monthly Distribution for 2018-19

The methodology to split the total PEIA state aid funding between regular PEIA premiums and RHBT premiums was modified from previous years. Based on a historical review of the employer data by PEIA, WVDE has been using an 80/20 (previously 75/25) split between PEIA and RHBT when sending the funds on your behalf each month. Because the amount of funding that is paid directly to RHBT by each county board of education will determine the amount of the State's overall OPEB liability allocated to

each county board under GASB 75 instead of through the previous year-end state aid credit process, we felt it was necessary to change the allocation between the two different funds to more closely align with the statutory language of WVC 18-9A-24.

The annual portion of the total PEIA funding allocated to RHBT for each county board of education is now the number of state aid eligible insureds multiplied by the annual pay-go premium for the year ($\$2,196 = \$183/\text{month} \times 12 \text{ months}$). That annual RHBT amount was then split monthly, with the balance of the monthly total funding for each county being allocated to the regular PEIA premiums for the year. The RHBT amount will be re-evaluated during the reallocation process in the spring of 2019.

Chart of Account Changes for the 2018-19 Year

See attachment #1 for the Summary of Changes being made to the LEA Chart of Accounts for the 2018-19 year. The revised Chart of Accounts document itself is still being processed through the WVDE Office of Communications. When the revised file is finalized, it will be posted on the WVDE Office of School Finance website and emailed to the listserv.