

COVID-19 SCHOOL CLOSURE FINANCE FAQ 3.18.2020

Note: These responses from the WVDE are based on the COVID-19 health emergency status as of today's date and are subject to change as this health emergency evolves. This guidance is general in nature and exceptions may be appropriate based on each county's unique circumstances.

Q1. Will the days that are canceled due to the COVID-19 health emergency be required to be made up?

A1. No, these days will not be made up since county boards of education will be providing a variety of distance learning options to students during the time off. Since these days will count as instructional days towards the required 180 days of instruction, the days also count as employment days towards the 200 day employment contract.

Q2. Will regular full-time employees be paid for the days that schools are closed due to COVID-19 even if they don't report to their normal work location for the day?

A2. Yes, all regular, full-time employees will be paid for the days that schools are closed even if they are not required to report to their normal work location for the day. Whether physically present at a school facility or working remotely, all employees are expected to contribute to supporting students while school are closed.

Q3. Must county boards of education pay personnel who are required to report for regular work duties any additional compensation compared to those employees who are not required to report?

A3. No, although some employees are asked to perform their regular and/or alternate job duties at their regular work location and others are performing alternate duties from home, the day worked is an employment day under the regular employment contract in both situations. There is no need to pay additional compensation to employees who are asked to report to work unless (1) they have worked enough hours to qualify for overtime under the Fair Labor Standards Act or (2) an employee is at the point that an employee has worked beyond their regular contract term.

Q4. If a high-risk or compromised employee is unable to report to a regular work location does the employee follow the county's existing leave policy?

A4. At the Governor's direction communicated by the State Superintendent, county boards of education should allow employees who do not feel safe working from their normal location to stay home and work remotely. While some job functions are difficult to complete from home (ex: cooks, bus drivers, etc.), county boards of education should come up with duties that all staff can complete remotely. All regular

full-time staff will be paid during this health emergency and employees will not be assessed leave for working from home.

At this time, the federal government is considering legislation that would provide all employees additional paid sick leave in public health emergencies. Guidance will be issued once any federal legislation is ultimately passed.

Q5. How do we handle assessing leave to employees out on planned medical leave?

A5. Employees on planned medical leave with medical reason(s) that prevent them from working from home should use leave since they aren't working from home like the other employees or contributing to support students. If you utilize a long-term substitute to complete the regular job duties of the individual on medical leave, the leave continues.

Q6. Are county boards of education required to pay professional long-term substitutes while schools are closed due to the COVID-19 health emergency? When does an individual meet the definition of long-term professional substitute?

A6. Professional employees are expected to provide distance learning options to students while schools are closed. Professional long-term substitutes who provide such distance learning options for their students should be paid during the school closures.

Long-term substitute is defined in W. Va. Code §18A-1-1(I) as follows:

(I) "Long-term substitute" means a substitute employee who fills a vacant position:

That the county superintendent expects to extend for at least thirty consecutive days, and is either:

- (A) Listed in the job posting as a long-term substitute position of over thirty days; or
- (B) Listed in a job posting as a regular, full-time position and:
 - (i) Is not filled by a regular, full-time employee; and
 - (ii) Is filled by a substitute employee.

Q7. Are county boards of education required to pay service long-term substitutes while schools are closed due to the COVID-19 health emergency?

A7. Per W. Va. Code § 18A-4-15, a substitute service person who fills a position for twenty or more working days "acquires regular employment status" and "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." Substitute service personnel who fall into this category are treated like any of your other regular full-time employees who are being paid during this health emergency.

Q8. Our county has spring break scheduled in the coming weeks. If schools are still closed due to the health emergency, does that impact our school calendar and corresponding employment calendar?

A8. County boards of education have been advised to leave school calendars intact. At this time, if a county board of education has spring break scheduled, the county is not required to provide meals during that time. County boards that do not provide meals for any reason are strongly encouraged to communicate this to students and families. Employees are expected to work only to the extent they would normally be required to work during spring break. If spring break is moved by a county, the county's school calendar and corresponding employment calendar would be modified accordingly.

Q9. During this health emergency, how should county boards of education handle payroll for a "shadow" employee of a regular employee who is on restricted duty due to a worker's compensation claim? Should the "shadow" employee still be paid?

A9. Depending on the job posting for the "shadow" employee, the "shadow" employee most likely meets the definition of a long-term substitute who would still be paid during this health emergency and expected to work to the same extent as other employees. Counties should review specific job descriptions when evaluating those employees.

Q10. What about regular day-to-day substitutes? Do county boards of education have any obligation to pay day-to-day substitutes during this crisis?

A10. While county boards of education must meet all payroll obligations for day-to-day substitutes for work before the health emergency, there is no obligation to pay day-to-day substitutes unless substitutes are called into service during the school closures. For example, if you utilized substitute cooks or bus drivers to help with serving meals to students, you are obligated to pay those substitutes for their days actually worked. If a day-to-day substitute employee is not utilized, there is no payroll obligation associated with that employee.

Q11. County boards of education struggle with retaining substitute bus drivers. What can county boards of education do to help retain the drivers during this health emergency?

A11. County boards of education can utilize substitute bus drivers during this health emergency including to deliver meals. We know of no other measures that a county board of education could use to assist the substitute bus drivers.

Q12. How should county boards of education handle payments to independent contractors?

A12. To the extent that you need to utilize independent contractors during this health emergency, you should pay independent contractors for actual services rendered. State statute only permits payments to vendors for services actually rendered. When events are canceled or postponed (ex: guest speakers for students) it is against state statute to pay for services not actually received. If contracted services can

be performed through alternate delivery methods, that will allow for payment to the independent contractors. For example, professional development to employees could be delivered via a webinar versus an in-person training. Counties are encouraged to work with independent contractors during this difficult time to limit the financial impact on those providers within the confines of the statutory requirements.

Q13. How should county boards of education meet logistical aspects of carrying out payroll obligations if the Governor mandates a complete closure?

A13. Payroll is an essential function of the county boards of education. There are various legal requirements regarding the prompt payment of employees. All county boards of education should develop plans to process payroll in case of a complete closure of the school system. This may involve setting up VPN access for all payroll staff, setting up laptops for home use, etc.

Direct deposit is more conducive to remote processing than paper checks. County boards should encourage employees receiving paper checks to sign up for direct deposit to ensure timely payment of their wages. County boards should communicate in advance any plan for distributing paper payroll checks in the event of a county-wide closure (ex: mailing checks through the United States Postal Service, which may cause delays).

Q14. Are county boards of education permitted to run payroll early during this health emergency?

A14. County boards of education should not pay employees early due to this health emergency. Payroll checks should be distributed on the regular payroll date to the extent possible. Some county boards of education are planning to run their payroll in WVEIS a few days earlier than normal given the rapidly changing statewide response to this health emergency. Running payroll early can lead to minor inaccuracies (ex: missing dock days, missing overtime, missing hourly pay, etc.) but the vast majority of contracted pay would still be accurate.

Q15. What about COMPASS (retirement) reporting during this time?

A15. County boards of education must still complete all required retirement reporting through COMPASS and remit all retirement contributions to CPRB. This is especially important for the TDC plan reporting. County boards of education are encouraged to make ACH payments to CPRB, but many county boards of education are not currently set up for that process. If your county wants to make ACH payments to CPRB, please ask for separate guidance. County boards of education that send paper checks to CPRB each month should use the CPRB Post Office (PO) Box to send payments. CPRB is planning a separate reminder to employers about making payments.

Q16. Do we need to make PEIA payments?

A16. County boards of education must pay all required PEIA contributions during this health emergency. The WVDE has transmitted the March payments on behalf of the county boards of education. Those amounts should be posted to your employer accounts in the near future to facilitate processing payments to PEIA.

Q17. Will there be any extensions to the statutory extensions to the required March meeting to establish proposed levy rates for the upcoming year?

A17. No, county boards should hold the March meeting and the required meeting on the third Tuesday in April. The West Virginia Ethics Commission has issued guidance regarding holding teleconference or other electronic meetings to accommodate remote meetings. County superintendents received the link below. Local boards of education are encouraged to hold compliant teleconference or electronic meetings for their proposed and final levy rates.

<https://ethics.wv.gov/Pages/default.aspx>