

## **COVID-19 SCHOOL CLOSURE FINANCE FAQ 3.24.2020**

***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. How should county boards handle paying their spring sport coaches given shortened/canceled seasons?**

A1. Spring sports and practices were underway prior to the health emergency closure of schools. Even if the seasons are shortened/canceled, county boards should honor the spring sports coaching contracts since services were rendered. The contract amounts do not need to be prorated due to the shorter season.

**Q2. If a county board of education informed employees on planned medical leave that the planned leave would not be assessed during the COVID-19 health emergency before the WVDE released the COVID-19 School Closure Finance FAQ on 3.18.20, does that county need to retract that statement and follow the WVDE interpretation?**

A2. County boards of education may use discretion in this situation, but also will likely be required to pay the long-term substitute holding that position even though the regular employee leave is not assessed leave. Overall state aid funding to a county board of education will not be increased. The county will need to pay both individuals for the same position entirely with local funds.

**Q3. What is a county board of education's financial obligation to Pre-K collaborative partners during the COVID-19 health emergency?**

A3. Students enrolled in a Pre-K collaborative site are public school students who should be provided student engagement to the same extent as Pre-K students enrolled in a traditional public school. Because collaborative partners remain responsible for providing student engagement, they will be providing services under the financial arrangement with the county board of education and should be paid accordingly.

If a collaborative partner is unwilling to provide student engagement and is not fulfilling contractual obligations with the county school system, the county should consult with the WVDE to handle the situation on a case by case basis.

**Q4. Are day-to-day substitutes eligible for unemployment during the COVID-19 health emergency?**

A4. Substitute school employees typically are not eligible for unemployment compensation during breaks throughout the school year (Thanksgiving break, Christmas break, Spring break, etc.) since they have a reasonable assurance to return to work upon completion of the break. WorkForce West Virginia is still awaiting guidance from the federal government on how to handle unemployment claims for substitute school employees in closed school systems during the COVID-19 health emergency. This health emergency may be handled differently than a typical school break under the federal rules, and the Governor issued an executive order that provides unemployment benefits to the maximum extent permitted under federal law. The WVDE will continue to engage WorkForce West Virginia regarding this situation and will provide more guidance once it becomes available. [Here](#) is the Governor’s Executive Order.

Encourage substitute employees to file any unemployment claims now since this is the first week of lack of work. Filing employees will be asked on the application if this is due to the COVID-19 health emergency. Claims will be filed electronically.

If WorkForce West Virginia sends you a “Request for Separation Information” regarding a substitute employee’s unemployment claim before you receive additional guidance, the WVDE recommends marking “Lack of Work” under Question #8 and writing in that the employee was a substitute employee impacted by the school closures for COVID-19. For Questions #3 and #4, if you mark “No,” we recommend including a note about COVID-19. This provides WorkForce West Virginia the necessary information to make a payment determination once the federal government issues guidance.

Monongalia County indicated that WorkForce West Virginia asked their substitutes who have applied for unemployment to provide a letter/memo from the school system describing their employment status during the COVID-19 health emergency. Monongalia County graciously shared the standard language they plan to provide for all substitutes who request such documentation.

Please be advised that beginning March 16, 2020 and until the Governor resumes public school operations for students, Monongalia County Schools has no opportunities for and will not be calling upon day to day substitute employees for employment opportunities. Please direct any inquiries to [insert name, insert title] at [insert email address].

[Insert name] is a substitute employee affected by this temporary closure.

**Q5. Are timesheets still required for service personnel during the school closures?**

A5. The federal Fair Labor Standards Act (FLSA) requires timesheets for all non-exempt employees which includes all service personnel. Timesheets provide the necessary information to determine if an employee qualifies for overtime pay under either state statute or the FLSA based on actual hours worked.

If service personnel are actively working, they must continue to maintain timesheets. County boards are permitted to have supervisors/principals complete timesheets on behalf of employees during this health emergency. **If we reach a point where any service personnel are not actively performing job duties but continue to be paid their contracted salary, timesheets will not be necessary because there will be no possibility for those employees to earn overtime pay.**

County boards of education are encouraged to consider changing their timesheet process to protect employee safety. For example, county boards may modify their normal timeclock process if employees are working from home or may set up alternate submission methods for paper timesheets (e.g.: email or other electronic submission, drop boxes to allow for social distancing, etc.).

**Q6. Can county boards of education submit COMPASS reports in advance of the pay date?**

A6. Currently, it is our understanding that county boards of education are unable to submit COMPASS reports in advance of the actual pay date. We have reached out to the West Virginia Consolidated Public Retirement Board (WVCPRB) regarding this issue and will provide guidance as it becomes available. Until we advise of changes, plan to submit reports under the current system parameters. Consider using a remote VPN connection, and establish a plan for sending the corresponding payments to WVCPRB if not utilizing ACH transactions.

**Q7. If a county pays teachers for teaching during their planning period, should the county continue to pay those teachers for that additional responsibility during the COVID-19 health emergency?**

A7. Situations where an employee is giving up a planning period generally will not occur during the COVID-19 emergency. Therefore, employees will not be eligible for additional compensation during the school closures. For example, outside a closure, a teacher may give up a planning period to provide coverage for another teacher to leave for an appointment, a situation that will not occur during the school closures.

If a teacher agreed to give up their planning period for the remainder of the year to provide instruction to a specific group of students, then yes, the county should continue to pay the teacher the additional compensation for those instructional services.

**Q8. Does the direction to pay everyone during the COVID-19 health emergency apply to a county board of education employee who has been off work for an extended period in an unpaid/dock status without an official approved leave of absence?**

Q8. The WVDE does not believe that the direction to pay employees extends to those employees who have been on an unpaid leave status and not actually working. This applies whether the employee was on an official unpaid leave of absence or where an employee simply wasn't coming to work but the local board has not yet taken official personnel action. County boards are always encouraged to take prompt personnel action when an employee violates the county's local employee attendance policy.

**Q9. Are temporary, part-time employees (such as after school program workers, daycare workers, parent involvement coordinators, etc.) who are normally paid on an hourly basis entitled to compensation during the COVID-19 health emergency?**

A9. The WVDE continues to research the federal Families First Coronavirus Response Act to determine whether any federal rules pertain to these workers. Absent any federal rules, these employees are not

entitled to compensation if they are not working during the health crisis. Encourage these workers to apply for unemployment compensation benefits due to COVID-19.

**Q10. Are substitutes in an approved critical shortage position still entitled to compensation during the COVID-19 health emergency?**

A10. Yes, substitutes in an approved critical shortage area would still be entitled to compensation during the COVID-19 health emergency so long as they are continuing to provide instructional services to students to the same extent as other teachers and long-term substitutes. Counties must continue to submit affidavits for any critical shortage substitutes who will exceed the 140-day limit for retirement purposes. Submit affidavits electronically to [mctuckwiller@k12.wv.us](mailto:mctuckwiller@k12.wv.us).

**Q11. If a county board of education has long-term substitutes who have not been approved for a critical shortage area who would normally be paid during this COVID-19 health emergency but are at risk of going over the 140-day limit for retirement purposes, can those long-term substitutes opt not to work or provide student engagement during the school closure to maximize their days in the classroom when school resumes?**

A11. Yes, in this situation, the long-term substitutes should be provided flexibility to not work on some of the closed days if they want to protect their retirement benefits. This decision should be documented in writing by the substitute to acknowledge that they are electing to not be paid for certain days during this health emergency. If a county board of education permits a long-term substitute to elect not to work, the county will need to have a plan for providing student engagement to the impacted students to the same extent it is provided by other teachers.

**Q12. Should county boards continue to pay classroom teachers extra pupil pay during the school closures? Should county boards of education use the student enrollment counts as of March 13, 2020?**

A12. Continue to provide extra pupil pay to those teachers whose rosters exceed classroom limits while the teachers provide student engagement opportunities. Use the roster count of students enrolled in the teacher's class on March 13, 2020, to determine the count for the extra pupil pay (do not consider actual student attendance on that date).

**Q13. How should county boards of education handle extra-curricular contracts during the school closures? Should employees continue to be paid as though those extra-curricular duties were fulfilled (e.g.: bus driver with a contract to make certain mid-day runs)?**

A13. At this time, county boards should continue paying these employees under their extracurricular contract obligations since the inability to actually perform the extracurricular duties is outside of the control of the employee.

Extra duty bus runs generally will not occur during the school closures. Drivers are not due additional compensation if extra duty runs do not occur.

**Q14. How do county boards handle requests of employees who are currently off on an approved medical leave (e.g.: maternity leave, workers compensation, sick leave, etc.) seeking to return to work prior to their scheduled return date?**

A14. Before permitting an employee to resume work from an approved medical leave, the employee must be cleared by their physician and submit documentation and appropriate paperwork to the central office. Understandably, these individuals want to preserve their available leave or reduce their unpaid time off, but county boards should require appropriate medical clearance. Depending on how counties structured the long-term substitute posting/contract, the county board may still need to continue to pay the long-term substitute and the regular employee.

**Q15. Can county boards of education require employees who are considered essential to the school system's operations, such as finance staff, to report to work?**

A15. County boards of education are encouraged to permit even essential employees to work from home to the extent possible. If there are certain tasks (e.g. printing checks) that cannot be completed from home, county boards can ask those essential employees to report periodically to complete those tasks while practicing social distancing. If an essential employee is in a COVID-19 risk group, the county should collaboratively find ways to safely complete those tasks without compromising the employee's health. County superintendents will make the determination as to what tasks are essential and who will complete them.

**Q16. Will county boards of education still follow the standard measurement period under the Affordable Care Act (ACA) to determine if variable hour employees, such as substitutes, will qualify for PEIA coverage for next school year or will there be an exception if schools remain closed?**

A16. The WVDE is not aware of any ACA changes due to the COVID-19 health emergency. The measurement period remains May 1 to April 30 as established by the county boards of education. However, under the ACA, breaks of four consecutive weeks or more should be excluded when calculating the average for each variable hour employee to determine if they are eligible for an offer of coverage for the stability period. We will revisit this question once we determine duration of the school closures.