



## Frequently Asked Questions on COVID-19 School Closures March 22, 2020

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These are the most up-to-date answers to key questions about Pennsylvania public schools' response to the COVID-19 pandemic. Note that issues related to the pandemic and policy developed to address them evolve rapidly, sometimes by the hour.

PSEA will continue to update this information as we receive it.

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### 180 Days

#### Questions:

1. **With the waiver of the 180-day requirement, are Local Education Agencies (LEAs) expected to add days at the end of the school year until June 30 (in addition to holding school on local holidays and make-up days) and will any days that cannot be made up by that time will be waived?**

#### **Answer:**

Per PDE's guidance, LEAs that fail to meet the 180 day or 990/900/450-hour requirements as a result of COVID-19 will not be penalized. School districts will be permitted to make individual determinations regarding their school calendars, and are not compelled to adjust calendars (meaning Saturday classes and/or holding classes until June 30) in an attempt to reach the required days or hours. School districts will simply need to complete a form that informs PDE of their determination, which will not require PDE approval.

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx>

## Assessments – PSSA/Keystone

### Questions:

1. **What is the status of this year’s PSSA, PASA, and Keystone Exams?**

**Answer:**

On March 19, PDE announced that PSSA, PASA, and Keystone exams will not take place in the 2019-20 school year. PSEA is still attempting to determine the impact on NOCTI and NIMS testing.

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID19/Pages/AnswerstoFAQs.aspx>

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## Special Education

### Questions:

1. **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)?**

**Answer:**

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 solicitors, 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.

2. **Must accommodations/504 plans be addressed in online learning environments?**

**Answer:**

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>

**3. Do timelines for the completion to paperwork/evaluations still apply during the closure?**

**Answer:**

At this point, there has been no specific guidance provided or decision made on this topic, school entities have been advised to do their best to meet the timelines they can in 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.

**4. Can special education employees be required to complete paperwork/evaluations, call parents, and attend IEP meetings during the time schools are closed?**

**Answer:**

If directed, staff should make every effort to complete IEPs and re-evaluations. Local associations should work with school districts to ensure the best use of technology to permit special education teachers to conduct or participate in meetings with parents or other school staff. (Please see the answers to questions 1-6 below relating to reporting to work on-site.)

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## Employee Issues/Concerns

### Questions:

**1. Can employees be required to work during the time schools are closed?**

**Answer:**

Yes, employees who are paid can be directed to work subject to any limitations imposed by applicable orders of the governor or other officials with sufficient authority. The Governor has directed that only "essential" staff report on-site to school districts. (Please see the answers to questions 2, 5, and 6 below).

**2. What happens if employees refuse to report to school buildings when directed due to COVID-19 concerns?**

**Answer:**

The governor's order directs that only those school employees "essential" to the operation of the

school can be directed to work on-site. If employees are directed to report, the local association, with the assistance of the UniServ, should have the district document the reasons as to the “essential” nature of the positions or the work. Where assignments can be completed remotely or through online platforms or conference calls, those options should be utilized.

Where it is necessary for staff to appear (for example, to pick up materials), districts should provide assurances that they have satisfied CDC recommendations regarding the safety of the workplace. In addition, districts should establish protocols for persons entering and leaving the building, limit the number of persons onsite at a given time, and require social distancing.

It is understood some employees may be reluctant to report to work when directed due to fears related to COVID-19. Any employee who has pre-existing medical impairments should request to be excluded from reporting onsite and should speak to their UniServ for further assistance.

For all other employees, refusing to report may be deemed insubordination, and they may face discipline or be reduced in pay (resulting in a reduction in service time for purposes of retirement credit). Any employee who refuses to work should understand that he or she will shoulder the burden of establishing a reasonable belief that working conditions are unsafe and that he/she is placed at risk of exposure by appearing in his/her specific work location. UniServs and region attorneys can provide assistance and advice in these situations.

**3. Can employees who are at home be required to work from home?**

**Answer:**

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.

**4. If employees are allowed or required to work from home, are there overtime and other Fair Labor Standards Act (FLSA) issues to worry about?**

**Answer:**

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.

5. **Are building principals and secretaries considered “essential” personnel when there are no students or teachers in school?**

**Answer:**

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>

6. **Are custodial staff required to report to work?**

**Answer:**

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). Local associations should ensure that proper protocols and mitigation efforts are in place for any school employee who is directed to report to work. If custodians are directed to clean a building that has potentially be exposed to the coronavirus, custodians should be provided with proper protective gear and cleaning materials.

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx>

7. **Will the state be willing to place a moratorium or delay requirements for Act 45 and/or Act 48 hours?**

**Answer:**

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 accumulate credits/hours during this timeframe. The General Assembly is currently considering legislation that would provide for a one-year extension of these deadlines. If this bill becomes law, PSEA will be sure to inform members.

8. **Will there be an extension of deadlines for school employees who have to get their fingerprint clearances done during this time when most/all businesses are being closed?**

**Answer:**

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 complete all aspects of the clearance process during this timeframe.

**9. What guidance should we provide employees regarding unemployment compensation?**

**Answer:**

Employees whose wages are reduced by a business closure, reduction in hours, or a medically or government directed quarantine or isolation should be encouraged to file for unemployment compensation (UC) benefits. Employees may choose to use any paid leave available to them prior to filing for unemployment compensation benefits.

Pennsylvania has waived the one-week waiting period normally applicable to UC benefits, so benefits will be paid retroactive to the first day of eligibility.

Employees should be aware that they cannot receive both UC benefits and paid leave, as it may result in an “overpayment” that requires them to return benefits. See <https://www.uc.pa.gov/COVID-19/Pages/default.aspx>

Local leaders should contact their PSEA UniServ Representative for assistance in responding to bargaining unit members’ questions about unemployment compensation issues.

**10. If school entities continue to pay employees during the school closure and decide to add days to their calendars prior to June 30, what happens to employees who will be potentially working above their agreed-to amount for the year?**

**Answer:**

If professionals exceed the number of bargained-for work days for their annual salary, either the terms of the collective bargaining agreement (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. Some employers have opted to pre-pay or advance wages during this time, with the work to be scheduled later. In those situations, local associations should work with their UniServs to ensure that the number of hours worked later will match up to the amount of the pre-payment, and that any hours worked as overtime will be paid at the overtime rate.

Local leaders should contact their PSEA UniServ Representative for assistance with issues of employee pay during and following school closures. Do not execute any Memorandum of Understanding (MOU) to address these issues without first consulting the UniServ Representative.

**11. Will COVID-19 acquired on the job equate to a worker's comp claim?**

**Answer:**

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.

**12. What should LEAs do regarding completion of Instructional I/Instructional II evaluations to meet teacher effectiveness requirements and regulations?**

**13. What if an observation of professional practice has not been completed for an educator's evaluation?**

**14. Will there be any special considerations for Temporary Professional Employees? What happens if an evaluation cannot be performed if they are in their last year - will they still meet criteria for tenure?**

**Answers:**

At this point, there is no specific guidance provided or decision made on this topic. PSEA believes that as long as employees have worked the full scheduled school year (whatever that may be) the year should count as a year of service toward their tenured status. PSEA is seeking assistance on both of these issues from the Department of Education and the General Assembly. Non-tenured employees who have questions related to their status should contact their UniServ staff for assistance.

While there is no case exactly on point, in PSEA's position the failure or inability to issue a rating equates to a satisfactory rating. PSEA is seeking assistance on this issues from the Department of Education and the General Assembly. Staff who have questions related to evaluations should contact their UniServ staff for assistance.

**15. How will PSERS credits, vesting, etc. work with the school closures?**

**Answer:**

At this point, there has been no specific guidance provided beyond the current law, which requires a certain number of days or hours to be worked each year for a full year of retirement credit. However, PSEA is advocating to have this issue and others associated with the COVID-19 school closures addressed in the near future. The General Assembly is currently considering legislation

that would ensure that school employees in PSERS receive full credit for the 2019-20 school year. If this bill becomes law, PSEA will be sure to inform members.

**16. Will the state reimburse school districts in the event teachers work with students, or other school staff work during the time school is closed and then the state also requires school staff to make up the days?**

**Answer:**

As of this time, districts have been assured that they will receive full subsidy regardless of the 180-day requirement, therefore, districts may not schedule a full year of instruction. If districts schedule make up days and salaried employees are required to work days beyond the number of those bargained for their annual salary, either the CBA would require additional payment or the district and the local association 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 workdays or hours, the same result might obtain 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 at a later point. (Please see the answer to question 10 above.)

**17. Will the state provide funding for any LEA employees in which a bargaining unit agreement requires a specific number of working hours in any given school year but employees are not able to work the required CBA number of hours due to school closures?**

**Answer:**

Under the School Code, school districts are liable for the salaries of teachers when schools are closed on account of contagious disease. See 24 P.S. § 11-1153. "Teachers" includes tenured and non-tenured teachers, as well as any certificated employee who spends fifty percent or more of their time in direct educational activities (counselors, librarians, school nurses, etc.). See 24 P.S. § 11-1141. To the extent the state provides districts with their full subsidies, the state will be supporting payment of salaries.

**18. What does it mean when an employee who is a member of the PA National Guard is placed on "state active duty"?**

**Answer:**

Pennsylvania's Military Code entitles state and local government employees to 15 days paid leave for the 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.

**19. May a district send employees home if they display influenza-like symptoms during a pandemic?**

**Answer:**

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 Act (ADA) if the illness is serious enough to pose a “direct threat.” Generally, districts may ask such employees if they are experiencing influenza-like 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.

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## Early Intervention

**Question:**

**1. Are Preschool Early Intervention services suspended during the school closure?**

**Answer:**

Yes. PDE’s guidance states that Preschool Early Intervention programs should suspend all services to children and families in alignment with public K-12 closures. If the Preschool Early Intervention administrative offices are open while Preschool Early Intervention services are suspended, referrals to Early Intervention should continue to be managed by the program; once services resume, referrals can proceed.

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQs.aspx>

## Facilities

### Questions:

1. **Can schools keep playgrounds, basketball courts, etc. open for community use during the closure?**

**Answer:**

No. Pursuant to Governor Wolf's latest order, playgrounds, basketball courts and other recreational or community facilities should not be kept open.

2. **Can schools still be used as polling locations for the primary?**

**Answer:**

As of right now, discussions are ongoing at the state level regarding how to conduct a primary election amid the COVID-19 outbreak.

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## Home-Based Learning and Emergency Funding

### Question:

1. **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?**

**Answer:**

PDE's guidance has outlined some options for continuity of education during the school closures, such as FIDs for districts or schools with approved plans, online/digital learning opportunities and non-digital learning opportunities (e.g. the use of materials sent home with students). A school entity's decision to employ one or more of the above methods of continuity of education is a local decision to be made based on feasibility, availability of resources, access and equity considerations, and the need for social distancing.

Additionally, whatever decision is made, school entities must ensure full access to learning for all students, with particular attention to FAPE for students with a disability and ESL services for English learners.

Intermediate units are developing additional guidance, resources, and supports for LEAs that wish to implement continuity of education plans.

## Food Service

### Questions:

**1. Are food service staff required to report to work?**

**Answer:**

PDE has issued guidance on this topic suggesting that identifying 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>

**2. Are all meal pattern requirements still in practice for any meal served under the waiver?**

**Answer:**

Per the 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. If availability of milk or other meal components becomes an issue, FNS will work with the State agency to provide the needed waivers or flexibility.

**3. What employees can a school district direct use to serve meals?**

**Answer:**

School entities may use essential staff to ensure students have access to meals. Districts that provide meals should use appropriate CDC protocols, including social distancing and mitigation practices.

## Other

### Question:

#### 1. What is in the federal Families First Coronavirus Response Act?

**Answer:**

President Trump has signed the Families First Coronavirus Response Act into law. The law includes comprehensive measures to respond to the COVID-19 outbreak, including the requirement that government employers (including the state and public school entities) as well as private employers with 500 or fewer workers must provide up to two weeks of paid sick leave and up to 12 weeks of paid family and medical leave for employees affected by COVID-19. The law also provides for blanket waivers to ensure that students eligible for free and reduced-price lunches are able to receive meals during school closures. PSEA has prepared a summary of the provisions of this law relevant to members. We will continue to provide updates as to any additional federal legislation.

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## School Closures

### Questions:

#### 1. What is the legal authority of the governor to order schools to be closed?

**Answer:**

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."

## 2. What does “closed” mean?

### **Answer:**

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 plans to the extent feasible. This is a matter of local decision.

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## Boards of Directors

### **Question:**

#### **1. What should LEAs do with regard to holding committee or board meetings during the shutdown period?**

### **Answer:**

The federal Coronavirus Task Force has recommended that gatherings of ten or more people be avoided. The Pennsylvania School Boards Association has provided 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>

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## Transportation

### **Questions:**

#### **1. Do school districts still need to transport nonpublic school students?**

### **Answer:**

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.

## COVID-19 Coronavirus: Symptoms, Screenings, Leave

### Questions:

#### 1. What are the most common symptoms of coronavirus?

**Answer:**

Coronavirus symptoms can range from mild to severe. The symptoms primarily involve the respiratory system. The most common symptoms include:

- Fever
- Cough
- Shortness of breath

The symptoms typically appear between 2-14 days after exposure. For further information, visit [www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html](http://www.cdc.gov/coronavirus/2019-ncov/about/symptoms.html).

#### 2. What should schools be doing to prepare for a possible outbreak of the coronavirus in their communities?

**Answer:**

According to the CDC, childcare and K-12 school administrators nationwide should take steps to slow the spread of respiratory infectious diseases, including coronavirus. The CDC provides tips for educators to help prevent the spread of the disease.

The CDC also advises that schools must review, update, and implement emergency operations plans (EOPs).[1] EOPs should be drafted in collaboration with local health departments and other relevant partners.

The CDC identifies the elements of such plans, which are to include:

- Strategies to reduce the spread of a wide variety of infectious diseases.
- Developing information-sharing systems with partners.
- Monitoring and planning for absenteeism.
- Establishing procedures for students and staff who are sick at school.
- Performing routine environmental cleaning.

The CDC provides references to key resources when reviewing, updating, and implementing an EOP. See in particular:

*The Role of Districts in Developing High-Quality School Emergency Operations Plans: A Companion to the School Guide.* [https://rems.ed.gov/docs/District\\_Guide\\_508C.pdf](https://rems.ed.gov/docs/District_Guide_508C.pdf)  
*Guide for Developing High-Quality School Emergency Operations Plans.* [https://rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](https://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf)

This information can be reviewed in more detail at [www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-for-schools.html](http://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-for-schools.html).

**3. Are schools required to screen students for Coronavirus? Is such screening legally permissible?**

**Answer:**

Schools are not expected to screen students or staff to identify cases of coronavirus. Most respiratory illnesses are not coronavirus. Local health officials are responsible for identifying individuals suspected of carrying coronavirus. Schools are likely not permitted to require students and staff to submit to screenings. See <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-for-schools.html>.

**4. If I were to contract coronavirus, what are my legal and contractual rights to take a leave of absence?**

**Answer:**

This question, which was answered in PSEA's original FAQ for leaders, is currently under review pending the provisions of the federal Families First Act.

**5. What if I have additional questions related to the impact of the Coronavirus on school operations and bargaining unit members?**

**Answer:**

Considerations for activities and responses for local associations will vary based on contract provisions, policies, and practices. Questions regarding concerns related to coronavirus should be directed to your PSEA UniServ Representative.