<table>
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School Closures

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 purposes of performing other 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 may sometimes be 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.

Facilities

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

Yes. Pursuant to Governor Wolf’s order, playgrounds, basketball courts and other recreational or community facilities should not be kept open.

May districts 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 “deemed-related” action if the illness is in 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 require 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.

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

The Governor has signed into 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

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

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

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 to 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 may request approval from the state to operate as “area eligible” based on current, local economic data. Sites approved by PDE are COVID-19 area eligible sites may provide meals under the SSFP or SSP to all children in the community, including planned instruction and enrichment and review. However, LEAs and COs must obtain approval from PDE and must follow program requirements in place.

Will there be any statewide pricing for online learning platforms like those offered through Edgenuity and Odysseyware available at no cost for PDE?

PDE is making online course content available through Edgenuity and Odysseyware available at no cost to LEAs; LEAs should contact their local Intermediate Unit for information on this opportunity.

Online Learning

If a district implements alternative instructional plans (online or student work sent home) during the closure, will it count as school days? Or will we make up these days in June?

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Will credit be given for courses or units of study that were completed online during the period of closure? Can the courses or units of study 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 IU 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/AnswersToFaqx.aspx

Other

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 Federal Aid 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.

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 affect the force and effect of laws. In addition, the Governor may proclaim further delegates emergency powers to the heads of specified commodity agencies, including the secretary of education. The proclamation authorizes the secretary of education “to use all necessary powers, including the delegation of powers, to implement any or all of the provisions of this act, including the authority 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.”
Act 13 of 2020

**Effective Date**

Act 13 of 2020 was signed into law on Friday, March 27 and became effective immediately. The provisions of the Act apply only to the 2019-20 school year and are a result of the World Health Organization declaring a global pandemic on March 11, 2020. The Act, and the requirements within it expire at the end of the fiscal year—on June 30, 2020.

**180 Days**

The 180-day requirement has been waived, and PDE’s guidance clarifies that schools are not required to adjust calendars. However, schools will be required to report their total days and hours for the 2019-20 school year in a simplified form, and completed forms will be deemed approved. https://www.education.pa.gov/Schools/schoolsemergencyplanning/COVID-19/Pages/AnswersToFaq.aspx

**Charter School Tuition**

No. Act 13 of 2020 clarifies that during the period of school closures pursuant to the COVID-19 pandemic, school districts must continue to pay charter school tuition for those students that were enrolled in the charter school on March 13, 2020.

**Continuity of Education Plan**

Can a district attempt to deliver Planned Instruction for their Continuity of Education Plan and switch to Enrichment and Review if they are unable to execute the Planned Instruction?

What email address or link should districts use to upload their Continuity of Education Plan to PDE?

Our district contracts with an independent contractor to provide transition classrooms in our buildings. Is the contractor required to provide the continuity of education plan for the transition classrooms?

Does the Continuity of Education Plan need to be approved by the local School Board?

Does the term “compensation” in Act 13 include salary and benefits?

Does the school code bill require districts to pay all employees during the closure or just teachers and principals?

Are substitutes considered employees and are we required to pay them?

Does Act 13 require that we pay coaches or other employees an additional amount pursuant to a supplemental contract or other agreement?

**Special Education**

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

Does the Continuity of Education Plan need to be approved by the local School Board?

**Transportation**

Do school districts still need to transport nonpublic school students?

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

**Employee Issues/Concerns**

Does the new school code bill require districts to pay all employees during the closure or just teachers and principals?

Any substitutes considered employees and are we required to pay them?

Does Act 13 require that we pay coaches or other employees an additional amount pursuant to a supplemental contract or other agreement?

**What does “closed” mean?**

The Act specifically states that “closed” 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 discretion.

**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 IEP/RR date), or IEP/RR date (90 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 student, parent, special education teacher, PDE, PPAT, and/or the local intermediate unit for additional guidance on postponing meetings when necessary or providing accommodations or 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.

**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 the issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak.

**Does the new school code bill require districts to pay all employees during the closure or just teachers and principals?**

Act 13 of 2020 refers broadly to require payment to school employees employed as of March 13, 2020; it does not differentiate among types of employees, nor does it differentiate among types of employees. Compensation guarantee does not apply to such intermittent employees who do not have a “normal” amount of duties and responsibilities. Act 13 of 2020 states that no employee should receive any more or any less “compensation” than the employee would otherwise have been entitled to receive had the pandemic not occurred. It is our understanding that the term “compensation” is broad and includes both salary and benefits.

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**Act 13 of 2020**

When does Act 13 take effect?

School closures due to a supplemental contract or other agreement?

Does the Continuity of Education Plan need to be approved by the local School Board?

**Effective Date**

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Does the term “compensation” in Act 13 include salary and benefits?

Does the school code bill require districts to pay all employees during the closure or just teachers and principals?

Are substitutes considered employees and are we required to pay them?

Does Act 13 require that we pay coaches or other employees an additional amount pursuant to a supplemental contract or other agreement?
**Does Act 13 require that we pay part-time employees or 10-month employees that are hourly?**

Act 13 of 2020 broadly requires payment to school employees employed as of March 13, 2020; it does not differentiate among types of employees. In many cases these employees would be paid, the determination to be considered is if they would have earned the compensation. We encourage school entities to check with their school solicitor about how to implement the provision based on the unique circumstances of each school entity.

**Are employees who are regularly scheduled to work more than 40 hours be paid at overtime for those extra hours. Or would it be paid as straight time since they are not actually working?**

School entities should ensure that they are paying school employees that have worked overtime for the hours they have worked. Employees are not entitled to continuation of overtime hours unless overtime was guaranteed. Regarding overtime hours not worked as a result of the school closures, school entities should make decisions in consultation with their school solicitor.

**What if a school employee was expected to begin work on March 16? Are we required to pay that employee under Act 13?**

Act 13 of 2020 specifically requires payment to those school employees employed as of March 13, 2020; however, there is no prohibition of paying an employee that was expected to begin work on March 16. Additionally, school entities should consider whether the new employee will be working as part of the school entity’s Continuity of Education Plan during the closure. If so, the employee's pay should be paid. School entities should review this scenario with their solicitor to determine if payment is required.

**Are we required to pay employees who are on an uncompensated approved leave of absence?**

No. Act 13 does not affect leave of absence. Employees who are on leave that has been requested and approved do not have the right to change their status due to the current crisis. We encourage school entities to check with their school solicitor in situations such as this.

**Our District had indicated to essential hourly staff for the first two weeks of closure, that they would be given leave time credit for any hours they were required to report to work since all hourly employees are being paid. Is this permitted?**

We encourage school entities to check with their school solicitor.

**Does Act 13 prohibit school districts from paying employees that will be needed to provide compensatory education and extended year services? If we need support from those employees after the closure would they be entitled to additional compensation?**

Act 13 is clear that school employees must be paid for the time of the school closure. Act 13 does not specifically address the implications for employees that may be needed for the provision of compensatory education or extended school year services, however, it does state that “no employee of a school entity who was employed as of March 13, 2020, shall receive more or less compensation than the employee would otherwise have been entitled to receive from the school entity had the pandemic of 2020 not occurred, had the minimum instructional subject to the requirement not been waived, or had the Secretary not take action” under the Act. As the duration of school closure is not yet known, nor the implications for this group of employees, this is an issue that school entities should monitor over the next several weeks and discuss with their school solicitors.

**Without PSSA, Keystone, and SPP data, how will teacher and principal evaluations be formulated for the 2019-2020 school year?**

Act 13 states that student performance data can be waived by the Secretary as a component of teacher and principal evaluations for 2019-20. As evaluations are not required unilaterally for 2019-20, the Act guidance on this issue may not be a high priority at this time, but we anticipate it will be forthcoming from PDE.

**Many districts need to have staff return to their buildings to plan lessons and retrieve devices and materials to move forward with a Continuity of Education Plan. Is there any guidance on how to administer the social distancing guidelines when staff return to the buildings?**

School entities are encouraged to follow CDC and PA Department of Health recommendations regarding social distancing. School entities should institute a strict social distancing protocol if staff must return to the building to prepare lessons and materials pursuant to a Continuity of Education Plan. Ensuring that staff access to the building is staggered to minimize the number of people in the building at a given time and that employees always maintain an feet of separation while working in the building are recommended.

**Will the State continue to provide normal payment schedule to Districts for their subsidy or should Districts be prepared to look for loans as necessary?**

The $2 trillion federal stimulus bill, the CARES Act, designates about $31 billion to states for education. Of that amount, a portion is dedicated to K-12, and will be disbursed to states shortly. One of the provisions of the CARES Act states that to be eligible to receive a portion of the funding under the Act, “a local educational agency, State, institution of higher education, or other entity that receives funds under “Education Stabilization Fund”, shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus.” This language is broader than the language in Act 13. While additional guidance will be needed to determine the extent to which there is any flexibility in the CARES Act regarding, in particular, payment to contractors, we encourage you to reach out to your school solicitor as we await more information about how much of this federal funding Pennsylvania will receive, how it will be prioritized and allocated to school entities.

**How does the federal stimulus bill (CARES Act) interact with Act 13?**

Act 13 of 2020 refers broadly to require payment to school employees employed as of March 13, 2020; it does not differentiate among types of employees. In many cases these employees would be paid, the determination to be considered is if they would have earned the compensation. We encourage school entities to check with their school solicitor about how to implement the provision based on the unique circumstances of each school entity.

**Protective Gear and Cleaning**

**What are the specific recommendations for appropriate cleaning materials and protective clothing and gear recommended by the CDC?**

The current understanding is that the CDC recommends that employees performing cleaning in a COVID-19 infected area or suspected COVID-19 infected area should be wearing gloves, a gown, and a mask during cleaning activities. These gowns do not have to be surgical grade as used in hospitals, but they must provide protection both from the cleaning materials and possible COVID-19 exposure in those areas where there are high concentrations of school entities.

**Will districts receive any state or federal financial relief for expenses related to the school closures such as extra cleaning supplies, overtime for custodians, etc.?**

At this point, the state has not allocated any additional funding for increased district expenses due to the closure. The federal government recently passed a $2 trillion stimulus bill, which directs nearly $31 billion to education. Of that amount, a portion is dedicated to K-12 education. It remains to be seen how much additional funding will be directed to Pennsylvania and if any will be allocated for this purpose.

**Transportation Contractors**

**If districts are contracting with their transportation contractors to deliver lunches and other essential items to students, do you need approval from PDE to do so?**

PDE approval is not required. This is a local matter that must be negotiated between the school district and the transportation contractor.

**If districts have a contracted transportation service, are the contractor’s employees considered school employees?**

No. The employees of contracted school transportation services are not school employees, and school entities are not required to pay them during the school closure. 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 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 its contract and pays the contractor pursuant to the provisions in Act 13, the contractor 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). To be eligible to receive the normal transportation reimbursements for next year, a school entity must continue to pay transportation contractors pursuant to existing or re-negotiated contracts.

**When doing your state report, and if you pay your contractors as if the pandemic didn’t happen, would you report the days that you paid your contractor during the closure even though the buses were not running?**

We expect further guidance from PDE on how to report data for the time period of school closures at a future date.

**Does the transportation language cover for just buses or also include the van drivers who are contracted by the same contractors?**

We believe the language in Act 13 is intended to include all school transportation contractors.

**Regarding paying our transportation contractor. It appears that when the ETRAN report is completed for the 2019-2020 school year we will use 106 days to calculate allowable costs. Is that correct?**

We expect further guidance from PDE on how to report data for the time period of school closures at a future date.
If we renegotiate our transportation contracts, that’s still considered continuing to pay our contracts and will not have a negative impact on our subsidy, correct?

Correct. 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 a school entity does re-negotiate its contract, the contractor must provide weekly proof that it has maintained its complement of employees as of March 13, 2020 and has not furloughed anyone. If a school entity re-negotiates 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 documentation do we need to obtain from Bus Contractors that they are staying complement?

Act 13 does not specify the form of documentation that must be provided from a transportation contractor with which a school entity has re-negotiated a contract; however, the intent is to ensure that the contractor maintains the employees and is making payments on fixed cost items such as buses it had as of March 13, 2020. School entities that are considering re-negotiating their contractors for the period of closure should work with their solicitor to determine what information to require from the contractor on a weekly basis.

If we would like to continue to pay our transportation contractors, are we required to renegotiate their contracts, or may we simply pay them at their current rates?

Act 13 does not prohibit a school entity from paying a school transportation contractor at the current rate during the school closure.

If transportation contracts are renegotiated to ensure fixed costs are maintained, does this apply to daily pupil transportation to/from school only? What about costs for athletic & field trips?

Act 13 does not specify what can or should be included if a school entity decides to renegotiate a transportation contract for the period of closure. The Act focuses on personnel and fixed costs and the intent is that the contractor maintains the employees it had in place as of March 13, 2020. This is up to each individual school entity that wishes to renegotiate a contract.

In order to maintain full transportation subsidy, is the school district required to renegotiate the contract?

No. Act 13 states that a school entity that renegotiates and pays a transportation contract (and receives weekly reports from the contractor ensuring that none of the contractor's employees have been furloughed) will receive 2020-21 transportation subsidy that is not impacted by the school closure. If a school entity seeks to ensure that 2020-21 transportation subsidy is not impacted by the school closure, school entities should continue to pay the transportation contractors pursuant to the language in Act 13.

If we renegotiate transportation contracts and pay them less - will this reduce our subsidy next year?

No. Act 13 states that a school entity that renegotiates and pays a transportation contract (and receives weekly reports from the contractor ensuring that none of the contractor's employees have been furloughed) will receive 2020-21 transportation subsidy that is not impacted by the school closure. This year. There is no requirement that the amount a school entity pays a transportation contractor during the closure is the same amount they would have paid had the closures not occurred.

What if the transportation contractor already furloughed drivers?

Act 13 requires that for a school entity to receive 2020-21 transportation subsidy that is not impacted by the school closures this year, it would need to renegotiate and continue paying the transportation contract, and the contractor would need to provide weekly documentation that it had not furloughed any employees as of March 13, 2020.

What if the transportation contractor already furloughed drivers?

School entities that operate their own transportation programs are required by Act 13 to pay school employees, which would include their bus drivers. As such, Act 13 states that these school entities will receive 2020-21 transportation subsidy that is not impacted by the school closure this year.

What about school districts that operate their own transportation programs?

School entities that operate their own transportation programs are required by Act 13 to pay school employees, which would include their bus drivers. As such, Act 13 states that these school entities will receive 2020-21 transportation subsidy that is not impacted by the school closure this year.