

Approved school-related COVID-19 legislation

The General Assembly has approved and sent to Gov. Tom Wolf legislation amending the School Code to address many of the concerns voiced by public schools related to the mandated closure of schools due to the coronavirus (COVID-19). The governor is expected to quickly sign the bill, which will become effective immediately once signed.

The emergency school code provisions were added to [Senate Bill 751](#), introduced by Sen. Ryan Aument (R-Lancaster). **Senate Bill 751** as originally drafted revises the state's system for educator evaluations and that language remains in the bill. The provisions relating to the COVID-19 pandemic apply only to the current school year and impact school entities including school districts, intermediate units, career and technical education schools, charter schools and certain other schools/programs.

Here is a summary of the legislation:

180-day waiver: The 180-day requirement for all public and nonpublic schools, and homeschool programs is waived.

Closure of schools: Allows the secretary of education to close all school entities until the threat to the health and safety caused by the pandemic has ended.

Flexible Instruction Days (FIDs): Allows the secretary of education to increase the number of allowable flexible instruction days (FIDs) to a number determined by the secretary during the 2019-20 school year and waive the application deadline.

Other waivers by the secretary: The secretary may also waive these requirements:

- Career and technical education program hours
- Using performance data in the teacher evaluation system
- Pre-K Counts hours
- 12-week student teacher requirement
- NIMS assessments (National Institute for Metalworking Skills) and NOCTI exams (National Occupational Competency Testing Institute)

Pay and PSERS credit for school employees (employed as of March 13, 2020): No school employee shall receive more or less compensation because of school closures or shortened school year. No school employee shall receive more or less credit or contribute more or less than he or she would otherwise have contributed pursuant to the Public School Employees' Retirement Code because of closures.

School cleaning staff: Each school entity shall provide any employee who is responsible for cleaning school facilities as a result of, or during the threat to health and safety caused by, the pandemic of 2020, with appropriate cleaning materials and protective clothing and gear as recommended by the Centers for Disease Control and Prevention.

Special education: Each school entity shall provide written notice to the parent or guardian of each student who receives services under an Individualized Education Program under the Individuals with Disabilities Education Act (IDEA) of the school entity's plans for ensuring that the student receives a free and appropriate public education (FAPE) as required under IDEA.

Continuity of education plan: Each school entity shall make a good faith effort to plan to offer continuity of education to students using alternative means during the period of closure. PDE shall provide guidance to school entities and intermediate units may provide technical assistance. A school entity shall submit the plan to PDE and post the plan on its website.

School district/IU/Charter School subsidy payments: A school entity which was closed as a result of the pandemic may not receive less subsidy payments, reimbursements, allocations, tuition or other payments from PDE or another school entity than it would otherwise be entitled to receive for the school year. In addition, charter schools will not receive more or less per-student tuition payments than they otherwise would have been entitled to if the pandemic related school closures had not occurred. Tuition payments will be based upon the enrollment as of March 13, 2020.

Federal testing waiver: The secretary shall apply to the U.S. Department of Education for a waiver of the federal testing and accountability requirements to allow the cancellation of testing for the 2019-2020 school year. (Note: PDE has already applied for the waiver and it has been granted.)

District mandate waiver requests: The governing body of a school entity may apply to the secretary for a waiver, in the form and manner prescribed by the secretary, of any provision of the act, the regulation of the State Board of Education or the standards of the Department of Education, excluding sections 528, 1124 and 1125.1 of the school code, if the waiver is directly related to the school entity's staffing needs or impacts the school entity's instructional program or operations as a result of the pandemic of 2020. The secretary shall have thirty (30) days from the receipt of the application to approve or disapprove the request. The secretary's decision shall not be appealable.

Extension of professional development requirements: Beginning on the effective date of the act and notwithstanding any other provision of law to the contrary, each professional educator's (including teachers and school leaders) current continuing professional education compliance period shall be extended by one year. This applies only to professional educators with an active certification as of the effective date of this subsection and shall expire one year from the effective date of this subsection.

Nonpublic/homeschooled schools: The governing body of a nonpublic school may close the nonpublic school due to the threat to health and safety caused by the pandemic of 2020 and minimum instructional requirements shall not apply. The minimum instructional time requirements for homeschooled students shall not apply, nor do the requirements to administer a nationally normed standardized achievement test or statewide test or conduct required annual evaluations. A private or nonpublic school which was closed because of the 2020 pandemic may not receive more or less payment from school entities for any student placed by a school

entity and enrolled as of March 13, 2020, as long as the private or nonpublic school is offering continuity of education during the period of closure.

Transportation: Each school entity may renegotiate a contract for school bus transportation services to ensure contracted personnel and fixed costs, including administrative and equipment, are maintained during the period of school closure. During the period of school closure, the school bus transportation contractor shall submit weekly documentation to the school entity that its complement levels remain at or above the level on March 13, 2020, in order to continue being paid. Notwithstanding any other provision of this act, if a school entity continues to pay a school bus transportation contractor or operates its own school bus transportation, the school entity shall be eligible for reimbursement from the Department of Education at a rate the school entity would have received if closures had not occurred.

Private Residential Rehabilitative Institutions: A private residential rehabilitative institution that was closed because of the 2020 pandemic may not receive less payment from school entities or the state for any student enrolled as of March 13, 2020.

Educator evaluation: The legislation changes the state's system for the evaluation of teachers, temporary professional employees and non-teaching professional employees, principals, and other certificated employees. Use of the new rating tool will begin in the 2021-2022 school year. The bill changes the measure on direct classroom observation and practice from 50% to 70% of most educators' evaluations. The remaining 30% of the rating is based on building level and teacher specific student achievement data, including student performance on standardized testing. The building level data also will be adjusted by a measure of poverty for each individual school building. The teacher specific student achievement data will include student performance measures that relate directly to an educator's practice each academic year. PDE would develop a new rating tool by March 31, 2021.

School districts, intermediate units or career and technical schools may use their own rating tool if it is approved by PDE. Each rating tool developed shall group the employees as one of the following, ranked from highest to lowest: distinguished, proficient, needs improvement, and failing. An overall performance rating of "distinguished" or "proficient" shall be considered satisfactory while an overall performance rating of "needs improvement" shall be considered satisfactory, except a subsequent "needs improvement" within four years by the same employer shall be considered unsatisfactory. An overall performance rating of "failing" shall be considered unsatisfactory. Each school district, intermediate unit and career and technical school must provide aggregate results of all evaluations to PDE. The State Board of Education may develop regulations consistent with this legislation. A collective bargaining agreement negotiated by a school district may not provide for a rating system other than the one to be established under this legislation. In addition, an employee's individual rating form will not be subject to the Right-to-Know Law. PDE must review the revised rating system within five years of implementation and submit a report of its findings to the Education Committees of the House and the Senate.

