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## ➤ ABOUT THE CORONAVIRUS

The coronavirus disease (COVID-19) global pandemic is significantly impacting workplaces, communities and schools. The Oklahoma State Department of Education (OSDE) is closely monitoring the outbreak.

Resources are available now and being updated as new information becomes available. The U.S. Centers for Disease Control (CDC) has developed [guidance for schools](#) that includes information on what to do in the event of COVID-19 being identified in the school community and [FAQs for school administrators](#). Please bookmark the [Oklahoma State Department of Health \(OSDH\) web page devoted to the coronavirus outbreak](#). This site contains a number of guidance documents – many from the CDC and other public health entities – on prevention, symptoms, testing and more, in addition to a daily update of statewide test results and a list of drive-thru test sites around the state. A dedicated COVID-19 Call Center is open to the public for any questions regarding the Oklahoma response at 877-215-8336. The U.S. Department of Education (USDE) has also made resources and guidance documents available at [ed.gov/coronavirus](http://ed.gov/coronavirus). To help adults talk to children about COVID-19, both the [CDC](#) and [PBS](#) have developed resources.

Together we can ensure that public schools, students and staff are in safe and healthy environments and that the most up-to-date information is shared with education stakeholders as it becomes available.

We have received a number of questions from districts, which you will find below. We will update and redistribute this document as needed.

## ➤ ENDING 2019-20 SCHOOL YEAR, GRADUATION CEREMONIES AND SUMMER SCHOOL

### What action did OSDE and the State Board take at its special meeting on March 25, 2020?

On March 25, the State Board of Education [amended its first order](#) to direct all accredited public schools to suspend all *in-person* and extracurricular activities and close buildings for the remainder of the school year. While school buildings will remain closed for the remainder of the year (until at least May 8, 2020, unless a later date was determined by a local school district) for general student and personnel attendance, exceptions include staff providing nutrition services, facilitating or supporting required delivery of distance learning and essential core services. Essential core services include governance, human resources, billing, maintenance and continuity of building functions, staff to maintain building access control and security measures, and student enrollment.

Between March 25 and April 5, districts were directed to provide OSDE with a request for waiver and a set of assurances for the remainder of the school year. The Board's order directs districts to begin distance learning upon approval.

### **NEW:** At what date does the Board's order described above end, and what does that mean for access to school buildings?

The State Board's order for the closure of school buildings for the remainder of the year is in effect until the end of the academic year. The Board required schools to continue distance learning for students until at least May 8. Some districts, however, have chosen to continue distance learning until May 15 or even later. Districts should continue implementing their distance learning plans, with buildings remaining closed for students and non-essential personnel through the date the district has chosen for the end of its academic year.

The Governor has released the [Open Up and Recover Safely \(OURS\) Plan](#) detailing allowable activities in three phases as the state begins to relax the directives of his previous executive orders regarding the COVID-19 pandemic. In Phase 1, which began May 1 and continues until at least May 15, the Plan reads:

“Schools and organized sporting events and camps that are currently closed should remain closed until further notice.”

Additionally, in Phase 2 (scheduled to begin Friday, May 15, 2020) *the following guidelines continue:*

- Maintaining safer-at-home guidelines for those over 65 or who are part of a vulnerable population;
- Maximizing social distancing from others when in public; and
- Refraining from socializing in groups where social distancing is not possible.

These guidelines and requirements are also consistent with the language in the Governor’s most recent executive order, where it is provided that unless otherwise specified in the OURS Plan, individuals should follow U.S. Centers for Disease Control (CDC) guidelines for social distancing by avoiding crowded places, not gathering in groups and staying at least 6 feet from other people. See [Executive Order, Section 24](#).

The Governor has stated that the state may begin Phase 2 only after hospital and incident rates remain at a manageable level for 14 days. Once in Phase 2, *so long as exercised consistent with proper social distancing sanitation and applicable guidelines*, organized sports activities may reopen and operate beginning in Phase 2. This **does not** relate to guidelines or activities over which private organizations have jurisdiction, including but not limited to the Oklahoma Secondary Sports Activities Association (OSSAA).

As of the release date of the FAQs, the state is on track to meet the goal of entering Phase 2 on Friday, May 15, 2020. Should the situation change, Phase 1 may be extended.

## **Graduation Ceremonies**

As Oklahoma continues to reopen in stages, schools are seeking to fulfill the traditional functions of providing graduation and end-of-year promotion ceremonies. Below are considerations for how to navigate these proceedings at the local level. LEAs considering a graduation or end-of-year ceremony should consult with legal counsel to ensure that the activity is allowable under the OURS Plan and does not conflict with local orders.

Participation by a student or family member in a ceremony is voluntary and may not be required or compelled by the school.

### **NEW: Can we hold a ceremony to honor graduates?**

A graduation ceremony is an important ceremonial rite of passage. However, it has no legal significance, is not required under Oklahoma School Code, and the Oklahoma State Department of Education does not regulate graduation ceremonies other than to ensure the health and safety of students and attendees. Holding a ceremony is largely a matter of local governance and compliance with health and safety guidelines put in place at the national, state and local levels. Districts and schools should confer with local public health and safety officials before any graduation gathering. OSDE encourages districts to consider scheduling ceremonies in June, since proclamations and public health conditions may improve by that time.

**NEW: What could a graduation ceremony look like, inclusive of social distancing?**

- Virtual
- Hybrid (vehicle processions or drive-ins, or compilation video(s) of students filmed individually or in small groups)
- In-person (in stadiums or larger arenas)

**NEW: Can a district hold a virtual graduation ceremony? If so, when?**

Yes, completely virtual ceremonies may take place at any time.

**NEW: Can a district hold a hybrid graduation ceremony? If so, when?**

Yes, hybrid ceremonies may begin in Phase 2 of the OURS Plan, expected to begin May 15. OSDE strongly encourages monitoring and review of the OURS Plan for updates. Once Phase 2 begins, hybrid ceremonies with an in-person element (such as students walking across while families watch from a vehicle) should reference the requirements and considerations for in-person graduation ceremonies.

Additionally, for vehicular ceremonies, consider the following:

- Ensure families arrive and remain seated in cars to allow for minimal physical engagement;
- Be mindful of weather conditions, particularly heat and rain, since as all vehicles would need to be turned off in order to conduct the ceremony;
- Outline safe walking pathways for graduates to exit the vehicles and safely collect their diplomas;
- Require large projection screens and sound equipment; and
- Arrange alternative seating for students and families without vehicles.

**NEW: What guidance has OSDE given regarding in-person graduation ceremonies?**

In accordance with the OURS Plan as described above, in-person graduation ceremonies may not be held during Phase 1 of the recovery. While Phase 2 of the OURS Plan is expected to begin May 15, the COVID-19 pandemic is rapidly changing, and community spread is still possible, especially in large gatherings like graduation ceremonies. As such, ***OSDE strongly encourages districts to consider waiting until or after June 1 to hold in-person graduation ceremonies.*** Districts that choose to hold a ceremony between May 15 and May 31 should have contingency plans in case COVID-19 circumstances change. It is also important to be mindful of any local/municipal guidelines that might be more specific than the state plan.

In Phase 2, districts hosting in-person graduation ceremonies are required to observe the following protocols:

- Set expectations, policies and guidelines in advance and reiterate them in advance of and at the beginning of the ceremony to ensure overall health and safety. School officials should communicate with students' families prior to the ceremony to determine how many family members will be attending in order to plan appropriately.
- Develop a communication plan to address steps to be taken before, during and after the ceremony to ensure participants are aware of safety protocols and that graduates are explicitly instructed not to congregate outside of school-sponsored ceremonies or events.
- If schools use non-school facilities to perform graduation or end-of-year promotion ceremonies, they must ensure compliance with safety considerations as authorized by this guidance.



- Assess the capacity of the facility to determine how many individuals can attend while maintaining social distancing. This may require capping the number of total participants (inclusive of students, families and staff) to a manageable level and for appropriate entry and exit. Adjust seating by reducing chairs to the pre-determined capacity, block off chairs with tape or rope or consider seating families every three rows. If expected audience size exceeds capacity, districts should consider multiple ceremonies.
- Maintain safer-at-home guidelines for those over 65 or who are part of a vulnerable population.
- Maximize social distancing from others, keeping students, faculty and guests at least 6 feet apart (for graduates, mark standing locations in line to collect the diploma);
- Discourage congregating to the greatest extent possible in common areas, including implementing procedures to accommodate crowd size in restrooms and access to those facilities.
- Clean and disinfect the facility prior to the ceremony according to [CDC guidelines](#).

Other considerations to provide the safest environment possible:

- Host in-person ceremonies outside to reduce the spread of the virus through the recirculation of air from HVAC systems.
- Use school system employees to screen individuals prior to entry for any of the following signs or symptoms of COVID-19. Those found with any of these signs or symptoms should not be allowed to attend the ceremony:
  - Cough;
  - Shortness of breath or difficulty breathing;
  - Chills or repeated shaking with chills;
  - Loss of taste or smell;
  - Fever or a measured temperature greater than or equal to 100.4 degrees Fahrenheit; or
  - Known close contact with a person who is lab confirmed to have COVID-19 if exposure to the active confirmed case occurred within the last 14 days.
- Do not conduct a ceremony rehearsal.
- Consider requiring all employees, students or other visitors to wear cloth face coverings over the nose and mouth while inside any facilities, or if they will come within 6 feet of another person who is not a member of that person's household, except when photos are taken and speeches delivered;
- Make hand sanitizer or hand washing stations available at all entrances.
- Limit school employees at the ceremony to those logistically needed to support the occasion.
- Be mindful of microphones and other items that may be used by multiple speakers. To prevent the spread of viral droplets, consider wearing masks and gloves and wiping down surfaces that are touched between speakers.
- Wear gloves if diplomas or other items will be passed from person to person.
- Make sanitizing wipes available for guests to clean chairs and other surfaces.
- Set expectations related to photography to limit or prevent guests from crowding near the stage to take photos. Schools may opt to have a designated photographer or videographer to document the ceremony and provide photos or video footage free of charge to all graduates and their families.
- Share graduation and end-of-year celebration ideas with other districts. This can be done on social media through use of the #oklaed hashtag.

**NEW: What other ways can a district honor graduates?**

- Ask graduates to send individual videos with short messages to their graduating classmates.
- Highlight graduates via social media with special hashtags that allow for family, friends and community members to congratulate individual students with photos and messages.
- Schedule a graduation parade where graduates decorate their cars, line up and drive a prescribed route. Maintaining appropriate social distance, community members along the parade route may cheer graduates as they go by. Consider designating a photography location where individual cars can stop for a photo of the student receiving the diploma.
- Secure a digital billboard and display congratulatory messages to the graduating class.
- Work with local city or county officials to block off a street. Allow graduates and one or two family members to stand along the road at an appropriate social distance while school or district personnel present the diplomas. Take timing, size of class and environmental contexts into consideration.
- Postpone graduations until later this summer or fall, or host them in one year as an “early reunion.”

## **Building Access and Summer School**

**UPDATED: Can we bring staff into the building to work in small groups (for special education meetings, related services, etc.)?**

Yes, beginning and consistent with Phase 2 of the OURS Plan and its requirements for health and safety. Virtual meetings and planning, however, are still strongly encouraged when possible. School districts must continue to comply with CDC guidelines to control the spread of COVID-19. Districts must also continue to abide by health and safety policies developed under the State Board’s order limiting the opportunity for students, staff and families to be in physical buildings and exposed to potential pathogens that could lead to illness.

OSDE understands that as districts close out the 2019-20 school year and begin student services over the summer, access to buildings will be necessary. Until further notice, districts must continue to implement the following guidelines:

- Insist that staff feeling sick stay home;
- Maintain at least 6 feet of distance between individuals at all times;
- Limit any gathering to no more than 10 individuals ***if social distancing is not possible;***
- Adhere to sneeze and cough etiquette; and
- Wash hands vigorously and routinely for at least 20 seconds with soap and water, particularly before and after entering buildings, when handling items or in public areas, etc.

**NEW: Can districts hold summer school inside school buildings?**

Yes, beginning with Phase 2 of the OURS Plan, but OSDE encourages making contingency plans for summer school to be provided via virtual/distance learning. The State Board of Education Order of March 25, 2020, which closed school buildings to general student and personnel attendance and required distance learning to be provided for the remainder of the 2019-20 school year, expired on May 8, 2020, or the last day a district is conducting distance learning for the current school year.

While there is not currently such an order in effect, schools are encouraged to conduct summer school by virtual means wherever possible or adopt social distancing guidelines, limiting classes to no more than 10 students at a time **OR** maintaining 6 feet of space between each student. Again, OSDE encourages school districts to be aware of the provisions of the OURS Plan as it impacts the reopening and provision of services by schools.

OSDE will work closely with stakeholders to develop further guidance as additional information becomes available. For now, the agency encourages virtual/distance learning for summer school activities and active planning in the event that the plan or other guidance authorizes summer school activities to be held inside school buildings.

**NEW: Do districts have the option of conducting summer reading academies either in person or virtually?**

Yes. Summer Academy Reading Programs, in this case, are summer programs that allow for a student to demonstrate successful completion of the required competencies for reading necessary for promotion to fourth grade under the Reading Sufficiency Act (RSA). While these academies are not required, districts can use RSA funds for these programs. Administrative rules require that as a part of offering summer reading programs for students, districts must provide for “at least four weeks of tutoring a half day each day for four days.” See OAC 210:15-27-1(h).

To the extent possible, OSDE encourages districts to provide these services virtually until schools can reopen for general student attendance and distancing requirements are lifted. However, schools may, in compliance with the requirements and guidance provided above, host such programs in school buildings beginning in Phase 2 of the OURS Plan. To assist districts in providing virtual summer reading academies, the OSDE will propose allowing flexibility on the time requirements to the State Board of Education at its May 28 meeting.

**NEW: What should schools do now with regard to their 2020-21 school year calendars to prepare for school in the fall?**

Planning for and starting the 2020-21 school year will be different than the start of any previous school year. The 2020-21 school year is likely to include short-term disruptions to instruction. It is imperative that schools begin to consider adjustments and plan contingencies for their day-to-day operations so that if short-term (or longer) disruptions occur, they are minimal and schools are prepared for and able to ensure adherence to public health guidance. OSDE intends to issue guidance and frameworks for schools in the coming weeks, including in the areas of operations and management, wellness, instructional design, school calendars, workforce development and management and other administrative and compliance matters.

In order to prepare for intermittent short-term and possibly even long-term disruptions in the fall, districts should consider adopting multiple calendars for the 2020-21 school year, including one as a primary and others as contingencies. Districts should consider options for school calendars and instruction that include traditional on-site operations, modified and rolling closures and disruptions, and longer-term continuous learning through distance means. Among contingencies, OSDE encourages districts to consider an early start, traditional start and late start, and incorporate plans for virtual or distance learning days. School boards may also consider adopting policies related to contingency-based preparation and planning for the school year, including authorizing the superintendent to make calendar adjustments in the short term as necessary, for virtual instruction to ensure equitable resource allocation to all students and to define attendance and absence requirements for students and staff.



Districts should determine how to reconnect with and meet the educational needs of students, particularly those who have fallen behind in a distance learning environment. The following are calendar options districts may consider:

- Start early; reduce summer time off to minimize summer slide and maximize learning time before a possible virus resurgence in the fall.
- Develop an intercessional calendar with longer breaks through the year for additional flexibility (e.g., start early, long winter break and other breaks, later end date).
  - Use for remediation/acceleration; students not mastering content could return for intersession week(s).
- Extend times that the school is open for instruction.
  - Start earlier, offer night classes, extend school days in the afternoon and/or allow for instruction on Saturday.
- Build remote learning time and staggered or rotating in-person attendance into the calendar.
  - Include one day for remediation – alternative schedules for individualized education for students with increased instructional needs.
  - Devise an alternative educational delivery model that includes a mix of in-person and distance learning
- Adopt an incremental return based on school sites or grade level to maximize social distancing.

**NEW: Can schools integrate virtual learning into their school calendar for classroom instruction?**

Yes. OSDE encourages districts to plan for integration of schoolwide virtual learning days into school calendars for the 2020-21 school year given the expectation of short- or long-term disruptions to on-site instruction as a result of COVID-19. In anticipation of incorporating schoolwide virtual instructional days into the calendar, districts must consider and ensure, at a minimum, the following:

- Policies are in place regarding the school calendar and when virtual days will be implemented schoolwide, including notifying all students and staff in advance of implementing a virtual day, setting expectations and communicating how and when students will be expected to participate, including consequences for failure to do so;
- Attendance and absence policies are in place for students and staff for virtual days;
- Subject to the exceptions provided below, resources (instructional technology and equipment, including but not limited to devices and connectivity), are provided free of charge to all students to ensure they have the ability to access the virtual instruction, and if not, that equitable measures are in place and provided to students free of charge; and
- All grades/courses are designed in a manner that facilitates and appropriately aligns with the Oklahoma Academic Standards.

Once these requirements have been considered and adopted, a district may elect to incorporate virtual learning into its school calendar and have such day(s) count as an instructional attendance day for state funding and compliance purposes.

For purposes of adopting an attendance policy governing virtual instructional days, OSDE has consistently advised that, pursuant to its authority in 70 O.S. § 5-117 to adopt rules and policies governing the operations of the district not inconsistent with requirements in law, a district has local discretion to adopt these requirements. However, OSDE encourages districts to consult with other available resources prior to adoption of a local policy governing attendance of students for virtual instruction, including but not limited to the statutory [requirements for statewide virtual charter schools](#) as an option for districts to adopt.

**NEW: If a school is providing educational services virtually, is it required to provide laptops/tablets and hot spots/other internet access to all students who don't have this technology available?**

No, the district is not required to provide this technology to all students. Although instruction under required educational services is typically provided online, other models of learning and methodologies like paper packets may also be made available. The district must ensure that academic work is *equivalent in rigor to typical classroom work* and ensure that all students can participate.

**UPDATED: Can a district compel employees to provide services at the school building?**

Yes. However, districts should continue to provide flexibility when possible to staff who are over the age of 65 or who are part of population vulnerable to COVID-19. Throughout the pandemic, local districts have maintained the authority to require employees to provide essential core services under the State Board's March 25 order and the Governor's Safer at Home order. As a result, even with the lifting of the Governor's Safer at Home order on May 1, there is no substantive change regarding the school operations. As of the date of these FAQs, districts are subject to language in the Executive Order(s) in effect at that time and the language in the OURS Plan. While districts have broad authority over employee work schedules, OSDE encourages common sense and taking into account those who may be at higher risk for complications of COVID-19.

Any staff member required to return to work at the school building is required to follow CDC guidelines. Districts should also refer to the [general CDC guidance for businesses and employers](#) when reopening school buildings for normal work operations.

**How can schools get technology and personal materials to students? How do schools collect them at the end of the year?**

In addition to the guidance above and while always adhering to CDC guidelines, schools should consult with their local city or county health departments to implement policies and procedures for pickup and delivery, cleaning and sanitizing items prior to pickup, and health screening protocol for individuals entering a school building. As districts form these plans, the following precautions are advisable:

- Allow entry to the building on an appointment-only basis;
- Disinfect commonly touched surfaces frequently;
- Take the temperature of anyone planning to enter the building to ensure that no one with fever is given access;
- Wear disposable gloves when handling items if possible;
- Deliver items (laptops, tablets, critical personal items, etc.) to families curbside or outside the building; and
- Do not make physical contact with anyone outside of your immediate household.

### **Are teachers required to complete their contracted hours/days?**

Yes. Nothing in the State Board's order is intended to interfere with contracts between public schools and teachers, and teachers are expected to carry out the terms and conditions of their contracts as entered or later amended by the parties. However, they are not required to make up the hours/days missed during the two-week mandatory closure (March 23-April 5) instituted by the State Board. Additionally, districts may adhere to the observance of non-instructional days in their original calendars (i.e., Good Friday) and not require teachers to provide distance instruction on such days.

### **Are support personnel able to be paid normally beginning April 6?**

Yes. On April 3, Governor Stitt included language in the [Eighth Amended Executive Order](#) that reads:

“All local educational agencies shall to the greatest extent practicable, continue to pay their employees and contractors for the remainder of the contracted period of the 2019-20 fiscal year, and in furtherance of this intent the State hereby authorizes accredited public school districts to pay support staff for the remainder of their contracted period for the 2019-20 fiscal year and waives any statutory or rule-based time limitations on which support personnel (as defined in 70 O.S. § 1-116) may accumulate or receive leave for the 2019-20 fiscal year.”

As a result of this executive order, districts are authorized to continue to pay their support staff – part-time or full-time – as provided in previous guidance for the earlier closure period and continuing through the remainder of their contracts for this fiscal year.

### **Does the Governor's Executive Order include contractors?**

The language in the Governor's Eighth Amended Executive Order mirrors language in the federal [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), which reads:

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. (Emphasis added). (H.R. 748 § 18006)

The intent of this language is to protect those contractors who are not otherwise employed by another company, including those providing services for special education students (i.e., occupational therapists, physical therapists, etc.).

### **Will support employees still be eligible for the Flexible Benefit Allowance (FBA – insurance or cash) even if they do not complete 1,032 hours of service?**

Yes. Governor Stitt's [Eighth Amended Executive Order](#) *authorizes* accredited public school districts to pay support staff (as defined in 70 O.S. § 1-116) for the remainder of the contracted period for the 2020 fiscal year. In doing so, support staff who met the definition of full-time employment for purposes of the flexible benefit allowance (FBA) will continue to be considered full time regardless of hours worked, provided the district chooses to do so. *See* 70 O.S. §§ 1-116 compared with 26-103.

### **Will support employees still earn a year of service in the Oklahoma Teachers' Retirement System (OTRS) for the 2019-20 school year?**

Yes. Service credit will be awarded based upon the information reported by the district. If the district reports that the employee is full time, was compensated for the whole year, and OTRS received the correct amount of contributions based upon the reported salary, this member would receive one year of service credit for 2019-20.

If the employee is reported as less than full time, then the service credit will be based upon a partial year's salary and the associated contributions received by OTRS.

**NEW: Will there be any impact on the Oklahoma Teacher of the Year application and selection timeline?**

There are new changes to the timeline, but not as a result of COVID-19. Earlier this spring, the Oklahoma Teacher of the Year application and selection process was modified by OSDE in an effort to broaden participation by districts. The application for Oklahoma Teacher of the Year 2021 will be released on June 1, 2020, with a deadline for submissions in mid-September. More information is available on the [Oklahoma Teacher of the Year page](#) or by emailing [teacheroftheyear@sde.ok.gov](mailto:teacheroftheyear@sde.ok.gov).

## **➤ SCHOOL BOARDS**

### **What flexibilities exist in the event a school board is not able to hold a public meeting?**

Local boards of education are permitted, but not required, to meet during the cessation of operations. If a local school board needs to hold a meeting, it may do so via regular, special or emergency meeting as authorized by the Oklahoma Open Meetings Act. The OSDE strongly encourages those holding any public meeting to follow the procedures authorized through Senate Bill 661 (outlined below) and adhere to social distancing guidance and recommendations of the Centers for Disease Control. In the event of a meeting, school boards are encouraged to proactively consider policies that give the district superintendent authority for a limited time to take specific actions on behalf of the board and to update policies, practices and plans related to COVID-19.

SB 661, which the Governor signed into law on March 18, 2020, is effective immediately and authorizes a public body (including school boards) to hold meetings by teleconference or videoconference without also having an in-person meeting location. While teleconference with audio-only is an option, the Attorney General has stated that videoconference is preferred when available. Meetings are also required to be recorded by written, electronic or other means. In order to conduct a meeting by teleconference or video conference, boards must adhere to the following:

- Each member of the board is required to be audible or visible to each other and the public, and the meeting must stop if the audio is disconnected. Although prior authorizations for meetings via teleconference or videoconference required each site and room of a videoconference to be open to the public, SB 661 contains no such requirement;
- All votes occurring during any teleconference or videoconference meeting are to be recorded by roll call votes;
- The meeting notice and agenda must indicate whether the meeting will be held via teleconference or videoconference, identify each member of the public body appearing remotely, the method of each member's remote appearance (teleconference or videoconference), and the identity of the public body member(s) who will be physically present at the meeting site (if any). Note: A member identified on the notice and agenda as appearing remotely may change their mind and appear at the physical site; however, a member identified as appearing at the physical site may **not** change their mind to appear remotely;
- The public must be allowed to participate and speak, as allowed by rule or policy of the public body, and the notice and agenda must include the information needed to participate, such as the full website address or the call-in number along with any codes or other information; and

- Boards are not required to make meeting notices and agendas available to the public in the principal office of the public body or at the location of the meeting 24 hours prior to the meeting. However, these documents must still be made available on public websites and through distribution lists.

The provisions of SB 661 are in effect until November 15, 2020, or until the Governor terminates the state of emergency, whichever comes first. Read [FAQs from the Oklahoma Attorney General's Office](#) or [OSSBA](#) for additional guidance. The Oklahoma State School Boards Association has also created a [Board Meeting Checklist](#) to assist local school boards in following these requirements.

## ➤ **WORKPLACE/CAMPUS**

### **UPDATED: Will school officials be notified if there is a student or staff member who tests positive for coronavirus?**

Yes. The Oklahoma State Department of Health and/or local county health department will notify school officials if there is a positive case associated with a student or employee of the school. Spread of the virus may also be viewed on the [CDC website](#) and [State Department of Health Coronavirus website](#). Similarly, schools should notify a local health department with any questions or concern about an ill student and staff members, and staff should notify administrators if they have a concern about a student or other staff member.

### **UPDATED: Some school personnel have traveled recently. Should they be allowed to resume their duties?**

[Governor Stitt's executive order](#) continues to require a 14-day self-quarantine for those who return from travel to "an area with substantial community spread, including but not limited to the New York Tri-State Area (Connecticut, New Jersey and New York) and the state of Washington, California and Louisiana." Additionally, the CDC has issued a [global health alert](#) requiring a 14-day self-quarantine following any international travel. The OURS Plan reinforces these orders by directing non-essential travel to be minimized during Phase 1. The Plan notes that resuming non-essential travel will be considered when entering Phase 2.

Those needing to travel should check these resources in advance and ensure they have the means to self-quarantine for 14 days if required. Determinations made by districts in requiring employees to self-quarantine should be made with an abundance of caution and common sense on a case-by-case basis, dependent on location of travel, mode of travel and evidence of community spread in the travel destination.

### **UPDATED: Can districts open school buildings for students to clean out lockers, desks, etc.?**

Yes. Governor Stitt's Oklahoma Safer at Home directive was lifted May 1 for those who are not part of a vulnerable population even though social distancing recommendations continue. Under the State Board's directive, school buildings are closed for general student attendance until the end of the school year, May 8 or later. Plans to temporarily open school buildings for students to retrieve belongings may be implemented, but only for those staff members, students and families who are not vulnerable to complications from COVID-19 (those over age 65, immunocompromised or with pre-existing health conditions). Open areas and surfaces likely to be touched should be thoroughly disinfected and cleaned before and immediately after temporary opening of the building. Staff members assisting students or families should wear face masks and gloves whenever possible, and districts should consider monitoring temperatures and disallowing entry to those whose temperature is 100.4 degrees or more. CDC safety guidelines should be observed, including social distancing and taking steps to minimize any gatherings. District and school staff should consider staggering the number of students entering the building or delivering items curbside.

**NEW: Should schools screen students or staff when allowing access to school facilities?**

Yes. Schools should consider adopting and implementing policies to screen individuals prior to entering school facilities. As part of these policies, OSDE encourages screening all school employees before they access a school facility for any of the following new or worsening signs or symptoms of possible COVID-19:

- Cough;
- Shortness of breath or difficulty breathing;
- Chills or repeated shaking with chills;
- Loss of taste or smell;
- Fever or a measured temperature greater than or equal to 100.4 degrees Fahrenheit; or
- Known close contact with a person who is lab confirmed to have COVID-19 if exposure to the active confirmed case occurred within the last 14 days.

**NEW: What should a school do if a school employee or student has tested positive for COVID-19?**

Individuals diagnosed with COVID-19 may not visit a school facility until the following criteria are met:

- At least 3 days (72 hours) have passed since recovery (resolution of fever without the use of fever-reducing medications); and
- The individual has improvement in respiratory symptoms (e.g., cough, shortness of breath); and
- At least 7 days have passed since symptoms first appeared.

**NEW: What if an individual has symptoms, but has not been evaluated by a medical professional or tested for COVID-19?**

Assume the individual has COVID-19 and do not allow the person to enter a school facility until the individual has completed the three criteria listed above.

**NEW: What if the individual has symptoms and wants to return to work before completing the above self-isolation period?**

Schools may have a policy requiring the individual to obtain a medical professional's note clearing the individual for return based on an alternative diagnosis.

**NEW: Can districts refuse an individual access to school property or a school-sanctioned event if they *have* the virus?**

Yes. Existing law provides that persons having a communicable disease are prohibited from attending a private or public school. It is the duty of the parent or guardian of any such person, and the school, to exclude such person until the expiration of the period of isolation or quarantine ordered for the case, or until permission to do so has been given by the local health officer. *See* 63 O.S. § 1-507.

**UPDATED: Can districts refuse an individual access to school property or a school-sanctioned event if they are *suspected* of having the virus?**

Yes. Schools should notify a local health department with any questions or concern about any coronavirus-related illness of a student, staff member or other member of the public, make preparations to send that individual home and advise them to seek medical advice.

In addition to guidance provided elsewhere in this document, school districts generally have the right to control and restrict access to campuses. This can be, and often is, through employee policies, student handbooks and policies relating to students and the local board of education's powers and duties under Oklahoma laws and regulations. Oklahoma State Department of Health (OSDH) rules provide additional support in acknowledging that an important part of a school health program is the prevention and control of communicable diseases. Schools and their personnel are in a strategic position to detect early symptoms of illness by the careful and continuous observation of children in the classroom.

These rules also encourage schools, in an effort to prevent the spread of a communicable disease, to advise parents to keep sick children at home and to isolate students who appear to be ill. Additionally, in advising that a school prepare to send home a student who has or who is suspected of having an illness, the rules supplement the authority of a school. Good health is more important than a perfect attendance record. *See* OAC 310:520-1-3.

Furthermore, OSDH rules authorize schools to exclude from school any child exhibiting one or more of the following symptoms:

- fever at or above 100.4 degrees Fahrenheit;
- sore throat or tonsillitis;
- any nasal discharge accompanied by fever;
- a severe cough producing phlegm; or
- any inflammation of the eyes or lids.

*See* OAC 310:520-1-4.

School districts should also consult with their local health authorities and incorporate their guidance into their decision on whether to permit a student or staff member access to public school facilities on a case-by-case basis.

### **NEW: Can parents opt out of sending their children to school without withdrawing them?**

This is a local determination. School districts have broad discretion under Oklahoma laws and regulations to determine whether an absence is excused; one such reason is medical. Unexcused absences contribute to truancy and may incur related truancy actions. *See* 70 O.S. § 10-105.

### **NEW: Are schools required to close if any students or staff are diagnosed with COVID-19?**

If a student or staff member tests positive for COVID-19, the school is strongly encouraged to close for at least the remainder of the day, and potentially longer, while the department of health investigates and sets forth a plan for any further precautionary measures that the school must take to contain exposure. Such a plan may result in additional closure. During this time, areas of the school building where the individual spent more than 30 minutes should be disinfected in accordance with guidelines from Oklahoma State Department of Health with approved cleaners. Additional closure will be made on a case-by-case basis by the school district in consultation with the department of health and others.

### **NEW: What recommendations exist relating to student transportation and school buses?**

Schools are strongly encouraged to clean school buses during and after school hours with products that are recommended and safe for children and staff. OSDE recommends distancing be practiced on transportation routes by separating students with at least one empty seat between them and in staggered rows. Districts should also consider staggering transportation times and routes to reduce the number of students on a bus at the same time. OSDE strongly encourages leaving the windows down whenever possible to increase the flow of fresh air

to significantly reduce the likelihood of transmission. Further, schools should consult with city transportation officials to maximize the use and safety of existing public resources. Districts also should anticipate issues regarding the health and safety of drivers and other transportation staff as many may be in a population vulnerable to COVID-19 or concerned about the risks of transmission. In light of these circumstances, districts should develop contingency plans and anticipate required numbers of drivers and buses in light of health, safety and budgetary considerations.

Additional considerations may include:

- Inspect buses that have not been thoroughly inspected since last fall.
- Prior to transporting students, clean any school bus used for food distribution.
- Require school bus drivers to attend in-service training before transporting students to be informed of new policies and procedures and to understand how to effectively clean their bus.
- Provide all bus drivers Personal Protective Equipment (PPE), including masks, gloves, hand sanitizer, a forehead thermometer and disinfectant wipes.
- Develop policies that may include a temperature check before allowing a child on the bus, require all children to wear a face mask while on the bus, etc.
- Give routers additional time to assign/reassign buses if social distancing requires using more buses due to transporting fewer students per bus.
- Prepare for an increased number of parents transporting their children to and from school due to health concerns and/or parents being out of work or unemployed. This additional influx of cars may cause long delays in student arrival and departure if school campuses are not designed to handle a large number of car riders.
- In accordance with applicable safety code, install a clear protective barrier behind driver and/or alongside driver.

### **NEW: Can districts prohibit students from enrolling in school?**

New students who reside in the boundaries of the district and seek to enroll must be allowed to do so. The provisions of the Oklahoma School Code require enrollment of resident students, regardless of health issues that may have arisen in areas in which students have previously resided. *See* 70 O.S. §§ 1-113 and 1-114. School districts and charters should consult with their local health authorities to address health concerns regarding school attendance for such admitted students.

### **Should schools open their storm shelters to the public?**

If a school district has a storm shelter and a policy for public use in the event of an imminent threat, such as an issued call to shelter under a tornado/severe storm warning, it is critical that communication between district/school leaders and local emergency managers be clear and mutually understood. Existing CDC protocol for the COVID-19 pandemic should be exercised to the greatest extent possible – i.e., family units should maintain distance from others. For additional information relating to CDC protocol, see information and links above. *See also* guidance on interactions with the public from the Oklahoma State Department of Health and the Governor’s [Eighth Amended Executive Order](#).

## ➤ ASSESSMENTS & SCHOOL ACCOUNTABILITY

### What is the status of state assessments for this school year?

The U.S. Department of Education has granted a waiver to Oklahoma to forego federally required state tests in grades 3-8 and high school for the 2019-20 school year. Requested by Superintendent Hofmeister, the waiver includes the English language arts (ELA) and mathematics test each year in grades 3-8, science in grades 5 and 8, and the College Career Readiness Assessment (e.g., ACT/SAT) for ELA, mathematics and science in grade 11. As a result, the aforementioned tests will not be administered, materials will not be shipped to schools and training for test proctors for this year is unnecessary. Districts that were preparing, through staff development or otherwise, for the administration of the statewide assessments should cease such activities. Additionally, the Oklahoma School Report Cards – which are calculated with data from federally required assessments and other indicators – are suspended for the 2019-20 school year.

### Since the U.S. history test is not federally required, will schools still be required to administer this assessment?

No. At its March 25 meeting, the State Board of Education adopted an emergency rule to allow the agency to provide a medical exemption for state assessments for all students. As a result, students scheduled to take the U.S. history assessment this year will be granted a medical exemption due to the coronavirus pandemic.

### UPDATED: How will AP exams be administered?

College Board, the entity that operates AP testing, has released the following information regarding administration of AP exams:

- Traditional face-to-face exam administrations will not take place. Students will take a 45-minute online free-response exam at home. The exam content will focus on what most schools were able to complete by early March – approximately 75% of the content. However, supplementary lessons will be available for students in order to cover the remaining 25% of the content;
- AP exams will be given May 11-22 with makeup exams scheduled June 1-5; and
- College Board is offering free, online review courses delivered by AP teachers from across the country to help AP students prepare for exams. [Live lessons](#) began March 25.

For more information about this new at-home testing procedure and the details around exam features, time and tasks, scores and security, please refer to [College Board's newest guidance](#).

Districts are reminded that school buildings are to remain closed through Phase 1 – at least May 15 – under the Governor's OURS Plan. Districts are encouraged to make every possible accommodation for students who need to gain access to the internet for the purpose of taking AP exams during this time. Some options districts may consider include sending hotspots home with students who do not have home internet access or arranging for them to access internet from a school parking lot, public library or other public facility. If these options are not possible, students may be allowed into buildings during the make-up window.

### How will eighth-graders meet the requirements of the Driven to Read program?

Oklahoma law requires students to successfully complete the reading portion of the eighth-grade English language arts (ELA) assessment in order to apply for a driver license or permit. *See* 70 O.S. § 1210.515. However, the test will not be administered this year as a result of the coronavirus pandemic. Accordingly, the State Board of Education adopted an emergency rule on March 25 to allow the state to provide a medical exemption for this requirement. All eighth-graders in the 2019-20 school year will receive this exemption.

### **How will students currently seeking to obtain their driver license or permit secure the paperwork necessary to meet the requirements for proof of reading proficiency and enrollment while school buildings are closed?**

The Oklahoma Department of Public Safety (DPS) announced it will waive the requirements to provide enrollment verification and reading proficiency documentation for students applying for their license or permit. Additionally, as is mentioned above, the reading proficiency requirement is permanently waived for eighth-graders who would have taken the eighth-grade ELA test in 2020. Students wishing to take the driver exam should also be aware that DPS has temporarily suspended all face-to-face interactions with the public and has canceled all driving skills tests.

For information regarding driver education, please refer to the [Grading & Graduation Requirements section](#) of this document.

### **How will third-grade students meet the requirements of the Reading Sufficiency Act (RSA) in the absence of the third-grade English language arts (ELA) assessment?**

Oklahoma schools are not expected to, and should not, administer the required end-of-year screening assessments for students in Kindergarten through grade three for the remainder of the school year. As a result of the cancellation of the third-grade ELA test, schools should utilize data collected from screening, diagnostic and progress monitoring assessments prior to March 16, 2020, to make promotion and retention decisions.

For students who do not qualify for automatic promotion based on prior assessments or under a good cause exemption, a Student Reading Proficiency Team (SRPT) must be convened to make decisions about promotion or retention. SRPT meetings should convene virtually wherever possible or adopt social distancing guidelines, limiting gatherings to no more than 10 people at a time and maintaining six feet of space between each person, even in smaller groups. Since schools will not be able to complete the end-of-year assessments for RSA, they will not be asked to complete the End-of-Year RSA Report. More [detailed guidance for districts making third-grade promotion decisions in the absence of OSTP scores](#) is available on the OSDE website.

### **What impact is there to the Alternate Assessment?**

The window for the Oklahoma Alternate Assessment Program (OAAP) opened on March 9 and is scheduled to close May 1. As a result of the waiver granted by the U.S. Department of Education for all assessments, the OAAP is likewise canceled and any additional scheduled testing should cease.

### **What is a district's responsibility with regard to the WIDA assessments for English learners (ELs)?**

The WIDA ACCESS screener window was closed early and will not be reopened and all future shipments of materials have been indefinitely postponed. If district staff can safely manage the shipment of ACCESS materials back to DRC, while still operating under CDC best practices for COVID-19 mitigation, they may do so at their convenience. There is currently no final ship date for ACCESS materials. For additional information on serving English learners, please reference the Distance Learning section of this document.

## **➤ FUNDING**

The COVID-19 situation is fluid and evolving on a regular basis. The OSDE strongly encourages schools to document funding and resources spent on COVID-19-related activities or services should they be necessary. Funding sources that may become available may operate on a reimbursement model or be funded based on documented costs.

### **Are there any expenditures that might be reimbursable from a federal agency?**

Yes. President Trump declared a national state of emergency on March 13, 2020. As a result, provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act are triggered. *See* 42 U.S.C. 5121-5207 (the “Stafford Act”). Eligible emergency protective measures taken to respond to the COVID-19 emergency at the direction or guidance of public health officials that are not already reimbursable by the U.S. Department of Health and Human Services (HHS) or the CDC may be reimbursed under Category B of the Federal Emergency Management Agency (FEMA) Public Assistance Program. FEMA assistance will be provided at a 75% federal cost share.

State, territorial, tribal and local government entities and certain private nonprofit organizations are eligible to [apply for Public Assistance](#). Eligible assistance includes management, control and reduction of immediate threats to public health and safety such as Emergency Operation Center costs, training specific to the declared event, disinfection of eligible public facilities, technical assistance on emergency management, control of immediate threats to public health and safety and communications of general health and safety information to the public. Further information about eligible emergency protective measures can be found in the [Public Assistance Program and Policy Guide](#).

Please refer to the [CARES Act section](#) of this document for additional details on available federal funds.

### **Is USDE providing additional flexibilities for Perkins (e.g., Carl D. Perkins Career and Technical Education Act) plan requirements?**

Yes. The USDE released new [FAQs for CTE programs on April 10](#). In these FAQs, the USDE advises that states may extend the local application deadline by one year and addresses additional flexibilities for consultation and submission of performance data.

### **Are the “Time and Effort” documentation requirements for federal funds any different under the current distance learning model?**

All employees paid with federal funds are required to document work performed. LEAs may consider adopting Time Distribution Forms (time and effort sheets) that reflect changed work duties in the distance-learning model. Another acceptable solution is to create an activity log attached to the standard Time Distribution Form. LEAs that do not have a policy specifically addressing time and effort in a distance-learning environment must revise their policies accordingly. OSDE has created a [sample time and effort form](#) for districts to consider using in the recording of time and effort of federally funded employees.

### **If a conference, training or other activity related to a federal grant is cancelled due to COVID-19, may grant funds be used to reimburse nonrefundable travel (e.g., transportation or lodging) or registration costs that were properly chargeable to the grant at the time of booking?**

Yes, provided that the LEA first seeks to recover nonrefundable costs (e.g., travel, registration fees) from the relevant entity that charged the fee (e.g., airline, hotel, conference organizer). Some businesses are offering flexibility with regard to refunds, credits and other remedies for losses due to the COVID-19 pandemic.



Moreover, many agreements or contracts for conferences, training or other activities related to a grant contain an emergency or “act of God” provision, and the LEA must seek to exercise those clauses to the extent possible in light of the COVID-19 pandemic.

If an LEA is unable to recover the costs, the grantee or subgrantee may charge the appropriate grant for the cancellation costs, provided the costs:

- were reasonable and incurred in order to carry out an allowable activity under the grant; and
- are consistent with federal law, rules and Uniform Guidance.

Grantees and subgrantees should not assume additional funds will be available should the charging of cancellation or other fees result in a shortage of funds to eventually carry out the event or travel. Grantees and subgrantees must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 (financial management) and 2 CFR § 200.333 (retention requirements for records) to substantiate the charging of any cancellation or other fees related to the interruption of operations or services.

**Has the Consolidated Monitoring deadline of April 13, 2020, for federal funds been extended to a later date?**

The April 13, 2020, deadline for compliance with Consolidated Monitoring has been temporarily suspended. OSDE will continue to monitor the situation and will inform LEAs of the new deadline when one has been established. In the meantime, reviewers are working from home and are able to receive and review documentation and issue compliance letters. LEAs should continue to submit documentation as it is available.

**Can districts transfer funds between federal programs, and if so, are they required to amend their applications with program offices?**

Generally, yes. Pursuant to federal regulations, districts must spend ESEA funds consistent with their approved applications. *See* 34 CFR Sec. 76.700. Within existing program authorizations, a district may transfer funds from:

- Title II, Part A; and
- Title IV, Part A.

To:

- Title I, Part A;
- Title I, Part C (Migrant);
- Title I, Part D (Neglected and Delinquent);
- Title II, Part A;
- Title III, Part A;
- Title IV, Part A; and
- Rural Education Achievement Programs (REAP), or Rural and Low Income Schools (RLIS).

LEAs may consider amending their consolidated applications in order to transfer funds as authorized, bearing in mind that they are still required to meet the intents and purposes of Title II, Part A and Title IV, Part A even with transferred funds. Furthermore, if a private school that receives equitable services with and in partnership with the school district will be affected by the transfer of funds, the district must engage in meaningful consultation with private school officials prior to transferring funds from Title IV, Part A in order to determine the best use of those funds. Districts interested in transferring funds, including updating applications and budgets and conducting the meaningful consultation as required, are encouraged to contact the applicable program office at the OSDE.

### **What state-imposed attendance requirements relate to a school district's eligibility to receive funding?**

The only sources of school funding affected by student attendance are those that are distributed based on Average Daily Attendance (ADA). ADA is the average number of pupils present in a school district during a year or **other specified period of time** (emphasis added) and is derived by dividing the aggregate days of pupils present in each district by the number of days taught in each school district. *See* 70 O.S. § 10-103.1. This state-imposed attendance requirements relate only to a school district's eligibility to receive State Aid funding associated with a student; they have no bearing on a student's eligibility for course completion, which is determined at the district level. Additionally, as set forth below, the State Board took action to cap the time period in which ADA is calculated for the 2019-20 school year.

Funding sources potentially impacted by having a large number of students absent include state-dedicated and local revenues (i.e., gross production tax, motor vehicle collections, school land earnings, county 4-mill levy). These sources are distributed based on the prior year's ADA. So that FY 21 funds are not adversely affected by inaccurate attendance counts due to school closures and implementation of distance learning, the State Board of Education on March 25 adjusted the period of time over which ADA is calculated, ending March 12, 2020, for the FY 21 distributions. *See* 70 O.S. § 10-103.1.

### **How will the closure of school buildings and the requirement for schools to provide distance learning opportunities impact funding?**

At its March 25 meeting, the State Board of Education also took action to amend the period over which Average Daily Membership (ADM) is calculated. In state law, ADM is defined as the average number of pupils, both present and absent, in a school district **during a school year**. With its action, the Board has defined the 2019-20 school year as ending March 12, 2020, **for purposes of funding**. *See* 70 O.S. § 18-107. As such, any student movement between districts from March 12 until the end of the school year will not count for or against any district for funding purposes.

### **Did the State Board take action to provide flexibility on textbook funding?**

Yes. Current state statute allows for a district to request flexibility in the use of state-appropriated funding allocated for textbooks, provided the district can demonstrate that the textbooks and instructional materials used by the district for the subject areas being considered are current and appropriate for student learning. A school district that has received textbook funding flexibility approval from the State Board of Education may elect to expend any monies allocated for textbooks for any purpose related to the support and maintenance of the district as determined by that district's board of education. *See* 70 O.S. § 16-114a. At its March 25 meeting, the State Board voted to grant this flexibility (except for using these funds for school maintenance) to all districts for the 2019-20 school year upon completion of the required assurance document.

### **NEW: Will the textbook adoption proceed as usual for social studies?**

Yes. The Legislature has adopted Senate Bill 1922, the General Appropriations bill, which makes appropriations to the various agencies of state government. Included in the appropriation for common education is an appropriation for Instructional Materials and Textbooks of \$33 million. This amount is maintained at the same level as in FY 20. Assuming the Governor signs the bill, the textbook adoption process will proceed as planned.

### **What action did the State Board take at its March 25, 2020, meeting with regard to general fund balance penalties?**

The Board action taken at its March 25 meeting was not necessitated by the coronavirus pandemic. Instead this was general business of the Board conducted every year. The action granted a waiver for the FY 19 general fund balance penalties to those districts that applied in a timely manner and were qualified for a waiver under state law. *See* 70 O.S. § 18-200.1.

### **Can any district apply for a waiver of the general fund balance penalty (e.g., carryover penalty)?**

No. Upon review of the statutory requirements, methodology for calculations, timelines and exceptions provided in law, OSDE does not believe it is allowable to proactively waive the statutorily imposed penalty for all districts.

The general fund balance penalty applies to districts that have exceeded the allowable amount (based on a sliding scale set in statute) for **two consecutive** school years. *See* 70 O.S. § 18-200.1. The OSDE calculates the penalty by extracting data from a school district's OCAS (Oklahoma Cost Accounting System) submission and crosschecking this with the Estimate of Needs filed with the State Board of Equalization. There are a number of exclusions in the statute, including sources of federal revenue, proceeds of tax settlements and Federal Emergency Management (FEMA) settlements during the last two months of the preceding year.

Once calculated, the OSDE sends districts notices by February 1 of each year, detailing the calculation and amount of the penalty. At that point, districts have 30 days to respond in writing, either accepting or protesting the penalty amount. If protested, based on the calculation, the Board may waive the calculated penalty for a district that does not receive Foundation and/or Salary Incentive Aid during the preceding fiscal year and if the penalty would result in a loss of more than 40% of the remaining state aid for the district, causing it to not meet remaining financial obligations.

## **➤ CARES ACT FEDERAL STIMULUS PACKAGE**

### **What is the CARES Act?**

The CARES Act, or the "Coronavirus Aid, Relief, and Economic Security Act," is the single largest stimulus package in U.S. history. Signed into law by President Trump on March 27, the bill appropriates roughly \$2 trillion in coronavirus relief funding for individuals, businesses, corporations, state governments, public health and education. The majority of funding available to education through the CARES Act is through the Education Stabilization Fund.

### **What is the Education Stabilization Fund?**

The Education Stabilization Fund is an appropriation of \$30.75 billion required to be allocated as follows:

- Not more than ½ of 1 percent to outlying areas (U.S. Virgin Islands, Guam, American Samoa and Northern Mariana Islands) on the basis of their respective needs, as determined by the USDE, in consultation with the Secretary of Interior;
- ½ of 1 percent for the Secretary of Interior, in consultation with the USDE, for Bureau of Indian Education (BIE) programs; and
- 1 percent for grants to states with the highest coronavirus burden to support activities under the Stabilization Fund.

After the allocations above, the USDE will reserve the remaining funds as follows:

- 9.8% for the Governor’s Emergency Education Relief Fund (Section 18002);
- 43.9% for grants to state education agencies via the Elementary and Secondary School Emergency Relief Fund (Section 18003); and
- 46.3% for the Higher Education Emergency Relief Fund (Section 18004).

**UPDATED: What is the “Governor’s Emergency Education Relief Fund” (Section 18002)?**

As indicated above, the CARES Act directs 9.8% of all education relief funding to be allocated by state Governors to LEAs and institutions of higher learning with the greatest perceived need.

To apply for access to the fund, each Governor must provide assurances that the state will maintain support for elementary, secondary and higher education in fiscal years 2020 and 2021 at a level at least equal to the average of the previous three fiscal years preceding the CARES Act. This requirement may be waived if the Governor’s state has “experienced a precipitous decline in financial resources.” On April 14, 2020, the USDE issued notice inviting applications for an award of funds under the Governor’s Emergency Education Relief (GEER) Fund. The deadline for Governors to apply for the funds is June 1, 2020. Funds must be awarded within one year of receiving the state’s allocation and funds are available to be obligated through September 30, 2022.

**How will Governor’s Emergency Education funds be distributed?**

The Governor may issue grants according to the following guidelines:

- Provide emergency support to LEAs the SEA (i.e., OSDE) deems to be most significantly impacted by the coronavirus;
- Provide emergency support to institutions of higher education within the State that the Governor deems to be most impacted by the coronavirus; or
- Provide support to any other LEA, institution of higher education or education-related entity in the state the Governor deems essential for carrying out emergency educational services to students for authorized activities under the ESEA (i.e., IDEA, Adult Education and Family Literacy Act, the Carl D. Perkins CTE Act, or the McKinney-Vento Homeless Assistance Act) or the Higher Education Act, including the provisions of childcare and early childhood education, social and emotional support and protecting education-related jobs.

**UPDATED: What is the “Elementary and Secondary School Emergency Relief Fund” (Section 18003)?**

The CARES Act appropriates 43.9% of education funds, approximately \$13.23 billion, for the Elementary and Secondary School Emergency Relief Fund to be used for any activity authorized by ESEA in addition to other activities to help with the response to COVID-19 (including preparedness and response efforts, sanitation, professional development, distance learning and others). Of that, Oklahoma will receive \$160,950,476 in K-12 funding.

**UPDATED: How will the OSDE determine district allocations under the Elementary and Secondary School Emergency Relief Fund?**

SEAs must award at least 90% of their Elementary and Secondary School Emergency Relief Funds to LEAs. Oklahoma will award \$144,855,428 to LEAs. LEAs receive funds based on the proportion of Title I, Part A funds received in the most recent federal fiscal year (FY 19). For example, if an LEA received 10% of a state’s Title I, Part A funds in the most recent fiscal year, it would receive 10% of the available Elementary and Secondary

School Emergency Relief Funds. **The OSDE *does not have authority to distribute these funds (e.g., the 90% reserved for LEAs) in any manner other than according to the federal FY 19 Title I formula under the CARES Act.***

**UPDATED: When will districts receive these funds?**

The Act requires the U.S. Secretary of Education to invite states to apply for the funds within 30 days of the law's effective date. In compliance with this requirement, the USDE released the application April 23. The OSDE submitted its application for funds on April 29 and received approval May 4. The OSDE sent notice of the allocations to districts on May 11.

**UPDATED: Will LEAs have to submit an application for funds?**

Yes. LEAs will apply for CARES Act funding through an application developed by the OSDE and released to school districts on May 11, 2020. The application requires LEAs to make certain assurances and describe how they will use the funds consistent with the CARES Act. Once a district's application is approved, funds may be drawn down for reimbursement.

**Will the use of the 90% or \$11.9 billion for LEAs be flexible, with LEAs being permitted to spend the funds on things outside of the major ESEA programs?**

Yes. CARES Act funds may be used for any activity authorized by the Elementary and Secondary Education Act (ESEA), IDEA, the Adult Education and Family Literacy Act, the Perkins CTE Act or the McKinney-Vento Homeless Assistance Act. In addition, these funds can be used for other activities to help with the response to COVID-19, including preparedness and response efforts, sanitation, professional development, distance learning and others. Many such activities are likely to be districtwide activities. However, if an LEA chooses to spend funds to benefit individual schools – for example, to provide principals and other school leaders with resources to address their school's individual needs (Sec. 18003(d)(3)) – it may benefit any school regardless of Title I status. OSDE encourages LEAs to consider how to meet the unique needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, children in foster care and other vulnerable populations.

**Are there restrictions on how the funds can be used by LEAs?**

Unless otherwise specifically provided, LEAs may use coronavirus relief funds for any or all of the following:

1. Any activity authorized by the ESEA of 1965, including IDEA, the Adult Education and Family Literacy Act, the Perkins Act or subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act;
2. To coordinate preparedness and response efforts with State, local, tribal and territorial health departments to prevent and prepare a response to the coronavirus;
3. To provide principals and other school leaders the resources necessary to address the needs of their individual schools;
4. Any activity to address the delivery of services to at-risk and minority students;
5. To develop and implement procedures to improve school preparedness and response efforts;
6. To train and offer professional development for staff on sanitation and minimizing the spread of disease;
7. To purchase cleaning supplies;
8. To plan for and coordinate services during long-term closures including providing meals, technology for online learning, guidance for carrying out IDEA services, etc.



9. To purchase educational technology (including hardware, software and connectivity) to conduct online learning for students served by the LEA. May include assistive technology or adaptive equipment for students with disabilities;
10. To provide mental health services and supports;
11. To plan and implement activities related to summer learning and supplemental after-school programs during the summer months and providing continued services to at-risk and minority students; or
12. Other activities necessary to maintain the operation and continuity of services in LEAs and continuing to employ the LEA's existing staff. *See* Section 18003(d).

### **How are CARES Act funds different from Title I funds?**

The Elementary and Secondary School Emergency Relief Fund is a separate funding source from Title I. Although the funds are distributed to SEAs and LEAs based on Title I allocations, they are not Title I funds. These two funding streams differ in a variety of ways. CARES Act funds:

- Do not count toward an LEA's Title I, Part A carryover limit;
- Are not governed by Title I spending rules;
- Are not limited to Title I-eligible students and schools, and therefore ESEA ranking and serving requirements do not apply;
- Do not need to include a set-aside for school improvement;
- Are not required to follow ESSA supplement, not supplant rules; and
- Are not "replacement funds" for state aid and must be spent only on allowable activities.

### **UPDATED: Can LEAs use funds to reimburse coronavirus-related expenses incurred prior to passage of the Act?**

While the USDE has not announced in writing how costs incurred prior to the passage of the CARES Act will be covered, they have given verbal guidance that they will allow pre-award expenses dating back to March 13, 2020, to be reimbursed.

### **UPDATED: How long do LEAs have to spend these funds?**

Grants must be awarded from the state within one year or the unawarded funds are returned to USDE for allocation to other states. After grants are awarded, the funds remain available for obligation through **September 30, 2022**. Any expenses for the fiscal year 2020 must be encumbered by June 30, 2020. Remaining funds may be carried over into the next fiscal year.

### **Will USDE allow greater flexibility with existing federal funds in light of the pandemic?**

Yes. On April 4, USDE announced it is authorizing states to seek waivers and obtain additional flexibilities that are authorized under the CARES Act, including allowing schools to repurpose existing K-12 education funds for technology infrastructure and teacher training on distance learning. Other flexibilities would enable schools to move resources to areas of highest need during the national emergency.

On April 6, the OSDE submitted [requests to the USDE for waivers](#) of the following:

- Section 1127(b) of Title I, Part A of the ESEA (the Elementary and Secondary Act of 1965) allowing the SEA to waive the 15% carryover limitation in ESEA section 1127(a) for FY 2019 Title I, Part A funds more than once every three years;

- Section 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of FY 2018 funds for programs in which an SEA participates under its approved consolidated State plan until September 30, 2021, namely Title I, Parts A-D, Title II, Title III, Part A, Title IV, Parts A-B, Title V, Part B programs, and the McKinney-Vento Homeless Children and Youth program;
- Section 4106(d) of Title IV, Part A of the ESEA requiring an LEA to have a needs assessments to justify the use of funds for the 2019-20 school year;
- Section 4106(e)(2)(C), (D), and (E) of Title IV, Part A of the ESEA with respect to content-area spending requirements (i.e., 20% for well-rounded education, 20% for safe and healthy schools, etc.);
- Section 4109(b) of Title IV, Part A of the ESEA with respect to the spending limitation for technology infrastructure (i.e., prohibiting more than 15% of funds for purchasing technology infrastructure, including devices, equipment, and software applications); and
- Section 8101(42) of the ESEA, to waive the definition of “professional development” which might otherwise limit the ability to quickly train school leaders and teachers on topics like effective distance learning practices.

On April 7, the **USDE provided its preliminary approval** of the OSDE’s request and with that, an authorization to begin implementing the requested waiver.

### **Are only Title I schools eligible to receive support through the CARES Act?**

No. Even though the Title I formula dictates how much money the district receives, once the district receives funding, it may support any of its schools, both Title I and non-Title I. There are many allowable uses under the CARES Act, including Title I, II, III, IV, 21st Century CLC, Perkins, McKinney-Vento and additional uses such as cleaning, mental health, summer school and more. Therefore, once the LEA receives funding, the Title I rules (i.e., for Title I schools only, Title I-eligible children only and rank and serve requirements) do not apply to the CARES Act funding.

### **What if an LEA is unable to expend budgeted Title I funds due to the COVID-10 pandemic and exceeds the 15% carryover limitation in Title I?**

Normally, a district may carry over up to 15% of Title I, Part A funds from one year to the next. However, once every three years, the OSDE may grant a waiver of this general prohibition to a district. As described in the question above, the CARES Act allows for states to request a waiver from the carryover limitations in the ESEA for the federal fiscal year 2019 (i.e., the Title I, Part A funds that will become carryover funds on October 1, 2020). OSDE has requested and received this waiver. It authorizes any and all districts to carry over in excess of 15% of Title I, Part A funds regardless of whether the district has previously received a waiver from the OSDE. This waiver authorization is limited to federal fiscal year 2019 funds. (Note: the federal fiscal year 2019 corresponds roughly to the Oklahoma 2019-20 school year.)

At the end of the fiscal year, all unexpended Title I, Part A funds are carried over at the LEA level. Funds for the following year (federal fiscal year 2020) are then allocated to the LEA, which determines how to distribute those funds among sites in keeping with ranking for site allocations.

### **Do districts now have an additional year to spend certain federal FY 2018-19 funds (funds awarded on or around July 1, 2018)?**

Yes, for Title I, Parts A-D; Title II; Title III, Part A; Title IV, Parts A-B; Title V, Part B and the McKinney-Vento Homeless Children and Youth program. Typically, the funds awarded for federal FY 2018-19 must be obligated by September 30, 2020. However, the approved waiver of Section 421(b) of the General Education Provisions Act (GEPA) now authorizes districts to spend these funds until September 30, 2021.

### **Do districts need to amend their Title IV, Part A Needs Assessment?**

No. Normally, if an LEA receives \$30,000 or more in Title IV, Part A funds, it must conduct a comprehensive assessments of its needs for improved access to a well-rounded education and spend the funds consistent with identified needs. However, with the approved waiver, an LEA will not have to amend its needs assessment conducted for 2019-20 Title IV, Part A funds. LEAs may spend remaining Title IV, Part A funds on any allowable activity without tying the expenditure to the needs assessment.

### **For current Title IV, Part A funds, is there still a requirement for districts to spend these funds in certain percentages and in certain content areas?**

No. Normally, an LEA that receives \$30,000 or more in Title IV, Part A funds must expend at least 20% to support a well-rounded education, at least 20% to support safe and healthy students, and a portion to support effective use of technology. With the approved waiver, districts may spend remaining 2018-19 and 2019-20 Title IV, Part A funds on any allowable Title IV, Part A activity and do so without limitation of a certain percentage in a content area.

### **Can a district now spend more than 15% of Title IV, Part A funds on technology infrastructure?**

Yes. Generally, districts may not spend more than 15% of Title IV, Part A funds earmarked for effective use of technology on technology infrastructure, including devices, equipment, software applications, platforms, digital instructional resources and other one-time IT purchases. However, with the approved waiver, this 15% limit is lifted. In addition, this waiver is not limited to districts with an award of Title IV, Part A funds in excess of \$30,000.

### **What is the practical impact of the waiver of the definition of “professional development?”**

Normally, professional development with federal program funds must be “sustained, intensive and collaborative.” To afford districts additional flexibility as a result of the pandemic, however, the approved waiver allows districts to use federal program funds to support shorter-term professional development as long as otherwise allowable under the relevant federal program.

### **Are there additional waivers allowable under the CARES Act, including MOE and other civil rights laws?**

No, not at this time. However, under the CARES Act, the U.S. Secretary of Education is to provide a report to Congress within 30 days on recommendations for any additional waivers needed to address the COVID-19 pandemic, including under IDEA, the Rehabilitation Act, Perkins and ESSA. *See* CARES Act, Section 3511(d).

### **What maintenance of effort (MOE) considerations apply to CARES Act funding?**

First, to receive Elementary and Secondary School Emergency Relief Funds or Governor’s Emergency Relief Funds, states must assure they will maintain support for K-12 and higher education in fiscal years 2020 and 2021 at least to the average spent in the last three fiscal years. USDE can waive this requirement for states that have experienced a precipitous decline in financial resources. Second, state and local funds spent on supplemental expenses made as a result of a presidentially declared disaster may be excluded from other programs’ MOE calculations (such as Title I and other ESEA programs). OSDE is awaiting clarification and guidance as to how MOE can be waived and will update this guidance when that information is provided.

### **What is the expectation for calculating MOE for the 2019-20 fiscal year? Can schools expect a calculation based on per-pupil expenditure for the CARES Act?**

While USDE has not directly addressed this issue yet, there is already some flexibility provided for in ESEA. It is important to understand the delayed impact for the current year's expenditures on MOE determinations. For example, in making MOE determinations for school year 2021-22 expenditures from this school year, 2019-20, are used. Additionally, LEAs would not be penalized with a reduction in FY 21 federal funds unless the LEA failed to maintain effort in FY 19 *and* one or more of the five fiscal years preceding July 1, 2019. If an LEA faces a reduction in FY 21 ESEA funds, the LEA (or the SEA on the LEA's behalf) may request an MOE waiver from USDE due to a natural disaster or another exceptional or uncontrollable circumstance, such as the COVID-19 pandemic.

Finally, as stated previously, if an LEA's expenditures increase significantly due to increased spending in response to Presidential declared disaster, the SEA will exclude those expenditures from the MOE calculations, which decreases the likelihood that a one time increase will cause an LEA to fail to maintain effort.

## **➤ DISTANCE LEARNING**

Much of the information in this section is referenced in the OSDE web page devoted to [distance learning](#). For additional information regarding student privacy considerations and online learning, please see the Social Media & Cyber Security section of this document.

### **What professional learning will district staff need in order to implement distance learning effectively?**

OSDE has created a sample professional development plan, located under "How to Develop & Implement a Distance Learning Plan" on the [Distance Learning page](#), for districts to consider. Each district will need to make a number of local decisions. It is best to remember that distance learning will be new to many teachers; "go slow to move fast" is the best way to prepare them. Staff will need time to practice new technology and ask questions. In a rapidly changing, unfamiliar educational situation, teachers should focus on what is critical for student advancement to the next grade level or graduation.

### **Are telecommunications and Internet providers offering free and/or discounted services?**

The Federal Communications Commission (FCC) has requested telecommunications and internet service providers nationwide sign the Keep Americans Connected Pledge. [A running list of companies that have responded to the pledge](#) will be housed on the OSDE website. The opportunities offered include free internet, access to new hotspots and increased broadband among others. The list is informational only and not intended to endorse any product or company.

### **What federal funding sources can districts use to purchase technology?**

Nearly all LEAs will have Title I, Part A funds that will be available to expend as a result of cancelled events, closures and interruptions resulting from COVID-19. These funds may be budgeted in order to purchase technology to allow equitable access to distance learning (e.g., mobile hotspots, etc.). As a reminder, Title I funds may currently be used to purchase technology if the technology is used for an allowable Title I activity. This includes laptops and hotspots for supporting student instruction. When using existing Title I dollars, LEAs must be mindful of the "supplement, not supplant" provision.

Title II, Part A funds may be used to purchase similar technology for teachers to use for online professional development for effectively integrating technology into instruction. Title IV, Part A funds may also be used. As a result of the waiver – applied for by OSDE and awarded by USDE – described in the CARES Act section of this document,

for the remainder of the 2019-20 school year, there is not a 15% limitation on the amount of Title IV funds that can be spent on technological infrastructure. When combined with the waiver of the content-area spending requirements for Title IV, Part A, the effect allows LEAs to spend any remaining Title IV, Part A funds on technology.

### **What resources is OETA providing for students and parents?**

A hub for all OETA resources is available at [www.OETA.tv/LearningAtHome](http://www.OETA.tv/LearningAtHome). OETA has adjusted its daytime schedule to provide curriculum-based programming for students on its broadcast channel, OETA WORLD. Programs include PBS favorites like *NOVA*, *Nature*, and *American Experience* as well as PBS KIDS programming. Each episode or series directly correlates to lessons and resources available on [PBS LearningMedia](#). Parents and teachers must sign up for a free account to access content.

**Early Elementary (PreK-3)** – Early elementary educational programming will air *Monday-Friday from 6-8 a.m.* on OETA WORLD. [PBS LearningMedia Early Elementary](#) includes grade-specific videos, interactive lessons, games and printable content.

**Upper Elementary (4-5)** – Upper elementary educational programming will air *Monday-Friday from 8 a.m.-2 p.m.* on OETA WORLD. [PBS LearningMedia Upper Elementary](#) includes grade-specific videos, interactive lessons, experiments and printable content.

**Middle School (6-8)** – Middle school educational programming will air *Monday-Friday from 8 a.m.-2 p.m.* on OETA WORLD. [PBS LearningMedia Middle School](#) includes grade-specific videos, quizzes, interactive lessons, lesson plans and printable content.

**High School (9-12)** – High school educational programming will air *Monday-Friday from 2-6 p.m.* on OETA WORLD. [PBS LearningMedia High School](#) includes grade-specific videos, interactive lessons, lesson plans and printable content.

The [program schedule](#) is updated every week and will last until the end of the school year.

OETA WORLD can be accessed for free and over the air with an antenna on [these channels](#). Some satellite and cable providers choose not to carry OETA and its sub-channels. We encourage those without access to OETA WORLD to contact their provider and ask them to carry all four channels. Find out about other ways to watch in [OETA's FAQs](#).

To learn more about the OETA programming and the PBS LearningMedia platform, OSDE has developed a professional development module for teachers. The course is quick and free and will help educators learn how to leverage the resources in their distance learning plan. Visit <https://osdeconnect.ok.gov>, create a free account, and use the Add+ modules option to find the PBS LearningMedia resources course.

For questions about PBS LearningMedia, see the [PBS Learning Media FAQs](#) or email [education@oeta.tv](mailto:education@oeta.tv).

### **How can districts provide distance learning if their communities have little to no internet connectivity and a large population of students without a device?**

Many areas of Oklahoma, particularly in rural communities, lack internet connectivity, while many districts have families without the devices necessary for online learning. It is important to note that distance learning does not require technology or digital connectivity. A technology capacity survey conducted by the OSDE found that more than 26% of districts will ensure learning, in full or in part, through paper packets of instructional materials distributed to students. OSDE has provided a range of assistance. The [Distance Learning Resources](#) web page on the OSDE website offers comprehensive help for districts to best fit the needs of their students. In addition, OSDE has partnered with OETA television to provide [in-home learning](#) opportunities through grade-specific daytime instructional programming. Virtual instruction is one form of distance learning, but it is far from the only way to keep children engaged in their education.

### **Is it safe to deliver paper packets to students?**

Based on information from the [World Health Organization](#), yes. The likelihood of an infected person contaminating goods is low and the risk of catching the virus that causes COVID-19 from a package that has been moved, traveled and exposed to different conditions and temperature is also low. However, much is still unknown about this coronavirus. It is advisable to handle packages and items that will be sent to students and families while wearing disposable gloves and to wash hands thoroughly after receiving and handling a package either through the mail or from another person. ***Only those staff designated as facilitating or supporting delivery of distance learning will be allowed to prepare materials for paper packets, and they must do so within the same safety and access guidelines outlined in the questions above.***

### **What are the expectations for serving English learners while instruction is delivered through distance learning?**

While the WIDA Access screener will not be available, districts still have an obligation to serve English learners. Districts should be intentional in ensuring teachers are providing appropriate modifications and accommodations for EL students. To assist, OSDE has published a comprehensive [guide for serving English learners through distance learning](#).

Many districts have pointed out the difficulty in making EL designations without in-person access to students or use of the WIDA Screener. As such, OSDE has released additional [guidance for EL identification](#) including a path to provisional identification. For existing English Language Academic Plans (ELAPs), no changes will be required solely due to the change in instructional delivery. For students provisionally identified as EL while instruction is delivered through distance learning, an ELAP will not be required. For these students, however, a plan may be completed to the best ability of the district given the limited information provided by the identification process.

### **How should schools communicate with families in their communities?**

Clear, consistent and constant communication with families will be vital. Educators should use whatever tools work best for their context, whether emails, social media and websites, text apps or a combination. The OSDE Office of Family Engagement has released a guidance document, [Engaging Families to Support Distance Learning During the COVID-19 School Closures](#), that suggests a four-pronged approach involving strengthening relationships between school and family, building capacity in families to participate in their child's learning, focusing on learning and connecting communities to leverage community stakeholders.

### **What about communication to school staff and the public?**

Administrative/leadership teams should discuss how and when important information needs to be shared with the public and school staff. Consistent messaging and clarity of the school's plan is critical to success. It is ***highly recommended*** that building administrators do a weekly group check-in with all staff using Zoom other virtual meeting platforms used in your district.

### **How important will it be for each teacher to have the same "office hours," or online availability?**

To provide consistency and structure, each teacher should be accessible online at the same time daily when at all possible. However, some households will be sharing a device among family members, so it is important that teacher availability be spaced out over the day so all students have an opportunity to contact their teacher. Be sure all parties are aware of which platform the district will be using for communication and emphasize the importance of flexibility.

### **What are a school's requirements/obligations to student teachers?**

Colleges and universities determine program completion. Please work with your higher education institution and partnerships to determine best actions.

### **What guidance exists for TLE and PL Focus requirements for the remainder of the year?**

As a result of the State Board's actions to waive the TLE Qualitative Report data collection requirements and the closure of school buildings for the remainder of the school year, observations/evaluation(s) and PL Focus checkpoints will not continue for the 2019-20 school year. Districts should retain the observation/evaluation data collected prior to March 12 for documentation purposes.

If there were active Professional Development Plans (PDPs) on the last day of in-person instruction for the district, each open PDP needs to be considered on a case-by-case basis. Depending on the area of focus, it may be possible to complete the Professional Development Plan (PDP) in the set timeline. However, if completion is not possible, documentation of progress should be saved along with the educator's other evaluation documents. Additional guidance is available in the [FAQs on the TLE webpage of the OSDE website](#).

### **What academic counseling considerations should be made?**

For the graduating class of 2019-20, awarding of credits, attendance and assessment requirements for graduation are determined at the local school district level. Academic counselors should stay abreast of the most recent information available regarding assessments, CareerTech, concurrent/dual enrollment, financial aid, online instruction, enrollment and scheduling and develop a method of communicating with students, especially seniors. Additionally, administrators should be informed about all communication sent from academic counselors to families and students. For more detailed guidance regarding academic counseling, refer to Guidance for Academic Counseling FAQs on the [OSDE Counseling web page](#).

### **How do districts complete required accreditation and reports for OSDE?**

Reserving the right to conduct an audit and amend a district or site accreditation status as deemed necessary, the State Board has waived accreditation audits for the 2019-20 school year. Regional Accreditation Officers (RAOs) are always available to assist and share ideas. Districts should reach out to their RAO with questions or for information.

### **How do we approach the concept of equity through distance learning?**

Equity gaps are being further exposed as a result of the pandemic. Consider [these tools for student-centered and inclusive educational environments](#) offered free by the Great Lakes Equity Center. The Center also outlines [5 Big Equity Ideas for Designing Learning Opportunities](#) for consideration.

## **➤ GRADING & GRADUATION REQUIREMENTS**

### **What are schools required to report for student attendance?**

With the exception of required reporting for state funding and school accountability, any requirements for attendance are ***solely determined at the local school district level***.

As previously stated, the State Board of Education voted to stop Average Daily Attendance and related calculations as of March 12, 2020. Though the reporting of absences and attendance is unnecessary for those reasons, having accurate information is important and necessary for the state when reporting for other purposes and to other agencies. With this in mind, OSDE's Data & Information Systems team has released [guidance on how to report student absences and calendar changes over the course of this semester](#) (i.e., before March 12, Spring Break, cessation of operations, April 6 and beyond).

### **What are the graduation requirements for students this year?**

For the graduating class of 2019-20, each district is to adopt a plan that establishes the assessment or assessments those students are required to take to graduate. Awarding of credits, attendance and assessment requirements for graduation are solely determined at the local school district level.

### **Do seniors still have to meet all graduation requirements in order to receive a high school diploma?**

In exchange for a district completing the required assurances and implementing a distance learning plan from April 6 through May 8, 2020, the State Board has waived the mandatory reduction of state aid of a school district not meeting the requirements for the calendar year (180 days or 1,080 hours) due to the coronavirus pandemic making maintenance of the calendar year term impossible. All students are still required to complete at least 23 credits of required and elective coursework. Many boards of education have local policies that require more than 23 credits and/or identify specific courses that are not a part of the state's list of required courses. In these cases, a local board of education can take action to amend a local graduation policy. Any change must still be in agreement with Oklahoma graduation requirements. End of semester final grades should be calculated, reported and transcribed in the school's student information system.

### **Is the graduation requirement for Cardiopulmonary Resuscitation (CPR) waived?**

Oklahoma law requires that all students enrolled in a public school are to receive CPR instruction at least once prior to graduation. This statutory requirement currently provides an exemption for students enrolled in a virtual charter school. Given the closure of school buildings for the remainder of the 2019-20 school year, and provision of instructional services through distance learning, the OSDE interprets the intent of the statute, and the existing exemption for students enrolled in a virtual program, to be equally applicable to graduating seniors finishing the school year via distance learning. As such, the OSDE has extended this exemption to students in the graduating class of 2020 who have not already completed the requirement. *See* 70 O.S. § 1210.199. Districts should indicate whether graduating seniors have completed the CPR requirement or have been exempted from it on the student transcript.

### **How will students earn final grades for the 2019-20 school year?**

Districts are expected to continue providing learning opportunities for students through the end of the school year and thereby afford students the opportunity to earn grades. Final grades are to be awarded and posted to transcripts according to current district policies. The extenuating circumstances caused by the COVID-19 pandemic may inhibit access to appropriate remediation resources and to new distance learning instructional methods. Therefore, student grades prior to the beginning of required distance instruction must not be negatively impacted. Due to the long-term negative implications on grade point averages (GPAs), Oklahoma's Promise, NCAA eligibility and other scholarship opportunities, districts are strongly encouraged to continue to issue traditional letter grades in lieu of Pass/Fail (P/F) grading.

### **How will students in CareerTech (CTE) programs earn final credits?**

The Oklahoma Department of Career and Technology Education (ODCTE) has developed a set of [FAQs to assist students in CTE programs](#). Students should expect to receive correspondence from the technology center or K-12 instructor outlining the steps to complete their program or coursework. Certain industry certifications may require work past the 2019-20 school year.

### **How will concurrent/dual enrollment students complete courses, and how will credits be issued?**

The Oklahoma State Regents for Higher Education (OSRHE) is aware of the challenges for traditional college students and high school students enrolled in concurrent/dual enrollment programs. Prior to the State Board of Education vote on March 25, many colleges had already posted contingency plans in the event that instruction did not resume for the 2019-20 school year. OSRHE has published [school-by-school](#) information detailing plans for the remainder of the year and additional information on its [COVID-19 Campus Resources website](#). Depending on the institution, students may be able to continue instruction virtually. Additionally, some institutions may choose to issue credits as traditional letter grades **OR** offer students the option of receiving a Pass/No Pass (P/NP) or Satisfactory/Unsatisfactory (S/U) grade in currently enrolled courses. If offered, students should consider the impact P/NP and S/U grades could have on high school GPA, Oklahoma's Promise, and NCAA eligibility as those grades are GPA neutral and may be counted as the lowest passing letter grade on the traditional grading scale.

### **What will ICAP (Individual Career Academic Planning) be impacted?**

ICAP is only required this year for current freshmen, and the only requirements that are to be done annually are the career/interest inventory, written postsecondary goal and course reflection. These items can be completed and monitored via the students' online tool selected by your district: [OKCareer Guide](#) or [OKCollegeStart](#). Students should have already met this requirement prior to the fourth quarter. In the event a student is missing this requirement for the 2019-20 school year, staff can make resources available once instruction resumes. Many ICAP resources are already available in a digital learning format and are located on the [OKEdge ICAP resource page](#).

### **UPDATED: How will students complete the requirements of driver's education, including the requirements for actual driving time, while school buildings are closed and CDC guidelines are in effect?**

Students must complete 30 hours of classroom instruction and six hours of actual driving time with a certified instructor in order to complete a public school driver education course, and therefore be eligible to apply for a driver's license. See OAC 210:15-19-7. Oklahoma law also allows for a "parent-taught" driver education course in which the parent or guardian purchases an approved commercial course curriculum and provides the actual driving instruction. See 47 O.S. § 6-107.3(C).

Many students have likely completed the required 30 hours of coursework, but not the six hours of driving time. As provided in earlier guidance, the awarding of credits for courses, including the driver education elective, is a matter for local determination. In light of the COVID-19 pandemic, however, OSDE will allow the parent or guardian of a student whose public school driver education course was interrupted by school closures to complete the required six hours of drive time. The parent will be required to attest to the completion of the drive time on the certificate of completion. The OSDE has released an updated form for students whose driver education course was interrupted by the COVID-19 pandemic. Districts can access the form in Single Sign On.

### **Can students still receive full elective credit for driver education without completing the six hours of drive time with a certified instructor?**

Yes. Students should not be denied credit, and therefore be adversely affected, due to the inability to complete the course during the pandemic. Districts may award credits and grades to students who have successfully completed the required 30 hours of classroom instruction. Students who only partially completed the 30 hours should be given the opportunity, to the greatest extent possible, to complete the classroom time via distance learning.

**As a result of these changes, what will a student need to apply for a driver's license?**  
Students will not need any additional documentation from the school to apply for a driver's license other than the certificate of enrollment and certificate of completion referenced above.

**UPDATED: Should districts plan for summer driver education courses?**

At this time, summer driver education is expected to proceed as normal. If at all possible, districts are encouraged to conduct the required 30 hours of classroom time through virtual instructional means or in small student groups. The OSDE does not plan to extend the allowance for parent-taught drive time for summer courses. However, depending on the path of the virus, that may change.

**➤ TEACHER CERTIFICATION**

**NOTE: Emergency certification requests for the 2020-21 school year will be accepted beginning Memorial Day.**

**Will there be a disruption to the issuance of teaching certificates?**

Until further notice, the OSDE has closed the teacher certification office. Applications for new certificates, renewals and adding areas of certification may continue to be submitted online.

Pursuant to [Governor Stitt's executive order](#), all occupational licenses (includes teaching certificates) are extended so long as the Executive Order is in effect and will not expire until 14 days following the withdrawal or termination of the executive order.

Additionally, the current legal guidelines for renewing standard teaching certificates provide that the effective renewal date for all standard certificates shall be July 1 of the calendar year in which the renewal application is received. The administrative rule governing the effective dates of teaching certificates states:

“Renewed standard certificates will become effective July 1 following receipt of the application provided the application is made prior to the expiration of the certificate. If a certificate has expired and a renewal application is submitted by December 31 of the year in which the certificate expired, the certificate shall be renewed with an effective date of July 1 of the year in which it expired.” (Oklahoma Administrative Code 210:20-9-95(b))

Subsequently, with the exception of teaching certificates that expired in a previous calendar year, all standard certificates renewed within the same calendar year are issued with an effective date of July 1. This existing approach to teaching certificate renewal ensures that a suspension or reduction in services affecting the Office of Certification would have no significant impact on Oklahoma teachers' and administrators' ability to renew their certifications.

**Is consideration being given to extending the date of emergency certificates?**

Yes. At its March 25 meeting, the State Board of Education adopted an emergency rule to allow for an emergency-certified teacher who has not completed the requirements for standard certification within two years to have an additional year to complete the requirements at the request of the district superintendent. Additionally, the following criteria must be met:

- The teacher must have an “effective” or higher rating on the qualitative portion of the TLE evaluation;
- The teacher must submit a portfolio of work, which includes evidence of progress toward a standard certificate;

- The district must agree to renew the teacher’s contract for the coming year; and
- The superintendent must provide evidence of the district’s inability to hire a certified teacher.

**NOTE: Emergency certification requests for the 2020-21 school year will be accepted beginning Memorial Day.**

Additionally, as is the case for all certifications and licenses pursuant to [Governor Stitt’s executive order](#), all occupational licenses, including emergency teaching certificates, are extended as long as the executive order is in effect and will not expire until 14 days following the withdrawal or termination of the order. However, districts are encouraged to apply for the additional year as soon as possible.

### **In order to request an extension of an emergency certificate for a third year, does the individual have to work for the requesting district for the two prior years?**

No. However, the administrative rule and criteria for extending an emergency certificate to an individual for a third year require that the requesting district agree to ***renew the teacher’s contract for the coming year (i.e., the third year of the emergency certificate)***. As a result, the emergency-certified teacher for whom the request is being made must have been employed in the requesting district in the prior year (i.e., year 2 of the emergency certificate).

**NOTE: Emergency certification requests for the 2020-21 school year will be accepted beginning Memorial Day.**

### **UPDATED: Is there any consideration to issuing a temporary or provisional certificate for individuals who have otherwise applied and met requirements for certification, but have been unable to complete competency exam(s) or required clock/credit hours due to the COVID-19 pandemic?**

Yes, the State Board of Education has the ability to issue a temporary or provisional certificate under state law. At its April 23, 2020, meeting, the State Board of Education granted the OSDE the authority to issue a one-time, non-renewable Temporary Certificate during the 2020-21 school year to certain applicants. The OSDE has published a [chart detailing the requirements](#) for individuals on each certification pathway to qualify for the temporary certificate. Individuals encountering interrupted completion of requirements for certification due to inability to take a required assessment and/or complete clock/college credit hours required for certification should consult with the OSDE, continue to apply for certification as otherwise would be done and provide documentation supporting the circumstances of interruption.

### **Will background checks for school employees continue to be processed during the emergency for COVID-19?**

The OSDE building is not currently open to the public, and therefore fingerprinting is not occurring on site. However, several satellite sites are still conducting fingerprinting and OSDE is continuing to process those background checks. Additionally, Identogo, the vendor Oklahoma uses to process background checks, has temporarily reduced the number of enrollment centers available for fingerprinting, which may impact proximity and appointment availability for school personnel. Identogo also is deploying eight mobile RV centers across rural portions of the state. To learn which centers are still operating and their hours, please register on the [Identogo website](#). Identogo has published a [letter to their customers](#) with additional information regarding safety protocols for centers that are still open.

## ➤ STUDENTS WITH DISABILITIES

### **In addition to state assessments and school accountability, what federal laws are potentially implicated due to coronavirus (COVID-19)?**

The ESSA and the Individuals with Disabilities Education Act (“IDEA”), as well as other federal programs like Child Nutrition Services, flow to states and then school districts under formulas that are unaffected by school closure. These funds will continue to be available to Oklahoma, and the OSDE has designated personnel who are essential to operations to ensure that during any closure of schools or operations, funding to schools will not be disrupted.

For compliance related questions under the IDEA, including information about timelines and evaluations, related services and alternative dispute resolution (ADR) please refer to the resources found on the [Office of Special Education Services homepage](#). Included is an FAQ for meeting the requirements of the IDEA and [providing FAPE](#) while instruction is delivered through distance learning.

For resources related to Special Education and Distance Learning, please consult the following guidance:

- [Distance Learning for Special Education](#)
- [Virtual IEP Meeting Checklist](#)

## ➤ CHILD NUTRITION

### **How can we keep staff and volunteers who are feeding kids safe?**

As indicated in above sections, it is imperative to follow CDC guidance on social distancing. The No Kid Hungry organization has put together [specific safety guidance for those preparing meals during the COVID-19 pandemic](#).

### **UPDATED: What existing school meal programs can be leveraged to feed students during a period of distance learning?**

School Food Authorities (SFA) may utilize a Seamless Summer Option (SSO) with respect to their U.S. Department of Agriculture (USDA) programs. SSO is a streamlined option for providing summer meals by continuing to follow several of the same operational requirements for the National School Lunch Program/ School Breakfast Program. Should the SFA choose to use the SSO, permission is also granted to allow service of meals at either school sites or non-school sites. SFAs must apply by contacting Child Nutrition Programs at 405-521-3327.

OSDE’s Office of Child Nutrition has opted into 18 nationwide USDA waivers and has received approval for a nineteenth. All waivers, unless otherwise noted, are in effect until June 30, 2020, or the expiration of the federally declared public health emergency, whichever occurs first.

1. Nationwide Waiver to Allow Meal Service Time Flexibility in the CNP – This waiver allows child nutrition programs to serve two meals at a time. Effective the weekend of March 21, 2020, the USDA has determined that Oklahoma School Food Authorities may distribute five days’ worth of meals at a time – or 10 meals weekly per qualified student.
2. Nationwide Waiver to Allow Non-Congregate Feeding in the CNP – This waives the congregate feeding requirement so schools can have a Grab-and-Go meal or offer to deliver meals to students. If meals are delivered, they should adhere to CDC safety guidelines as outlined above, and a count must be taken using the SSO Daily Meal Count Form. This waiver was approved March 20.

3. Nationwide Waiver of the Activity Requirement in the Afterschool Care CNP – This waiver is for sites operating a Child and Adult Care Food Program (CACFP) At-Risk for the enrichment activity requirement. It was approved March 20.
4. Nationwide Waiver to Allow Meal Pattern Flexibility in CNP – This waiver allows for schools to inform the child nutrition office and submit the required paperwork to waive certain meal components during the COVID-19 pandemic if they have exhausted all options to obtain required meal components. This waiver was approved March 20 and is in effect until April 30, 2020.
5. Nationwide Waiver to Allow Parents and Guardians to Pick up Meals for Children – This waiver allows schools to submit a plan to ensure that meals picked up by a parent or guardian are actually delivered to the designated child. This plan must be submitted to a district’s child nutrition consultant for approval. This waiver was approved March 25.
6. Nationwide Waiver of Community Eligibility Provision (CEP) Deadlines in the National School Lunch and Breakfast Program – This waiver allows the state agency additional time to report Community Eligibility Provision (CEP) information to USDA as well as extending the CEP deadline for schools to apply. This waiver was approved March 25.
7. Nationwide Waiver for Monitoring Requirements for the Sponsors in the Child and Adult Care Food Program (CACFP) – This waiver allows CACFP sponsoring organizations to complete only two of the three required monitoring reviews per year – one unannounced and the other announced. This also allows for the CACFP sponsoring organization to conduct a desk review of new facilities for their first four-week visit. This waiver was approved March 28.
8. Nationwide Waiver for Monitoring Requirements for the State Agencies in the Child and Adult Care Food Program (CACFP) – This waiver is for certain CACFP monitoring requirements be conducted on-site. To ensure program integrity during this period of distance learning, the state agency is required, to the maximum extent practicable, to continue monitoring activities of program operations off-site (e.g., through a desk audit). This waiver was approved March 28.
9. Nationwide Waiver of On-Site Monitoring Requirements in the School Meals Program – This waiver is for school meals’ on-site monitoring requirements. ***For this waiver and those outlined in #10 and #11,*** to ensure program integrity, the state agency and SFAs are required, to the maximum extent practicable, to continue monitoring activities of program operations off-site (e.g., through a desk audit). This waiver was approved March 28.
10. Nationwide Waiver of On-Site Monitoring Requirements for Sponsoring Organizations in the Summer Food Service Program (SFSP) – This waiver is for certain SFSP monitoring requirements to be conducted on-site. For SFSP sites who operate the program during normal summer operations (i.e., May through August), SFSP sponsors may also postpone required site visits until summer 2020. This waiver was approved March 28.
11. Nationwide Waiver of On-site Monitoring Requirements for the State Agencies in the Summer Food Service Program (SFSP) – This waiver is for certain SFSP monitoring requirements to be conducted on-site. For SFSP sponsors who operate the program during normal summer operations (i.e., May through August), the state agency may also postpone required site visits until summer 2020. This waiver was approved March 28.
12. Nationwide Waiver of the 60-Day Reporting Requirements for January and February 2020 – This waiver is for the 60-day claims for reimbursement deadlines for the state agency, school food authorities and CACFP and SFSP sponsoring organizations, as required in the National School Lunch Act and

federal regulations. This waiver only applies for claims covering operations in the months of January and February 2020. Deadlines for these two claims months are extended for 30 calendar days from the original required date of submission. This waiver is effective immediately. Program operators are encouraged to continue to complete their 60-day reporting requirements in a timely fashion in cases where waiver flexibility is not needed and to the extent practicable. This waiver was approved on April 1.

13. Nationwide Waiver to Allow Meal Pattern Flexibility in the CNP – *Extension of #4* – This nationwide waiver to allow meal pattern flexibility during the COVID-19 pandemic was set to expire on April 30, 2020, but has been extended to May 31, 2020. Schools interested in this waiver must submit certain documentation to their Child Nutrition consultant as OSDE is required to report this to USDA.
14. Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites in the SFSP and SSO – This waiver allows for programs, like summer camps, that are considered a closed enrolled site and normally would have to collect income applications from parents to be eligible, to instead be eligible based on the local school district’s free- and reduced-price lunch percentage. Oklahoma initially applied for this waiver in 2019, and this action extended it until September 30, 2020.
15. Nationwide Waiver to Waive First-Week Site Visits in the SFSP – This waiver is for the requirement that SFSP sponsors visit each of their sites at least once during the first week of operation. This waiver only applies to sponsors that have operated the SFSP successfully in the previous year and who are in good standing in the National School Lunch/Breakfast Program and the Child and Adult Care Food Program. Oklahoma applied for this waiver in 2019, and this action extended that waiver until September 30, 2020.
16. Nationwide Waiver of Meal Service Time Restrictions in the SFSP and the SSO – This waiver allows for meals to be served outside the regulatory time requirements that must lapse between meal services. Oklahoma applied for this waiver in 2019, and this action extended that waiver until September 30, 2020.
17. Nationwide Waiver of Food Service Management Company (FSMC) Contract Duration in the National School Lunch and Summer Food Service Program – This waiver allows for a school in the last year of its FSMC contract to submit a notification letter to the OSDE stating that the school will continue with the current contract for one additional year due to COVID-19 pandemic. This waiver is only allowable if the contract is in the last year and presuming the school wants to continue the contract.
18. Nationwide Waiver to Extend the Unanticipated School Closure Operations through June 30, 2020 – This waiver allows schools that are currently approved for and operating the CACFP At-Risk program to serve a meal and a snack through June 30, 2020. As a result, these schools could serve breakfast and lunch through the SSO or SFSP and serve a supper and snack through the CACFP At-Risk program.
19. Waiver allowing schools that fail to meet the 50% free and reduced area eligibility by site to serve meals on the SSO – Without this waiver, a school that does not meet the 50% free and reduced criteria by site would not be eligible for SSO. This waiver has been approved, effective March 18.

Schools should contact their Child Nutrition Area Consultant to obtain the information needed to participate in these waivers. For nationwide waivers, USDA requires state Child Nutrition offices to track all requests and report this information.

### **Are there restrictions on what days a meal can be served when a school is serving multiple meals at a time?**

If a school is delivering multiple meals on one day, it is recommended to serve meals for the entire week on Monday (i.e., ten meals provided on Monday for breakfast and lunch for Monday through Friday). Should a district need to vary from this schedule, it has the flexibility to do so. However, at this time districts are not permitted to provide meals to students for the weekend.

### **Can a school on a four-day week schedule serve meals five days per week?**

Yes. A school typically operating on a 4-day-week calendar may continue to serve meals on each day of the week or may serve enough meals for five days on one day as is referenced in the previous question.

### **UPDATED: What is the “Meals to You” program, and how can a district participate?**

*Meals to You* is a program specifically for [qualifying rural schools](#) with transportation barriers that prohibit students from accessing meals from a typical open feeding site (i.e., the district is unable to operate a full SSO or SFSP program). This program allows students to receive shelf-stable, easily prepared meals through a delivery service. A district must apply for the program under the “emergency” status on the *Meals to You* website. Once the district is verified to have met eligibility criteria, the *Meals to You* program will walk them through the process of signing up their families. **Please note that the *Meals to You* program is only available to provide meals through June 30, 2020.** More information can be found on the [Meals to You website](#), including a step-by-step tutorial.

### **UPDATED: What options are there to transition my school feeding program into the summer?**

Almost every district in the state is offering meal options for students during distance learning. OSDE strongly encourages districts to continue these options without interruption through the summer. Last year, only 33% of eligible districts participated in summer feeding programs despite 60% of students qualifying for free- or reduced-price lunches at that time. That figure is now undoubtedly much higher as a result of the pandemic.

Districts have two options to continue meal services through the summer. The first, and perhaps easiest, is to continue the current program. The Seamless Summer Option (SSO) program is designed to provide a transition from the end of the school year into the summer. If districts want to pursue this option, no additional application or action is needed. The second option is the Summer Food Service Program (SFSP). Applications to participate in this program were due by April 30. If a district did not submit an SFSP application, it may still continue meal service through the summer through SSO.

### **NEW: Can the FSMC charge a school more for meals during the pandemic? Or can they refuse to provide meals if participation wanes?**

No. Food Service Management Companies (FSMCs) are not allowed to charge any amount other than what is detailed in the contract. Schools should check FSMC invoices to ensure they align with the set “meal equivalency rate” either on page 4 of the RFP for first-year contracts or in the addendum for this school year. Additionally, an FSMC cannot refuse to provide meals in the event participation wanes. This determination is to be made by the school and not the FSMC.

### **NEW: Can a district pay a stipend to a child nutrition worker with child nutrition funds during this time?**

Yes. The U.S. Department of Agriculture has communicated to OSDE that stipends, like salaries, are local determinations. The district must have a policy in place to generally support the distribution of stipends and have accompanying written procedures. Such stipends may also be retroactive.

## ➤ FEDERAL GUIDELINES FOR STUDENT PRIVACY

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. *See* 20 U.S.C. § 1232g; 34 C.F.R. Part 99. The law applies to all educational agencies and institutions that receive funds under any program administered by the U.S. Secretary of Education. FERPA generally includes school districts and public schools at the elementary and secondary levels.

Under FERPA, a parent or eligible student (a student who is 18 years of age or older) must provide a signed and dated written consent before an educational agency or institution discloses Personally Identifiable Information (PII) from education records, unless an exception to this general consent requirement applies. *See* 34 C.F.R. § 99.30(a). There are some exceptions to the general consent requirement. *See* 20 U.S.C. §§ 1232g(b)(1), (b)(2), (b)(3), (b)(5), (b)(6), (h), (i), and (j) and 34 C.F.R. § 99.31.

The term “education records” is defined as those records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. *See* 20 U.S.C. § 1232g(a)(4); 34 C.F.R. § 99.3. Accordingly, immunization and other health records, as well as records on services provided to students under the Individuals with Disabilities Education Act (IDEA) that are directly related to a student and maintained by an educational agency or institution, are “education records” under FERPA.

The term “PII” refers to a student’s name or identification number, as well as other information that can be used to distinguish or trace an individual’s identity either directly or indirectly through linkages with other information. *See* 34 C.F.R. § 99.3.

### Do parents and eligible students have to provide consent before an educational agency or institution discloses Personally Identifiable Information (PII) from education records?

Generally, yes. A parent or eligible student must provide written consent before an educational agency or institution discloses PII from a student’s education records, unless one of the exceptions to FERPA’s general consent rule applies. *See* 20 U.S.C. §§ 1232g(b)(1) and (b)(2); 34 C.F.R. §§ 99.30 and 99.31.

FERPA requires that a consent form be signed and dated by a parent or eligible student and (1) specify the records that may be disclosed; (2) state the purpose of the disclosure; and (3) identify the party or class of parties to whom the disclosure may be made. *See* 34 C.F.R. § 99.30(a) and (b).

### How does the health or safety emergency exception to FERPA’s consent requirement permit an educational agency or institution to disclose PII from the education records of affected students?

Although educational agencies and institutions can often address threats to the health or safety of students or other individuals in a manner that does not identify a particular student, FERPA permits educational agencies and institutions to disclose, without prior written consent, PII from student education records to appropriate parties ***in connection with an emergency, if knowledge of that information is necessary to protect the health or safety of a student or other individuals.*** *See* 20 U.S.C. § 1232g(b)(1)(I); 34 C.F.R. §§ 99.31(a)(10) and 99.36.

This “health or safety emergency” exception to FERPA’s general consent requirement is limited in time to the period of the emergency and does not allow for a blanket release of PII from student education records. Typically, law enforcement officials, public health officials, trained medical personnel and parents (including parents of an eligible student) are the types of appropriate parties to whom PII from education records may be disclosed under this FERPA exception.

If public authorities determine that a public health emergency, such as COVID-19, is a significant threat to students or other individuals in the community, an educational agency in that community may determine that an emergency exists as well. Under the FERPA health or safety emergency exception, an educational agency is responsible for determining, on a case-by-case basis, whether to disclose PII from education records. The educational agency or institution may disclose the information without consent if it determines that there is an articulable and significant threat to the health or safety of the student or another individual and that certain parties need the PII from education records to protect the health or safety of the student or another individual. This is primarily a local determination under which the USDE has stated that it will not substitute its judgment for that of the educational agency so that the educational agency may bring appropriate resources to bear on the situation, provided that, based on the information available at the time of the determination, there is a rational basis for such determination. Additionally, within a reasonable period of time after a disclosure is made under this exception, an educational agency or institution must record in the student's education records the articulable and significant threat that formed the basis for the disclosure and the parties to whom information was disclosed. *See* 34 C.F.R. § 99.32(a)(5).

**If an educational agency or institution learns that students in attendance at the school are out sick due to COVID-19, may it disclose information about the students' illness under FERPA to other students and their parents in the school community without prior written parental or eligible student consent?**

It depends, but generally yes, but ***only if that information is in a non-personally identifiable form***. Specifically, the educational agency or institution must make a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. *See* 34 C.F.R. § 99.31(b)(1). If an educational agency or institution discloses information about students in a non-personally identifiable form, then consent by the parents or eligible students is not needed under FERPA.

For example, if an educational agency or institution releases the fact that individuals are absent due to COVID-19 (but does not disclose their identities), this would generally not be considered personally identifiable to the absent students under FERPA as long as there are other individuals at the educational agency or institution who are absent for other reasons. However, educational agencies or institutions must ensure that in releasing such facts, they do so in a manner that does not disclose other information that, alone or in combination, would allow a reasonable person in the school community to identify the students who are absent due to COVID-19 with reasonable certainty.

**If an educational agency or institution determines that a health or safety emergency exists, may it disclose, without consent, PII from student education records to the media?**

No. As explained previously, FERPA only permits non-consensual disclosures of PII from students' education records under the health or safety emergency exception to "appropriate parties" (such as public health officials) whose knowledge of the information is necessary to protect the health or safety of students or other individuals. While the news media may have a role in alerting the community of an outbreak, they are not "appropriate parties" under FERPA's health or safety emergency exception because they generally do not have a role in protecting individual students or other individuals at the educational agency or institution. "Appropriate parties" in this context are normally parties who provide specific medical or safety attention, such as public health and law enforcement officials.

For more information on FERPA, please visit the USDE's [COVID-19 Information and Resources for Schools and School Personnel](#) website.

## ➤ SOCIAL MEDIA & CYBER SECURITY

### As school districts are transitioning to online education, what considerations are there to protect users and the school district?

Cyber security hackers are poised to capitalize on a crisis. Below are things school employees, teachers and districts can do to protect themselves:

- Make sure devices have up-to-date anti-virus protection;
- Use multi-factor authentication on any accounts for which it is available;
- Work only on secure, password-protected internet connections;
- Avoid accessing any confidential or sensitive information from a public WiFi network;
- Be aware of phishing emails designed to entice you to click on an offer related to coronavirus protections, or with urgent instructions from your boss or co-worker. The intent is to get you to unsuspectingly download malware onto your device and the district system;
- Avoid using Bluetooth in a public place – it is an easy way for hackers to connect to your device; and
- Immediately report any lost or stolen device to minimize the risk of fraud.

### Should districts be concerned with student privacy (i.e., FERPA) with regard to online learning?

Yes. In the assurances signed by districts prior to beginning distance learning, districts were required to review the latest guidance from the U.S. Department of Education – also discussed in detail in the Student Privacy section of this document – and assure their continued compliance with FERPA. In addition, districts are strongly encouraged to review FERPA, including the school official exception to the general consent requirement ([determining what personnel have a legitimate educational interest](#)), the [use of photo/video](#) or other forms of instruction, defining or re-defining education records and identifying personally identifiable information (PII) in education records, rights to access records, electronic consent and the [health and safety emergency exception](#). For additional information and resources, please see the information available at the end of this section.

### Can a school district use a video conferencing or other software app to hold classes remotely?

Yes. Under the school official exception to FERPA's general consent requirement, school districts may disclose students' education records (including PII in those records) to a provider of such a service or application as long as the provider:

- Performs an institutional service or function for which the educational agency would otherwise use its own employees;
- Has been determined to meet the criteria set forth in in the educational agency's annual notification of FERPA rights for being a school official with a legitimate educational interest in the education records or PII;
- Is under the direct control of the educational agency regarding the use and maintenance of the education records or PII; and
- Uses the education records or PII only for authorized purposes and does not redisclose the education records or PII to other parties (unless the provider has specific authorization from the educational agency to do so and it is otherwise permitted by FERPA). *See 34 CFR §99.31(a)(1)(i).*

### **Does a school district need to update its policy and annual notification of how it determines who constitutes a school official and what constitutes a legitimate educational interest?**

There is no simple answer to this question. School districts are encouraged to work with their information security personnel or providers and attorneys to review their policies for making such determinations and may need to update them accordingly.

### **Can non-students, such as a parent or sibling, observe a remote lesson?**

This is a local decision. However, assuming that during the remote lesson PII from student education records is not disclosed, FERPA would not prohibit a non-student from observing the lesson. The “directory information” exception permits certain PII from education records which an educational agency has designated as directory information to be disclosed during classroom instruction to students who are enrolled in, and attending, a class. *See* 34 CFR §99.37(c)(1).

However, as a best practice, school districts should discourage non-students from observing virtual classrooms in the event that PII from a student’s education record is, in fact, disclosed. Schools may include instructions for students participating in the virtual classroom regarding not sharing or recording any PII from education records that may be disclosed or obtain prior written consent to permit any such sharing of PII from education records.

### **Can an educator record a virtual class session?**

In general, yes. If doing so, the educator should be transparent about it (i.e., every participant should know the session is being recorded). The educator should also disclose the purpose of the recording (e.g., it will be available so any students who missed the lesson may catch up) and who will be able to access it (e.g., anyone else at the school, such as the principal or a supervisor). The educator should also indicate how long the recording will be kept and when it will be deleted.

### **When can an educator have a one-on-one conversation with a student using web-conferencing software?**

This is part of a larger question of when it is appropriate for educators to have one-on-one conversations with students in general. Before conducting one-on-one conversations, OSDE recommends that educators review their relevant ethics policies and standards related to communicating with students. Educators should use approved methods for communication (e.g., work, not personal, email address, etc.).

The content of the intended conversation can also help determine the best way to proceed. Answering content-related questions or providing one-on-one help likely does not impact privacy laws. If the purpose is to discuss information from education records, such as grades, extra care should be taken to ensure that the conversation is private (e.g., asking that other individuals in the educator’s home not be present). As a best practice, teachers may consider holding virtual office hours (a specific set of hours where they will be available via web conference to answer questions and visit with students). It is highly recommended that educators document all one-on-one conversations in writing, including the times they started and finished and what was discussed. These should then be made available to the student and parent.

### **Are educators allowed to post a picture of their entire class together on a web conference, including student pictures and names, on social media?**

Such a decision should be approached with caution. This would likely constitute a disclosure of *directory information* only, and therefore not constitute a violation of FERPA, as the same information would appear in a yearbook or a class photo. But before posting, educators should consult their district's directory information policy and ensure that such a disclosure is permitted and determine if any students have been opted out of directory information disclosures and then ensure that those students are not included in the image. Educators could restrict the audience for such a photo to a closed group consisting, for example, of only class parents.

### **School districts may be changing their records transmission policies to delivery and receipt via email. If so, are schools required to use security transmission of education records by fax or email encryption software?**

FERPA does not have an explicit information security standard due to its status as a privacy, rather than an information security, law. There are ways to secure PII in education records transmitted with email, such as encrypting attachments and using best practices to secure sharing files via Secure File Transfer Protocol (SFTP). This [Email and Student Privacy video](#) from the Privacy Technical Assistance Center (PTAC) identifies other best practices for use of email.

The following are additional privacy resources that districts and educators may find helpful:

- [FERPA and Virtual Learning During COVID-19\(External Web Content\)](#)
- [FERPA and Virtual Learning during COVID-19 \(Webinar Recording\)\(External Web Content\)](#) (March 2020)
- [FERPA and Virtual Learning Related Resources\(External Web Content\)](#) (March 2020)
- [Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices\(External Web Content\)](#) (February 2014)
- [Parent Consent for Release of Confidential Information & Group Learning](#)

## **➤ DISCRIMINATION, HARASSMENT & BULLYING RELATED TO COVID-19**

On March 4, 2020, the U.S. Department of Education, Office of Civil Rights, issued an [OCR Coronavirus Statement bulletin](#) concerning recent challenges that have been reported surrounding the coronavirus and discrimination, harassment and bullying. According to the U.S. Centers for Disease Control (CDC), “stigma and discrimination can occur when people associate an infectious disease, such as COVID-19, with a population or nationality, even though not everyone in that population or from that region is specially at risk for the disease.” In this climate, fear and anxiety surrounding COVID-19 can lead to stigma toward individuals based on their race, ethnicity, national origin, disability, etc. The OSDE encourages all educators and members of the public to recommit to raising awareness of factual public health information without fear or stigmatization. As education leaders working within our respective communities, we must ensure that harassment based on race or ethnicity is not tolerated.”

### **Questions?**

For program or department-specific questions, please [contact the relevant OSDE office directly](#). For legal questions, contact Brad Clark, General Counsel, at 405-521-4906 or Marley Billingsley, Legal Assistant, at 405-521-4889. Other questions may be directed to Annette Price, Constituent Services Specialist, at 405-521-6647.

**DISCLAIMER: All the information above is based upon the Oklahoma State Department of Education's (OSDE) review of laws, regulations and guidance available to date. This information is subject to change as final guidance and information is released by the U.S. Department of Education (USDE).**



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