

ARCHIVE: COVID-19 Superintendent Call

March 16, 2020

The following are questions asked by directors of schools during this call and the point-in-time answers provided by the department. For additional guidance and up-to-the-minute supports, please check the TDOE website for more information: <https://www.tn.gov/education/health-and-safety/update-on-coronavirus.html>.

Academics

- What is the instructional expectation of the Department during this time of crisis?
 - **RESPONSE:** The Department and districts share the same goals. First and foremost, a shared priority and focus is around the safety and wellbeing of children. More than anything, we all want to make sure that everyone gets fed and they are safe, and they are taken care of during the school day. The second need and focus is really around academics and instruction. Because the closure right now goes through the end of the month, the Department understands that for many districts, though not for all, this will be a week and a half to two weeks of missed instruction because spring break tends to fall in this window. During that time, a reasonable expectation from the Department is that districts provide students with the opportunity to have additional activities at home. Those are all going to be local level decisions. That is for a short-term close. The Department is also taking and has taken very deliberate steps to ensure that there is a structure in place should there be an extended closure, whether that is decided by state level, or certainly more likely at a local level. The Department will have a toolkit available shortly. Certainly, in the short-term closure scenario, it's about getting as many options as possible for children to do learning at home. In a long-term scenario, the Department will have very clear expectations in place as well as free resources available for districts to use both in paper and online.

Assessment and Accountability

- If districts are scheduled to begin receiving shipments of testing materials during the time when schools are recommended by the governor to be closed, what will happen?
 - **RESPONSE:** For additional guidance and up-to-the-minute supports, please check the Department website for more information.

- Please provide an update related to assessment and accountability changes.
 - **RESPONSE:** The decision around waiving assessment and/or accountability would require two bodies to take action. First and foremost, it does require change in statute or statutory action from the legislature. It also requires a waiver from the federal government related to what is required for assessment and for accountability. Both of those are two different groups that would need to take action. If assessment continues for this year, depending on what the legislature decides to do, the Department is prepared to provide maximum flexibility in that space. In terms of submitting waivers to provide the state legislature with authority and flexibility to make decisions that are in the best interests of students, the Department is actively in those conversations and taking very clear steps. The Department will be able to provide a specific statement on that by the end of the day. Please know that the Department has taken action in that space and will have updates in the next couple of hours.

Charters and School Choice

- For charter schools who may need to chart a different instructional course than the districts with whom you are communicating, it would be very helpful to get examples/non-examples of what distance learning options that meet IDEA requirements could look like.
 - **RESPONSE:** There will be two different resources available on the Department website. One is related to special education and the other to children who are English Learners. Both of those resources will provide guidance on requirements related to those specific student populations. They will be available on the site today. A second set of resources will be related to the toolkit, and that will look at some of the local practices that you can use and adopt to support children during times of closure. That will certainly include special populations. There will also be a broader academic toolkit with free resources, links to sites, and then sample schedules (paper and online delivery) that you will be able to use should that be necessary. Please note two critical elements of this. First, short-term closures, especially those that are linked with a spring break have short-term needs related to children's access to academics. The Department is producing the toolkit specifically in order to ensure that for those districts who may have been out of school for longer or may want to extend any kind of closure period that they do have the resources necessary to continue

academic learning for all children. The Department is aware that in times of extended closure, some students who need resources the most do not have the access, so the Department has been working to partner with a variety of different organizations to provide free access and resources that districts can use to provide to families for local education and certainly education that might happen at home.

Communications

- In order to make smart decisions about continuous learning programs, how long will students realistically be out?
 - **RESPONSE:** For additional guidance and up-to-the-minute supports, please check the Department website for more information.

Funding

- Can districts request compensation for additional CIPA filtering requirements and charging hardware we need to send devices home with students?
 - **RESPONSE:** CIPA pertains to IT for students. Anything that districts are experiencing additional cost burden for, related to response to COVID-19 or the tornadoes, they should be keeping documentation. Under the Stafford Act there is a federal law to request reimbursement after the fact for those additional costs. So please be sure that district leaders and fiscal leads are keeping track of the additional cost burden experienced due to either of those issues.

Legal Requirements or Needs

- To comply with social distancing, can local boards meet electronically and still be in compliance with the sunshine law regarding matters that need immediate attention?
 - **RESPONSE:** There are provisions in the public meetings act, to allow electronic meetings under certain circumstances for boards of education. The Department will update existing guidance to include more specific information related to this question.

Work with your board attorney around the following statutes and follow up with the Department with any questions:

- T.C.A. § 8-44-108 (2015) states that "(b) (1) A governing body may, but is not required to, allow participation by electronic or other means of communication... provided, that a physical

quorum is present at the location specified in the notice of the meeting as the location of the meeting." and "(2) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists."

T.C.A. § 49-2-203(c)(1)(A) Notwithstanding title 8, chapter 44, part 1, a local board of education may conduct a scheduled board meeting by electronic means as long as the member can be visually identified by the chair, including, but not limited to, telephone, videoconferencing or other web-based media, if a member is absent because the member is required to be out of the county in which the LEA is located for the member's work, the member is dealing with a family emergency as determined by the LEA, or because of the member's military service. Only members who are out of the county for work, family emergency or military service may attend and participate in the meeting electronically.

(B) No board meeting shall be conducted with electronic participation unless a quorum of members is physically present at the location of the meeting.

(C) A board member wishing to participate in a scheduled board meeting electronically who is or will be out of the county because of work shall give at least five (5) days notice prior to the scheduled board meeting of the member's intention to participate electronically.

(D) No board member shall participate electronically in board meetings more than two (2) times per year; except, that this limitation shall not apply to a board member who is out of the county due to military service.

(E) The local board of education shall develop a policy for conducting such meetings.

- Do districts need to use stockpiled days now that Governor Bill Lee urged school districts to close?
 - **RESPONSE:** The Department's current guidance is always to use the stockpile days first and then request a waiver after that. If the Department updates that guidance, Department staff will reach out to districts as soon as possible.
- If a district is out of stockpiled days, should they apply for a waiver? Where are said waivers?
 - **RESPONSE:** The Department will be releasing guidance on this shortly. The waiver ability the Commissioner has is meant for this type of situation. Commissioner Schwinn will seek to use the maximum flexibility available under the law. If districts would like to start submitting your waivers, the Department will start reviewing them and taking action.

The waivers will be on the Coronavirus webpage <https://www.tn.gov/education/health-and-safety/update-on-coronavirus.html> where all of this guidance lives.

- Is there direction on coding attendance?
 - **RESPONSE:** The Department is currently researching that issue and will follow up as soon as possible.
- When would the Commissioner consider a waiver of the number of instructional days?
 - **RESPONSE:** The Commissioner has the ability to waive the required 180 instructional days during times of natural disaster or serious outbreak of illnesses. The Department will post a revised waiver form that districts can utilize. Submit this new waiver, and in the portion where it says "describe the issue" districts can enter COVID-19.

Nutrition

- Due to the extensions around spring break and the difficulty with accessing groceries and commodities, is there an option to extend school nutrition feeding plans through spring break?
 - **RESPONSE:** No. If there is a prescheduled or preplanned break or vacation, that is still a break or vacation. This is only for days where a child otherwise be enrolled and active in school.

- Can districts that are not eligible to feed students get a statement from the Department saying so that district leaders can share with their community?
 - **RESPONSE:** Absolutely. The Department will also provide further guidance on where families may go to get access to free meals. If a district is area eligible, they can provide meals to any child under the age of 18, including children from neighboring districts. Any child can receive food at no cost - it would be full reimbursement. There are a few scenarios south of Nashville where that would be the case. For those districts who are not area eligible, the Department will be in contact to provide options. The Department is also in contact with the legislature and will make every effort to provide them with information as to which districts do not qualify and what would need to be in place to ensure that those children still have access to free meals.

The Department is actively working with the US Department of Education on a third waiver that would adjust the area eligibility requirement. As of right now, that is contingent on federal decisions with the difference between national emergency and national disaster.

- Will districts be feeding both breakfast and lunch or just one meal per day?
 - **RESPONSE:** It should be two meals per day. Districts can select which meals those are; whether it's breakfast and lunch or lunch and snack or breakfast and snack.
- Will districts be providing meals to students on those days termed stockpiled days?
 - **RESPONSE:** Yes, districts can provide meals on stockpiled days.
- What is the upper limit of the number of meals districts can distribute?
 - **RESPONSE:** Two per child (under the age of 18, regardless of enrollment) per day.
- Can students from non-eligible districts be referred to neighboring eligible districts and receive meals?
 - **RESPONSE:** According to the USDA, any child under the age of 18 may be served. Please note that this requires some pre-planning with partner districts so that they know how many meals to try to prepare and serve. All districts have access to regional nutrition consultants that nutrition directors have been in touch with. They have been trying to do outreach. Please be sure that district leaders are making that contact and the Department will continue to facilitate those partnerships as available to ensure that as many meals can be served through that avenue as possible.

- Can districts give both meals to a child at the same stop?
 - **RESPONSE:** As of right now, the standard USDA meal time restrictions are still being applied, which means that breakfast must be served between certain hours and lunch must be served during separate hours. The Department is in conversation with the USDA office about waiving that requirement and will be in contact with any updates. Until then, districts do have to serve meals at separate times.
- Could the Department clarify when the feeding program needs to begin?
 - **RESPONSE:** Districts can begin the program immediately. The only requirement is that districts notify the Department's school nutrition team. Again, district nutrition directors are well equipped to make that outreach and regional consultants have already been in touch with them. The Department requires an application be on file, but districts may start in advance of that being approved.
- In reference to lunches, must districts serve at least two meals per day? Can only one meal per day be given out?
 - **RESPONSE:** Not every district participates in breakfast programming, so one meal still fits if districts are participating in that option. At this time, districts cannot serve multiple meals at one time, according to meal time regulations that require one meal to be served during one block of time.

Special Populations

- Can you provide more information around serving students with special needs?
 - **RESPONSE:** The Department will post information about this online soon. As a general comment, if districts are providing or using instructional time for all students, then they must think about compensatory services for those students who would have otherwise received services through their IEP. The idea is to ensure that those children, for any services missed, get back to the space they would have otherwise been if school would have been in session.
- Must all special education services be provided to students during the closure?
 - **RESPONSE:** If the school is closed and students are receiving any kind of support at home, it is not necessary that there are specific services during that time. That is why compensatory education would kick in once students are back. For example, with social distancing in place, occupational therapy or other types of therapy that would require an

adult or a child to be together for that support would not be a reasonable expectation during times of school closure. However, for missed services, it is the responsibility of the district or the school to provide compensatory services for those children that would get them back to level they would have otherwise been at. That does not necessarily mean an hour-to-hour minute-to-minute match of what would have been provided. It might require more service to catch them up, it might require less. Those decisions must be made on a student by student basis.

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