

## ARCHIVE: COVID-19 Superintendent Call

March 25, 2020

The following are questions asked by directors during the call and the answers provided by the Tennessee Department of Education (TDOE). This also includes information provided by Commissioner Schwinn at the beginning of the call that have been framed as questions for the purposes of this document.

### Academics

- We are excited to learn about the PBS partnership. What details are you able to share at this time?
  - **RESPONSE:** Starting April 6, Tennessee's six PBS stations— WNPT Nashville, East Tennessee PBS, WCTE Upper Cumberland, WKNO Memphis, West TN PBS, and Chattanooga WTCL— will deliver two hours of programming with high-quality instructional content from 10 a.m. to 12 p.m. CST. Four hours of content will also be streamed overnight, which viewers can record. The content will be developed and provided by Tennessee educators in partnership with the Department and meets a critical need to ensure all students have access to high-quality learning opportunities, regardless if their home has internet connectivity or capable devices. Student work to accompany the lessons will be posted online, and may also be printed and distributed by local districts. For more information, you can read the press release [here](#).
- Where will the lessons be filmed?
  - **RESPONSE:** The Department will facilitate a classroom setting as closely as possible. The Department is looking for a closed, sanitized space. Equipment will be provided or costs reimbursed to districts. Some districts may decide to open a school building for teachers to record in their respective classrooms, maintaining appropriate safety protocols. Teachers will video themselves providing the lesson and submit those lessons electronically to TDOE Communications. The Department will then edit and send the videos to PBS to share. All materials (videos, documents, etc. will be posted online as well). Please reach out to [Chelsea.crawford@tn.gov](mailto:Chelsea.crawford@tn.gov) or [K12.health@tn.gov](mailto:K12.health@tn.gov).
- We run our own TV station and are conducting similar efforts locally. If our technician can be of assistance, we will make him available to you if needed.
  - **RESPONSE:** The Department would love to hear from local district TV or radio stations and get a better idea of their capacity for support. Please reach out to [Chelsea.crawford@tn.gov](mailto:Chelsea.crawford@tn.gov) or [K12.health@tn.gov](mailto:K12.health@tn.gov) with information.
- How do we support continuous learning where students may not have internet or families who are able to either pick up the paper packets or support student work completion at home?

- **RESPONSE:** The [academic toolkit](#) for school closure provides options and decision points to support districts in determining how to support students who do not have access to the internet. Further, the IT FAQ and Toolkit offer information on how to expand access for students and families at little and no cost. A parent toolkit is also forthcoming to support families with balancing at-home learning. Additionally, starting April 6, Tennessee's six PBS stations will deliver two hours of programming with high-quality instructional content from 10 a.m. to 12 p.m. CST. Please see above for additional information [here](#).
- When work is provided to students for at-home learning, is there a best practice or suggestion related to grading or accountability for students?
  - **RESPONSE:** Grading policies and other student-level accountability policies for at-home learning are local decisions. As a best practice, please ensure that families understand any expectations for participation and for completion. The Department hopes that the online resources provided in the academic toolkit, the PBS learning opportunities, the homework help hotline, and additional local resources will support students in ongoing learning opportunities. The State Board of Education will decide whether to revise any State Board rules and policies related to grading, retention and promotion decisions at a special State Board meeting on April 9<sup>th</sup>.
- Can you say more about TDOE's supports related to distance learning?
  - **RESPONSE:** Districts should look at the [academic toolkit](#), as well as the [IT toolkit](#) to determine how best to deliver distance learning. Once the district determines how it will continue learning for children, the toolkit has resources organized for a variety of methods of distance learning. In addition, the state will launch PBS learning opportunities on April 6<sup>th</sup>. Districts can also work with TNDigital.org to provide free distance learning strategies for all approved publishers in the state of Tennessee. Finally, the Department is working to expand options for distance learning and will be releasing a robust tool in May to support districts with additional online resources.

### Special Populations

- What role do you anticipate special education coordinators and other groups having in planning efforts this spring and summer?
  - **RESPONSE:** TDOE certainly values the input of special education coordinators and other related organizations and would welcome the opportunity to collaborate through the spring and summer. The [SPED toolkit](#) is available online and is updated with regular frequency to respond to released guidance. Please reach out directly with any concerns so the Department can be as responsive and supportive as possible.

### Staffing

- Does closure include a district's afterschool care programs?

- **RESPONSE:** This is a local decision and one that can be different from community to community. The Department recommends that districts consult with their attorney, school board, community leaders and, local health department before making the decision. These are the groups who can assist districts in best determining the needs of the community. Districts may even want to draft a plan for their local board to approve. Districts will need information on how to balance the competing interests of providing for the childcare needs of the community vs. not increasing or perpetuating community spread. A call to the local health department could assist district leaders in finding out how their community would be better served.

Additionally, any plan must also safeguard the rights of all employees provided in state and federal law, including the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA). The United States Equal Employment Opportunity Commission (EEOC) has issued new guidance on the pandemic and the ADA found here:

[https://www.eeoc.gov/facts/pandemic\\_flu.html](https://www.eeoc.gov/facts/pandemic_flu.html).

The following links provide helpful guidance from the U.S. Department of Labor:

- *Preparing Workplaces for COVID-19*  
- <https://www.osha.gov/Publications/OSHA3990.pdf>
- *COVID-19 or Other Public Health Emergencies and the FMLA* -  
<https://www.dol.gov/agencies/whd/fmla/pandemic>

Also, the plan must ensure adherence to the guidance of the Centers for Disease Control and Prevention (CDC), the Tennessee Department of Health, and other public health authorities on appropriate steps to take relating to the workplace during the COVID-19 pandemic.

Here is a link to CDC guidance for employers and workplaces on COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

- What are the policies that govern teacher work hours or locations, including working from home?
  - **RESPONSE:** Because local school board policy and unique facts make dramatic differences in analyzing any situation, the Department advises each school district to consult with the local school board attorney for specific legal advice regarding employment matters during the COVID-19 pandemic.

The Department has received many questions regarding school district staffing decisions during school closures due to COVID-19. Although the Department has some regulatory authority over local school districts

regarding certain issues, it is a common misconception that the Department has supervisory or administrative control over all local school district operations. Pursuant to T.C.A. § 49-2-203, a local board of education has the authority to "manage and control all public schools established or that may be established under its jurisdiction." Also, T.C.A. § 49-2-301, states specifically that, each local board of education is authorized to employ a director of schools." Local school district employees, including teachers, principals, and non-licensed employees are hired by the local director of schools. Therefore, only the director of schools and the local board of education, through local board policies, may address personnel matters such as staffing decisions during school closures.

The top priority for school districts during the COVID-19 pandemic is to continue serving their communities while keeping students, staff, and their families safe. To do this, the Department recommends that every school district work with their local board attorney to develop a school personnel plan for the school closure that includes procedures for both teachers and non-licensed employees. The plan should address whether non-licensed employees are laid off, redeployed to perform other critical work during the school closure, or paid without being required to work. The plan should also specify if teachers and other licensed employees are required to transition their work in the traditional classroom setting to work supporting continuity of instruction plans that provide students educational services in non-traditional ways, including through online platforms and other methods of distance learning. The plan for teachers should comply with T.C.A. § 49-5-716, which states:

*A teacher, including a teacher on preapproved leave or other type of leave, shall not be charged with a day of leave for any day on which the teacher's school or the school district is closed due to natural disaster, inclement weather, serious outbreak of contagious illness, or other unexpected event.*

The plan must also safeguard the rights of all employees provided in state and federal law, including the Americans with Disabilities Act (ADA) and the Family Medical Leave Act (FMLA). The United States Equal Employment Opportunity Commission (EEOC) has issued new guidance on the pandemic and the ADA found here: [https://www.eeoc.gov/facts/pandemic\\_flu.html](https://www.eeoc.gov/facts/pandemic_flu.html).

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- How could districts address staffing shortages in the event multiple employees decline to participate under the new revisions to FMLA under FFCRA (Families First Coronavirus Response Act)?
  - **RESPONSE:** Staffing is a local decision, per the question above, but the Department will continue to review information related to this question to determine if any specific guidance is necessary to resolve such issues.

## Communications

- Is it possible to move this meeting to later in the day? Several district leaders are involved in food distribution until noon each day.
  - **RESPONSE:** Thank you for letting the Department know about this scheduling challenge for superintendents. TDOE will keep the Friday, March 27th call at 11:30am CT since that has already been communicated and will include special education directors. The Department has already reached out to a few district leaders to identify the best new time and plan to adjust starting next week. Please watch your emails for the updated information.

## IT

- What guidance is available related to challenges with meeting instructional goals in rural districts where technology equipment and reliable internet service may not be available to many students?
  - **RESPONSE:** Please reference the [IT toolkit](#) recently posted on the Department's website. This resource, along with other forthcoming resources, will provide guidance on how to leverage those resources for virtual options to facilitate learning delivery and action steps to promote internet connectivity in rural areas.

## Assessment and Accountability

- What are the guidelines related to promotion or retention of students?
  - **RESPONSE:** The State Board has called a special meeting for Thursday, April 9, at 2 p.m. CT to address several issues related to the current public health crisis and HB2818, including all issues related to teacher and administrator evaluation, graduation and promotion requirements, dual credit, etc. State board staff and the Department are working closely to ensure all concerns

are addressed. Board staff are drafting exact language in concert with staff attorneys, and the Department expects proposed policy changes will be posted to the board's website several days ahead of the meeting. The Department will share that agenda with districts once SBE releases it publicly. The Department will also release guidance shortly after the April 9th meeting.

### Legal requirements or needs

- There have been numerous questions related to graduation requirements and teacher licensure that are dependent on the State Board of Education. What updates are there related to those?
  - **RESPONSE:** The State Board has called a special meeting for Thursday, April 9, at 2 p.m. CT to address several issues related to the current public health crisis and HB2818, including all issues related to teacher and administrator evaluation, graduation and promotion requirements, dual credit, etc. State board staff and the Department are working closely to ensure all concerns are addressed. Board staff are drafting exact language in concert with staff attorneys, and the Department expects proposed policy changes will be posted to the board's website several days ahead of the meeting. The Department will share that agenda with districts once SBE releases it publicly. The Department will also release guidance shortly after the April 9th meeting.
- If educators in a district are providing online instruction for at least 90 minutes each day, should that district still code the day as a district closing? How might that decision impact employee leave time?
  - **RESPONSE:** Any answer to this question must be made on a case-by-case basis. If a district wants to decline a waiver of instructional days and remain open virtually, please contact TDOE's general counsel, [Christy.Ballard@tn.gov](mailto:Christy.Ballard@tn.gov) for more information.
- I read that Indiana has chosen to reduce the school year requirement to 160 days. Is Tennessee doing the same?
  - **RESPONSE:** This is not necessary. Pursuant to HB 2818/SB2672 that passed late last week, the commissioner granted a blanket waiver for all instructional days missed due to COVID-19 and the tornado and severe weather that impacted middle Tennessee on March 3. The Department will see what the course of the virus looks like through April 24 for Tennessee and address school reopening later in the year.
- What does the extension of recommended school closure through April 24 mean for district requirements?
  - **RESPONSE:** Pursuant to HB 2818/SB2672 that passed late last week, the commissioner granted a blanket waiver for all instructional days missed due to COVID-19 and the tornado and severe weather that impacted middle Tennessee on March 3. The Department will see what the course of the virus



looks like through April 24 for Tennessee and address school reopening later in the year.

- Can you say more about the potential of extending the school year beyond May?
  - **RESPONSE:** From a state perspective, the Department would not be in a position to mandate extending the school year beyond May. Current law permits local boards of education to set school calendars, including the authority to establish a year-round or alternative calendar for all or any of the schools within its jurisdiction in accordance with department of education attendance policies.

The Department is taking into account the considerations for remediation, missed instructional times in classrooms, and the impact on school calendars for next year. Department staff will work with TOSS and the Superintendent academic group to solicit district feedback. Ideally between now and April 24, the Department will have more information on the trajectory of the virus itself for next fall.

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