



CORONAVIRUS/COVID-19 FAQs FOR OKLAHOMA PUBLIC SCHOOLS UPDATED APRIL 17, 2020

OKLAHOMA STATE DEPARTMENT OF EDUCATION



OKLAHOMA
Education



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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](#). 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.

► MANDATORY CLOSURE OF SCHOOL BUILDINGS FOR THE 2019-20 SCHOOL YEAR

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 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.

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

No, with the exception of those performing the essential functions like payroll, meal preparation and delivery, or to facilitate or support distance learning, etc., as outlined elsewhere in this document. However, virtual meetings and planning can and should occur.



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As a part of the State Board of Education's order and [Governor Stitt's executive order](#), school districts must comply with U.S. Centers for Disease Control (CDC) guidelines to control the spread of COVID-19. Included in the State Board requirements, districts must also develop and apply a health and safety policy 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 providing distance learning may necessitate some staff being in school buildings sporadically. **If these circumstances are truly unavoidable, it is critical that districts strictly follow CDC guidelines:**

- Insist that staff feeling sick stay home;
- Limit any gathering to no more than 10 individuals;
- Maintain at least six feet of distance between individuals at all times;
- 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.

Can a district compel support employees to provide services at the school building?

Yes, however, districts are directed to do so as sparingly as possible. As determined by each local district, and consistent with terms and limits of the State Board's March 25 emergency order, support employees may be required to provide essential core services. Any staff providing essential core services at the school building are required to strictly follow the CDC guidelines outlined above. [Governor Stitt's executive order](#) excludes those working in a critical infrastructure sector from the "safer at home" directive. The [Governor's Amended Executive Memorandum](#) includes the following as essential critical infrastructure workers:

"Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, career and technology centers, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors."

However, even with districts having broad authority over which employees are designated as essential, OSDE encourages common sense and taking into account those who may be at higher risk for complications of COVID-19 when designating essential staff.

How can we get technology and personal materials to students? How do we 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;



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- 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.

Did the Board set a mandatory end date for school for the 2019-20 school year?

Yes. To receive the flexibility granted by the State Board, districts must complete a set of assurances, including that they will implement a distance learning plan for the remainder of the 2019-20 school year ending on or after May 8, 2020. Districts must begin their distance learning plans no later than April 6.

What happens if a district ends the school year prior to May 8?

That district will not receive the flexibilities approved by the State Board on March 25, which include a waiver of the 180 day/1,080 hour requirement for the school calendar and the waiver of the required six-hour school day. A district that does not hold school, beginning April 6 through at least May 8 may lose state aid funding for not completing the school year. *See 70 O.S. § 18-110.*

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)



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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.

Are there any provisions that would allow substitute teachers to be paid during the school closure?

At this time, there is nothing in state statute that would allow for substitute teachers to be paid during the closure.

► 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.



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- 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.
- 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

Will school officials be notified if there is a staff member who tests positive for coronavirus?

Yes. Public health officials will notify a school official if there is a positive case associated with a student or employee of the school. Public health staff will work with school officials to identify who was in contact with the case and to begin the process to track and monitor contacts. Spread of the virus can also be viewed on the [Centers for Disease Control website](#) and [State Department of Health coronavirus website](#).

Can districts refuse to let someone on the campus 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 or staff member, 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 board of education's powers and duties under Oklahoma laws and regulations. During this time, it is advisable that districts only allow building access on an appointment basis and take the temperature of each individual entering the building. Those with a fever (i.e., more than 100 degrees Fahrenheit) should not be admitted.



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Some personnel designated as performing essential core services have traveled recently. Should they be allowed to resume their duties?

[Governor Stitt's executive order](#) requires a 14-day self-quarantine for those who travel to Connecticut, New Jersey, New York, Washington, California and Louisiana. Additionally, the CDC has issued a [global health alert](#) requiring a 14-day self-quarantine following any international travel. Those needing to travel should check these resources prior to doing so 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.

Are districts expected to enroll new students during this time?

New students who move into a school district and request to enroll must be allowed to enroll. See 70 O.S. §§ 1-113 and 1-114. Enrollment of students should be considered an essential function, and therefore, personnel should be available to perform such duties. While new students who wish to enroll should continue to be enrolled on an individual basis, public enrollment events (such as those for initial kindergarten enrollments) likely cannot be held safely under CDC guidelines prohibiting gatherings of 10 or more. Re-enrollment meetings and events for existing district students should also be postponed until it is safe to do so.

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](#).

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

Yes, under certain circumstances. As Gov. Stitt has indicated, Oklahoma's "Safer at Home" directive is likely to be lifted, at least in part, after April 30. 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. Any plan to temporarily open school buildings for students to retrieve belongings should be implemented after the directive has been lifted and only for those staff members, students and families who are not particularly susceptible 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 prohibiting gatherings of 10 or more individuals. District and school staff should consider setting student visitation by appointment only, staggering the number of students entering the building or delivering items curbside. As a reminder, the State Board's Order permits essential functions, such as building maintenance and continuity of building functions, to be maintained during this time provided CDC guidelines are adhered to. Please refer to FAQs on the March 25, 2020 State Board action.



► 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.

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 for June 1-5;
- 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; and
- College Board recognizes that some students may not have access to the tools and connectivity they need to review AP content online and take the exam. If your students need mobile tools or connectivity, please [reach out to College Board directly](#).

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](#).

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.

NEW: 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.

NEW: 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.

NEW: 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.



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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.

NEW: 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.

NEW: 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:* 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.*



NEW: 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

Due to the Act's scope and number of provisions, some questions will remain unanswered until further guidance is provided by the U.S. Department of Education (USDE).

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 $\frac{1}{2}$ 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;
- $\frac{1}{2}$ 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).



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

As mentioned 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.” When available, the USDE will issue notice inviting applications for an award of funds under the Governor’s Emergency Education Relief Fund.

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.

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 anticipates receiving approximately \$160 million in K-12 funding.

NEW: 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. 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.**

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. The White House has pledged that funds will be available by April 24, and the USDE will work to distribute funds as quickly as possible. After the state has received them, they can likely be distributed to LEAs within a matter of days.



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

LEAs will apply for CARES Act funding through an application that is currently being developed by the OSDE. The application will consist of minimal narratives and assurances.

NEW: 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).



NEW: 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?

The USDE has not yet announced how costs incurred prior to the passage of the CARES Act will be covered, but under previous funding efforts, it has allowed for some level of coverage of pre-award costs. In the application for the Governor's Emergency Education Relief Fund, reimbursements are allowable for expenses dating back to March 13, 2020.

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 are available to be spent through September 30, 2021.

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,



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- 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.

NEW: 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.

NEW: 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.

NEW: 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.

NEW: 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.



NEW: 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.

NEW: 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.

NEW: 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.

NEW: 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.

NEW: 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](#). 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.



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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.

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.



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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](#).

Are special events such as prom, concerts and graduation canceled?

If an event exceeds the group guidelines of a school's local city or county health department, the event should not take place. Districts should follow the guidance of the CDC, Oklahoma State Department of Health and the Oklahoma State Department of Education. Many schools are considering virtual graduation and end-of-year ceremonies.

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.

NEW: 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](#).

***NEW:* How will students complete the requirements of driver 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. In the coming days, OSDE will release an updated form for students whose driver education course was interrupted by the COVID-19 pandemic.

***NEW:* 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.



NEW: 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.

NEW: Should districts plan for summer driver education courses?

This is a district determination at this time. While state leaders are forecasting certain activities to resume at some point over the summer, the timeline for lifting social distancing restrictions has not yet been determined. If a district proceeds with plans for summer courses as normal, contingency plans should also be in place in the event that social distancing requirements resume.

► TEACHER CERTIFICATION

NOTE: Do not submit emergency certification requests for the 2020-21 school year until after May 26, 2020. Any emergency requests submitted before that date will be cancelled, and districts must initiate the process again after that date.

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;



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- 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: Do not submit emergency certification requests for the 2020-21 school year until after May 26, 2020. Any emergency requests submitted before that date will be cancelled, and districts must initiate the process again, after that date.

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: Do not submit emergency certification requests for the 2020-21 school year until after May 26, 2020. Any emergency requests submitted before that date will be cancelled, and districts must initiate the process again, after that date.

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. 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. The OSDE anticipates having streamlined guidance in the near future relating to each pathway toward certification and taking the recommended process and standards for the award of such certification to the State Board at its April 23, 2020, meeting.

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](#).

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 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 12 nationwide USDA waivers and has received approval for a thirteenth. 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.



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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. 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.

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 and complete the application in the Child Nutrition Claims, Applications and Review (CARS) system. 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. More information can be found on the [Meals to You website](#), including a step-by-step tutorial.

NEW: 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 undoubtedly now 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). To participate in this program, districts must complete an application. Applications are due by April 30. Unfortunately, this provision cannot be waived, and the application must be complete and approved before submitting claims. The SFSP provides a higher reimbursement rate and meal pattern flexibilities than the SSO program.



► 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.



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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 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.”



CORONAVIRUS/COVID-19: FAQs FOR OKLAHOMA PUBLIC SCHOOLS UPDATED APRIL 17, 2020

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).

