

Frequently Asked Questions Regarding Educators and Coronavirus/COVID-19

If my district closes, will I be required to use my sick leave days?

No. Tenn. Code Ann. §49-5-716 states a teacher, including a teacher on preapproved leave or other type of leave, shall not be charged with a day of leave for any day on which the teacher's school or the school district is closed due to natural disaster, inclement weather, serious outbreak of contagious illness, or other unexpected event.

Will instructional days missed due to closures have to be made up at the end of the year?

UPDATED

HB 2818 passed on 3-19-20 provides (8) The commissioner of education must waive the present law requirement of 180 days of classroom instruction for the 2019-2020 school year. This provision does not prohibit a school from continuing classroom instruction after being issued a waiver from the commissioner

A District will make the final determination as to make up any missed instructional days.

Not necessarily. In the event of a natural disaster or a serious outbreak of illness affecting and endangering students, the Tennessee Commissioner of Education has the authority to waive classroom requirements if a request is made by a Director of Schools. See *Tenn. Code Ann. §49-6-3004(a)(6)*.

Will my district lose funding if it closes temporarily to contain the spread of COVID-19?

UPDATED

HB 2818 passed on 3-19-20 makes funding BEP mandatory.

(9) The suspension of the operation of schools in an LEA during the 2019-2020 school year will not operate to deprive the LEA of state funds to which the LEA would be entitled if the LEA otherwise meets the requirements of law. Generally under present law, whenever the operation of schools in any LEA is suspended by reason of epidemic, natural disaster or other justifiable cause, if so determined by the state board upon the written petition of the board, the suspension does not operate to deprive the LEA of state funds to which it would be entitled, if the LEA otherwise meets the requirements of law. This amendment specifies that the suspension of the operation of schools in 2019-2020 does not require such a petition for a determination of an epidemic, natural disaster, or for other justifiable cause before an LEA may receive state funds under the BEP. This amendment declares that justifiable cause exists for the 2019-2020 school year;

Under Tennessee law, the length of the school term shall not affect the amount or timing of payments made to the district under the BEP if the district operates for a full term. A Director of Schools may request the Tennessee Commissioner of Education to waive term requirements because of a serious outbreak of illness. See *Tenn. Code Ann. §49-6-3004(g)*.

Are districts obligated to pay teachers during closures?

Under Tennessee law, the length of term and the length of day shall not affect the compensation of any teacher employed for the length of that term. See *Tenn. Code Ann. §49-6-3004(g)*.

Can the district modify the current school calendar due to an emergency?

UPDATED

HB 2818 passed on 3-19-20 provides (8) The commissioner of education **must waive** the present law requirement of 180 days of classroom instruction for the 2019-2020 school year. This provision does not prohibit a school from continuing classroom instruction after being issued a waiver from the commissioner

A District will make the final determination as to make up any missed instructional days.

As discussed above, state law grants the Commissioner of Education authority to waive the requirement of 180 instructional days, though it is unclear whether that authority includes the ability to modify an existing school calendar. Without citing to any specific authority, the Tennessee Department of Education's Student Membership and Attendance Procedures Manual suggests LEAs have options to make up for missed instructional time, including shortening spring break and scheduling school on days previously designated as holidays as well as on weekends.

If I get COVID-19 and my school remains open, do I have a right to take a leave of absence?

The right to use sick leave for COVID-19 is the same as with any other illness, including the right to use it in the event you or a qualifying family member is subject to quarantine. See *Tennessee State School Board rule 0520.-01-02-.04*. Tennessee law provides teachers with 10 annual paid sick leave days and unpaid leave for recuperation of health for longer periods of time. See *Tenn. Code Ann. §§49-5-702 and 710*.

In addition, an employee also may be entitled to protection under the federal Family and Medical Leave Act ("FMLA").

I am at high-risk of serious illness from COVID-19, do I have any legal protections?

Yes, employees who may need leave or other accommodations because they have health conditions that may put them at higher risk of getting seriously ill from COVID-19 may be covered under the Americans with Disabilities Act (ADA). In these circumstances, leave should be considered as a possible reasonable accommodation under the ADA.

Can a district force someone off work if s/he is suspected of being infected, but not officially quarantined by any health agency?

Yes, in certain circumstances. TCA §49-4-404 provides that "no person who has any contagious or communicable disease in a form that might endanger the health of school children shall teach in any school, and any teacher must submit to a physical examination by competent physicians when so required by the local board of education."

What if my contract requires a doctor's note after a certain length of absence?

Tennessee law does permit a school district to request a physician's certificate. The law grants final authority to the local school board to decide when notes are required and who might be entitled to leave. See *Tenn. Code Ann. §49-5-710 (a)(7)*. For more information about sick leave documentation requirements specific to your district, check local board policy.

Can teachers be required to work from home?

While theoretically that might be possible, it seems completely improbable for a myriad of reasons, not the least of which would be overcoming potentially massive issues with accessing adequate equipment and Internet service.

Tenn. Code Ann. §49-6-2207 (f) provides that a local board may furnish electronic textbooks and instructional materials to pupils attending the public schools; provided, that they are furnished free of charge. Furthermore, a board that chooses to furnish electronic textbooks and instructional materials shall provide reasonable access to the electronic textbooks and instructional materials and other necessary computer equipment to pupils in the district who are required to complete homework assignments and to teachers providing homework assignments utilizing electronic textbooks and instructional materials furnished by the board.

Updated TEA FAQ guidance on working while schools are closed:

With schools closed due to the COVID-19 emergency, can teachers be required to report to work?

Districts and schools should heed guidance from TDOE and seek assistance from community partners to make sure students are taken care of and fed during this national emergency.

Generally speaking, when schools are closed, teachers do not report. Closure of school systems in Tennessee coincided with President Trump's request that Americans avoid groups of more than 10. **While many teachers will seek to assist their communities, mandates requesting entire faculties to report to schools when schools are closed should not be issued.**

Under normal circumstances, during the school term, which is defined by state law and typically expressed as a district's approved school calendar, teachers are contractually obligated to perform their job-related duties as enumerated in state law, consistent with any individual written contract or memorandum of understanding (MOU) that may apply. See Tenn. Code Ann. §§ 49-5-201 (duties of a teacher) and 49-6-3004 (school term).

With that said, obviously the current closings reflect exigent circumstances making our response in this unique context more nuanced than it otherwise might be. Because teachers face the same sort of issues as other citizens during this time of crisis, they should consider their specific situations in light of current CDC, as well as state and local, guidance. In the instance of a directive to report during the closure, those at higher risk of infection due to age or underlying health condition and those with competing family responsibilities, such as caring for their own school-age children or disabled relatives, should discuss their concerns with their supervisors in an effort to reach an amicable resolution.

In the event member concerns cannot be resolved favorably, or if any member is subjected to discipline stemming from a directive to report, they should not hesitate to seek assistance from local leadership or their UniServ. Bottom line, if teachers are directed to report, it should be understood that the failure to do so could be viewed as an act of insubordination. Implicit within the definition of insubordination under the law is reasonableness. The thing asked of teachers should be reasonable. **Teachers should not be forced to choose between heeding President Trump's and CDC recommendations and a directive by their school system.**