



FEDERAL and MISSOURI STATE GUIDANCE on COVID-19

This section is our best guidance on the current status of COVID-19 Regulation and Legislation. It will change as information and the situation evolve. Nothing contained in it should be considered legal advice.

Overview

While guidance continues to evolve, the Federal government has begun implementing and dispersing COVID-19 relief policies and funding. The Federal Department of Education waived requirements associated with meal programs, student attendance, and testing¹. DESE provides additional guidance on school funding and received a number of the Federal waivers for Missouri².

School Closure

Governor Parson in conjunction with the Department of Health and Senior Services ordered that schools remain closed through the rest of the 2019-2020 school year.

School Funding³

More than 1 billion dollars of Federal COVID-19 relief money has been distributed to Missouri. DESE estimates that it will receive 208 million and an estimated additional 216 million will be funneled to higher education in Missouri from the CARES act.

Budget Withholdings⁴

The Foundation Formula Prior Year Correction for FY19 will be paid out at a SAT of approximately \$6,291 instead of the full SAT of \$6,308. At this time, DESE anticipates continuing to pay out at a SAT of \$6,375 in FY20.

The transportation appropriation will be reduced from \$107,547,713 to \$100,447,713 (~2.4% reduction) for FY20. The majority of the adjustment will be in the May

payment; the June payment may be lowered as well to compensate for the remaining shortfall.

School Nutrition

DESE received two waivers that will allow schools to serve meals through summer feeding program structure and allow for “grab-and-go” or delivered meals. Bus driver delivery of meals can be funded by the district.

Testing Requirements

Testing requirements are waived at both the national and state level in Missouri.

Attendance

School district funding will be maintained. The attendance numbers used to calculate funding will be drawn from the previous year’s attendance.

DESE will use attendance as a reportable item, rather than a scored item on the 2020 APR if reporting it would negatively impact a district’s classification.

Students with Disabilities

IEP and 504 teams are not required to meet in person while schools are closed.

If there is some form of distance education, students with disabilities must also have access to an education program. If a school district closes and provides no educational services to the general student population, then a school would not be required to provide services to students with disabilities during that same period of time.

¹ The Department offered to assist with other concerns such as carryover requirements of title 1 funding.

² <https://dese.mo.gov/sites/default/files/Webinar-FAQ-3-13-2020.pdf>

³ <https://dese.mo.gov/sites/default/files/am/documents/FAS-20-002.pdf>

⁴ <https://dese.mo.gov/sites/default/files/am/documents/FAS-20-003.pdf>

School Calendar & Student Teaching

The Commissioner of Education has the power to waive instruction time requirements and DESE is setting up an online form to collect waivers across the state.

DESE waived all requirements for student teaching.

FERPA Application to Distance Teaching

Many districts have asked teachers to continue educating students while self-isolating using a variety of online resources. Sites and applications like Google Hangouts or Zoom allow teachers to broadcast themselves via video and share documents to students working in their homes. Some of these also allow students to participate via video to ask questions or provide answers to teacher questions. On top of providing the video instruction, some teachers are being asked to record these sessions and provide access to students and parents. When teachers start saving these recordings, it begins to implicate the Family Educational Rights and Privacy Act.

FERPA applies to “education records” which are defined as any records or documents retained by a district relating to a student. When an education record has been created, the district has obligations to keep that information confidential unless they get a specific release from the parents or guardians of the student. These confidentiality issues become most complicated when more than one student is included on that record. Therefore, when teachers are being asked to record and potentially post videos that feature several students, they should be seeking guidance from their district on what the appropriate steps are to guarantee that FERPA is being followed.

Teachers do not need to be concerned about being personally liable for a FERPA violation because FERPA only applies to districts as a whole. There is no individual liability for FERPA violations and parents cannot file lawsuits against teachers, or even districts, related to FERPA issues.

Teacher Evaluations

The Missouri Model Evaluation System (MMES) does not require every teacher to be evaluated every year. Districts can still keep teachers in a cycle to spread out the evaluations. MMES does require “regular feedback” but it does not specify annual. If the district has a local policy on annual teacher evaluation, the district can give itself a waiver through school board action.

Contracts⁵

Districts now have until May 15 to notify probationary teachers of a non-renewal of contract and have until June 15 to issue contracts to teachers. The June 1 date for tenured teachers to resign without penalty was NOT waived or extended.

Grading Practices⁶

Local district administrators have broad flexibility with practices of grades and course credits.

DESE staff members suggest districts have three options for grades; COMPETENCY- BASED, PASS/FAIL, or HOLD-HARMLESS but they recommend districts consult the Missouri State High School Activities Association and the National Collegiate Athletic Association clearing house about how these choices affect sports eligibility in high school and college.

⁵<https://dese.mo.gov/sites/default/files/am/documents/COM-20-002.pdf>

⁶<https://www.mnea.org/Uploads/Public/Documents/News/COVID/GradingPracticesAdvocacy.pdf>

FAMILIES FIRST CORONAVIRUS RESPONSE ACT:

Paid Sick Leave Provisions

The Federal law provides for up to 10 days of paid sick leave for full-time workers and paid sick leave commensurate with hours worked for part-time employees.

- Becomes effective **April 1, 2020**
- Applies to all MNEA members regardless of the length of employment.
- Leave is available for immediate use and may be used prior to any existing paid leave. EMPLOYERS ARE PROHIBITED from requiring employees to use other leave first.
- There are restrictions: Person has a quarantine order, advised to self-quarantine by a healthcare provider, seeking a diagnosis due to symptoms, the person is experiencing any other condition specified by Federal health authorities OR caring for a person with the above conditions.
- If an employee has COVID-19 symptoms, diagnosed with COVID-19, or is individually quarantined, **the rate is full pay capped at \$ 511 / day.**
- Maybe used to allow the employee to care for sick or individually quarantined family members.
- If the employee is caring for a family member or if an employee is caring for children because of school or daycare closures, **the rate is two-thirds (%) of pay capped at \$200/ day.**

Family & Medical Leave Act (FMLA) Expansion

If an employee cannot work or telework FMLA is expanded to provide up to 12 weeks of paid leave for the employee to care for a "son or daughter". The definition is broad and includes biological, stepchildren, foster children, child of a domestic partner, legal ward, or if the adult is acting in loco parentis. Eligibility:

- Must have been employed for 30 days (FMLA usually requires 12 months).
- The first 10 days an employee should utilize the Sick Leave Provision above. FMLA applies after.
- After 10 days pay must be AT LEAST 2/3rds of employees pay. Capped at \$200 per day, \$10,000 overall.
- Must provide notice of leave if practicable.
- Job restoration is required.
- Can also be utilized to care for a sick or individually quarantined family member at 2/3rds pay rate.

Coronavirus Aid, Relief, and Economic Security (CARES) Act⁷:

The Education Stabilization Fund is a \$30.750 billion dollar appropriation comprised of:

- A Governor's Emergency Education Relief Fund,
- an Elementary and Secondary School Emergency Relief Fund, and
- a Higher Education Emergency Relief Fund

In addition to funding, The CARES Act provides additional flexibilities for states and local education agencies in the form of numerous waivers.

The following information is a general overview and subject to change based on their determinations. Initial estimates assume more than \$450 million in total Education Stabilization funding for Missouri.

Elementary and Secondary School Emergency Relief Fund⁸

Stabilization funding for k-12 will be distributed to states based on a share of ESEA Title I-A funds. DESE will then distribute at least 90% of funds to school districts and public charter schools based on their share of Title I-A funds.

Higher Education Emergency Relief Fund

Most of the funds (90%) will be dispersed directly to institutions through the Title IV distribution system. 75% of the award is calculated using full-time equivalent enrollment of Pell students at an institution. 25% of the institutional award is calculated using full-time equivalent enrollment of non-Pell students.

States must meet several requirements to receive stabilization funds

- Must maintain support for elementary and secondary education and higher education in fiscal years 2020 and 2021 equal to their average support for the preceding three years. This can be waived if states "experienced a precipitous decline in financial resources."
- Any entity receiving funds from the education stabilization fund must pay employees and contractors to the "extent practicable" during any COVID related closures

Student Loans⁹

- Six-month suspension of federal student loan payments and interest accrual (through September 30)
- Suspended monthly payments are considered as qualified payments toward achieving Public Service Loan Forgiveness
- Protects student borrowers from any involuntary collections, wage garnishments, reduction of tax refund, or reduction of federal benefit payment during the COVID-19 public health crisis

⁷Additional information:
<https://www.mnea.org/Uploads/Public/Documents/News/COVID/NEACARESActSummary.pdf>

⁸<https://www.politico.com/states/fi?id=00000171-31b8-da0d-a17b-fffb32a90000>

⁹ Additional information:
<https://educationvotes.nea.org/wp-content/uploads/2020/04/Student-Loans-FAQ-CARES-Act-FINAL-040320.docx>