Frequently Asked Questions on COVID-19
(updated April 1, 2020)

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<th>Question</th>
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<td>What is the final determination regarding the 180-day requirement?</td>
<td>Will LEAs need to extend their school year?</td>
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<td>What should LEAs do with regard to holding committee or board meetings</td>
<td>The federal Coronavirus Task Force has recommended that gatherings of ten or more people be avoided. See PDE’s guidance on options for remote participation in school board meetings.</td>
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<td>during the shutdown period?</td>
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<td>Are pre-school Early Intervention services suspended during the school</td>
<td>As is the case for LEAs in K-12 education, providers of Preschool Early Intervention services are expected to make a good faith effort to provide continuity of services during the period of school closure.</td>
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<td>180 Days</td>
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<td>Assessments - PSSA/Keystone</td>
<td>PDE has cancelled at state assessments for the 2019-20 school year (PSSA, Keystone Exams, PASA, NOCTI) pursuant to emergency authority and Act 13. PDE’s actions are supported by the USDOE’s action granting PA’s request for waivers from such federal assessment. See PDE’s FAQ at</td>
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<td>Board of Directors</td>
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<td>Employee Issues/Concerns</td>
<td>Will the state be willing to place a moratorium or delay requirements for Act 45 hours?</td>
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<td>Will there be an extension of deadlines for administrators who have</td>
<td>Act 13 of 2020 extends for one year the deadline for all professional educators with active certification to complete Act 48 or Act 45 requirements.</td>
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<td>to get their fingerprint clearance done during the time when</td>
<td>Will there be an extension of deadlines for administrators who have to get their fingerprint clearance done during the time when schools are closed?</td>
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<td>school/businesses being closed?</td>
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<td>What guidance should we provide employees that were furloughed prior to</td>
<td>The Federal government has not waived clearance deadlines or allowed for an extension. The PA Department of Human Services opened 43 Clearance Sites as of Monday, March 30 to perform fingerprinting for the FBI Clearance. Available sites are listed at <a href="https://www.identogo.com/locations">https://www.identogo.com/locations</a>.</td>
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<td>the passage of Act 13?</td>
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<td>Can employees be required to work during the time schools are closed?</td>
<td>Yes, subject to any limitations on the physical presence of school staff imposed by applicable orders of the governor or other officials with such authority. In addition to the educators needed to remotely deliver continued education services during the closure, schools should explore ways that staff also can continue to perform useful work even though students are not present, whether on site or at home if the capacity exists.</td>
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<td>Can employees who are at home be required to work from home?</td>
<td>Yes. However, the usefulness of working from home will depend on the nature of the employee’s job and whether the technology and other tools needed to perform it are available at home.</td>
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<td>If employees are allowed or required to work from home, are there</td>
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<td>overtime and other Fair Labor Standards Act (FLSA) issues to worry about?</td>
<td>Yes. To ensure compliance with the federal Fair Labor Standards Act (FLSA) and related state laws, it is important to keep in mind the distinctions between exempt and nonexempt employees. Generally, employees who are nonexempt from the minimum wage and overtime requirements are paid only for hours worked, and the FLSA requires that employees keep track of hours and pay overtime wages for hours of work that exceed 40 hours in one week. If the employer is not confident that the hours worked at home by nonexempt employees can be accurately tracked, allowing or requiring hourly employees to work from home may be legally risky.</td>
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<td>Will employees exceed the number of bargained-for work days for their</td>
<td>If professionals exceed the number of bargained-for work days for their annual salary, either the CBA would require additional payment or the district and the union would have to agree on how those persons would be paid for extra work. For nonexempt employees who are salaried who exceed their bargained-for work days or hours, the logical result might occur under the CBA and there would need to be an examination of any FLSA requirement for overtime. Nonexempt hourly employees should be paid for their hourly work. If they are paid for working extra, there would be no need to evaluate under the FLSA.</td>
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<td>annual salary?</td>
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<td>Will 2019-20 acquired on the job equal to a workers comp claim?</td>
<td>Employees who believe they have contracted an infectious disease on the job, such as a pandemic influenza, may file a claim for workers’ compensation. For the claim to be compensable under workers’ compensation coverage, the illness must arise out of, or be obtained in the course and scope of, an employee’s work. Further, the illness must be caused by conditions specific to the work performed. The burden to show that the illness is work-related falls on the employee. It is likely that most employees will have difficulty proving where they caught COVID-19 in light of the pandemic status of this virus. Employee who contract COVID-19 in the workplace will likely have a difficult time proving that something that the district required the employee to do made them particularly susceptible to the virus.</td>
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<td>What should LEAs do regarding completion of Instructional/Institutional</td>
<td>Will 2019-20 acquired on the job equal to a workers comp claim?</td>
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<td>Evaluations to meet teacher effectiveness requirements and regulations?</td>
<td>Employees who believe they have contracted a work-related illness on the job, such as a pandemic influenza, may file a claim for workers’ compensation. For the claim to be compensable under workers’ compensation coverage, the illness must arise out of, or be obtained in the course and scope of, an employee’s work. Further, the illness must be caused by conditions specific to the work performed. The burden to show that the illness is work-related falls on the employee. It is likely that most employees will have difficulty proving where they caught COVID-19 in light of the pandemic status of this virus. Employee who contract COVID-19 in the workplace will likely have a difficult time proving that something that the district required the employee to do made them particularly susceptible to the virus.</td>
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<td>What if there are any special considerations for temporarily professionals?</td>
<td>In this situation, the PA’s request for waivers from such federal assessment. See PDE’s FAQ at <a href="https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQ.aspx">https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQ.aspx</a>.</td>
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<td>essential) due to COVID-19 concerns?</td>
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<td>Should school entities continue to pay contractors (particularly bus drivers)?</td>
<td>Paying a contractor during the period of school closure is a local decision, however. Act 13 of 2020 allows school entities to re-negotiate short-term contracts, focusing on personnel and fixed costs, to continue paying the contractor during the closure if they choose to do so. If a school entity does re-negotiate its contract, the contractor must provide weekly proof of that it has maintained its complement of employees in place as of March 15, 2020 and has not furloughed anyone. If a school entity renegotiates the contract and pays the contractor pursuant to the provision in Act 13, the district will receive transportation subsidy payments in 20-21 at the normal rate (regardless of the fact that schools were closed for a period of time).</td>
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<td>Are building principals and secretaries considered “essential” personnel</td>
<td>PDE has issued guidance on this topic suggesting that those employees designated as essential is a local decision that should take into account the context of school and community needs. Examples of essential responsibilities may include, but are not limited to, school administration, food preparation, and distribution staff, information technology and continuity of operations staff (e.g. payroll and building operations).</td>
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<td>when there are no students or teachers in school?</td>
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<td>Are custodial staff required to report to work?</td>
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https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Pages/AnswersToFAQ.aspx
What does it mean when an employee who is a member of the PA National Guard is placed on "state active duty"?

Pennsylvania’s Military Code entitles state and local government employees to 15 days paid leave for performing or other duty as members of the Reserve Components of the United States Armed Forces, which includes the Reserve and the National Guard. State workers are entitled to an additional 15 days under certain circumstances when serving as members of the Reserve Components. Members of the National Guard may be sometimes placed on “state active duty”, a non-federal status, usually in connection with a disaster emergency of some kind. The Military Code entitles state and local government workers who are placed on “state active duty” to paid leave for the duration of their activation. The governor’s March 6, 2020 emergency proclamation authorizes the appropriate officials to place members of the National Guard on state active duty as necessary to respond to the emergency.

May a district send employees home if they display influenza-like symptoms during a pandemic?

Yes. The Centers for Disease Control and Prevention advise employees who become ill with symptoms of influenza-like illness at work during a pandemic to leave the workplace. Typically, advising workers to go home is not a “disability-related” action if the illness is seasonal influenza. Additionally, workers may be permitted under the Americans with Disabilities Act (ADA) if the illness is serious enough to pose a “direct threat.” Generally, districts may ask such employees if they are experiencing influenza-like symptoms with the understanding that the confidentiality of such information must be maintained. If the pandemic influenza becomes severe, even if these requests are deemed disability-related under the ADA, they may be justified by a reasonable belief, based on objective evidence, that the severe form of pandemic influenza poses a direct threat.

Facilities

Can schools keep playgrounds, basketball courts, etc. open for community use during the closure?

No. Pursuant to Governor Wolf’s order, playgrounds, basketball courts and other recreational or community facilities should not be kept open.

Can schools still be used as polling locations for the primary?

The Governor has signed into law legislation moving the 2020 primary to June 2, 2020. The Act allows for the rescheduling of polling stations, but at this time there is no guidance regarding the use of school buildings as election polling places.

Financials- Payments

Should school districts start to put plans in place for moving to home-based learning? If so, is there any emergency funding that will be available to help equip those families that do not currently have internet access in their homes?

At this point, there has been no specific guidance provided or decision made on this topic, however, it is reasonable to assume that the issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak.

Food Service

What employees can a SD use to serve meals?

School entities may use essential staff to ensure students have access to meals.

Are all meal pattern requirements still in practice for any meal served under the waiver?

If an LEA implements alternative instructional plans (online or student work sent home) during the closure, will it count as school days? Or will we they making up these days in June?

If the COVID-19 outbreak.

Online Learning

If the colleges enrolled in our College in the High School programs are granting credit to their college students through online instruction, will PDE approve our schools delivering the same courses and count for instructional days and credit?

At this point, there has been no specific guidance provided or decision made on this topic, however, it is reasonable to assume that the issue will be addressed in the future in light of the challenges created as a result of the COVID-19 outbreak.

Other

May districts share health information with public health authorities that request health information about employees or students?

Public health authorities use protected health information (PHI) to identify, monitor and respond to disease, death and disability among populations. To achieve this goal, they recognize the importance of protecting individual privacy while maintaining the quality and integrity of health data. To accomplish the public health objectives and to meet certain other societal needs (i.e., administration of justice and law enforcement), the HIPAA Privacy Rule expressly permits PHI to be shared for specified public health purposes. Accordingly, districts may disclose PHI, without individual authorization, to a public health authority that is legally authorized to collect or receive such information for the purpose of preventing or controlling disease, injury or disability. Under PERSA, the federal law that protects the privacy of student education records, parents and eligible students must provide consent before a district discloses personally identifiable information (PI) from an educational record. However, there is an exception that allows such disclosures, without prior written consent, of PI from student education records to appropriate parties in connection with an emergency, if the knowledge of that information is necessary to protect the health or safety of a student or other individuals. Typically, public health officials are the types of appropriate parties to whom such disclosures under this exception may be made.

School Closures

What is the legal authority of the governor to order schools to be closed?

Pennsylvania’s Emergency Management Services Code gives the governor extensive and sweeping powers in the event of a disaster emergency, which went into effect when Governor Wolf signed a “Proclamation of Disaster Emergency” on March 6, 2020. The Code provides, “Under the proclamation, the Governor may issue, amend and rescind executive orders, proclamation authorities and regulations which shall have the force and effect of law. The proclamation further delegates emergency powers to the heads of specified Commonwealth agencies, including the secretary of education. The proclamation authorizes the secretary of education “in his sole discretion, to suspend or waive any provision of law or regulation which the Pennsylvania Department of Education is authorized by law to administer or enforce, for such length of time as may be necessary to respond to this emergency.”
When does Act 13 take effect?

Act 13 of 2020 was signed into law on Friday, March 27 and became effective immediately. The provisions of Act 13 apply only to the 2019-20 school year and are a result of the World Health Organization declaring a global pandemic on March 11, 2020. The Act, and the requirements within it expire at the end of the fiscal year on June 30, 2020.

Are school districts required to add days at the end of the year?

School districts may be required to hold IEP or Section 504 Service Agreement meetings through virtual means or conference calls during the period of closure. Schools should ensure that accommodations are made to ensure that communication and participation is provided in the native language or mode of communication needed by the student or school official. PDE, PPTA, and/or the local intermediate unit will provide additional guidance on postponing meetings when necessary or providing accommodations to participate. A meeting is postponed, documentation should be created for communication to the parent/guardian and the reason for the delay, and filed with the appropriate IEP or Section 504 Service Agreement.

Do timelines for the completion of paperwork/evaluations still apply during the closure?

No. Act 13 of 2020 clarifies that during the period of school closures pursuant to the COVID-19 pandemic, school districts must continue to pay charter school tuition for those students that were enrolled in the charter school on March 13, 2020. Cyber charter schools are required to be closed during this time period, just like other school entities. Just like all other school entities, cyber charter schools should be prioritizing the provision of continuity of education to their students. During the period of the closures, Act 13 states that school districts are not responsible to pay tuition for new students enrolled in the cyber charter school as of March 13 and throughout the length of the closure. Following the period of school closure, school districts would be required to pay charter school tuition for the students enrolled in the cyber charter school as of that date.

Charter School Tuition

Can cyber charter and charter schools enroll new students during the school closure period and do school districts have to pay tuition for new charter enrollees during this time?

No. Act 13 of 2020 clarifies that during the period of school closures pursuant to the COVID-19 pandemic, school districts must continue to pay charter school tuition for those students that were enrolled in the charter school on March 13, 2020.

Continuity of Education Plan

Can a district attempt to deliver Planned Instruction for their Continuity of Education Plan and switch to Enrichment and Review if they are unable to execute the Planned Instruction?

No. Act 13 of 2020 clarifies that during the period of school closures pursuant to the COVID-19 pandemic, school districts must continue to pay charter school tuition for those students that were enrolled in the charter school on March 13, 2020.

What is the effective date of Act 13?

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Does Act 13 require that we pay part-time employees or 10-month employees that are hourly?

Act 13 of 2020 requires broadly to require payment to school employees employed as of March 13, 2020; it does not differentiate among types of employees. In many cases these employees would be paid, the determination to be considered is if they would have earned the compensation. We encourage school solicitors to check with their school solicitor about how to implement the provision based on the unique circumstances of each school entity.

Are employees who are regularly scheduled to work more than 40 hours be paid at overtime for those extra hours. Or would it be paid as straight time since they are not actually working?

School entities should ensure that they are paying school employees that have worked overtime for the hours they have worked. Employees are not entitled to continuation of overtime unless overtime was documented. Regarding overtime hours not worked as a result of the school closures, school entities should make decisions in consultation with their school solicitor.

What if a school employee was expected to begin work on March 16? Are we required to pay that employee under Act 13?

Act 13 of 2020 specifically requires payment to those school employees as of March 13, 2020; however, there is no prohibition of paying an employee that was expected to begin work on March 16. Additionally, school entities should consider whether the new employee will be working as part of the school entity’s Continuity of Education Plan during the closure. If so, the employee should be paid. School entities should review this scenario with their solicitor to determine if payment is required.

Are we required to pay employees who are on an unapproved leave of absence?

No. Act 13 does not affect leave of absence. Employees who are on leave that has been requested and approved do not have the right to change their status due to the current crisis. We encourage School entities to check with their school solicitor in situations such as this.

Our District had indicated to essential hourly staff for the first two weeks of closure that they would be given leave time credit for any hours they were required to report to work since all hourly employees are being paid. Is this permitted?

We encourage school entities to check with their school solicitor.

Does Act 13 prohibit school districts from paying employees that will be needed to provide compensatory education and extended year services? If we need support from these employees after the closure would they be entitled to additional compensation?

Act 13 is clear that school employees must be paid for the time of the school closure. Act 13 does not specifically address the implications for employees that may be needed for the provision of compensatory education or extended school year services, however, if it does state “to no employee of a school entity who was employed as of March 13, 2020, shall receive more or less compensation than the employee would otherwise have been entitled to receive from the school entity had the pandemics of 2020 not occurred, had the minimum instructional requirement in the Act’s reporting not been waived, or had the Secretary not take action” under the Act. As the duration of school closure is not yet known, nor the implications for this group of employees, this is an area that school entities should monitor over the next several weeks and discuss with their school solicitors.

Without PSSA, Keystone, and SPP data, how will teacher and principal evaluations be formulated for the 2018-2020 school year?

Act 13 states that student performance data can be waived by the Secretary as a component of teacher and principal evaluations for 2019-20. As evaluations are not required unannounced for 2019-20, the Act guidance on this issue may not be a high priority at this time, but we anticipate it will be forthcoming from PDE.

Many districts need to have staff return to their buildings to plan lessons and retrieve devices and materials to move forward with a Continuity of Education Plan. Is there any guidance on how to administer the social distancing guidelines when staff return to the buildings?

School entities are encouraged to follow CDC and PA Department of Health recommendations regarding social distancing. School entities should institute a strict social distancing protocol if staff must return to the building to prepare lessons and materials pursuant to a Continuity of Education Plan. Ensuring that staff access to the building is staggered to minimize the number of people in the building at a given time and that employees always maintain an feet of separation while working in the building are recommended.

Will the State continue to provide normal payment schedule to Districts for their subsidies or should Districts be prepared to look for loans as necessary?

The $2 trillion federal stimulus bill, the CARES Act, designates about $31 billion to states for education. Of that amount a portion is available for K-12, and will be distributed to states shortly. One of the provisions of the CARES Act states that to be eligible to receive a portion of the funding under the Act, “a local educational agency, school 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.” This language is broader than the language in Act 13. While additional guidance will be needed to determine the extent to which there is any flexibility in the CARES Act regarding, in particular, payment to contractors, we encourage you to reach out to your school solicitor as we await more information about how much of this federal funding Pennsylvania will receive, how it will be prioritized and distributed to school entities.

How does the federal stimulus bill (CARES Act) interact with Act 13?

The current understanding is that the CDC recommends that employees performing cleaning in a COVID-19 infected area or suspected COVID-19 infected area should be wearing gloves, a gown, and a mask during cleaning activities. These gowns do not have to be surgical grade as used in hospitals, but they must provide protection both from the cleaning materials and possible COVID-19 exposure in those areas where there have been an infection or one is suspected to the employees performing the cleaning. In addition, LEAs should be aware that CDC recommendations are not the same when COVID-19 is not believed to be present in the geographic location. We are seeking further guidance and examples of the gear that could be used to meet this requirement and working to address concerns regarding difficulty in obtaining these materials.

What are the specific recommendations for appropriate cleaning materials and protective clothing and gear recommended by the CDC?

At this point, the state has not allocated any additional funding for increased district expenses due to the closure. The federal government recently passed a $2 trillion stimulus bill, which directs nearly $31 billion to education. Of that amount, a portion is dedicated to K-12 education. It remains to be seen how much additional funding will be directed to Pennsylvania and if any will be allocated for this purpose.

Will contractors receive any state or federal financial relief for expenses related to the school closures such as extra cleaning supplies, overtime for custodians, etc.?

PDE approval is not required. This is a local matter that must be negotiated between the school district and the transportation contractor.

If districts are contracting with their transportation contractors to deliver lunches and instructional materials to students, do they need approval from PDE to do so?

No. The employees of contracted school transportation services are not school employees, and school entities are not required to pay them during the school closure. However, Act 13 of 2020 allows school entities to renegotiate their transportation contracts, focusing on personnel and fuel costs, to continue paying the contractor during the closure. If a school entity does renegotiate its contract, the contractor must provide weekly proof that it has maintained its complement of employees in place as of March 13, 2020 and has not furloughed anyone. If a school entity renegotiates the contract and pays the contractor pursuant to the provisions in Act 13 of 2020, the school entity will receive transportation subsidy payments in 20-21 at the normal rate (regardless of the fact that schools were closed for a period of time). To be eligible to receive the normal transportation reimbursements for next year, a school entity must continue to pay transportation contractors pursuant to existing or re-negotiated contracts.

If districts have a contracted transportation service, are the contractor’s employees considered school employees?

We encourage further guidance from PDE on how to report data for the time period of school closures at a future date.

When doing your state report, and if you pay your contractors as if the pandemic didn’t happen, would you report the days that you paid your contractor during the closure even though the buses were not running?

We expect further guidance from PDE on how to report data for the time period of school closures at a future date.

Does the transportation language cover for just buses or also include the van drivers who are contracted by the same contractor?

We believe the language in Act 13 is intended to include all school transportation contractors.

Regarding paying our transportation contractor. It appears that when the ETRAN report is completed for the 2018-2020 school year we will use 106 days to calculate allowable costs. Is that correct?

We encourage further guidance from PDE on how to report data for the time period of school closures at a future date.
If we renegotiate our transportation contracts, that’s still considered continuing to pay our contracts and will not have a negative impact on our subsidy, correct?

Correct. Act 13 of 2020 allows school entities to re-negotiate their transportation contracts, focusing on personnel and fixed costs, to continue paying the contractor during the closure. If a school entity does renegotiate its contract, the contractor must provide weekly proof that it has maintained its complement of employees in place as of March 13, 2020 and has not furloughed anyone. If a school entity renegotiates the contract and pays the contractor pursuant to the provisions in Act 13, the school entity will receive transportation subsidy payments in 20-21 at the normal rate (regardless of the fact that schools were closed for a period of time).

What documentation do we need to obtain from Bus Contractors that they are staying complement?

Act 13 does not specify the form of documentation that must be provided from a transportation contractor with which a school entity has renegotiated a contract; however, the intent is to ensure that the contractor maintains the employees and is making payments on fixed cost items such as buses it had as of March 13, 2020. School entities that are considering renegotiating their contractors for the period of closure should work with their solicitor to determine what information to require from the contractor on a weekly basis.

If we would like to continue to pay our transportation contractors, are we required to renegotiate their contracts, or may we simply pay them at their current rates?

Act 13 does not prohibit a school entity from paying a school transportation contractor at the current rate during the school closure.

If transportation contracts are renegotiated to ensure fixed costs are maintained, does this apply to daily pupil transportation to/from school only? What about costs for athletic & field trips?

Act 13 does not specify what can or should be included if a school entity decides to renegotiate a transportation contract for the period of closure. The Act focuses on personnel and fixed costs and the intent is that the contractor maintains the employees it had in place as of March 13, 2020. This is up to each individual school entity that wishes to renegotiate a contract.

In order to maintain full transportation subsidy, is the school district required to renegotiate the contract?

There is no requirement under Act 13 that a school entity renegotiate or pay a transportation contract during the period of school closure; however, if a school entity seeks to ensure that 2020-21 transportation subsidy is not impacted by the school closure, school entities should continue to pay the transportation contractors pursuant to the language in Act 13.

If we renegotiate transportation contracts and pay them less - will this reduce our subsidy next year?

No. Act 13 states that a school entity that renegotiates and pays a transportation contract (and receives weekly reports from the contractor ensuring that none of the contractor’s employees have been furloughed) will receive 2020-21 transportation subsidy that is not impacted by the school closure this year. There is no requirement that the amount a school entity pays a transportation contractor during the closure is the same amount they would have paid had the closures not occurred.

What if the transportation contractor already furloughed drivers?

Act 13 requires that for a school entity to receive 2020-21 transportation subsidy that is not impacted by the school closures this year, it would need to renegotiate and continue paying the transportation contract, and the contractor would need to provide weekly documentation that it had not furloughed any employees as of March 13, 2020.

What about school districts that operate their own transportation programs?

School entities that operate their own transportation programs are required by Act 13 to pay school employees, which would include their bus drivers. As such, Act 13 states that these school entities will receive 2020-21 transportation subsidy that is not impacted by the school closure this year.