

FREQUENTLY ASKED QUESTIONS
REGARDING COVID-19 AND SCHOOLS
Updated April 22, 2020

1. **How are schools affected by the Governor's latest executive orders?**

Executive Order 20-16, issued by the Governor on April 2, 2020, ordered the following: (1) all school corporations must provide instruction via remote learning for the remainder of the 2019-2020 school year; (2) all school corporations must continue to provide remote learning until they complete either 160 student instructional days or at least 20 additional days of remote learning between April 2, 2020, and the end of the school year; (3) all school corporations must submit to the Department of Education by April 17, 2020, a plan detailing how instruction will be provided for the remainder of the school year; and (4) the superintendent of every school corporation must certify the number of instructional days conducted to the Department of Education by June 15, 2020.

The Order further: (1) authorized the executive director of the State Board of Education, in consultation with the State Superintendent of Public Instruction, to waive, suspend, and/or modify graduation requirements to ensure that all seniors in the 2020 graduation cohort have the flexibility to earn a high school diploma; (2) extended the expiration date of some teaching licenses (those expiring between March 1, 2020 and August 1, 2020) through September 1, 2020 and waived some renewal requirements for individuals with current emergency teaching permits; and (3) authorized the State Superintendent of Public Instruction to waive, suspend, and/or modify the rules regarding school bus passenger evacuation drills.

Executive Order 20-17, issued by the Governor on April 3, 2020, extended the declaration of a public health emergency to May 5, 2020.

Executive Order 20-18, issued by the Governor on April 6, 2020, extended the directive for Indiana citizens to stay at home through April 20, 2020, but continues to allow educational institutions to facilitate distance learning and perform other essential functions, provided that social distancing of 6-feet per person is maintained to the greatest extent possible.

Executive Order 20-20, issued by the Governor on April 9, 2020, ordered school corporations to complete annual teacher performance evaluations by choosing one of two options:

Option 1: Follow previously adopted evaluation plans without consideration of objective measures of student achievement and growth on statewide assessments, local assessments that had not been completed prior to the last day of in-person instruction, and observations that had not been conducted prior to the last day of in-person instruction.

Option 2: Use final evaluations and employee designations for all certificated employees from the 2018-2019 school year (with some additional modifications).

The Order also directed the State Superintendent of Public Instruction and the Executive Director of the State Board of Education to jointly publish guidance on these options. That guidance may be found at https://www.doe.in.gov/sites/default/files/news/april10-frameworks-completing-2019-2020-teacher-evaluations.pdf?utm_content.

The Department has also posted a FAQ on staff evaluations and it may be found at <https://drive.google.com/file/d/13VeZk2P7iw8y-SoiWdNUglyKIPSkbTr8/view>.

Lastly, the Order suspended statutory requirements related to latch key programs, vision and hearing tests, CPR certification for teacher licensing, emergency preparedness drills, school bus drills, school bus inspections, preservice experience for school bus drivers, and the publication of annual performance reports.

Executive Order 20-22, issued on April 20, 2020, replaced Executive Order 20-18, but maintained the provisions on prohibited gatherings, nonessential v. essential business operations, and permissible activities of educational entities. The Order extended the stay at home directive through May 1, 2020.

See the full text of each of these Executive Orders at <https://www.in.gov/gov/2384.htm>.

2. Must school boards conduct their regularly scheduled meetings each month?

No, a school board is not required to meet monthly. A board meeting may be cancelled at any time. During the public health emergency, and in accordance with Executive Order 20-18, governmental entities may continue to provide services that are needed to ensure the continuing operations of governmental agency or to provide for or support the health, safety and welfare of the public. The governmental body has the authority to determine its essential governmental functions.

Additionally, the Public Access Counselor has advised that governing bodies “postpone or cancel public meetings scheduled during the emergency declaration if the meeting does not concern essential matters critical to government operations.”

Thus, school boards may decide to cancel a regularly scheduled board meeting if there are no essential matters critical to the operations of the school corporation for the board to act upon.

3. May school boards conduct meetings electronically?

Yes, the Governor issued an Executive Order on Monday, March 23, 2020, that allows all public agencies to meet electronically as long as a quorum is participating in the video or telephonic conference meeting. Also, the Executive Order permits school boards to conduct their public meetings in accordance with IC 5-14-1.5-3.6 as modified by the Executive Order. Thus, school boards may meet electronically as long as a quorum is present in the electronic meeting. See the complete Executive Order at [https://www.in.gov/gov/files/Executive%20Order%2020-09%20\(Continuity%20of%20Government%20Operations\).pdf](https://www.in.gov/gov/files/Executive%20Order%2020-09%20(Continuity%20of%20Government%20Operations).pdf).

The Public Access Counselor (PAC) issued updated guidance on school board meetings in response to the Governor's Executive Order on electronic meetings for public agencies and political subdivisions. The updated guidance may be found at <https://www.in.gov/pac/files/COVID-19-PAC-statement.pdf>.

4. Are school boards required to give access to the electronic meetings to members of the public and media?

Yes. The Public Access Counselor (PAC) issued a FAQ on Monday, March 23, 2020, that requires a school board to give real-time access to the school board's electronic meeting. The FAQ addresses other related matters concerning school board meetings such as canceling or postponing meetings that are not essential to the governance of the school corporation and delegating authority to the superintendent for conducting school operations during the emergency. See <https://www.in.gov/pac/files/FAQs-for-Open-Door-Law-in-light-of-Covid-19.pdf>

5. What are the instructional day requirements for the 2019-2020 school year?

All school corporations must complete either 160 student instructional days or at least 20 additional days of remote learning between April 2, 2020, and the end of the school year. For school corporations that choose the option of providing at least 20 additional days of remote instruction, but still fall short of conducting 160 instructional days, the Governor has authorized the Department of Education to waive the additional days necessary to reach 160 instructional days.

The Department of Education has issued further guidance on the instructional day requirements. This guidance can be found at https://docs.google.com/document/d/1rlg8Dr5Rt5bxH8iq8oc4XsRUjoaxaPQrOVOY_CAaYEc/edit

6. When school is closed, can school employees still be paid?

Indiana law states that when school is closed by appropriate authorities or when school cannot be conducted through no fault of the teacher, the teacher shall continue to be paid. The teacher

must, however, work on any rescheduled student instructional day without additional compensation. See IC 20-28-9-15.

The law is silent with respect to noncertified employees. A school board is not required to pay noncertified days for those days when school is closed. However, a school board could elect to pay noncertified employees for any day(s) that school is closed as long as the school board approves of this payment at a board meeting and the approval is recorded in the minutes of the board meeting. The school board must approve of the payment so that no school official is guilty of ghost employment.

7. Can teachers be required to work the total number of contract days even though the Governor has waived 20 student instructional days?

Yes. Teachers may be required to work on regularly scheduled student instructional days that have been waived by the State. While schools must meet the student instructional day requirements established in the Governor's Executive Order (provide 160 student instructional days or at least 20 days of remote instruction between April 2, 2020, and the end of the school year), schools may choose to enforce individual teacher contract obligations that require teachers to work, for example, 182 days in a school year. Thus, if a school will fulfill the 160-day student instructional time requirement by May 15, 2020, teachers may still be required to work on any remaining scheduled contract days even though students are not present.

School administrators should consult with local counsel on this issue. Also, depending on any decision made with respect to teacher days, there may be a duty to discuss the issue with the exclusive representative as the decision impacts hours.

8. If an employee is subject to a self-quarantine, what is the obligation of the school corporation to pay the employee?

The federal Emergency Paid Sick Leave Act requires a school board to pay an employee who is unable to work or work from home and who has been ordered by a health care provider or a government order to quarantine or be in isolation due to COVID-19 concerns for up to two weeks. The compensation paid under this Act is limited to \$511 per day and \$5110 total for the two-week period of the leave. An employee cannot be required to use accumulated paid leave for this leave period.

For additional information on the requirements of this law, please see the ISBA coronavirus resources page at <https://www.isba-ind.org/coronavirus-resources.html>.

9. Can school corporations restrict the attendance of employees who travel abroad or out of Indiana?

The federal government has imposed self-quarantine provisions for persons returning from a Level 3 country. The list currently includes Iran, China, South Korea, and certain European countries. See <https://wwwnc.cdc.gov/travel/notices/> for the latest travel health notices. Persons returning from any of these countries must self-quarantine for 14 days.

The federal government has also issued travel advisories for persons who have planned cruise ship excursions. It is possible that cruise ship passengers may be subject to quarantine procedures implemented by local authorities.