

# Guidance on Educator and Staff Issues and Educator Evaluation and Non-Renewal

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## Educator and Staff Issues

**May an LEA continue to pay salary and hourly-wage staff who are paid with federal grant funds administrative leave while the LEA is closed due to COVID-19?**

- Per federal regulations, as long as the district has a funding neutral local compensation leave plan/policy that is applied consistently to local, state, and federal activities, the costs are allowable. Based on this plan, the LEA may continue to pay federally funded staff with federal grant funds consistent with how they are paying state or locally funded staff.

**Are the time and effort documentation requirements for federally funded staff any different when the organization is closed and requiring teleworking from federally grant funded staff?**

- No, the staff should follow the same time and effort documentation procedures as normal.

**How should districts handle contractual obligations for staff members requiring quarantine?**

- Districts should consult with their legal counsel regarding these issues. For staff members who are ill, rather than quarantined or self-isolated, existing local sick time policies and state and federal regulations related to sick time continue to apply. For staff members who are quarantined or self-isolating but not ill, if a district determines that those staff members are able and approved to work remotely and the staff members are willing to do so, the district need not count the staff members as absent.

**Will any compensation be given to substitute teachers as a result of the Coronavirus?**

- This is a local decision and will be specific to each substitute teacher and the teacher's employing district. For more detailed discussion of this topic, please review this resource prepared by TASB on [Personnel Issues During Epidemics and School Closures](#).

**How will teacher/staff salaries be impacted by COVID-19?**

- Funding to districts will not be negatively impacted by COVID-19. School systems will continue to receive funding if they closed because of COVID-19 related concerns as long as the school system commits to supporting students instructionally while at home. As a result, funding for contracted staff should remain unaffected as well.

**Will board resolutions be sufficient to allow teachers to work limited hours in person and other hours from home?**

- Yes. Superintendent directives, where the board of trustees has granted relevant authority to the superintendent, are also sufficient; however, as noted in the answer above, teachers should be providing remote instruction and this may not be necessary.

**Is TEA considering waiving teacher certification renewal?**

- Not at this time. In specific cases where an educator has a catastrophic illness or injury or is caring for an immediate family member with a catastrophic illness or injury, that educator is eligible for a hardship exemption to allow additional time for certificate renewal. While TEA is highly sensitive to the concerns around COVID-19, the current situation does not necessitate waiving teacher certification renewal requirements for all educators. Educators are able to renew their certification as early as six months prior to expiration, and certificate renewal is a paperless process completed through the Educator Certification Online System (ECOS). Because ECOS has 24/7 access, educators can complete the renewal process and submit their online payment at any time from their preferred location. Additional information on the [certificate renewal process](#), including a frequently asked questions document and guidance on obtaining continuing professional education hours, is available on the website.

**Educator Appraisal Waivers**

Waivers will be reviewed and approved, pursuant to the Commissioner's general waiver authority under Texas Education Code (TEC), §7.056, for school districts and charter schools that are unable to meet the requirements of TEC, §21.351 and §21.352, or TEC, §21.3541, and the applicable rules in Title 19, Texas Administrative Code, Chapter 150, for teacher appraisal, principal appraisal, and campus administrator appraisal due to circumstances arising from the COVID-19 pandemic.

It is up to the discretion of the district or charter school as to which aspects of the appraisal process they can complete and which, if any, aspects cannot be completed, and thus would be covered under a waiver, due to operational disruptions from the COVID-19 pandemic. The waiver would permit a district or charter school to appraise or not appraise some or all of its teachers, principals, and administrators.

District appraisal policies that are local in nature, not required by Texas Education Code or Texas Administrative Code, and that are unable to be met due to COVID-19 related circumstances, could be revisited by a district's board of trustees. A district should consult with its legal counsel or seek support from TASB when considering such policy revisions.

## **Educator Appraisal Questions**

**If a district is granted a waiver due to an inability to meet an appraisal requirement in rule or law, can the district still rate an educator based on the aspects of the appraisal process that were completed?**

- Yes. Even with a waiver, the school district may still evaluate a teacher and determine an appraisal and appraisal rating for a teacher based on completed aspects of the appraisal process. The lack of completed steps in the appraisal process would not deprive the teacher of the teacher's right to respond to and otherwise appeal an appraisal or appraisal rating under 19 TAC §150.1004. The use of a waiver does not prohibit a teacher from filing a challenge in accordance with a district's local policy.

**With a waiver, does a district have to grant a teacher's timely request for a second observation or second appraisal?**

- Due to the circumstances related to COVID-19, a district would not be able to grant a request for a second observation, and its inability to do so would be covered under a waiver. A request for a second appraisal that is based purely on existing data, however, would be possible and thus should be granted.

**If the only aspects of an educator's appraisal process that have not yet been conducted are post-observation conferences or end-of-year conferences, could those conferences be conducted by phone or video conference?**

- Yes. Regardless of the circumstances related to COVID-19, TAC, Chapter 150, does not limit post-conferences or end-of-year conferences to an in-person setting. Given the ability to receive a waiver, however, districts unable to conduct end-of-year conferences could skip those conferences entirely.

**What should districts document relative to educator appraisal and the inability to meet current appraisal requirements?**

- All districts should document efforts to comply with educator appraisal requirements and, for those requirements that they are unable to meet, give an explanation as to the circumstances that prevented compliance.

## **Educator Non-Renewal Questions**

**Can a district use information gathered during the 2019-2020 school year appraisal process to justify non-renewal of an educator even if the appraisal process, under the waiver, was not completed in accordance with appraisal rule or law?**

- Yes. Under a waiver, a school district could still evaluate and determine an appraisal and appraisal rating for a teacher based on completed aspects of the appraisal process and use such an appraisal or appraisal rating in making a decision to renew or not renew a teacher's contract. That said, the lack of completed steps in the appraisal process would not deprive

the teacher of the option to respond to, appeal, or otherwise challenge the appraisal, appraisal rating, or the nonrenewal decision. The use of a waiver does not prohibit a teacher from filing a challenge in accordance with a district's local policy. The right to appeal or otherwise challenge a district's decision to not renew a teacher's contract would occur upon the teacher's receipt of notice from a district of the district's decision to not renew the teacher's contract.

**Given the voluntary and mandatory closures of school grounds, how does a district calculate non-renewal notices when school grounds are closed to students?**

- Calculations will be different for each district and, in consultation with its own legal counsel, a district will need to account for variations of its local school calendar, closed school days, amendments to its school calendar, and school day waivers. As a result of recent events and consequent Commissioner funding decisions, when school grounds are closed, a district has the option of a school-day waiver when a district's status is "Closed, Instructing." This waiver maintains instructional based school funding while the district provides educational services through a non-site based instructional delivery system. Consequently, this waiver allows a district to fulfill the instructional days of its school calendar.