

Memorandum of Understanding

Related to COVID-19

This Memorandum of Understanding (hereinafter referred to as the "MOU") is made by and between the Howard County Board of Education (the "County Board," or "BOE") and the Howard County Education Association (the "Association" or "HCEA"). The County Board and Association will be referred to collectively as "the Parties." This MOU is dated March 16, 2020, and shall remain in effect until all schools in the local school system are reopened for student attendance.

WHEREAS, the County Board and the Association are parties to the HCEA and HCEA-ESP Collective Bargaining Agreements with terms of July 1, 2019 through June 30, 2021 (hereafter jointly and severally referred to as the "CBA");

WHEREAS, there are significant health and safety concerns regarding Coronavirus (COVID-19) which relate to and surround the continued safe opening and operation of school buildings and facilities; and

WHEREAS the parties seek to minimize the spread of COVID-19; protect students, employees, and the public; and

WHEREAS, on March 12, 2020, State Superintendent Karen Salmon mandated the closure of all public schools in Maryland beginning March 16 for a period of two weeks in an effort to contain the spread of the novel coronavirus, or COVID-19;

WHEREAS, on March 25, 2020, State Superintendent Salmon mandated the closure of all public schools in Maryland for a period of four (4) additional weeks to contain the spread of the Coronavirus (COVID-19) until April 24, 2020;

WHEREAS, on April 17, 2020, State Superintendent Salmon mandated the closure of all public schools in Maryland for a period of three (3) additional weeks to contain the spread of the Coronavirus (COVID-19) until May 15, 2020;

WHEREAS, it is possible that schools could be closed for longer;

WHEREAS, these school building closures are an extraordinary and unprecedented measure; and

WHEREAS, the parties' collective bargaining agreements do not provide for these extraordinary, unprecedented, and prolonged closures; *and*

WHEREAS, the County Board and the Association, after discussion, desire to work cooperatively to address these unique and emergent issues.

NOW THEREFORE, intending to be legally bound hereby, the parties agree as follows:

1. Definitions

- a. "School" refers to an employee's primary worksite, which may be a school or an office building.

2. Continuity of Learning

- a. The County Board, in consultation with the exclusive bargaining representative, shall develop and provide a continuity of learning plan to all employees which includes a daily schedule and delineates that all such time counts as work time, and how one 'reports' to work. The County Board may direct employees to utilize an alternative mode of instruction, including but not limited to online instruction or assignments, other materials and assignments, or other alternative modes of instruction, to deliver instruction or provide assessment to students during any period of school buildings closure due to Coronavirus (COVID-19).
- b. The County Board shall provide employees with time during the contracted workday to prepare employees regarding expectations for alternative instruction, including online assignments, online instruction, delivery of instruction, and assessments during any school building closure related to COVID-19.
- c. Beginning March 30, 2020, all remote instruction, office hours and/or in-service days during this period shall be counted toward the required work year pursuant to the CBA for 10 and 11 month bargaining unit employees. With the approval of their supervisor, any 10 or 11 employee who worked during the period March 16 through 27, 2020, will have those days counted toward their required work year.
- d. All professional development and instructional work including the design, delivery, and assessment of instruction shall be completed in strict compliance with the guidance issued by the Maryland Dept of Health and the Governor's office regarding Coronavirus (COVID-19).
- e. The County Board shall hold harmless and defend any employee who is unable to provide instruction to students who have no device or internet access. Educators are encouraged to contact students and their families to participate in the online instruction. However, teachers shall not be required to make excessive attempts to make contact with students who do not log on for instruction.
- f. Any observation during the implementation of remote instruction will not be deemed as part of the evaluation cycle due to the new expectations that are being placed on employees for both their own learning and changes made to their professional practice.
- g. Parents should be notified that audio and video recordings of the instruction is strictly prohibited. Any recording or photo of an employee, especially one that is used inappropriately, shall be subject to County Board policies, including the student code of conduct. Similarly, employees shall be prohibited from making audio or visual recordings of students during on-line instruction.
- h. Board policies and expectations pertaining to student and employee conduct remain in effect. (Certificated Agreement Article 6; ESP Agreement Article 9)

- i. The County Board will be responsible for providing all technology, equipment, services, supplies, training, and technological assistance necessary for employees to accomplish their duties in a remote environment and will comply with section 6 of this agreement. The County Board will coordinate the copying and/or distribution of any other physical materials (books, worksheets, packets, etc.) deemed essential to student learning.
3. **Continuation of compensation:** The County Board agrees to maintain compensation for regular full-time and part-time employees for the remainder of the 2019-2020 work year. With continued compensation, employees shall continue to accrue leave and other benefits
 - a. Employees requiring leave as the result of situation not related to COVID-19 (i.e., non-COVID related illness, bereavement, etc.) will use their accrued leave. No leave is deducted from employee accounts for a school closure during which employees are not scheduled to work.
 - b. Normal payroll deductions will continue (i.e. medical/dental, mandatory pension contributions, state and federal deductions, etc.) Employees may continue to modify voluntary contributions such as additional W-4 deductions and 403(b) and 457(b) contributions.
 - c. Employees understand their work year may be extended into summer months, or their work day may be extended. They further acknowledge and understand they may be required to work their assigned positions or provide assistance outside of their normal duties so long as those duties are reasonably related to the employee's job and the employee is qualified to perform the work. Work assigned during this time may also include participating in professional training activities. Such time will be viewed as compensated through the continuation of their regular rate of pay for the 2019-2020 budget year.
4. **COVID-19 Leave**
 - a. **Qualifying conditions:** If the employee qualifies under the Families First Coronavirus Response Act they shall be granted COVID-19-related paid leave in compliance with established provisions under the law. including subsequent amendments or related additions to the law. Employees may use sick, annual and/or personal leave for non-COVID related absences on scheduled workdays.
 - b. If the leave extends beyond the leave provided for in FFCRA, the board may extend emergency, paid sick leave based on medical circumstances.
 - c. **Employee self-reporting:** Employees will be encouraged to notify the County Board in the event they have been diagnosed with COVID-19 or are experiencing symptoms compatible with COVID-19. The County Board shall establish confidential methods for doing so and shall inform employees of such methods. To encourage self-reporting, the County Board shall not subject any employee to disciplinary action of any sort for providing such notice, failing to provide such notice, or failing to provide timely notice.

- d. **Privacy rights:** In the event that the County Board learns – through employee self-reporting or otherwise – that an employee qualifies for COVID leave in accordance with the law, the County Board will take appropriate action but in no event will it identify the employee or share the employee’s personally identifiable medical information beyond the County Board employees who, in their official capacity, must receive such information.
5. **When schools are closed to students:** When a building is inaccessible to students due to COVID-19, the County Board shall continue compensation of all employees of that school at each employee’s regular rate of pay as specified in section 1 of this MOU. No employee shall be charged or docked with use of leave while the school remains closed and employees are not scheduled to work.
- a. **Work during school closure:** The County Board may require employees to perform work when any school is closed to students due to COVID-19 provided that any such assignment meets the following conditions:
 - i. The work is reasonably related to the employee’s job.
 - ii. The employee is qualified to perform the work.
 - iii. The employee is paid at their regular rate of pay for all time spent performing the work; and such time counts toward the required work year outlined in the CBA.
 - iv. The work does not unnecessarily expose students or employees to a health risk.
 - v. The work does not create unsafe or hazardous conditions or require the performance of tasks that unreasonably endanger their health or safety.
 - vi. The employee is afforded reasonable flexibility in scheduling and performing their work.
 - b. **Leaves of absence during school closures**
 - vii. When schools are closed to students and employees are working, employees will utilize their own leave except for COVID-19 leave per FFCRA.
 - viii. Upon a “return to work” clearance from their healthcare provider, an employee currently on a leave of absence due to a disability (e.g. maternity leave) may have the option to return from a leave of absence provided that the employee is able to meet the continuous needs of telework.
6. **Teleworking:** All employees working remotely (telework) shall have the technology, equipment, services, supplies, training, and technological assistance necessary to perform their jobs and collaborate with their co-workers.
- a. **Equipment:** All employees who are teleworking shall be issued the following equipment, as necessary, in order to perform their assigned duties:
 - ix. A laptop with a built-in webcam.
 - x. If the employee does not have reliable internet access from their telework location, a hotspot will be provided.
 - xi. Instructional materials and on-line platform to conduct distance learning.

- b. If an employee does not have access to the equipment delineated in this section and the board is not able to provide for any reason, the employee can be assigned an alternate assignment in order to support the educational plan.
- c. Employees shall receive appropriate training and will have access to ongoing support for any new application or software required to perform their jobs.
- e. Employees will be held harmless, if they are unable to telework due to the loss of access to the necessary technology because of lost power or lost or degraded internet service that is no fault of the employee.
- f. Employees will adhere to the County Board's Acceptable Use Policy.
- g. If a malfunction of County Board-issued equipment prevents the employee from performing assigned tasks, the employee shall immediately notify his/her supervisor of the malfunction.
- h. In the event an employee is injured while working remotely, it is expected that the employee will report the injury to the immediate supervisor in accordance with the County Board's workers' compensation policy. All injury claims (whether occurring on location or while teleworking) will be reported to the County's Third Party Administrator and will be reviewed for compensability.

- 7. Working onsite:** In the event that the County Board requires employees to work on site, as opposed to working remotely, any such assignment shall meet the following conditions:
- a. No employee shall be required, asked, or permitted to perform work for which medical training or certification is necessary unless they have such training or certification.
 - b. The County Board shall make available, at no cost to employees, appropriate protective gear in accordance with local, state and federal guidelines related to COVID-19 in the workplace.
 - c. Employees may be assigned to return to their work location prior to schools/buildings being open for students.
- 8. Additional terms of this MOU:** The parties recognize that this MOU is based upon extreme and unusual circumstances and does not establish precedent or commit the County Board to future obligations. While the parties have made a good faith effort to be inclusive of all employee situations, it is recognized that any matter not specifically covered by this MOU will be addressed through negotiations at the time it becomes known by HCEA or the County Board.
- a. In the event the school year does not resume, the parties shall meet as soon as practical to mutually agree upon any report to work requirements and provisions for continued salary and benefits of employees.
 - b. This MOU does not constitute a waiver of the bargaining unit work and serves as an extremely limited, one-time exception to the normal operating procedures pursuant to the CBA due to exigent circumstances.
 - c. This MOU shall not alter the terms of the CBA, except as set forth herein. All other terms of the CBA shall remain in full force and effect.

- d. This MOU does not amend or limit the right of the County Board as employer to take personnel actions.
- e. The County Board and the Association agree to revisit the terms and conditions of this Memorandum of Understanding should any future announcements from the President, Governor and/or the Maryland State Department of Education require the adjustment or alteration of any conditions contained herein.
- f. This MOU is not setting precedent or past practice. It will not become part of the CBA and is a unique situation. This does not obligate employees to use online learning in the future beyond the length of the MOU.
- g. This MOU will terminate on the 1st day all students in the Howard County Public School System return to school for in-person instruction after the COVID-19 pandemic or once all contracted work days have been fulfilled, whichever comes first.
- i. The parties reserve all rights pursuant to the law and CBA and acknowledge the non-precedent setting nature of the MOU.
- j. In the event of a dispute between the parties arising under or in connection with this MOU that cannot be resolved informally, both parties agree to have a neutral mediator from the Federal Mediation and Conciliation Service (FMCS) engage in non-binding mediation to attempt to resolve the outstanding issues prior to initiating any formal action. Written documentation of the issues will be forwarded to the respective parties in advance of the meeting. At the conclusion of the meeting, both parties will agree to attempt to resolve the matter in the spirit with which this Section is intended.
- k. Any order from a local, state or federal agency, which is contrary to this MOU will supersede this memorandum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum on the date set forth herein.

Chair, Howard County Board of Education

President, Howard County Education Association

Date: _____, 2020

Date: _____, 2020