

## School Finance Hot Topics 10.28.2020

### Families First Coronavirus Response Act Clarifications

For Emergency Paid Sick Leave (EPSL), the code if an employee utilizes one of their 10 EPSL days is COVESF. That code is used any time an EPSL day is taken, whether the employee is paid at their full daily rate or at the 2/3 rate. If the employee is taking the day for one of the reasons that allows for the full daily rate, COVESF is the only code utilized. If the employee is taking the day for one of the reasons paid at the 2/3 rate, the second EPSL code of COVESP **must** also be utilized. The combination of the two codes is what will allow the WVDE to program the mandatory W-2/Separate Statement at year-end for the two different rates of EPSL. Accordingly, the COVESP code must still be used, even if the employee also plans to take 1/3 day of their own personal leave to ensure that they are paid their full daily rate.

If the employee chooses to take 1/3 day of their own personal leave and that absence code is also entered into WVEIS, use of that leave code will not add to the employee's pay to get them back to their full daily rate. It simply reduces their available leave balance in that category. **In order to get the employee back to their full daily rate, you will need to enter a negative temporary dock to pay back the employee.** The amount docked is entered as a negative amount on the next 1 check in order to pay back the employee for their personal leave deduction. A sample WVEIS screen print for a temporary dock is below.

```
10/06/20 FY 20 ** TEST ENVIRONMENT **          16:39:17 QPADEV004P
EMS      Employee Temporary Docks              Ref: PAY.465 .11
```

Job Code: PROF

Employee: 910-00-0022

**Dock: 122.00- on each of the next 1 checks.**

Description: PAY BACK COVID DOCK WITH LEAVE

Mode: Add

Cancel? N

To summarize, in an EPSL situation paid at the 2/3 rate where an employee is utilizing 1/3 day of their own leave to receive full pay, the following codes would be used:

1 day of COVESF

.33 day of COVESP

.33 day of Annual Leave (or other allowable leave)

Negative dock equal to 1/3 daily rate to add the annual leave back to the employee's paycheck

As a reminder, the EPSL daily amount is capped at \$511 for reasons paid at the full daily rate and \$200 for reasons capped at the 2/3 rate. You may also need to utilize a manual dock amount to reduce the paid federal leave amount to the maximum amount allowed under the FFCRA.

For the Expanded Family Medical Leave (EFML), please be sure to remember that an employee is entitled to 12 total weeks of EFML. **The first two weeks are unpaid and the following 10 weeks are paid at the 2/3 rate.** No special WVEIS absence code was created for the two weeks of unpaid EFML leave since the unpaid EFML days do not need to be tracked for 941/W-2 reporting purposes – only the paid EFML must be tracked for the federal reporting. In the vast majority of EFML situations, an employee will likely use paid leave concurrently with the two weeks of unpaid EFML leave. For example, they will utilize their 10 EPSL days at the 2/3 rate or utilize their without cause or annual leave days to try to get as much of the two week period paid as possible. To the extent that an employee truly takes the two weeks off without pay, a regular dock day absence code could be utilized in WVEIS.

**Since the first two weeks of EFML is unpaid, the WVEIS absence codes created for EFML would not come into play until the employee reaches the beginning of their third week of EFML leave.** At that point, the employee should begin using the COVFMA code to track the ten paid weeks of EFML. Because all EFML leave is paid at the 2/3 rate, the corresponding absence code of COVFML must be utilized to dock the employee 1/3 day of pay.

To the extent that you have employees utilize their without cause or annual/vacation days to subsidize the paid EFML at the 2/3 rate to receive their full pay, the process can be simplified compared to the EPSL coding. The WVDE will be able to program the W-2/Separate Statement to automatically assume the federal leave is paid at the 2/3 rate, capped at \$200 per day. We can utilize only the COVFMA code to make that determination, so if a county chooses to skip the COVFML code to dock the employee 1/3 day of pay for days that will be subsidized with other available leave, that will not cause issues with the federal reporting. The county would utilize the following simplified codes and there would be no need to do the negative dock equal to 1/3 daily rate.

1 day of COVFMA

.33 day of Annual Leave (or other allowable leave)

As a reminder, you may also need to utilize a manual dock amount to reduce the paid federal EFML leave amount to the maximum amount allowed under the FFCRA, which is \$200 per day.

A copy of the original handout for the FFCRA WVEIS absence codes is included as Attachment #1.

## 941 Changes

The IRS Form 941 was modified recently to address Emergency Paid Sick Leave (EPSL) and Expanded Family Medical Leave (EFML) paid by employers under the Families First Coronavirus Response Act (FFCRA).

The specific changes that impact county boards of education are on Lines 5a, 5a(i) and 5a(ii) of Form 941. Previously on Line 5a, employers reported all wages subject to the social security tax. Now, Line 5a will contain the amount employers would have previously reported, excluding the new amounts that will be reported on Line 5a(i) and 5a(ii). Line 5a(i) will report the total qualified EPSL wages that you paid to employees during the quarter. Line 5a(ii) will report the total qualified EFML wages that you paid to employees during the quarter. Line 5a has the rate of 12.4% applied since the amounts reported are subject to both the employer and employee share of the social security tax. Lines 5a(i) and 5a(ii) are subject to only the employee share of the taxes and therefore have a rate of only 6.2% applied on the 941 form.

Please note that Line 11b does not apply to county boards of education. Governmental employers are not eligible for the FFCRA tax credits for paying out EPSL and EFML under the FFCRA. Governmental employers only receive the benefit of having those payments not be subject to the employer share of social security. Line 11c also does not apply – it is for employers who received Small Business Interruption Loans under the Paycheck Protection Program under the CARES Act. Line 13b would only apply if a county elected to defer the deposit and payment of the employer share of social security taxes due after the pandemic began. That relief was eligible to governmental employers, but the WVDE is not aware of any county boards of education who pursued that option. Lines 13c and 13d would not apply to county boards of education either.

Kim Harvey has developed a query to assist county boards of education in determining the amounts to be reported on Lines 5a(i) and 5a(ii) and tested it with at least one county. The link to the query is below. If you have specific questions about how to run the query, please contact Kim directly.

<https://sequel.sis.k12.wv.us/secure/sequel?Obj=covids&LIB=SEQUELweb>

The query will generate 3 files when you run it. The first file will be for EPSL leave and considers the COVESF and COVESP absence codes in WVEIS. The COVESF code for an employee indicates that the employee took one of their 10 available EPSL days and the COVESP code alerts us that the employee was taking the leave for one of the reasons that makes it payable at only the 2/3 rate. The COVESF amounts show up as positive numbers and the COVESP reductions of 1/3 day show up as negative amounts to show the pay was reduced by 1/3. The query is supposed to consider the caps of \$511 per day for the absences eligible for full pay and the \$200 daily cap for EPSL absences paid at the 2/3 rate. This query should assist with Line 5a(i) of the 941.

The second file will identify employees who took EFML leave during the quarter and considers the WVEIS absence codes of COVFMA and COVFML. The COVFMA code for an employee indicates that the employee took one of their 50 paid EFML days (which only kick in after they have 10 unpaid EFML days that may run concurrently with other paid leave, such as the EPSL or without cause/annual leave). The COVFML code would tell us that the employee was paid at the 2/3 rate. The query considers the COVFMA code only, and programmatically reduces the rate to the 2/3 pay (capped at \$200).

The third query will show the accounts and amount for FICA for the payroll period the employee took a COVID absence. This query is simply a tool to help counties adjust their FICA expense amounts in WVEIS (which will be discussed later in this email). The amount displayed on the query is the total FICA withheld for the entire pay period by account. You will still need to determine how much of the pay was for COVID and apply the appropriate % to get the FICA amount by account.

For the July-September 2020 quarter, county boards of education will likely have an overpayment calculated on Line 15 of the 941 since WVEIS will have assumed the EPSL and EFML wages were subject to the employer share of the social security tax. You will be able to apply the overpayment to the next return or ask the IRS to send you a refund. There is currently no way in WVEIS to make these EPSL and EFML wages subject to only the employee share – the screen in WVEIS that indicates whether the wages are taxable applies to both the employee and employer share. There are multiple ways that a county board of education could handle this employer tax issue moving forward.

First, a county board of education could book an AJE to reduce the amount of the FICA expense. For this quarter, the liability would likely have already been cleared with the tax deposits after each payroll run, so the debit to the entry would be for an asset account (either a receivable from the IRS or a prepaid account depending on which option was selected on the 941). Moving forward, the AJE could be booked after each payroll run to reduce the liability amount before the tax deposit is made to more accurately reflect the amount due to the IRS. The third report from the query referenced above can assist with making the AJE to the proper account codes in WVEIS.

Second, a county could do a negative voluntary deduction for FICA US in the employer share field on the “next 1” check. This negative deduction will reverse the expense to the accounts from which the employee is currently being paid. The accounts could potentially change between the time the original FICA expense is incurred and the negative deduction taken. This method will correct any WVEIS reports you may run that includes FICA employer share. FICA employer share is not reported on the W2. An example WVEIS screen print is on the next page. You will enter the amount charged for the employer share on pay for COVID absences that needs reversed.

10/05/20 FY 21 COUNTY OF BRAXTON 14:41:27 QPADEV004S

EMS Employee Voluntary Deductions Ref: PAY.350 .11

**Employee: 908-00-0622**

**Deduction Code: FICA US FICA-SOCIAL SECURITY**

Deduct: Plus: .0000 % of GROSS from following jobs:

**Employer pays: 52.21-** Plus: %

**Make deduction on next 1 checks** OR deduct entire net check amt (Y/N?): N

Delete this voluntary deduction after number of checks has reached zeros?: N

Effective dates are from to

Direct Deposit (P/Y/N): N Deduction Priority: Z

Employee Bank ID:

Employer Employee

Maximum Per Period: \$ \$

Maximum Per Year:

Maximum Per Lifetime:

Mode: Add F3=Exit F4=Index F5=Reset F12=Cancel Cancel? N

F6=Basic Info. F7=Payroll Info. F8=Assignments

Third, for counties that accrue invoices for FICA US, you can enter a credit invoice for the amount that needs reversed, using the third file from the query to determine the amounts charged. See example screen print on the next page. You will enter a negative quantity for each account and amount that needs reversed. Note that the quantity is entered as a negative number but not the amount. If adding to an existing invoice, be sure to adjust the invoice total on the header screen.

10/05/20 FY 21 GREENBRIER COUNTY SCHOOLS 14:45:39 QPADEV004S

FMS Invoice Batch Accrual Ref: ACP.401L.11

Vendor: 980340 SUMMIT COMMUNITY BANK Invoice Total: 100.58

Invoice: P06040 #00001 P/O #: Line Total: 100.58

| CMD | Quantity | U/M | Description | Amount |
|-----|----------|-----|-------------|--------|
|-----|----------|-----|-------------|--------|

BEGIN

|       |        |  |         |        |
|-------|--------|--|---------|--------|
| 001.0 | 1.0000 |  | FICA US | 100.58 |
|-------|--------|--|---------|--------|

|    |         |  |  |        |
|----|---------|--|--|--------|
| -> | 1.0000- |  |  | 52.21- |
|----|---------|--|--|--------|

**2.0 Qty: 1.0000- Part: Unit cost: \$ 52.2100**

**Desc: Taxable? N**

**Acct: 11.00000.11111.211.001.0000.0000.00**

**Trade discount: \$ or %**

F3=Exit F4=Index F5=Reset F12=Cancel Cancel? N

Each county will need to review and determine what option would work the best based on their normal practices related to the employer share of taxes. The AJE approach seems to be the simplest approach, particularly since you could use the automatic AJE upload from Excel feature if you have a lot of employees hitting different accounts.

If you have general questions or theoretical questions about the 941 or FFCRA leave provisions, please reach out to the Office of School Finance. If you have questions about the WVEIS query or the screen prints provided, please contact Kim Harvey directly.

## West Virginia Virtual School Invoicing

County boards of education will be sent tuition invoices for the Fall 2020 semester for full-time West Virginia Virtual School (WVVS) within the next few weeks. The tuition rate is \$600 per semester for each full-time student enrolled in the WVVS as of October 1, 2020. Full-time enrollment means that the student is enrolled in three or more course. The WVDE will also invoice those county boards of education that are utilizing the WVVS platform and curriculum with their own teachers. The annual curriculum fee is \$160. The WVDE Office of Teaching and Learning is working with county boards of education to confirm the final enrollment counts for billing purposes. Payment of the invoices will be due by December 31, 2020.

## Safe Schools Fund – FY21 Grant Applications

The WVDE is developing a grant application for the limited amount of Safe Schools Funding available for the 2020-21 school year so that county boards of education that did not have sufficient funding to meet the special education camera requirements can apply for additional funding. We expect to release this grant application within the next two weeks. Each county will also be asked to confirm compliance with the special education camera requirements.

## SB 345 Reporting – Sworn Statements

SB 345 from the 2019 Legislative Session made local governments, including county boards of education, subject to existing state grant reporting requirements. Local governments had previously been exempted from the state grant reporting requirements. Legislative Rule §148-18-5 expands upon the statutory requirements related to the state grant reporting.

County boards of education were encouraged to satisfy the state grant reporting requirements by utilizing their financial statement/single audit with a sworn statement instead of paying for a separate agreed-upon procedures engagement or examination engagement specifically for their state grants. That is the most cost effective option to satisfy the requirements.

Legislative Rule §148-18-5 requires the sworn statements to be submitted “within two years after the end of the fiscal year in which the grantor disbursed state grants to the grantee.” The first year that these new requirements have applied to county boards of education and other local governments is FY20, which means that **the sworn statements for state grants received during FY20 will be due no later than June 30, 2022.**

Legislative Rule §148-18-5 establishes certain minimum requirements for the sworn statements:

- Name
- Address
- Telephone Number
- FEIN
- Identifying information about the state grant (e.g. grant number)
- Period Covered
- Total amount of award
- Total amount of funds received
- A listing of expenditures to include, at a minimum, the level of detail (categories, line items, cost centers, etc.) as contained within the related grant budget.
- Ending balance (remaining balance of funds associated with the state grant), as applicable.
- Specific certification language signed by a senior representative and notarized by a certified notary public

Based on the details that are required on each sworn statement, county boards will be required to submit a separate sworn statement for each state grant received. Each state agency is responsible for determining the format of the sworn statement form.

Completion of the sworn statements will require a fairly significant effort due to the detailed expenditure requirement. The WVDE has discussed the possibility of programming something in WVEIS/WOW to assist with the preparation of the sworn statements. WVDE would ultimately like to create something to pull the detailed grant expenditures and basic grant information from the system into a standard format containing the required certification language, which could then be printed for signature and notarization. We are not certain when programming resources would be available to program such a report. In the short-term, the WVDE will work to come up with a specific WVEIS report that could be attached to a separate sworn statement form to provide the details for the expenditure section of the report. We will do our best to make this process as simple as possible for any state grants issued by the WVDE.

A draft WVDE Sworn Statement is included as Attachment #2.

## **State Grant Extension Update**

The WVDE Office of Internal Operations is still working to process the state grant extension requests received. There was a very large volume of requests received and it has taken longer than initially anticipated to process the changes in OASIS. We hope to have this process wrapped up within the next three weeks, with all revised e-grants sent back through the system for approval.

## **West Virginia Fresh Food Act**

HB 2396 passed the WV Legislature during the 2019 Legislative Session. See Attachment #3. The Legislation requires all state-funded institutions, including schools, to purchase a minimum of five percent of its fresh produce, meat and poultry from in-state producers. The Commissioner of Agriculture was charged with the enforcement of the requirement and was given rule-making authority regarding the requirement. The WV Department of Agriculture created Legislative Rule §61-10 that was effective on April 8, 2020. See Attachment #4. The WV Department of Agriculture also recently sent out the “Fresh Food Act Food Purchase Report” to entities covered by the legislation and that form is due by October 30, 2020. See Attachment #5.

This is not a WVDE requirement and the WVDE has no authority to grant extensions or waive these requirements. If you have questions or concerns regarding this reporting requirement, please contact the WV Department of Agriculture directly.

We would encourage you to work with your food service vendors to collect the information needed to track the purchases as required by the categories set forth by the WV Department of Agriculture. Ideally, they would be able to run reports from their system to provide you a breakout of meat, poultry, and produce and let you know what portion of those purchases qualify as WV Fresh Foods. At most, the WVDE would be able to help come up with a standardized way for counties to track this in WVEIS throughout the year as invoices are paid and help create a report to pull information for future Fresh Food Act Purchase Reports. We cannot submit this report to the WV Department of Agriculture on your behalf.



Please note that just because a vendor is a WV vendor does not mean that the food purchased qualifies as WV Fresh Food. For example, if a WV produce vendor purchases some of their produce from out-of-state farmers, the produce from those out-of-state farmers would not qualify as WV Fresh Food. As such, there isn't a way to automatically flag a vendor in WVEIS. The tracking would have to be done through a series of object codes (which is not recommended due to the volume of codes that we would need to create) or perhaps through the use of cost center codes. All of these potential tracking options would require the county board of education to enter the invoices using the appropriate codes in WVEIS. The Office of School Finance will work with the Accounting Committee, Kim Harvey and Tim Conzett to determine the best tracking solutions in WVEIS.

## WVEIS Absence Coding for FFCRA Leave

The Families First Coronavirus Response Act (FFCRA) created two new types of leave for public employees – paid Emergency Sick Leave and paid Expanded FMLA.

### Paid Emergency Sick Leave

Depending on the reason for the absence, paid Emergency Sick Leave under the FFCRA can be at an employee's regular rate of pay or at 2/3 of the employee's regular rate of pay.

The WVEIS Absence Code of **COVESF** should be used for all instances of paid Emergency Sick Leave, regardless of the rate of pay. When entering the absence, a unit of 1 would be entered. A balance of 10 would be added for the employee to ensure they do not utilize more than 10 days of paid Emergency Sick Leave.

5/11/20 FY 20 COUNTY OF BRAXTON 16:07:32 QPADEV001C  
EMS Absence/Leave Code Definitions Ref: PAY.121 .11

Absence Code: COVESF Description: COVID-19 EMER SICK FULL

Accrual Policy 1

1 = Do not accrue

2 = Accrue each pay period.

3 = Accrue at beginning of year.

4 = Accrue at year end.

Units are stated in D D = Days.

H = Hours.

Accrual period is F C = Calendar year.

F = Fiscal year.

Accumulation Policy

Normal limit 10 plus surplus accumulation of

Accruals to surplus are booked at 100.0000 % of actual

Balances in excess of the normal plus surplus are 3

1 = Paid 3 = Ignored

Deficit Policy

2 = Lost 4 = Comp time

Normally allowed deficit

Balances in excess of allowed deficit are 1 1 = Docked

2 = Ignored

Omit from check stub if current balance is zero? Y

Taxable?: Y FICA Wages?: Y Optional Classification:

Mode: Add

Cancel? N

If the reason for the paid emergency sick leave results in the employee being paid at only 2/3 of their regular rate of pay, a second WVEIS absence code must also be used – **COVESP**. When entering the absence, a unit of .33 would be entered to dock 1/3 pay for that absence. This means that two absence codes are needed for each day of paid Emergency Sick Leave taken at 2/3 of the employee's regular rate of pay.

5/11/20 FY 20  
EMS

COUNTY OF BRAXTON  
Absence/Leave Code Definitions

16:07:32 QPADEV001C  
Ref: PAY.121 .11

Absence Code: COVESP

Description: COVID-19 EMER SICK PARTIAL

Accrual Policy 1

Units are stated in D D = Days.

1 = Do not accrue

H = Hours.

2 = Accrue each pay period.

3 = Accrue at beginning of year.

Accrual period is F C = Calendar year.

4 = Accrue at year end.

F = Fiscal year.

Accumulation Policy

Normal limit plus surplus accumulation of

Accruals to surplus are booked at 100.0000 % of actual

Balances in excess of the normal plus surplus are 1

1 = Paid 3 = Ignored

Deficit Policy

2 = Lost 4 = Comp time

Normally allowed deficit

Balances in excess of allowed deficit are 1 1 = Docked

2 = Ignored

Omit from check stub if current balance is zero? Y

Taxable?: Y FICA Wages?: Y Optional Classification:

Mode: Add

Cancel? N

## Paid Expanded FMLA

The WVEIS Absence Code of **COVFMA** should be used to track the 10 paid weeks of Expanded FMLA under the FFCRA. When entering the absence, a unit of 1 would be entered to track days missed. A balance of 50 would be added for the employee to ensure they do not take more than 50 days of paid Expanded FMLA leave.

5/11/20 FY 20 COUNTY OF BRAXTON 16:07:32 QPADEV001C  
 EMS Absence/Leave Code Definitions Ref: PAY.121 .11

Absence Code: COVFMA Description: COVID-19 FMLA 10 WKS PART

Accrual Policy 1 Units are stated in D D = Days.  
 1 = Do not accrue H = Hours.  
 2 = Accrue each pay period.  
 3 = Accrue at beginning of year. Accrual period is F C = Calendar year.  
 4 = Accrue at year end. F = Fiscal year.

### Accumulation Policy

Normal limit 50 plus surplus accumulation of

Accruals to surplus are booked at 100.0000 % of actual

Balances in excess of the normal plus surplus are 3

1 = Paid 3 = Ignored

### Deficit Policy

2 = Lost 4 = Comp time

Normally allowed deficit

Balances in excess of allowed deficit are 1 1 = Docked

2 = Ignored

Omit from check stub if current balance is zero? Y

Taxable?: Y FICA Wages?: Y Optional Classification:

Mode: Add

Cancel? N

To adjust the employee's salary to 2/3 of their daily rate, the WVEIS absence code of **COVFML** should be used in conjunction with the COVFMA code. When entering the absence, a unit of .33 would be entered to dock the employee's pay by 1/3. This means that two absence codes are needed for each day of paid Expanded FMLA taken at 2/3 of the employee's regular rate of pay.

5/11/20 FY 20 COUNTY OF BRAXTON 16:07:32 QPADEV001C  
 EMS Absence/Leave Code Definitions Ref: PAY.121 .11

Absence Code: COVFML Description: COVID-19 FMLA 10 WKS PAY D

Accrual Policy 1 Units are stated in D D = Days.  
 1 = Do not accrue H = Hours.  
 2 = Accrue each pay period.  
 3 = Accrue at beginning of year. Accrual period is F C = Calendar year.  
 4 = Accrue at year end. F = Fiscal year.

#### Accumulation Policy

Normal limit plus surplus accumulation of  
 Accruals to surplus are booked at 100.0000 % of actual  
 Balances in excess of the normal plus surplus are 1

1 = Paid 3 = Ignored

#### Deficit Policy

2 = Lost 4 = Comp time

Normally allowed deficit

Balances in excess of allowed deficit are 1 1 = Docked  
 2 = Ignored

Omit from check stub if current balance is zero? Y

Taxable?: Y FICA Wages?: Y Optional Classification:

Mode: Add

Cancel? N

## Examples of How Each Absence Code Should be Entered

5/11/20 FY 20 COUNTY OF BRAXTON 16:20:54 QPADEV001C  
 EMS Mass Absence Entry Ref: PAY.409 .11  
 Period End Date: 6/30/19

| Line | Employee  | Job Cd | Units | Abs Code | Abs Rsn | Abs Date | Loc |
|------|-----------|--------|-------|----------|---------|----------|-----|
| 1    | 999999999 | PROF   | .33   | COVESP   |         |          |     |
| 2    | 999999999 | PROF   | .33   | COVFML   |         |          |     |
| 3    | 999999999 | PROF   | 1     | COVESF   |         |          |     |
| 4    | 999999999 | PROF   | 1     | COVFMA   |         |          |     |

If using a calling system or the payroll interface, you will need to add COVFMA and COVESF to the list of valid absence codes.

## Establishing an Absence Balance in WVEIS

To establish an absence balance in WVEIS for the new categories of leave, the WVEIS screen prints to follow are below:

5/28/20  
EMS

FY 20 COUNTY OF BRAXTON  
Employee Absence Balances

12:31:42 QPADEV002S  
Ref: PAY.802 .01

A Employee: 999999999 Job Code: PROF Absence: COVESF

Add

Change

Delete

Lookup

Index

End

Index: 1

1 = Absence Balances

2 = Employee by Name

3 = Employee by #

4 = Job Codes

5 = Absence Codes

6 = Employee Abs, by Abs Code

Auto Next Record? N

5/28/20 FY 20  
EMS

COUNTY OF BRAXTON  
Employee Absence Balances

12:35:21 QPADEV002S  
Ref: PAY.802 .11

Employee: 999-99-9999. Ellen Dougherty

Job: SVC SERVICE

Absence: COVESF

Available:

Run #: Paid Date: Change Date:

|            | CALENDAR | FISCAL |
|------------|----------|--------|
| Beginning: |          | 10     |

+ Earned:

- Used:

- Paid:

+ Docked:

+ Adjusted:

- Lost:

+ Comp:

Mode: Add

Cancel? N



## Manual Docks to Cap Paid Leave at Federal Limits

For situations where an employee's daily rate or 2/3 rate of pay exceeds the federal paid leave limits of \$511 per day (full day) or \$200 (2/3 rate), counties will need to manually calculate the amount that needs docked. Counties will need to enter the amount of overpayment for the pay period (or more than one pay period if using the 10 weeks of Expanded FMLA). This will dock the employee the amount listed each pay. When calculating the manual amount of the dock, keep in mind that, depending on the situation, the employee may have already been docked 1/3 of the regular daily rate through the use of the COVESP and COVFML codes.

5/28/20 FY 20  
EMS

COUNTY OF BRAXTON  
Employee Temporary Docks

12:26:51 QPADEV002S  
Ref: PAY.465 .11

Job Code: PROF  
Employee: 999-99-9999 Julie Greer

Dock: 140.00 on each of the next 1 checks.

Description: COVID 19 Absence

Mode: Lookup

Cancel? N

\_\_\_\_\_ COUNTY BOARD OF EDUCATION  
**SWORN STATEMENT OF EXPENDITURES**  
 FOR THE YEAR ENDED JUNE 30, \_\_\_\_\_

Attachment #2

|                                     |                          |                       |  |
|-------------------------------------|--------------------------|-----------------------|--|
| <b>Grant Number:</b>                | <b>Grantee Name:</b>     |                       |  |
|                                     |                          |                       |  |
| <b>Grantee FEIN:</b>                | <b>WVOASIS Vendor #:</b> | <b>Contact Name:</b>  |  |
|                                     |                          |                       |  |
| <b>Contact E-mail Address</b>       |                          | <b>Contact Phone:</b> |  |
|                                     |                          |                       |  |
| <b>Grantee Mailing Address:</b>     |                          |                       |  |
|                                     |                          |                       |  |
| <b>Total Amount of Grant Award:</b> |                          | <b>Grant Period:</b>  |  |
|                                     |                          |                       |  |

| Grant Revenues (received and anticipated) |          |        |
|---|----------|--------|
| Revenue Categories                        | Comments | Amount |
| Amount Received                           |          |        |
| Amount Anticipated                        |          |        |
| <b>Total Grant Revenues</b>               |          | \$ -   |

| Grant Expenditures (allowable costs expended by the grantee) |          |        |
|--|----------|--------|
| Expenditure Categories                                       | Comments | Amount |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
|  |          |        |
| <b>Total Grant Expenditures</b>                              |          | \$ -   |

**Ending Grant Balance (Revenues - Expenditures)** \$ -

**Grant Funds Returned** \$ -

This is to certify that I have reviewed the enclosed Statement of Grant Receipts and Expenditures submitted herewith and, to the best of my knowledge and belief, said statement represents all financial activities related to the receipt, use and expenditure of funds granted by the [GRANTOR] or [GRANTEE] and that the expenditures reported were for the purposes intended and in compliance with applicable laws, regulations and the terms and conditions of the grant documents. The Statement of Grant Receipts and Expenditures is presented on the accrual basis of accounting and is supported by our financial records and related documentation.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Taken, sworn and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public Signature: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2396**

BY DELEGATES R. THOMPSON AND LOVEJOY

[Passed March 8, 2019; in effect ninety days from  
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §19-37-1, §19-37-2, and §19-37-3, all relating to requiring all state-funded  
3 institutions to purchase a minimum of five percent of fresh produce, meat and poultry  
4 products from in-state producers if available; providing legislative findings and purpose;  
5 and establishing rule-making authority and enforcement authority.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 37. WEST VIRGINIA FRESH FOOD ACT.**

**§19-37-1. Legislative findings and purpose.**

1 (a) According to the West Virginia Farm Bureau state schools alone currently purchase  
2 \$100 million of food from out-of-state sources.

3 (b) Locally grown food is healthier and more beneficial to the environment than food  
4 imported from other states and other countries.

5 (c) This article will:

6 (1) Stimulate the agricultural economy of the state, especially in its economically  
7 depressed areas, and allow small farmers to expand operations as well as act as an incentive to  
8 new people to begin farming;

9 (2) Encourage state-funded institutions to begin growing their own produce, thus enabling  
10 people to learn and practice agricultural techniques, as well as lowering operational costs of those  
11 institutions; and

12 (3) Spur self-sufficiency and economic independence of those who learn and engage in  
13 agricultural activities.

**§19-37-2. State-funded institutions to purchase food from in-state sources; exception.**

1 Beginning July 1, 2019, all state-funded institutions, such as schools, colleges,  
2 correctional facilities, governmental agencies and state parks, shall purchase a minimum of five  
3 percent of its fresh produce, meat and poultry products from in-state producers: *Provided*, That  
4 such produce, meat and poultry products can be grown or is available from in-state producers.

**§19-37-3. Rule-making authority and enforcement.**

- 1           The Commissioner of Agriculture shall be charged with the enforcement of this article and
- 2           shall have authority to make and enforce rules and regulations for the administration of this article.

61CSR10

**TITLE 61  
LEGISLATIVE RULE  
DEPARTMENT OF AGRICULTURE**

**SERIES 10  
FRESH FOOD ACT**

**§61-10-1. General.**

1.1. Scope. -- This rule outlines the rules and regulations for enforcement and administration of the West Virginia Fresh Food Act, with a goal of increasing the availability of locally-grown foods, developing a market for locally-grown foods, encouraging state-funded institutions to engage in agricultural activities, and spurring self-sufficiency and economic independence.

1.2. Authority. -- West Virginia Code §19-37-3

1.3. Filing Date. -- April 8, 2020

1.4. Effective Date. -- April 8, 2020

1.5. Sunset Provision. -- This rule shall terminate and have no further force and effect on April 8, 2025.

**§61-10-2. Definitions.**

2.1. "Commissioner" means the West Virginia Commissioner of Agriculture, or his or her designee.

2.2. "Department" means the West Virginia Department of Agriculture.

2.3. "Fiscal year" means the period from July 1 to June 30 of each year, and corresponds to the time of the state budget adopted by the West Virginia Legislature.

2.4. "Fresh Food Act" or "Act" means the West Virginia Fresh Food Act, codified at W. Va. Code §§19-37-1 *et seq.*

2.5. "Minimal Processing" means modifications of raw agricultural products that do not change the fundamental characteristics of the product. Examples include, but are not limited to, refrigerating, freezing, peeling, slicing, dicing, cutting, chopping, shucking, grinding, forming ground products into patties without any additives or fillers, drying, dehydrating, washing, packaging, vacuum packing and bagging, adding ascorbic acid or other preservatives to prevent oxidation, butchering livestock and poultry and cleaning fish.

2.6. "State-funded Institutions" means facilities, ventures or organizations, such as, but not limited to, schools, colleges, correctional facilities, governmental agencies and state parks, that receive state funding. For purposes of this rule, each department, division, agency, board, commission, or other unit or sub-unit of government is considered to be a separate state-funded institution.

2.7. "West Virginia foods" means any combination of West Virginia meat, West Virginia poultry, West Virginia produce, or other West Virginia products as identified in this rule.

2.8. “West Virginia food distributor” means an individual or business entity with a legal presence in West Virginia that transports, aggregates or resells West Virginia produce, meat or poultry.

2.9. “West Virginia meat” means beef, sheep, goat, venison, fish or other farm-raised animal, other than poultry, that has spent at least half of its life before slaughter within the geographical borders of West Virginia.

2.10. “West Virginia poultry” means any farm-raised bird that has spent at least half of its life before slaughter within the geographical borders of West Virginia.

2.11. “West Virginia produce” means minimally processed fruits, vegetables, nuts, legumes or similar products that are grown within the geographical borders of West Virginia.

2.12. “West Virginia products” means food products that are either totally grown or produced in West Virginia, or which have at least 50% of the total value added by further processing in West Virginia. Products that have been certified as part of the Department’s West Virginia Grown program are presumed to qualify for this designation.

2.13. “West Virginia Producer” means an individual, farm or business entity that produces West Virginia foods within the state of West Virginia.

**§61-10-3. State-Funded Institution Liaisons.**

3.1. No later than September 1, 2019, each state-funded institution shall appoint an individual to serve as primary liaison to the Department for purposes of providing information to monitor and ensure compliance with the Fresh Food Act.

3.1.a. An individual may serve as the primary liaison for one or more state-funded institutions, so long as he or she has access to the required information to perform the functions of the role.

3.1.b. Each state-funded institution shall annually review and, if necessary, update its primary liaison with the Department.

3.1.c. Compliance with this registration requirement is a prerequisite for a state-funded institution to obtain a phase-in waiver from full compliance with the requirements of the Act for Fiscal Year 2020, as provided in section 6.2 below.

3.2. A state-funded institution is exempt from this requirement only if the state-funded institution has not purchased, either directly or indirectly, food in the immediately preceding ten years.

3.2.a. To qualify for this exemption, the state-funded institution must notify the Department of their claimed eligibility no later than September 1, 2019.

3.2.b. The Department retains final authority to determine whether a state-funded institution is eligible for this exemption.

**§61-10-4. Initial Submission of Information.**

4.1. No later than January 1, 2020, each state-funded institution shall submit to the Department all contracts or agreements for food, or for which food was an element (such as a conference agreement or

other service agreement) entered into by the state-funded institution in the preceding three completed fiscal years.

4.2. No later than March 31, 2020, each state-funded institution shall submit, in a form provided by the Department, the following analysis of the contracts and agreements submitted pursuant to section 4.1:

4.2.a. A calculation detailing the percentage of West Virginia foods that were purchased annually over the preceding three years;

4.2.b. The types of West Virginia foods that were purchased as part of those contracts or agreements;

4.2.c. Any efforts taken to solicit or obtain West Virginia products as part of those contracts or agreements; and

4.2.d. Contact information for each entity with which a contract or agreement was made.

**§61-10-5. Requirements for State-funded Institutions.**

5.1. Beginning July 1, 2019, all state-funded institutions are required to purchase a minimum of five percent of its food from in-state producers.

5.2. No later than August 31, 2020, and by August 31 of each year thereafter, each state-funded institution shall submit to the Department a food purchasing report, on a form provided by WVDA, the following information for the prior fiscal year:

5.2.a. The total amount spent, either directly or indirectly, on the purchase of food;

5.2.b. The quantity, and reasonable cash value, of West Virginia produce, West Virginia meat, and West Virginia poultry grown by the institution which shall count toward its required purchase percentage of West Virginia foods;

5.2.c. The percentage, as a share of dollars spent, of food purchased over the past fiscal year that satisfied the West Virginia foods requirement;

5.2.d. Prior fiscal year documentation detailing expenditures on all food purchased; and

5.2.e. Any other information requested by the Commissioner.

5.3. A state-funded institution that qualifies for a phase-in waiver, as provided by section 6.2 of this rule, shall be eligible to phase in its compliance with the requirements of the Fresh Food Act on the following schedule:

5.3.a. For Fiscal Year 2021 beginning on July 1, 2020, each state-funded institution shall purchase at least one percent (1%) West Virginia food.

5.3.b. For Fiscal Year 2022 beginning on July 1, 2021, each state-funded institution shall purchase at least two percent (2%) West Virginia food.



5.3.c. For Fiscal Year 2023 beginning on July 1, 2022, each state-funded institution shall purchase at least three percent (3%) West Virginia food.

5.3.d. For Fiscal Year 2024 beginning on July 1, 2023, each state-funded Institution shall purchase at least four percent (4%) West Virginia food.

5.3.e. For Fiscal Year 2025 beginning on July 1, 2024, each state-funded Institution shall purchase at least five percent (5%) West Virginia food.

**§61-10-6. Waiver Applications.**

6.1. The Commissioner shall have the sole authority to grant waivers to institutions in certain circumstances. Two types of waivers are recognized:

6.1.a. Phase-in waivers, which will authorize a state-funded institution to gradually increase its purchase of West Virginia food, as provided in section 5.3 of this rule; and

6.1.b. Waivers from the annual purchase requirements, which will authorize a state-funded institution to obtain a retroactive waiver from the requirements of the Fresh Food Act.

6.2. A state-funded institution shall be eligible for a phase-in waiver if the following requirements are met:

6.2.a. A primary liaison is identified, and regularly updated, as required by section 3.1;

6.2.b. All information is submitted as required by sections 4.1 and 4.2; and

6.2.c. Annual reports required by section 5.2 are submitted timely.

6.3. A state-funded institution shall be eligible for a waiver from the annual purchase requirements for a particular year.

6.3.a. The following circumstances may qualify a state-funded institution for a waiver:

6.3.a.1. The state-funded institution has made a good faith effort to increase the percentage of West Virginia Food it purchases;

6.3.a.2. The state-funded institution cannot secure an adequate supply of food from West Virginia producers after making diligent efforts to do so; or

6.3.a.3. Other extenuating circumstances, as determined by the Commissioner, prevent the state-funded institution from meeting the local purchasing requirements.

6.3.b. To be eligible for a waiver, the state-funded institution must submit the following information, on or before July 31 following the fiscal year for which the waiver is sought:

6.3.b.1. The purchasing report form required by section 5.2 of this rule;

6.3.b.2. A description of the circumstances that give rise to the request for a waiver;

6.3.b.3. An explanation of the efforts taken by the state-funded institution to comply with the requirements of the Fresh Food Act;

6.3.b.4. A plan to increase the percentage of West Virginia food purchased in the next fiscal year;

6.3.b.5. Documentation supporting the waiver application; and

6.3.b.6. Any additional information requested by the Commissioner.

6.3.c. No state-funded institution shall be eligible for a fiscal year waiver if it has not satisfied all the requirements set forth in section 6.2 of this rule for the phase-in waiver.

6.4. A state-funded institution seeking a waiver pursuant to this section shall petition the Commissioner, on a form provided by the Department, submit information necessary to demonstrate its eligibility, along with any additional information or documentation required by the Commissioner.

6.4.a. Upon receipt of a petition from a state-funded institution, the Commissioner shall review the request and provide a written response within sixty (60) days of receipt.

6.4.b. A state-funded institution that receives an adverse determination from the Commissioner shall have the right to request a second review of its application, either in writing or via a hearing before the Commissioner or his or her designee, to reconsider the decision. Such request must be received within fifteen (15) days of the adverse determination.

6.4.c. The decision of the Commissioner, either after the expiration of the time to petition for a second review or following the final decision following a second review, shall be considered final. State-funded institutions are not eligible for administrative appeals as set forth in W. Va. Code §29A-5-1 *et seq.*

6.5. A state-funded institution that has qualified for a waiver pursuant to section 6.3 of this rule shall be required, during the next fiscal year immediately following the year for which the waiver was granted, to cooperate and collaborate with the Department in an effort to improve the state-funded institution's ability to increase its purchase of West Virginia food. Application for, and granting of, a waiver is expressly conditioned upon agreement to this requirement.

**§61-10-7. Enforcement of the Fresh Food Act with State-Funded Institutions.**

7.1. The Commissioner has authority to enforce the provisions of this rule and the Fresh Food Act.

7.2. If a state-funded institution is determined to be in violation of the requirements of the Fresh Food Act and has not obtained a waiver from the Commissioner, the Commissioner has the authority to require a state-funded institution to:

7.2.a. Submit to additional and ongoing oversight by the Department;

7.2.b. Obtain Department approval prior to entering into any contracts that involve the purchase of food;

7.2.c. Pay a fine commensurate with the good faith, or lack thereof, demonstrated by the state-funded institution in attempting to comply with the requirements of the Fresh Food Act; or

7.2.d. Engage in any other conduct reasonably believed by the Commissioner to improve the ability of the state-funded institution to comply with the requirements of the Fresh Food Act in future years.

7.3. State-funded institutions determined by the Commissioner have insufficient reason to be granted a waiver pursuant to section 6 of this rule shall be considered to be in violation of the Act.

7.4. The Department may produce and provide to the West Virginia Legislature an annual report on the implementation of the Fresh Food Act, including:

7.4.a. A list of state-funded institutions in violation of the Act;

7.4.b. A list of waivers provided, and the reason such waivers were granted;

7.4.c. A list of waiver applications that were denied or refused; and

7.4.d. Any other information deemed relevant by the Commissioner of Agriculture.

**§61-10-8. Enforcement Against West Virginia Producers and Sellers of West Virginia Products.**

8.1. The Commissioner has authority to review purchases and investigate the eligibility of products identified as qualifying as West Virginia food.

8.2. Any seller who fraudulently misrepresents the geographical source of food sold to a state-funded institution, or otherwise engages in deception or other disqualifying practices, shall be barred from participating in the West Virginia Fresh Food Act and its enforcement.

8.3. Upon a conclusion that a producer has violated the provisions of section 5.2, the Commissioner shall make products sold by that producer ineligible to be considered West Virginia foods.

8.3.a. The period of ineligibility shall be for a minimum of one year from the date on which the order is issued.

8.3.b. Upon the conclusion of the ineligibility period, the producer may petition the Commissioner for reinstatement into the program.

8.3.c. The Commissioner shall have the sole discretion to effect reinstatement or to continue to bar a seller that has engaged in fraud.

8.3.d. The Commissioner may consider the totality of the circumstances in using his or her discretion to grant or deny the petition for reinstatement into the West Virginia Fresh Food Program.

8.4. Upon disqualification of products from a producer, or upon the end of their period of disqualification, the Commissioner shall notify the producer liaisons for each state-funded institution to advise them of the action.

8.5. A producer aggrieved by the decision of the Commissioner may petition for reconsideration of the decision, either through a written submission or via a hearing before the Commissioner or his or her designee.

8.5.a. Such request must be received within fifteen (15) days of receipt of the Commissioner's adverse determination.

8.5.b. The decision of the Commissioner, either after the expiration of the time to petition for a second review or following the final decision following a second review, shall be considered final. State-funded institutions are not eligible for administrative appeals as set forth in W. Va. Code §29A-5-1 *et seq.*

**§61-10-9. Construction of Rules to Further Public Policy.**

9.1 These rules shall be construed broadly to further the public policy set forth in the Fresh Food Act.

9.2. These rules shall not be construed to allow West Virginia entities to resell products produced or grown outside of West Virginia's borders in order to satisfy the provisions of the Fresh Food Act.

9.3. These rules shall not be construed to prevent producers from purchasing agricultural inputs from out-of-state vendors. Inputs may include but are not limited to feed, seed, fertilizer, plugs, seedlings, chicks, livestock, or other inputs for West Virginia products.

9.4. West Virginia producers may engage in, or contract for, Minimal Processing prior to sale.

9.5 These rules do not relieve in-state producers from any other requirements mandated by the West Virginia Tax Department, the West Virginia Secretary of State, the State Purchasing Division, or any other applicable legal authority.

## Fresh Food Act Food Purchase Report

Please fill out the form below with all requested information and return to the West Virginia Department of Agriculture at the mailing address or the email address at the bottom of the page. **Please return by October 30, 2020**

### Part 1: Entity Information

Date of Submission: \_\_\_\_\_  
 Entity: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Entity Liaison: \_\_\_\_\_  
 Contact Email: \_\_\_\_\_  
 Contact Phone: \_\_\_\_\_

### Part 2: Food Analysis and Calculations

**Chart 1: Current Food Purchases**

*Enter total dollar amount for Food which should not include Beverages.*

|                                 | FY17        | FY18        | FY19        |
|---------------------------------|-------------|-------------|-------------|
| Food Purchases                  |             |             |             |
| Beverages                       |             |             |             |
| <b>Total Food Purchases (a)</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

**Chart 2: Categorical Food Purchases**

*From "Total Food Purchases" above - delineate how much your institution spends on the following below.*

|                  | FY17        | FY18        | FY19        |
|------------------|-------------|-------------|-------------|
| Meat             |             |             |             |
| Poultry          |             |             |             |
| Produce          |             |             |             |
| <b>Total (b)</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

**Chart 3: "Categorical Food Purchases" that Qualify under the Fresh Food Act Definition of 'WV Foods'**

Per the Fresh Food Act Legislative Rule, "West Virginia foods" means any combination of West Virginia meat, West Virginia poultry, West Virginia produce or other West Virginia products as identified in this rule.

Find the full Legislative Rule at <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=53148&Format=PDF>

|                              | FY17        | FY18        | FY19        |
|------------------------------|-------------|-------------|-------------|
| WV Fresh Food (c)            |             |             |             |
| <b>WV Fresh Food % (c/b)</b> | <b>0.0%</b> | <b>0.0%</b> | <b>0.0%</b> |

### Part 3: Other In-State Food Purchases

**Chart 4: In-State Food Purchases**

*Delineate other West Virginia food purchases (not listed above) that currently do not meet the definition of 'WV Foods'*

| Category                                       | FY17        | FY18        | FY19        |
|--|-------------|-------------|-------------|
|  |             |             |             |
|  |             |             |             |
|  | \$ -        | \$ -        |             |
|  | \$ -        | \$ -        | \$ -        |
|  | \$ -        | \$ -        | \$ -        |
| <b>Total Other In-State Food Purchases (d)</b> | <b>\$ -</b> | <b>\$ -</b> | <b>\$ -</b> |

|   |      |      |      |
|---|------|------|------|
| <b>Other In-State Food &amp; WV Fresh Food Purchases % (c+d/ a)</b> | 0.0% | 0.0% | 0.0% |
|---|------|------|------|

Submit Form to:  
**West Virginia Department of Agriculture**  
 Attn.: Fresh Food Act  
 1900 Kanawha Blvd. East, Charleston, WV 25305; Phone 304-558-3550; Fax 304-558-2203; freshfood@wvda.us  
**Kent A. Leonhardt, Commissioner**