

# School Finance Hot Topics – October 21, 2021

## Save the Dates

Medicaid Annual Cost Report Training – Monday, October 25, 2021 - 1:30 – 3:00 PM

School Finance Annual Summer Conference – Week of July 11-15, 2022 – Specific Dates & Location TBD

## Emergency Procurement

As a reminder, West Virginia Board of Education (WVBE) Policy 8200, Section 28 contains regulations for emergency procurement procedures when the Governor declares an emergency. Links to both the official Secretary of State copy and a searchable copy of WVDE Policy 8200 are included below, along with the text from Section 28. **Please note that you will still need to obtain bids/quotes and fully document your process under the emergency procurement guidelines.**

WVBE Policy 8200 also contains provisions regarding local emergencies. **In order to be able to declare local emergencies, county boards of education are supposed to have their own local policy and competitive bids are still required whenever possible.**

<https://wvde.us/wp-content/uploads/2017/10/68-8587-23899-2012-08-03-09-05-31-086.pdf>

Official Secretary of State Copy

<https://wvde.us/wp-content/uploads/2017/10/68-8587-23899-2012-08-03-09-05-31-086.pdf>

Searchable Copy

### 28. Emergency Procurement

#### 28.1. Declared Emergencies.

28.1.1 The Governor of the State of West Virginia has the inherent constitutional authority to declare an emergency situation. In the event the Governor declares such an emergency, the Governor has the authority to suspend certain laws, rules and/or regulations relating to the acquisition of commodities and service by public organizations pursuant to W.Va. Code § 15-5-6(g).

28.1.2 It is of the highest importance that state government responds quickly and effectively to safeguard the public safety and welfare during states of emergency. Yet, even under those circumstances, the acquisitions of commodities and services must be effectuated in a fair and accountable manner.

28.1.3 Accordingly, should the Governor suspend said laws, rules and/or regulations, the following procedures shall apply:

- a. The employees or representatives of the LEA covered by this policy shall exercise sound judgment and discretion when acquiring commodities and services related to the emergency.

- b. The employees or representatives of the LEAs shall operate with highest ideals of honor and integrity and strive to avoid the appearance of perceived impropriety.
- c. No person shall corruptly combine, collude, or conspire with one or more persons to lessen competition, cause a higher price to be paid or cause one vendor to be unjustifiably preferred over one or more other prospective vendors.
- d. No person shall solicit or receive anything of value, directly or indirectly, now or in the future, from any vendor or person supplying commodities or services in relation to the emergency.
- e. The LEA shall be responsible for developing specifications for commodities and services that do not favor a particular brand or vendor.
- f. Any contract and/or purchase order in excess of \$100,000 shall be reviewed, approved and signed by the county superintendent, or director of a regional education service agency or multi-county vocational center, whichever the case may be.
- g. **The acquisition of commodities and services not on contract that is estimated to cost in excess of \$1,000 but less than \$5,000 shall at all times be based on three competitive bids. Bids may be verbal but shall be summarized and documented and include the date of contact, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.**
- h. **The acquisition of commodities and services not on contract that is estimated to cost in excess of \$5,000 shall be based on three written bids which shall be documented and include the date of contact, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.**
- i. **If, in the opinion of the LEA, using sound judgment and discretion, time does not permit written bids to be received, verbal bids shall be obtained and documented, with written bids received within five working days of the request.**
- j. **If, in the opinion of the LEA, using sound judgment and discretion, time does not permit verbal bids to be received, the public organization must secure written approval from the chief executive officer of the state agency to secure necessary services and supplies without bids for only that period of time absolutely necessary to abate the emergency.**
- k. All purchase order and/or contract awards shall be made to the lowest, responsible bidder meeting specifications.
- l. Should the award not be made to the lowest priced bidder, a written justification shall be placed on file with the bids that documents the reason the low price was rejected. This justification must be signed by the county superintendent, or director of a regional education service agency or multi-county vocational center, whichever the case may be.
- m. The LEA shall document each expenditure and include specifications, bids, nobids, award justifications and any other relevant data.
- n. The documentation for each expenditure shall be complete and shall be kept in an orderly manner that will enable any interested party to understand the specifics of the expenditure.

- o. A complete written record of all expenditures relating to the emergency shall be submitted to the Governor within 30 days of the expiration of the declaration of the emergency.
- p. The written record shall include a summary sheet that details all acquisitions for the emergency and lists date of purchase, vendor, dollar amount, commodity or service description, quantity, number of bids obtained and whether the award was made to the low bidder.
- q. The Governor reserves the right to remove the spending authority at any time during the emergency and appoint a person or organization to manage the emergency expenditures and/or transfer that authority to another organization.
- r. All emergency expenditures are subject to complete review and/or thorough audit as requested by the Governor.
- s. The Governor has reserved the right to amend, alter, or cancel the preceding procedures as necessary through written amendments, alterations or cancellations with justification and documentation of specific situations and reasons.

## 28.2. Local Emergencies.

**28.2.1 Each LEA must establish by local board policy the procedures to be followed in the case of an emergency at the local level that has not been declared an emergency by the Governor.**

**28.2.2 The chief executive officer, purchasing director or appointed designee shall issue prior written approval for purchases in emergency situations.** These situations can arise from acts of nature, conditions that are detrimental to the health, safety, or welfare of employees or students, or other unforeseen events that threaten the termination of essential services. These can include unforeseen delays by contractors or delays in the transportation of indispensable goods and materials. Emergency purchases are not to be used for hardships created by neglect, poor planning, or lack of organization.

**28.2.3 Competitive bids must be obtained whenever possible. If, in the opinion of the LEA, using sound judgment and discretion, time does not permit verbal bids to be received, the LEA must secure written approval from the chief executive officer of the agency to secure necessary services and supplies without bids for only that period of time absolutely necessary to abate the emergency**

## **Extracurricular Equity Fund (ECEP) – Drawdown Reminder & Extension Requests**

As a reminder, all ECEP funds must be requested via the S2 system, regardless of whether the funds are state or federal funds. Although state grant funds are normally advanced, counties who received state funds for ECEP were treated the same as those receiving federal funds for consistency in the level of documentation and effort needed related to the funds.

The ECEP funds were originally granted with an ending obligation date of September 30, 2021 and ending liquidation date of November 15, 2021. The WVDE has determined that we can extend those grants by

one year to September 30, 2022 and November 15, 2022 since the timeline for the federal funds was extended by the federal government. If you need an extension on your county's ECEF grant, please contact Uriah Cummings at [uriah.cummings@k12.wv.us](mailto:uriah.cummings@k12.wv.us) by Monday, November 15, 2021. It is far more efficient for the WVDE to process all extension requests for ECEF funds at one time.

## **WVBE Policy 5202 Certification Requirements for CSBOs and Professional Accountants**

WVBE Policy 5202 sets forth the minimum requirements for an individual to obtain certification as a Chief School Business Official or Professional Accountant. When posting for such positions in your county, please be sure to include the minimum requirements in the job posting. Both positions require at a minimum:

- Bachelor's Degree with a minimum of 24 hours in accounting coursework
- Minimum 2.50 overall GPA

When determining whether specific courses qualify as accounting courses, those courses generally have an ACCT designation on a transcript. Some colleges do not utilize ACCT and instead list all business related courses with a BUS designation on the transcript, so the description of the course in the college's course catalog can help determine if the class was an accounting class. Finance and general business courses are not considered accounting coursework. When in doubt, feel free to send copies of transcripts for potential candidates to Uriah Cummings at [uriah.cummings@k12.wv.us](mailto:uriah.cummings@k12.wv.us) for review. Uriah reviews the transcripts for all initial applications for the CSBO/Professional Accountant certification.

If you are unable to find a candidate who meets the minimum requirements, an individual may be eligible for a waiver to give them some time to complete additional accounting coursework. Waivers are generally good for the remainder of the fiscal year of hire (and application for certification), so an individual only has until June 30<sup>th</sup> to complete the coursework. Because the amount of time to take the coursework is limited, an individual should not be hired who has an insurmountable number of hours to complete in a short period. Many accounting courses are pre-requisites for other courses and individuals will be completing the college courses while employed full-time in a new position.

Keep in mind that CSBOs require 15 hours of professional development sponsored or approved by the WVDE annually and professional accountants must have 6 hours.

## **Federal Drawdowns – Three Day Cash on Hand Rule**

When submitting federal drawdown requests, please pay particular attention to the dates on your WVEIS reports. The WVDE noted several instances this summer where county boards of education submitted S2 drawdown requests in advance of the dates on the required WVEIS reports. For example, the drawdown request was dated June 28, 2021 but the WVEIS reports reflected activity through June 30, 2021.

Although federal regulations allow federal funds to be advanced in accordance with the three-day cash on hand rule, the WVDE's Memorandum of Understanding with the WV State Auditor's Office (WVSAO) indicates that all federal drawdowns will be treated as reimbursements. From the previous example, the drawdown request should have been submitted no earlier than June 30, 2021 to be treated as a reimbursement.

If a county is truly having cash flow issues and needs to draw down the funds within 3 days of expenditure to help meet payroll obligations, the WVDE can work with the WVSAO for an exception to the reimbursement rule. We expect such situations to be rare. If you are faced with this situation, please contact Uriah Cummings at [uriah.cummings@k12.wv.us](mailto:uriah.cummings@k12.wv.us) so he can work with the WVDE Office of Internal Operations and the WVSAO to process the S2 request.

## **IRS Form 8822-B: Change of Address or Responsible Party**

The IRS is urging entities with a Federal Employer Identification Number (FEIN) to update any changes to address or responsible party information within 60 days by filing Form 8822-B, Change of Address or Responsible Party – Business. The IRS has indicated that having accurate information on file for all entities is critical in cases of identity theft or other fraud-related issues.

The IRS defines “responsible party” as follows:

Responsible party defined. The “responsible party” is the person who ultimately owns or controls the entity or who exercises ultimate effective control over the entity. The person identified as the responsible party should have a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the person, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets. **Unless the applicant is a government entity, the responsible party must be an individual (that is, a natural person), not an entity.**

- For entities with shares or interests traded on a public exchange, or which are registered with the Securities and Exchange Commission, “responsible party” is (a) the principal officer, if the entity is a corporation; or (b) a general partner, if a partnership. The general requirement that the responsible party be an individual applies to these entities. For example, if a corporation is the general partner of a publicly traded partnership for which Form SS-4 is filed, then the responsible party of the partnership is the principal officer of the corporation.
- For tax-exempt organizations, the responsible party is generally the same as the “principal officer” as defined in the Form 990 instructions.
- **For government entities, the responsible party is generally the agency or agency representative in a position to legally bind the particular government entity.**
- For trusts, the responsible party is a grantor, owner, or trustor.
- For decedent estates, the responsible party is the executor, administrator, personal representative, or other fiduciary.

## Pay for Planning Periods

Due to substitute shortages, we have received several inquiries about how to pay teachers who give up their planning periods to provide coverage for absent teachers in their building. West Virginia Code §18A-4-14(c) states the following regarding compensation for such situations:

(c) Nothing in this section prevents any teacher from exchanging his or her lunch recess or a planning period or any service person from exchanging his or her lunch recess **for any compensation or benefit mutually agreed upon by the employee and the county superintendent or his or her agent: Provided, That a teacher and the superintendent or his or her agent may not agree to terms which are different from those available to any other teacher granted rights under this section within the individual school or to terms which in any way discriminate among those teachers within the individual school**, and a service person granted rights under this section and the superintendent or his or her agent may not agree to terms which are different from those available to any other service personnel within the same classification category granted rights under this section within the individual school or to terms which in any way discriminate among those service personnel within the same classification category within the individual school.

It is permissible to charge the planning period pay to the federal ESSER grant under the continuity of operations provision since the current substitute shortages are in-part due to COVID-19. In order to charge the federal grant, you must either have a timesheet or other paperwork that indicates the employee gave up his or her planning period or the teacher would be required to complete a semi-annual time and effort certification.

## Extra-Student Pay

West Virginia Code §18-5-18a limits the maximum number of students that may be assigned to a teacher to twenty (20) students for pre-kindergarten and kindergarten teachers and twenty-five (25) students for teachers in grades 1 through 6. However, three additional students may be assigned to kindergarten teachers and to teachers in grades 4, 5 and 6. No additional students may be assigned to teachers in grades pre-kindergarten, 1, 2 or 3. The statute indicates that there is nothing intended to limit the number of pupils per teacher in classrooms for the instruction of choral, band or orchestra music.

Any teacher who is assigned additional students above the maximum numbers stated is to be paid additional compensation based on the affected classroom teacher's average daily salary divided by the maximum number of students allowed for the class (20 for kindergarten and 25 for grades 4, 5, and 6) for every day that the students are enrolled in the teacher's classroom.

The additional pay is to be paid for all days in the employment term for which the teacher is normally paid, including holidays; election day; and noninstructional days, such as those scheduled as outside the school environment (OS), continuing professional development (CE) and preparation for the opening or closing of school (P). The additional pay is also to be paid on days that the teacher is absent from school on personal/sick leave.

A teacher is entitled to the additional pay only for the amount of time during the school day that the teacher has the extra students in class.

In addition, the additional pay cannot be reduced for days that students are absent from school or absent from a teacher's classroom due to being pulled out for special instructional services.

## **Annual Bleacher Inspections**

According to the WV State Fire Marshal, there is a requirement for a yearly inspection from a Professional Engineer/Registered Architect or qualified service representative to inspect all bleachers owned by a county board of education. This requirement is contained in the National Fire Protection Association (NFPA) 102 Chapters 5 (Grandstands) and Chapter 6 (Folding and Telescopic Seating), which are incorporated into the State Fire Code (87CRS1). The State Fire Marshal indicated that the county must maintain a record of the yearly inspection.

## **Fixed Asset Capitalization Reminder**

The WVEIS Fixed Asset Manual states in part the following:

C. Capitalization Level – A capital asset other than buildings whose original cost is \$5,000 or more on an individual basis, or a capital asset received by donation, whose fair market value at the time of receipt equals or exceeds this value on an individual basis must be capitalized for financial reporting purposes. This means that items purchased and capitalized in the current year will not be reported as current expenses in the district-wide Statement of Activities, but rather a depreciation expense will be recorded, by function, to reflect the cost of the asset over its useful life.

**Material purchases of like assets, however, must be considered as one asset in determining whether the asset meets the capitalization threshold.** For instance, the purchase of some library books would not be capitalized because the cost of each individual asset does not meet the capitalization threshold. However, the purchase of enough library books to completely furnish a library in a new school would need to be considered as one asset and the capitalization threshold would be applied to the cost of the books in total.

Please keep this in mind when making bulk purchases of technology items. For example, when purchasing 200 laptops with a unit cost of \$1,000 each, the overall cost of the laptop purchase is \$200,000, which is significant and should be capitalized based on the guidance in the WVEIS Fixed Asset Manual.

## **IRS Treatment of Gift Cards Provided to Employees**

Please keep in mind that the IRS views gift cards provided to employees as a taxable benefit. If a school holds a fundraiser for teacher recognition as permitted by statute and utilizes the funds to purchase gift cards for staff, the value of the gift cards paid for with school funds must be included on the W-2 for all employees that receive the gift cards. See excerpt below from IRS Publication 15-B which indicates that gift cards can never be considered a de minimis benefit.

You can exclude the value of a de minimis benefit you provide to an employee from the employee's wages. A de minimis benefit is any property or service you provide to an employee that has so little value (taking into account how frequently you provide similar benefits to your employees) that accounting for it would be unreasonable or administratively impracticable. **Cash and cash equivalent fringe benefits (for example, gift certificates, gift cards, and the use of a charge card or credit card), no matter how little, are never excludable as a de minimis benefit.**

[2021 Publication 15-B \(irs.gov\)](#)