

April 27, 2009

To the Superintendent Addressed:

Re: Swine (North American) Flu Information

The U.S. Centers for Disease Control and Prevention (CDC) and state and local public health officials are investigating North American influenza (swine flu) cases in people in several U.S. states, including Texas. There have been confirmed cases in Texas. Investigations are ongoing to determine the source of the infection and if additional people have been infected with swine flu. The Texas Education Agency (TEA or agency) is in constant communication with the Governor's Division of Emergency Management and is monitoring the situation. The following information is provided for district use.

### **TAKS Testing**

In the event of a school district/campus closure during the TAKS-testing window, please contact Cathy Kline in the Student Assessment Division at [Cathy.Kline@tea.state.tx.us](mailto:Cathy.Kline@tea.state.tx.us) for further guidance.

### **Waivers**

Waiver applications for both missed instructional days and low attendance are available at: <http://www.tea.state.tx.us/waivers/waiverapps.html>. For more information about waivers, please contact the Waivers Division at (512) 463-5917 or by email at [mike.peebles@tea.state.tx.us](mailto:mike.peebles@tea.state.tx.us).

### **Online Resources and Hotline**

The Texas Department of State Health Services has established a website that includes recommendations and resources on swine flu at [www.dshs.state.tx.us/news/releases/swine\\_flu.shtm](http://www.dshs.state.tx.us/news/releases/swine_flu.shtm). Additionally, a Swine Flu Hotline is available at **(888) 777-5320**. The Pandemic Flu Plan may also provide school districts and communities with relevant information at [www.dshs.state.tx.us/comp/comp/pandemic/default.shtm](http://www.dshs.state.tx.us/comp/comp/pandemic/default.shtm).

### **Enrollment and Attendance**

Public schools should prudently evaluate the health of current students and new arrivals. Students demonstrating flu-like symptoms should be evaluated by medical professionals. Please be aware that merely sneezing or coughing without a fever or other symptoms of the flu does not require intervention. Many students will merely have seasonal allergies or asthma and do not pose a threat.

Similarly, students arriving from outside of the state or country should be admitted to school in the normal manner. There is no basis at this time for excluding students who have arrived from Mexico or other locations where the swine flu has been diagnosed.

**Teacher Pay and School Closure**

TEA has received several inquiries regarding the legality of paying teachers and other contract personnel for days that a district is closed due to swine flu. Please be aware that the agency does not advise districts regarding local closure or personnel decisions, and does not take a position on whether districts should act in one way or another. Local school boards, acting in concert with local counsel and community health agents, have to resolve the questions based on their own unique circumstances.

The agency's understanding is that Texas Education Code (TEC) Section 21.401(c) represents a legislative determination that a public purpose exists to continue educators' salaries during times of disasters, floods, or extreme weather conditions that forces the closing of schools. A board could consider this position in making its determination to request a reduction in the number of days of teacher contract service under Section 21.401(c).

A district that wishes to reduce the number of days of required service without reducing educators' salaries may request that the commissioner authorize such a reduction pursuant to TEC Section 21.401(c). A waiver of the number of days of instruction is not an automatic waiver in the number of days of service. However, a district that requests a shorter contract term commensurate with the number of days closed will be granted that request.

Thank you for your effort to provide the greatest amount of stability for students and staff while continuing to ensuring their safety. I have every confidence that you will best serve your students and employees during this and future circumstances.

Sincerely,

Robert Scott  
Commissioner of Education

RS/pc