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SYNOPSIS
Permits use of virtual or remote instruction to meet minimum 180-day school year requirement under certain circumstances.

CURRENT VERSION OF TEXT
As amended by the General Assembly on March 16, 2020.

(Sponsorship Updated As Of: 3/19/2020)
A3813 [1R] BURZICHELLI, SCHEPISI

AN ACT concerning flexible instruction days for public schools and approved private schools for students with disabilities, supplementing chapter 46 of Title 18A of the New Jersey Statutes, and amending P.L.1996, c.138.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 9 of P.L.1996, c.138 (C.18A:7F-9) is amended to read as follows:

9. a. In order to receive any State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), a school district, charter school, county vocational school district, or county special services school district shall comply with the rules and standards for the equalization of opportunity which have been or may hereafter be prescribed by law or formulated by the commissioner pursuant to law, including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.), and shall further comply with any directive issued by the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6). The commissioner is hereby authorized to withhold all or part of a district’s State aid for failure to comply with any rule, standard or directive. No State aid shall be paid to any district which has not provided public school facilities for at least 180 days during the preceding school year, but the commissioner, for good cause shown, may remit the penalty.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, in the event that a school district is required to close the schools of the district for more than three consecutive school days due to an epidemic, or a weather or other emergency condition, a declared state of emergency, declared public health emergency, or a directive by the appropriate health agency or officer to institute a public health-related closure, the commissioner shall allow the district to apply to the 180-day requirement established pursuant to subsection a. of this section, one or more days of virtual or remote instruction provided to students on the day or days the schools of the district were closed if the program of virtual or remote instruction meets such criteria as may be established by the commissioner. A district that wants to use a program of virtual or remote instruction to meet the 180-day requirement in accordance with this subsection shall submit its proposed program of virtual or remote instruction to the commissioner within 30 days of the effective date of P.L., c. (pending before the Legislature as this bill) and annually thereafter, provided however that if the school district is unable to complete and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:

1Assembly floor amendments adopted March 16, 2020.
submit its proposed program within the 30-day period and the district
is required to close its schools for an epidemic, or a weather or other
emergency condition a declared state of emergency, declared public
health emergency, or a directive by the appropriate health agency or
officer to institute a public health-related closure, the commissioner
may retroactively approve the program.

A day of virtual or remote instruction, if instituted under a
program approved by the commissioner, shall be considered the
equivalent of a full day of school attendance for the purposes of
meeting State and local graduation requirements, the awarding of
course credit, and such other matters as determined by the
commissioner.

If a program of virtual or remote instruction is implemented for
the general education students the same educational opportunities shall
be provided to the special education students, to the extent appropriate
and practicable. Speech language services and counseling services
may be delivered to special education students through the use of
electronic communication or a virtual or online platform, as
appropriate.

c. In the event that the State or local health department
determines that it is advisable to close or mandates closure of the
schools of a school district due to a declared state of emergency,
declared public health emergency, or a directive by the appropriate
health agency or officer to institute a public health-related closure, the
superintendent of schools shall have the authority to implement the
school district’s program of virtual or remote instruction.

d. The commissioner shall define virtual and remote instruction
and establish guidance for its use. The guidance shall provide school
districts with information on:

(1) providing instruction to students who may not have access to a
computer or to sufficient broadband, or to any technology required
for virtual or remote instruction;

(2) the required length of a virtual or remote instruction day;

(3) the impact of virtual or remote instruction on the school lunch
and school breakfast programs;

(4) the impact of virtual or remote instruction on the schedule for
administering State assessments; and

(5) such other topics as the commissioner deems necessary.

e. Nothing in subsection b., c., or d. of this section shall be
construed to limit, supersede or preempt the rights, privileges,
compensation, remedies, and procedures afforded to teaching staff
members, public school employees or a collective bargaining unit
under federal or State law or any provision of a collective bargaining
agreement entered into by the school district. In the event of the
closure of the schools of a school district due to a declared state of
emergency, declared public health emergency, or a directive by the
appropriate health agency or officer to institute a public health-related
closure for a period longer than three consecutive days, public school
employees covered by a collective negotiations agreement shall be
entitled to compensation, benefits, and emoluments as provided in the
collective negotiations agreement as if the school facilities remained
open for any purpose and for any time lost as a result of school
closures or use of virtual or remote instruction, except that additional
compensation, benefits, and emoluments may be negotiated for
additional work performed.¹

(cf: P.L.2007, c.260, s.32)

¹2. (New Section) a. In the event that an approved private school
for students with disabilities is required to close the school for more
than three consecutive school days due to a declared state of
emergency, declared public health emergency, or a directive by the
appropriate health agency or officer to institute a public health-related
closure, the commissioner shall allow the school to apply one or more
days of virtual or remote instruction provided to students on the day or
days the school was closed to qualify as a day of instruction for the
purposes of calculating tuition if the program of virtual or remote
instruction meets such criteria as may be established by the
commissioner. An approved private school for students with
disabilities that wants to use a program of virtual or remote instruction
to qualify as a day of instruction for the purposes of calculating tuition
shall submit its proposed program of virtual or remote instruction to
the commissioner within 30 days of the effective date of P.L. , c.
(pending before the Legislature as this bill) and annually thereafter,
provided however that if the school is unable to complete its proposed
program within the 30-day period and the school is required to close
for a declared state of emergency, declared public health emergency,
or a directive by the appropriate health agency or officer to institute a
public health-related closure, the commissioner may retroactively
approve the program.

A day of virtual or remote instruction, if instituted under a program
approved by the commissioner, shall be considered the equivalent of a
full day of school attendance for the purposes of meeting State and
local graduation requirements, the awarding of course credit, and such
other matters as determined by the commissioner.

b. In the event that the State or local health department
determines that it is advisable to close or mandates closure of an
approved private school for students with disabilities due to a declared
state of emergency, declared public health emergency, or a directive
by the appropriate health agency or officer to institute a public health-
related closure, the principal of the school shall have the authority to
implement the school’s program of virtual or remote instruction.

c. The commissioner shall define virtual and remote instruction
and establish guidance for its use. The guidance shall provide schools
with information on:
1 (1) providing instruction to students who may not have access to a
2 computer or to sufficient broadband, or to any technology required for
3 virtual or remote instruction;
4 (2) the required length of a virtual or remote instruction day;
5 (3) the impact of virtual or remote instruction on the schedule for
6 administering State assessments; and
7 (4) such other topics as the commissioner deems necessary.
8
9  This act shall take effect immediately.