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

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 4/13/2020)
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,

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,
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 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.2007, c.260 (pending before the Legislature
as this bill) and annually thereafter, provided however that if the school
district is unable to complete and submit its proposed program within
the 30-day period and the district is required to close its schools for a
declared state of emergency, declared public health emergency, or a

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.
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. (1) 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 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.

(2) 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 who are not covered by a collective negotiations agreement shall be entitled to any benefits, compensation, and emoluments to which they otherwise would be entitled as if they had performed the work for such benefits, compensation, and emoluments 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.

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

2. (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. (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) 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 schedule for administering State assessments; and

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

3. This act shall take effect immediately.

STATEMENT

Under current law, a school district, county vocational school district, or county special services school district must be open for 180 days each school year in order to qualify for State aid. In the event that a school district does not meet this requirement, the Commissioner of Education will withhold State aid in the succeeding year. While the law does allow the commissioner to remit the penalty for good cause shown, the exemption has been rarely applied. Current regulations require that an approved private school for students with disabilities (APSSD) calculate its tuition based on a minimum of 180 days of instruction. For programs in operation for less than the minimum 180 days of instruction, tuition is reduced accordingly.

This bill would allow a school district, renaissance school project, charter school, county vocational school district, county special services school district, or APSSD to meet the 180-day requirement in a year with an excessive number of unexpected school closures 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 through the use of virtual or remote instruction. Specifically, in the event that a district or APSSD is required to close its schools 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 will allow the district or APSSD to apply to the 180-day requirement one or more days of virtual or remote instruction provided to students on the day or days the schools of the district or APSSD were closed if the program meets such criteria as may be established by the commissioner. A district or APSSD that wants to use a program of virtual or remote instruction to meet the 180-day requirement must submit its proposed program of virtual instruction to the commissioner within 30 days of the effective date of the bill and annually thereafter. The bill provides, however, that if
a district or APSSD is unable to meet the initial 30-day period and
the schools of a district or APSSD must 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 is permitted to retroactively
approve the program. If the State or local health department
determines that it is advisable the schools be closed or mandates
closure, the superintendent of schools or principal of an APSSD, as
applicable, will have the authority to implement the district or
APSSD’s program of virtual or remote learning. The bill provides
that a day of virtual or remote instruction, if instituted under a
program approved by the commissioner, will 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 for such other matters as the commissioner
determines.

The bill directs the commissioner to define virtual and remote
instruction and provide guidance for its use. The guidance will also
provide districts information on: 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; the
required length of a virtual or remote instruction day; the impact of
virtual or remote instruction on the school lunch and school breakfast
programs; the impact of virtual or remote instruction on the schedule
for administering State assessments; and such other topics as the
commissioner deems necessary.

Nothing in the bill may be construed to limit, supersede or preempt
the rights, privileges, compensation, remedies, and procedures
afforded to 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. The bill also provides
that public school employees covered by a collective negotiations
agreement will 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. In
addition, the bill provides that public school employees who are not
covered by a collective negotiations agreement will be entitled to
compensation, benefits, and emoluments as if the school facilities
remained open.