

ASSEMBLY, No. 4686

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

Requires school programs of virtual or remote instruction to be implemented primarily through use of virtual instructional sessions.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the implementation of programs of virtual or
2 remote instruction and amending P.L.1996, c.138 and P.L.2020,
3 c.27.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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

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

28 b. Notwithstanding the provisions of subsection a. of this
29 section to the contrary, in the event that a school district is required
30 to close the schools of the district for more than three consecutive
31 school days due to a declared state of emergency, declared public
32 health emergency, or a directive by the appropriate health agency or
33 officer to institute a public health-related closure, the commissioner
34 shall allow the district to apply to the 180-day requirement
35 established pursuant to subsection a. of this section, one or more
36 days of virtual or remote instruction provided to students on the day
37 or days the schools of the district were closed if the program of
38 virtual or remote instruction meets such criteria as may be
39 established by the commissioner. A district that wants to use a
40 program of virtual or remote instruction to meet the 180-day
41 requirement in accordance with this subsection shall, with board of
42 education approval, submit its proposed program of virtual or
43 remote instruction to the commissioner within 30 days of the
44 effective date of P.L.2020, c.27 and annually thereafter, provided
45 however that if the school district is unable to complete and submit

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.

1 its proposed program within the 30-day period and the district is
2 required to close its schools for a declared state of emergency,
3 declared public health emergency, or a directive by the appropriate
4 health agency or officer to institute a public health-related closure,
5 the commissioner may retroactively approve the program.

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

12 If a program of virtual or remote instruction is implemented for
13 the general education students the same educational opportunities
14 shall be provided to students with disabilities. Special education
15 and related services, including speech language services, counseling
16 services, physical therapy, occupational therapy, and behavioral
17 services, may be delivered to students with disabilities through the
18 use of electronic communication or a virtual or online platform and
19 as required by the student's Individualized Education Program
20 (IEP), to the greatest extent practicable.

21 Beginning in the 2020-2021 school year, if a school district
22 implements a program of virtual or remote instruction, the program
23 shall be implemented primarily through the use of virtual
24 instructional sessions, which sessions shall provide for the delivery
25 of course materials and real-time instructional services through an
26 interactive video platform.

27 c. In the event that the State or local health department
28 determines that it is advisable to close or mandates closure of the
29 schools of a school district due to a declared state of emergency,
30 declared public health emergency, or a directive by the appropriate
31 health agency or officer to institute a public health-related closure,
32 the superintendent of schools shall have the authority to implement
33 the school district's program of virtual or remote instruction. The
34 superintendent shall consult with the board of education prior to
35 such decision if practicable. The superintendent shall ensure that
36 students, parents, staff, and the board of education or boards of
37 education are informed promptly of the superintendent's decision.

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

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

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

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

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

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

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

19 (2) In the event of the closure of the schools of a school district
20 due to a declared state of emergency, declared public health
21 emergency, or a directive by the appropriate health agency or
22 officer to institute a public health-related closure for a period longer
23 than three consecutive school days, public school employees who
24 are not covered by a collective negotiations agreement shall be
25 entitled to any benefits, compensation, and emoluments to which
26 they otherwise would be entitled as if they had performed the work
27 for such benefits, compensation, and emoluments as if the school
28 facilities remained open for any purpose and for any time lost as a
29 result of school closures or use of virtual or remote instruction.

30 (3) If the schools of a school district are subject to a health-
31 related closure for a period longer than three consecutive school
32 days, which is the result of a declared state of emergency, declared
33 public health emergency, or a directive by the appropriate health
34 agency or officer, then the school district shall continue to make
35 payments of benefits, compensation, and emoluments pursuant to
36 the terms of a contract with a contracted service provider in effect
37 on the date of the closure as if the services for such benefits,
38 compensation, and emoluments had been provided, and as if the
39 school facilities had remained open. Payments received by a
40 contracted service provider pursuant to this paragraph shall be used
41 to meet the payroll and fixed costs obligations of the contracted
42 service provider, and employees of the contracted service provider
43 shall be paid as if the school facilities had remained open and in full
44 operation. A school district shall make all reasonable efforts to
45 renegotiate a contract in good faith subject to this paragraph and
46 may direct contracted service providers, who are a party to a
47 contract and receive payments from the school district under this
48 paragraph, to provide services on behalf of the school district which

1 may reasonably be provided and are within the general expertise or
2 service provision of the original contract. Negotiations shall not
3 include indirect costs such as fuel or tolls. As a condition of
4 negotiations, a contracted service provider shall reveal to the school
5 district whether the entity has insurance coverage for business
6 interruption covering work stoppages. A school district shall not be
7 liable for the payment of benefits, compensation, and emoluments
8 pursuant to the terms of a contract with a contracted service
9 provider under this paragraph for services which otherwise would
10 not have been provided had the school facilities remained open.
11 Nothing in this paragraph shall be construed to require a school
12 district to make payments to a party in material breach of a contract
13 with a contracted service provider if the breach was not due to a
14 closure resulting from a declared state of emergency, declared
15 public health emergency, or a directive by the appropriate health
16 agency or officer.

17 (4) If the schools of a school district are subject to a health-
18 related closure for a period longer than three consecutive school
19 days, which is the result of a declared state of emergency, declared
20 public health emergency, or a directive by the appropriate health
21 agency or officer, the school district shall be obligated to make
22 payments for benefits, compensation, and emoluments and all
23 payments required pursuant to P.L.1968, c.243 (C.18A:6-
24 51 et seq.), to an educational services commission, county special
25 services school district, and a jointure commission, and under any
26 shared services agreement and cooperative contract entered into
27 with any other public entity. An educational services commission,
28 county special services school district, and jointure commission
29 shall continue to make payments of benefits, compensation, and
30 emoluments pursuant to the terms of a contract with a contracted
31 service provider or a shared services agreement in effect on the date
32 of the closure as if the services for such benefits, compensation, and
33 emoluments had been provided, and as if the school facilities had
34 remained open. Payments received by a contracted service provider
35 or public entity pursuant to this paragraph shall be used to meet the
36 payroll and fixed costs obligations of the contracted service
37 provider or public entity, and employees of the contracted service
38 provider or public entity shall be paid as if the school facilities had
39 remained open and in full operation. Upon request of the school
40 district, the educational services commission, county special
41 services school district, and a jointure commission shall certify, and
42 provide any supporting documentation to a school district as may be
43 necessary to verify, that payments received have been used solely to
44 meet the payroll and fixed costs of the contracted service provider
45 or public entity. Any portion of those payments not used to meet
46 the payroll and fixed costs shall be returned to the school district.
47 An educational services commission, county special services school
48 district, jointure commission or any lead school district under a

1 shared services agreement or cooperative contract, shall make all
2 reasonable efforts to renegotiate a contract in good faith subject to
3 this paragraph and may direct contracted service providers or public
4 entities, who are a party to a contract and receive payments under
5 this paragraph, to provide services which may reasonably be
6 provided and are within the general expertise or service provision of
7 the original contract. Negotiations shall not include indirect costs
8 such as fuel or tolls. As a condition of negotiations, a contracted
9 service provider or public entity shall reveal whether the entity has
10 insurance coverage for business interruption covering work
11 stoppages.

12 (5) The provisions of paragraphs (1) through (4) of this
13 subsection e. shall not apply to any employee whose weekly hours
14 of work are reduced, and to whom unemployment benefits are
15 provided, pursuant to a shared work program approved pursuant to
16 the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.). A
17 contracted service provider, educational services commission,
18 county special services school district, or jointure commission shall
19 notify any school district with which it has entered into a contract to
20 provide services of its intent to reduce the hours of work of its
21 employees pursuant to a shared work program approved pursuant to
22 the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.).
23 Notwithstanding the provisions of paragraph (3) of this subsection
24 e., if a contracted service provider reduces the amount that it pays
25 to its employees providing services to a school district, and that
26 reduction is the result of a reduction of workhours of those
27 employees made pursuant to a shared work program approved
28 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.),
29 then the amount paid by the public school district to the contracted
30 service provider shall be reduced by the same amount.
31 Notwithstanding the provisions of paragraph (4) of this subsection
32 e., if an educational services commission, county special services
33 school district, or jointure commission reduces the amount that it
34 pays to its employees providing services to a school district, and
35 that reduction is the result of a reduction of workhours of the those
36 employees made pursuant to a shared work program approved
37 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et seq.),
38 then the amount paid by the public school district to the educational
39 services commission, county special services school district, or
40 jointure commission shall be reduced by the same amount.

41 f. For purposes of subsections b., c., d., and e. of this section,
42 "school district" shall include a charter school and a renaissance
43 school project.
44 (cf: P.L.2020, c.57, s.3)

45
46 2. Section 2 of P.L.2020, c.27 (C.18A:46-21.1) is amended to
47 read as follows:

1 2. a. In the event that an approved private school for students
2 with disabilities is required to close the school for more than three
3 consecutive school days due to a declared state of emergency,
4 declared public health emergency, or a directive by the appropriate
5 health agency or officer to institute a public health-related closure,
6 the commissioner shall allow the school to apply one or more days
7 of virtual or remote instruction provided to students on the day or
8 days the school was closed to qualify as a day of instruction for the
9 purposes of calculating tuition if the program of virtual or remote
10 instruction meets such criteria as may be established by the
11 commissioner. An approved private school for students with
12 disabilities that wants to use a program of virtual or remote
13 instruction to qualify as a day of instruction for the purposes of
14 calculating tuition shall submit its proposed program of virtual or
15 remote instruction to the commissioner within 30 days of the
16 effective date of P.L.2020, c.27 and annually thereafter, provided
17 however that if the school is unable to complete its proposed
18 program within the 30-day period and the school is required to close
19 for a declared state of emergency, declared public health
20 emergency, or a directive by the appropriate health agency or
21 officer to institute a public health-related closure, the commissioner
22 may retroactively approve the program.

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

29 Special education and related services, including speech
30 language services, counseling services, physical therapy,
31 occupational therapy, and behavioral services, may be delivered to
32 students with disabilities through the use of electronic
33 communication or a virtual or online platform and as required by
34 the student's Individualized Education Program (IEP), to the
35 greatest extent practicable.

36 Beginning in the 2020-2021 school year, if a school district
37 implements a program of virtual or remote instruction, the program
38 shall be implemented primarily through the use of virtual
39 instructional sessions, which sessions shall provide for the delivery
40 of course materials and real-time instructional services through an
41 interactive video platform.

42 b. In the event that the State or local health department
43 determines that it is advisable to close or mandates closure of an
44 approved private school for students with disabilities due to a
45 declared state of emergency, declared public health emergency, or a
46 directive by the appropriate health agency or officer to institute a
47 public health-related closure, the principal of the school shall have

1 the authority to implement the school's program of virtual or remote
2 instruction.

3 c. The commissioner shall define virtual and remote instruction
4 and establish guidance for its use. The guidance shall provide
5 schools with information on:

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

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

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

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

13 (cf: P.L.2020, c.27, s.2)

14

15 3. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill requires programs of virtual or remote instruction to be
21 implemented primarily through the use of virtual instructional
22 sessions beginning in the 2020-2021 school year.

23 Under current law, if a school district, charter school, or
24 renaissance school is required to close its schools for more than
25 three consecutive school days due to a declared state of emergency,
26 a declared public health emergency, or the directive of an
27 appropriate health agency or officer, then the public school may
28 implement a program of virtual or remote instruction, as approved
29 by the Commissioner of Education, to satisfy the requirement that
30 the school remains open for at least 180 days in order to receive
31 State school aid. Additionally, approved private schools for
32 students with disabilities are also permitted during these situations
33 to include days of virtual or remote instruction in the calculation of
34 tuition.

35 Beginning in the 2020-2021 school year, the bill provides that if
36 a school district, charter school, renaissance school, or approved
37 private school for students with disabilities elects to implement a
38 program of virtual or remote instruction, then the program would be
39 required to be implemented primarily through the use of virtual
40 instructional sessions. Under the bill, virtual instructional sessions
41 would be required to provide for the delivery of course material and
42 real-time instructional services through an interactive video
43 platform.