

SENATE, No. 2292

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Co-Sponsored by:

**Senators Cruz-Perez, Ruiz, Addiego, Madden, Scutari, Bateman,
A.M.Bucco, Brown, Holzapfel, Singer, Oroho and O'Scanlon**

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: 3/19/2020)

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

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

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

11 9. a. In order to receive any State aid pursuant to P.L.2007,
12 c.260 (C.18A:7F-43 et al.), a school district, charter school, county
13 vocational school district, or county special services school district
14 shall comply with the rules and standards for the equalization of
15 opportunity which have been or may hereafter be prescribed by law
16 or formulated by the commissioner pursuant to law, including those
17 implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and P.L.2007,
18 c.260 (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 submit its
42 proposed program of virtual or remote instruction to the
43 commissioner within 30 days of the effective date of P.L. , c.
44 (pending before the Legislature as this bill) and annually thereafter,
45 provided however that if the school district is unable to complete

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

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

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

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

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

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

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

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

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

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

39 e. Nothing in subsection b., c., or d. of this section shall be
40 construed to limit, supersede or preempt the rights, privileges,
41 compensation, remedies, and procedures afforded to public school
42 employees or a collective bargaining unit under federal or State law
43 or any provision of a collective bargaining agreement entered into
44 by the school district. In the event of the closure of the schools of a
45 school district due to a declared state of emergency, declared public
46 health emergency, or a directive by the appropriate health agency or
47 officer to institute a public health-related closure for a period longer
48 than three consecutive days, public school employees covered by a

1 collective negotiations agreement shall be entitled to compensation,
2 benefits, and emoluments as provided in the collective negotiations
3 agreement as if the school facilities remained open for any purpose
4 and for any time lost as a result of school closures or use of virtual
5 or remote instruction, except that additional compensation, benefits,
6 and emoluments may be negotiated for additional work performed.
7 (cf: P.L.2007, c.260, s.32)
8

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

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

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

46 c. The commissioner shall define virtual and remote instruction
47 and establish guidance for its use. The guidance shall provide
48 schools with information on:

1 (1) providing instruction to students who may not have access to
2 a computer or to sufficient broadband, or to any technology
3 required for 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 3. This act shall take effect immediately.
10
11

12 STATEMENT 13

14 Under current law, a school district, county vocational school
15 district, or county special services school district must be open for
16 180 days each school year in order to qualify for State aid. In the
17 event that a school district does not meet this requirement, the
18 Commissioner of Education will withhold State aid in the
19 succeeding year. While the law does allow the commissioner to
20 remit the penalty for good cause shown, the exemption has been
21 rarely applied. Current regulations require that an approved private
22 school for students with disabilities (APSSD) calculate its tuition
23 based on a minimum of 180 days of instruction. For programs in
24 operation for less than the minimum 180 days of instruction, tuition
25 is reduced accordingly.

26 This bill would allow a school district, renaissance school
27 project, charter school, county vocational school district, county
28 special services school district, or APSSD to meet the 180-day
29 requirement in a year with an excessive number of unexpected
30 school closures due to a declared state of emergency, declared
31 public health emergency, or a directive by the appropriate health
32 agency or officer to institute a public health-related closure through
33 the use of virtual or remote instruction. Specifically, in the event
34 that a district or APSSD is required to close its schools for more
35 than three consecutive school days due to a declared state of
36 emergency, declared public health emergency, or a directive by the
37 appropriate health agency or officer to institute a public health-
38 related closure, the commissioner will allow the district or APSSD
39 to apply to the 180-day requirement one or more days of virtual or
40 remote instruction provided to students on the day or days the
41 schools of the district or APSSD were closed if the program meets
42 such criteria as may be established by the commissioner. A district
43 or APSSD that wants to use a program of virtual or remote
44 instruction to meet the 180-day requirement must submit its
45 proposed program of virtual instruction to the commissioner within
46 30 days of the effective date of the bill and annually thereafter. The
47 bill provides, however, that if a district or APSSD is unable to meet
48 the initial 30-day period and the schools of a district or APSSD

1 must close for a declared state of emergency, declared public health
2 emergency, or a directive by the appropriate health agency or
3 officer to institute a public health-related closure, the commissioner
4 is permitted to retroactively approve the program. If the State or
5 local health department determines that it is advisable the schools
6 be closed or mandates closure, the superintendent of schools or
7 principal of an APSSD, as applicable, will have the authority to
8 implement the district or APSSD's program of virtual or remote
9 learning. The bill provides that a day of virtual or remote
10 instruction, if instituted under a program approved by the
11 commissioner, will be considered the equivalent of a full day of
12 school attendance for the purposes of meeting State and local
13 graduation requirements, the awarding of course credit, and for such
14 other matters as the commissioner determines.

15 The bill directs the commissioner to define virtual and remote
16 instruction and provide guidance for its use. The guidance will also
17 provide districts information on: providing instruction to students
18 who may not have access to a computer or to sufficient broadband,
19 or to any technology required for virtual or remote instruction; the
20 required length of a virtual or remote instruction day; the impact of
21 virtual or remote instruction on the school lunch and school
22 breakfast programs; the impact of virtual or remote instruction on
23 the schedule for administering State assessments; and such other
24 topics as the commissioner deems necessary.

25 Nothing in the bill may be construed to limit, supersede or
26 preempt the rights, privileges, compensation, remedies, and
27 procedures afforded to public school employees or a collective
28 bargaining unit under federal or State law or any provision of a
29 collective bargaining agreement entered into by the school district.
30 The bill also provides that public school employees covered by a
31 collective negotiations agreement will be entitled to compensation,
32 benefits, and emoluments as provided in the collective negotiations
33 agreement as if the school facilities remained open for any purpose
34 and for any time lost as a result of school closures or use of virtual
35 or remote instruction, except that additional compensation, benefits,
36 and emoluments may be negotiated for additional work performed.