

Emergency Declarations Cancelling Session Days

The Commissioner may also disregard a deduction for any day or days on which session had been previously scheduled, but the superintendent was required to close the school or schools due to a properly executed declaration of a state or local state of emergency. Session days cancelled by emergency declarations are different than cancellations due to “extraordinary conditions.” Session days cancelled by emergency declaration do not need to exhaust vacation days and are not limited to five days in a school year.

A properly executed state of emergency is one where the chief executive of any county, city, town, or village issued a local state of emergency declaration “in the event of reasonable apprehension of immediate danger thereof, and upon a finding by the chief executive thereof that the public safety is imperiled thereby, such chief executive may proclaim a local state of emergency within any part or all of the territorial limits of such local government” (Executive Law §24(1)). The Governor of the State of New York may also issue a state of emergency for part or all of the State. Pursuant to section 1 of Executive Law §24, such declarations may:

- Establish a curfew and the prohibition and control of pedestrian and vehicular traffic, except essential emergency vehicles and personnel.
- Designate specific zones within which the occupancy and use of buildings and the ingress and egress of vehicles and persons may be prohibited or regulated.
- Regulate and close places of amusement and assembly.
- Prohibit and control of the presence of persons on public streets and places.

Only the chief executive of the appropriate municipality may issue a declaration. Only formally issued declarations by the chief executive will be considered eligible for the instructional requirement waiver under this guidance. A formal declaration does not need to explicitly direct the closure of school buildings. A non-exhaustive list of orders that may require closure of school buildings includes: emergency declarations that close major arterial roads or infrastructure to non-emergency traffic, prohibit pedestrian traffic, limit gatherings that could impact schools, evacuate certain areas, gather in particular locations, control or limit access to publicly regulated utility services, or shelter-in-place orders. Declarations that do not require school closure may qualify as extraordinary condition days or districts may cancel session due to extraordinarily adverse weather conditions (snow day).

The Commissioner may disregard a short session deduction for districts which are short session days. These days do not need to be reported in SAMS but will be collected when determining which districts are subject to the short session deduction. To be eligible, districts must submit documentation to State Aid at 180days@nysed.gov prior to October 30 after the close of the school year. If the relevant executive order was issued by any executive other than the Governor of the State of New York, a copy of the executive order must be submitted as an attachment. Districts must also submit a letter drafted and signed by District counsel making the determination that the district was required to close a school or schools due to a properly executed declaration of a state or local state of emergency, for any day(s) on which session was previously scheduled. This letter must provide:

- a) The specific declaration of a state or local state of emergency pursuant to article two-B of the Executive Law;
- b) a brief description of the portion of the declaration that required closure;
- c) the date(s) of session previously scheduled and impacted by the declaration; and
- d) a list of impacted buildings and the grade levels they serve.

Beginning in the 2021-22 school year report, districts must report the closure due to state of emergency on the closure and re-opening reports in SED monitoring. The [January 6, 2021 memo on closure and re-opening forms](#) includes details on how to access these forms. After July 1, 2021, these forms will include a checkbox below the reason for closure that will allow districts to report the closure was required by executive emergency declaration. State Aid will utilize information from these closure and re-opening forms to request documentation described above from each district that would otherwise be subject to a short session deduction.