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**TO:** School District Superintendents  
School District State Aid Designees  
BOCES District Superintendents

**FROM:** Sean Giambattista, Director of Education Finance

**RE:** 180 Day Requirement Compliance for the 2020-21 School Year

This memorandum provides additional information to school district officials about reporting minimum instructional time requirements, including instructions for reporting days and minimum instructional hours for the 2020-21 school year to the Office of State Aid.

**Reporting Instructional Hours and Session Days for State Aid Purposes**

School districts are required to provide 180 days of session under Education Law §3604(7) and a minimum number of instructional hours under Commissioner's Regulations §175.5. Districts falling below these minimums are subject to a "short session deduction"—a proportional deduction of Foundation Aid payments. This memo will detail how to report instructional hours and session days for the 2020-21 school year to the State Aid Office through the State Aid Management System (SAMS). Questions on reporting instructional days or hours in SAMS for State Aid purposes should be directed to the State Aid Office: [180days@nysed.gov](mailto:180days@nysed.gov).

**Reporting Session Days and Instructional Hours**

Education law §3604(7) and Commissioner's Regulations §175.5 require districts to provide both 180 days of session and a minimum of 450 instructional hours for half-day kindergarten, 900 instructional hours for full-day kindergarten through grade 6, or 990 hours of instruction for grades 7-12. These two requirements—session days and instructional hours—are separate and distinct. As in the past, districts are required to report the number of session days and instructional hours by building and grade range.

The State Aid Office will continue to provide Excel calendar templates as a tool for calculating session days and instructional hours. It is critical that district calculations are consistent with the methodology in the Excel template to ensure accurate and uniform calculations. Districts must preserve the calendar level information underlying these calculations. Session day and instructional hour calculations will be subject to claim verification in the spring and must be provided to the State Aid Office upon request. Please note that the State Aid Office will not collect Excel calendars in SAMS for the 2020-21 school year.

Districts should only report typical schedules offered to all students. Customized schedules utilized by a subset of students should not serve as the basis for calculating session days or instructional hours for State Aid purposes. For example, if a district provided a hybrid schedule for most students, and a fully remote option at the parent’s discretion, the district should not report the fully remote option in SAMS.

**Reporting in SAMS**

Districts must report the number of session days and hours in SAMS on the calendar table. This table will contain rows for each school building. Each row will contain two pre-filled fields and four empty fields as follows:

School BEDS Code	School Name	Grade Range	Total Session Days	Total Hours	Total SCD Hours
100000000001	Shady Pines Elementary	K-6	179	912	18
100000000002	Sandy Shores Middle School	7-8	181	1004	20
100000000003	Achievement High School	9-12	183	993	20

The instructional hour calculation in the Excel template is consistent with guidance and past practice. The Excel template has been modified to allow for remote and hybrid session. Districts may enter start/end times for live instruction, the number of instructional minutes for remote instruction (live or asynchronous) and determine whether the live and remote instruction occurred simultaneously or sequentially.

**Verifying Data**

Building level day calendars submitted to the Office of Information and Reporting Services will be used to verify the number of session days reported in SAMS. New this year, session days reported on schedule A5 within SAMS will be subject to an automated edit process. Details of this edit process will be available at the time the SAMS forms are released. Each school reporting a different number of session days for a building on the calendar table than the district totals on schedule A5 will be flagged for district review to ensure both the district average session days and individual building session days are correct.

**Counting Instructional Hours**

Instructional Hours are defined in Commissioner’s Regulations §175.5:

*(b) Definition. "Instructional hours" shall mean an hour or a fraction of an hour, during which students are receiving instruction from a certified teacher pursuant to Part 80 of this Title in an academic subject and/or periods of time during which students are engaged in supervised study activities, including completing homework and/or the review of homework. Instructional hours shall not include periods of time where instruction and/or supervised study time is not provided to students, such as lunch or recess.*

Instruction can be provided via remote live (synchronous) instruction, remote asynchronous instruction, live in-person instruction, or a hybrid combination of in person and remote instruction. Districts must rely on adopted policies and practices to determine the number of remote instructional hours provided to students, particularly in context of remote asynchronous instruction.

To assist in applying this definition to different modalities, two scenarios are included below as examples of counting instructional time.

### **Hybrid Example #1 - Smith Elementary School – K-5**

Smith has implemented a hybrid schedule where all Kindergarten through 2<sup>nd</sup> graders attend school full time in the building. Grades 3-5 alternate schedules of 3 days in person and 2 days remote each week as follows. The in-person school day begins at 8:00 am and ends at 2:10 pm. In-person students are given a 40-minute lunch period and a 30-minute recess period each day. Total instructional day is five hours.

Students in grades 3-5 are assigned an A group or a B group.

Week 1:	MTW	Group A/In Person, Group B/Remote
	Th-F	Group B/In Person, Group A/Remote
Week 2:	MTW	Group B/In person, Group A Remote
	Th-F	Group A/In person, Group B/Remote

To reach the required hours of instruction (average five hours/day) the district has adopted a policy standard regarding remote instruction. When students in grades 3-5 school are remote, school policy requires they are to receive a minimum of 3.5 hours of synchronous instruction and be assigned enough asynchronous instruction so that the average student is engaged in instruction for a minimum of five hours/day.

#### Attendance

- All students attending in person are counted as present for a full day. This includes any grades K-2 students who are present and any grades 3-5 students who are present for live instruction per their assigned group (A or B)
- All students in grades 3-5 who participate in remote synchronous instruction on a particular day are counted as present for the full day.

#### Instructional Hours Provided

- The school is providing five hours of instruction/day for all students in person and for all students whose teachers are adhering to the district's policy standards for remote instruction.

### **Hybrid Example 2 - Washington Jr/Sr High School Grades 7-12**

Washington Jr/Sr HS has implemented a hybrid/remote schedule allowing students to choose either a hybrid schedule where they attend school in person 3 days/week and engage in remote instruction 2 days/week or they may attend all five days in a remote setting. Both the in-person and remote school day is organized into a block

schedule and students are assigned four 75-minute instructional blocks and a 30-minute advisory block each day for a total of 330 minutes (five- and one-half hours) of instruction. To reach the minimum required hours of instruction across 180 days (average 5.5 hours/day) the district has adopted a policy standard regarding remote instruction. Students engaged in remote instruction must meet for a minimum of 40 minutes of synchronous instruction each block with the balance of the 75-minute block devoted to asynchronous instruction. Teachers may organize the synchronous/asynchronous time consistent with the district or school building protocols, and if they wish, allocate more than the minimum time for the synchronous portion of the class.

Examples:

- A. Teachers may provide a 20-minute lesson, assign students an activity to complete on their own or in a small group, and then meet again at the end of the period to debrief for another 20 minutes.
- B. Teachers may teach the entire 40 minutes and assign work to be completed by the next class period.  
**(The work assigned in both examples A and B above should take the average student at least 35 minutes to complete so that the student is engaged in coursework for at least 75 minutes.)**
- C. Teachers may be introducing a new concept and use the entire 75-minute block to engage in a lesson with their students synchronously.

During the students' advisory period, the teacher assigned to the advisory group must meet with the students in the group synchronously for the entire 30-minute period. Teachers are to use this time to assess students' wellbeing, determine if they need assistance in any coursework and work on Social Emotional Learning for their advisees.

#### Attendance

- All students attending in person are counted as present for a full day.
- All students who participate in remote synchronous instruction on a particular day are counted as present for the full day.

#### Instructional Hours Provided

- The school is providing 5.5 hours of instruction/day for all students in person and for all students whose teachers are adhering to the district's policy standards for remote instruction.

#### Extraordinarily Adverse Weather Conditions (Snow Days)

Pursuant to Commissioner's Regulations §155.17(c)(3)(f) for the 2021-22 School Year, both "snow days" with remote instruction provided under the [pilot program](#) and traditional snow days for which the district is closed are to be reported separately on Schedule A5 of Form A. This reporting is done at a district level. If the district closed all buildings or a subset of buildings for a snow day, whether remote instruction was provided under the snow day pilot or not, this date should be included. If any instruction was provided to any grades under the snow day pilot, please report this day as "Snow day

where remote instruction was provided” and not “Traditional snow days without instruction.” Early dismissal or late arrival days should not be reported in these fields. These entries must be consistent with [snow days reported in closure and re-opening forms](#).

In 2021-2022 SAMS, schedule A5 will contain two additional fields for reporting 2020-21 snow days. These fields will read as follows:

XX.	Traditional snow days without instruction	<input type="text"/>
YY.	Snow days where remote instruction was provided	<input type="text"/>

### **Session Days or Instructional Hours Below the Minimum**

The Commissioner may disregard short session deductions under certain circumstances. Pursuant to Education Law §3604(7)(ii), the Commissioner may disregard a short session deduction for up to five session days due to one of the circumstances listed in statute, but only if the district cannot make up such days by using all scheduled vacation days prior to the end of Regents examinations for elementary and the start of Regents examinations for secondary. Pursuant to Education Law §3604(7)(i), the Commissioner may also disregard a deduction for any day on which session was scheduled but the superintendent was required to close schools due to a declaration of a state or local state of emergency. In this circumstance, a district may report fewer than 180 session days to State Aid, and no short session deduction will be taken.

### **Extraordinary Condition Days**

Session days cancelled by emergency declarations are different than cancellations due to “extraordinary conditions.” Extraordinary conditions cover eight specific criteria listed in Education Law §3604(7)(ii). These conditions are as follows: (1) extraordinarily adverse weather conditions, (2) impairment of heating facilities, (3) insufficiency of water supply, (4) shortage of fuel, (5) lack of electricity, (6) natural gas leakage, (7) unacceptable levels of chemical substances, (8) a credible threat to student safety as reasonably determined by a lead school official or the destruction of a school building either in whole or in part.

Extraordinary condition days require exhaustion of scheduled vacation days and are limited to no more than five days in a school year. The process for reporting extraordinary condition days has not changed. Districts would continue to provide a valid link to their single page district calendar and provide supporting documentation to assist with State Aid review of the closure(s). This information should be submitted to 180days@nysed.gov. Districts seeking credit for one or more extraordinary condition days may submit a request to the Office of State Aid by filing the State Aid Management System (SAMS) Form A Schedule A8. To verify a district is eligible for extraordinary condition day(s), the State Aid Office will utilize building level day calendars submitted to the Office of Information and Reporting Services to verify vacation days were exhausted prior to accessing extraordinary condition days.

## **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](mailto: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.

### **Waivers for Instructional Hours**

Pursuant to Commissioner's Regulations §175.5(n)(2), the Department offered waivers from the 900/990 minimum instructional hour requirement set forth in Commissioner's Regulations §175.5(c). These waivers are available for both the 2019-20 and 2020-21 school years. If a district was unable to meet the minimum instructional hour requirement as a result of an Executive Order(s) of the Governor pursuant to the state of emergency declared for the COVID-19 crisis or reopening procedures implemented as a result of the COVID-19 crisis, no short session deduction will be taken.

SAMS includes the application for these waivers. Waiver [decisions are available at the State Aid Website](#). Districts that did not previously apply for a waiver for the 2020-21 school year in SAMS may apply in the upcoming SAMS release. If you have questions regarding these waivers, please contact [180days@nysed.gov](mailto:180days@nysed.gov).

### **Waivers for Session Days**

Chapter 107 of the laws of 2020 provided that the Commissioner may disregard short session deductions for 180 days of session in the 2019-20 school year. This waiver applied to any day on which session had been previously scheduled, but was closed due to a determination that it was in the best interest of public health or safety to close in response to COVID-19. This section of law only applies to the 2019-20 school year.