



NEW YORK STATE EDUCATION DEPARTMENT

State Aid

ATTENDANCE AND THE SCHOOL CALENDAR: Guidelines and Reporting for State Aid Purposes (Revised April, 2013)

The following provides guidance and clarification regarding session days, the school calendar and reporting of attendance data for State Aid purposes.

1. Days of Session

School districts must be in session for all students, including students with disabilities, for not less than 180 days. Included in the 180 days are days on which attendance is taken, days on which Regents examinations, State Assessments or local examinations are given and days on which superintendent's conference days are held. School year session days counting toward the 180 day requirement may not be scheduled on any day in July or August. Session days should not be scheduled after the June Regents examination period.

School district officials may not claim partial or full attendance on days when classes are not in actual session. This situation is most likely to occur on Regents examination days or superintendent's conference days. Such days do count toward the 180 required days, but, since they are not days of actual session, they do not affect and are not factored into aggregate attendance.

2. Legal Holidays

School district officials may not schedule days of session on a Saturday or a legal holiday, except Election Day, Washington's Birthday or Lincoln's Birthday. (Education Law 3604(8)). Legal holidays include: New Year's Day, Dr. Martin Luther King, Jr. Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Flag Day (second Sunday in June), Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Day. Pursuant to NYS General Municipal Law Section 24, if a legal holiday falls on a Sunday, the next day becomes a legal holiday. For example, if New Year's Day falls on a Sunday, Monday January 2nd would be a legal holiday on which a school district may not be in session.

3. Extraordinary Conditions

The length of school day requirement does not apply if schools open late or close early due to extraordinary circumstances beyond their control (Commissioner's Regulation 175.5). However, each year, some school districts lose whole days of session, because of circumstances beyond their control (i.e., winter weather, utility failure). The Commissioner is authorized to excuse up to five days for extraordinary circumstances, if those lost days of session could not have been made up by using, for the secondary grades, all scheduled vacation days which occur prior to the first scheduled Regents examination day in June, and, for the elementary grades, all scheduled vacation days which occur prior to the last scheduled Regents examination day in June. The following are circumstances that may be approved by the Commissioner as extraordinary conditions: extraordinarily adverse weather conditions, an impairment of heating facilities, an insufficient water supply, a fuel shortage, a lack of electricity, a natural gas leak, unacceptable levels of chemical substances, or the destruction of a school building. Scheduled vacation days that may be used include days of religious observation associated with Passover, Easter and other religious holidays. Saturdays, Sundays and legal holidays may not be used for this purpose. Requests for excusal can be made anytime after the occurrence of the unscheduled day(s) off.

See the State Aid web posting https://stateaid.nysed.gov/attendance/additional_info_extraordinary_conditions.htm for additional information and requirements. If scheduled vacation days and days waived by the Commissioner are insufficient and the school district still remains one or more days short of the 180 days, the district may schedule additional session days after Regents examinations, through June 30, to satisfy the length of session requirement. In the event that only one building in a district will be short the required days of session because of some extraordinary condition, the day(s) for only that building must be made up by using all scheduled vacation days before an excusal can be given. The only exception is an occasion where a school opens late or closes early and the half-day kindergarten is excused from attendance as a result of that action. Under no circumstances may kindergarten pupils who miss a day of session be counted in attendance for that day. Further, the day may not be made up by having the half-day group meet twice on the same day. Because of the impracticability of opening schools, running buses, and bringing in teachers and pupils to make up half-day kindergarten classes at a time when other classes are not in session, excusals for half-day kindergarten (up to five for a.m. sessions and five for p.m. sessions) will be given under these special circumstances. Such requests for excusal of half-day kindergarten session days must be made on the State Aid claim forms (on Form A, Schedule A5) submitted to the Education Department. (Education Law 3604(7)).

A declaration of a State of Emergency by the Governor due to adverse weather conditions does not authorize the school districts affected to operate an annual session of less than 180 days.

Since statute requires a minimum of 180 days of session, school districts cannot extend the regular school day and count the extended times as additional days of session to make up lost days.

IMPORTANT: NEW STATUTORY PROVISION APPLYING ONLY TO 2012-13 SCHOOL YEAR

Legislation has been enacted potentially affecting school districts, which were closed for an extended period during the 2012-13 school year due to extraordinary weather conditions. Pursuant to NYSEL 3604(7)(b), some districts may be able to waive the 180 day minimum session day requirement for up to ten days instead of five.

The new provision also includes extraordinary conditions in addition to those in NYSEL 3604(7) that may make some districts eligible under the new provision: federal declarations of natural disaster, a state disaster emergency as defined in section 20 of Executive Law and the closing of transportation routes pursuant to a declared local state of emergency.

The new provision applies to districts that did not provide the 180 days of session required to receive full Foundation Aid, and were closed for an extended period during the 2012-13 school year; for example, due or related to extraordinary weather conditions that occurred in October/November 2012.

Districts that think they may be eligible for excusal under this new provision should email Andrea Hyary in the State Aid Office at ahyary@mail.nysed.gov to discuss the district's specific situation and receive further guidance.

4. Regents Days

Regents examination days, including rating days, count toward fulfilling the 180 required days of instruction, but schools need not take attendance on such days. If grades 7-12 are housed in the same building, school district officials may excuse the junior high school pupils and the senior high school pupils from the daily instructional requirement if their class schedules are disrupted by the Regents examination schedule and if staff are needed to properly administer examinations. Under no circumstances may attendance be assumed and claimed for State Aid purposes on these days. (Commissioner's Regulations 175.2)

5. New York State Assessments

Days on which New York State Assessments are given are days on which attendance must be taken and which count toward the 180 required days of session. Under no circumstances may pupils be excused from the daily instructional requirement.

Some students with disabilities, who are in general education classrooms, do not participate in regular State or local assessments as determined by the Committee on Special Education. When students with disabilities are not participating in particular regular State or local assessments, instruction must be provided to them during the days that other children are being assessed in these regular assessments. Instruction must be provided regardless of what special education services the student receives or the setting in which that student's special education program is provided. The instruction may be provided by such individuals as a general education teacher, special education teacher or teacher assistant.

6. Local Final Examinations

If middle school, junior high school or senior high school pupils take local final examinations during the Regents examination period in January or the Regents examination period in June, in a block-time format similar to the format for Regents examinations; i.e., exams are scheduled for both the morning and the afternoon, then minimum length of school day requirements pursuant to NYCRR 175.5 (a) may be waived on such days. Such days will count toward the 180 required days of instruction and attendance for the grades taking the tests need not be taken.

If, however, local final exams in June are held on days before the Regents examination days, all students must be required to attend, attendance must be recorded and the day must meet the minimum length of school day requirements in order to be counted toward meeting the 180 day requirement for the year.

7. Last Day of School

Pupils must attend school on the last scheduled day of session for the school year unless a superintendent's conference day is held on that date. However, if the school schedules individual work for that day with students, such as conferences, special guidance or scheduling, school officials may schedule an early dismissal for pupils who do not require such attention.

8. Shortened Instruction Days and Minimum Session Requirements

Districts may schedule shortened instruction days for certain purposes:

- a. School district officials may schedule as many as four shortened instruction days each semester to hold parent-teacher or staff conferences for part of the day.

During the week in which the shortened instruction days occur, the minimum number of hours of instruction for the week still must be provided: 25 hours for elementary schools and 27.5 hours for secondary schools, excluding lunch. For weeks in which a legal holiday occurs and a district wishes to schedule a shortened session, the minimum number of hours of instruction for the week may be prorated to 20 hours for elementary schools and 22 hours for secondary schools, excluding lunch. This means that only districts that normally provide more than the minimum hours of instruction per week can conduct shortened instruction days that counts toward the required 180 days.

Use of shortened sessions as described above does not reduce the number of superintendent's conference days the district is allowed; i.e., districts may schedule as many as four superintendent's conference days per year and four shortened sessions per semester in a given school year.

- b. School district officials may combine a shortened instruction day and one or more hours of a superintendent's conference day to satisfy the minimum daily session requirements.

On such days the combined total of instructional time and superintendent's conference time must equal the minimum daily session required of 5.0 hours in the elementary grades or 5.5 hours in the secondary grades, and the superintendent's conference hours must be used for staff development activities related to implementation of high learning standards and assessments. For half-day kindergartens, school officials must schedule kindergarten sessions alternately when schools are conducting shortened sessions. This procedure permits school officials to schedule the afternoon kindergarten classes on one short day and the morning kindergarten classes on another, with the net instructional time remaining the same for the morning and afternoon classes. (Education Law 3602(4)).

9. Superintendent's Conference Days

Superintendent's conference days may include general staff orientation, curriculum development, in-service education or parent-teacher conferences. School officials may not use superintendent's conference days for routine administrative matters, such as grading examinations or pupil assignments, record keeping or lesson planning except for the provision of the amendment to the Commissioner's Regulation 175.5. The amendment to section 175.5 allows a school district to use up to two of the allowed four superintendent's conference days in each school year for teacher training and rating of State assessments, including but not limited to grades 3-8 assessments required under the federal No Child Left Behind act of 2001. This amendment is in effect through June 30, 2013.

Districts may use up to four superintendent's conference days per year, provided that at least two of the four days are used for staff development activities related to implementation of high learning standards and assessments, as adopted by the Board of Regents.

School districts may use one or more of the four superintendent's conference days in units of not less than one hour each for staff development activities related to implementation of high learning standards and assessments. **Days which are a combination of instruction time and superintendent's conference time devoted to such staff development activities count toward the 180 day requirement, as long as the combination of instruction and staff development time on that day meets the minimum daily session requirement of 5.0 hours (elementary grades) or 5.5 hours (secondary grades).**

Superintendent's conference days may occur before the first day of instruction, on the first day of instruction, at any time during the school year and on or after the last day of instruction. A conference day may not be claimed for any day during July, on a legal holiday, on a Saturday, or on a Sunday.

Effective July 1, 2012, a school district may elect to schedule such conference days in the last two weeks of August, subject to collective bargaining requirements pursuant to Article Fourteen of the Civil Service Law, and such days shall be counted toward the required 180 days of session, provided that such scheduling shall not alter the obligation of the school district to provide transportation to students in non-public elementary and secondary schools or charter schools. Prior approval of superintendent's conference days by the Education Department is not required. (Education Law 3604(8))

In no case may the number of conference days allowed for any school building, in a district or in a New York City community school district or the High School Division, exceed four days toward fulfilling the 180 required days of instruction.

10. **Required Use of Superintendent's Conference Days in Conjunction with Project SAVE**

Chapter 181 of the Laws of 2000 enacted a comprehensive Safe Schools Against Violence in Education program (Project SAVE) that includes specific requirements that school district staff receive appropriate school violence prevention and intervention training through staff development programs provided on superintendent's conference days. The statute provides that the Commissioner of Education may require that up to one superintendent's conference day per year shall be dedicated for such purpose.

11. **Length of School Day**

The minimum length of school day for purposes of generating State Aid is 2.5 hours for half-day kindergarten, 5.0 hours for full-day kindergarten through grade 6 and 5.5 hours for grades 7-12. These hours are exclusive of the time allowed for lunch. If school district officials establish a school calendar in excess of 180 required days, the excess days need not comply with the mandated daily time requirements. (Commissioner's Regulations 175.5)

Students of compulsory attendance age must be scheduled for attendance upon instruction for the entire time the school is in session. The term session refers to the period during which instruction is provided. However, such daily sessions may include supervised study periods, supervised cooperative work study, release time for college study or school-to-work programs, and as well as traditional classroom instructional activities. (Education Law 3210(1))

12. **Inclusion in Average Daily Attendance of Full-Time Regular Day School Students**

Students included on the regular day school register generally should be enrolled or scheduled for a full day's session of schooling as such session is defined in Section 175.5 of Commissioner's Regulations. A student's enrollment or scheduling in such a daily session represents full-time instructional status and authorizes the school district to claim the aggregate attendance of such a student for State Aid purposes.

13. **Inclusion in Average Daily Attendance of Students Receiving Homebound or Hospital Instruction**

Students receiving homebound or hospital instruction provided by a public school district may be included in the aggregate attendance of the school district's regular school day for the purposes of calculating State Aid, provided that each such student shall receive instruction as follows:

- a. At the elementary school level, each pupil shall receive at least five hours of instruction per week. To the extent possible, at least one hour of instruction shall be provided each day.
- b. At the secondary school level, each pupil shall receive at least 10 hours of instruction per week. To the extent possible, at least two hours of instruction shall be provided each day. (Commissioner's Regulations 175.21)

14. **Equivalent Attendance of Other Students Attending Upon Part-Time Instruction**

The attendance of students between the ages of 16 and 21 enrolled either in a regular day school part-time or in an alternative school not meeting the minimum session requirements of Section 175.5, and who are pursuing programs leading to a high school diploma or a high school equivalency diploma, should be recorded in hourly instructional units. One thousand such hourly units equal one unit of equivalent average daily attendance for the purposes of calculating State Aid. (Education Law sections 3602 1 d (1) and 3602 1 (l))

15. **Curtailed Sessions Under Certain Conditions**

In certain instances it may be necessary for a school district to conduct curtailed, or shortened sessions in one or more grade levels or school buildings for a brief period in order to cope with an emergency situation such as the destruction of one school building requiring double or overlapping

sessions in another building to accommodate the displaced classes. Such curtailed sessions must be requested in writing by the school district and approved by the Commissioner. For further information regarding operation of curtailed sessions outside New York City, please contact the Office of State Aid, New York State Education Department, Room 507 West Wing, Education Building, Albany, New York 12234; attention: Grant Miller; telephone: (518) 474-2977; fax: (518) 473-2912. For information regarding operation of curtailed sessions in New York City, please contact the Office of New York City School and Community Services, New York State Education Department, Room 375 Education Building Annex, Albany, New York 12234; telephone: (518) 474-4715; fax: (518) 474-4275.

Content of Updates

4/12/13: Item #3 updated to reflect new 1-year provision potentially affecting 180 day minimum session requirement for school districts that were closed for an extended period during the 2012-13 school year due to extraordinary conditions.

10/1/12: Item #3 updated to reflect new 1-year provision potentially affecting 180 day minimum session requirement for school districts that were closed for an extended period during the 2011-12 school year due to extraordinary conditions.

9/11/12: Item #9 updated to reflect new legislation allowing districts to schedule conference days in the last two weeks of August.

08/16/11: Item #6 updated for the restoration of the January 2012 Regents Exams

6/27/11: Item #6 updated for the elimination of Regents exams in January beginning with the 2011-12 school year

6/14/11: Items #8 and #9 updated to clarify minimum session requirements when instruction days are shortened for Superintendent Conference time or parent teacher conferences