

[First Reprint]

**ASSEMBLY, No. 3813**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Cumberland, Gloucester and Salem)**  
**Assemblywoman HOLLY T. SCHEPISI**  
**District 39 (Bergen and Passaic)**  
**Assemblywoman PAMELA R. LAMPITT**  
**District 6 (Burlington and Camden)**  
**Senator GERALD CARDINALE**  
**District 39 (Bergen and Passaic)**  
**Senator JAMES BEACH**  
**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

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**SYNOPSIS**

Permits use of virtual or remote instruction to meet minimum 180-day school year requirement under certain circumstances.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on March 16, 2020.

(Sponsorship Updated As Of: 3/19/2020)

1 AN ACT concerning flexible instruction days for public schools <sup>1</sup>and  
 2 approved private schools for students with disabilities,  
 3 supplementing chapter 46 of Title 18A of the New Jersey  
 4 Statutes,<sup>1</sup> 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 read  
 10 as follows:

11 9. a. In order to receive any State aid pursuant to P.L.2007, c.260  
 12 (C.18A:7F-43 et al.), a school district, <sup>1</sup>charter school,<sup>1</sup> 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 or  
 16 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, 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 shall  
 20 further comply with any directive issued by the commissioner pursuant  
 21 to section 6 of P.L.1996, c.138 (C.18A:7F-6). The commissioner is  
 22 hereby authorized to withhold all or part of a district's State aid for  
 23 failure to comply with any rule, standard or directive. No State aid  
 24 shall be paid to any district which has not provided public school  
 25 facilities for at least 180 days during the preceding school year, but the  
 26 commissioner, for good cause shown, may remit the penalty.

27 b. Notwithstanding the provisions of subsection a. of this section  
 28 to the contrary, in the event that a school district is required to close  
 29 the schools of the district for more than three <sup>1</sup>consecutive<sup>1</sup> school  
 30 days due to <sup>1</sup>[an epidemic, or a weather or other emergency  
 31 condition] a declared state of emergency, declared public health  
 32 emergency, or a directive by the appropriate health agency or officer to  
 33 institute a public health-related closure<sup>1</sup>, the commissioner shall allow  
 34 the district to apply to the 180-day requirement established pursuant to  
 35 subsection a. of this section, one or more days of virtual or remote  
 36 instruction provided to students on the day or days the schools of the  
 37 district were closed if the program of virtual or remote instruction  
 38 meets such criteria as may be established by the commissioner. A  
 39 district that wants to use a program of virtual or remote instruction to  
 40 meet the 180-day requirement in accordance with this subsection shall  
 41 submit its proposed program of virtual or remote instruction to the  
 42 commissioner within 30 days of the effective date of P.L. , c.  
 43 (pending before the Legislature as this bill) and annually thereafter,  
 44 provided however that if the school district is unable to complete and

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted March 16, 2020.

1 submit its proposed program within the 30-day period and the district  
2 is required to close its schools for <sup>1</sup>【an epidemic, or a weather or other  
3 emergency condition】 a declared state of emergency, declared public  
4 health emergency, or a directive by the appropriate health agency or  
5 officer to institute a public health-related closure<sup>1</sup>, the commissioner  
6 may retroactively approve the program.

7 A day of virtual or remote instruction <sup>1</sup>, if instituted under a  
8 program approved by the commissioner,<sup>1</sup> 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 <sup>1</sup>If a program of virtual or remote instruction is implemented for  
14 the general education students the same educational opportunities shall  
15 be provided to the special education students, to the extent appropriate  
16 and practicable. Speech language services and counseling services  
17 may be delivered to special education students through the use of  
18 electronic communication or a virtual or online platform, as  
19 appropriate.<sup>1</sup>

20 c. In the event that the State or local health department  
21 determines that it is advisable to close <sup>1</sup>or mandates closure of<sup>1</sup> the  
22 schools of a school district <sup>1</sup>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<sup>1</sup>, the  
25 superintendent of schools shall have the authority to implement the  
26 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 school  
29 districts with information on:

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

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

34 (3) the impact of virtual or remote instruction on the school lunch  
35 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 <sup>1</sup>subsection b., c., or d. of<sup>1</sup> this section shall be  
40 construed to <sup>1</sup>limit,<sup>1</sup> supersede or preempt the rights, <sup>1</sup>privileges,  
41 compensation,<sup>1</sup> remedies, and procedures afforded to <sup>1</sup>【teaching staff  
42 members】 public school employees<sup>1</sup> or a collective bargaining unit  
43 under federal or State law or any provision of a collective bargaining  
44 agreement entered into by the school district. <sup>1</sup>In the event of the  
45 closure of the schools of a school district due to a declared state of  
46 emergency, declared public health emergency, or a directive by the

1 appropriate health agency or officer to institute a public health-related  
2 closure for a period longer than three consecutive days, public school  
3 employees covered by a collective negotiations agreement shall be  
4 entitled to compensation, benefits, and emoluments as provided in the  
5 collective negotiations agreement as if the school facilities remained  
6 open for any purpose and for any time lost as a result of school  
7 closures or use of virtual or remote instruction, except that additional  
8 compensation, benefits, and emoluments may be negotiated for  
9 additional work performed.<sup>1</sup>

10 (cf: P.L.2007, c.260, s.32)

11  
12 <sup>1</sup>2. (New Section) a. In the event that an approved private school  
13 for students with disabilities is required to close the school for more  
14 than three consecutive school days due to a declared state of  
15 emergency, declared public health emergency, or a directive by the  
16 appropriate health agency or officer to institute a public health-related  
17 closure, the commissioner shall allow the school to apply one or more  
18 days of virtual or remote instruction provided to students on the day or  
19 days the school was closed to qualify as a day of instruction for the  
20 purposes of calculating tuition if the program of virtual or remote  
21 instruction meets such criteria as may be established by the  
22 commissioner. An approved private school for students with  
23 disabilities that wants to use a program of virtual or remote instruction  
24 to qualify as a day of instruction for the purposes of calculating tuition  
25 shall submit its proposed program of virtual or remote instruction to  
26 the commissioner within 30 days of the effective date of P.L. , c.  
27 (pending before the Legislature as this bill) and annually thereafter,  
28 provided however that if the school is unable to complete its proposed  
29 program within the 30-day period and the school is required to close  
30 for a declared state of emergency, declared public health emergency,  
31 or a directive by the appropriate health agency or officer to institute a  
32 public health-related closure, the commissioner may retroactively  
33 approve the program.

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

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

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

1       (1) providing instruction to students who may not have access to a  
2 computer or to sufficient broadband, or to any technology required for  
3 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.<sup>1</sup>

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9       <sup>1</sup>**[2.]** 3.<sup>1</sup> This act shall take effect immediately.