

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 1704 and 3604.

1. That the emergency action taken at the Board of Regents meeting in April 2018 be deemed repealed, effective June 30, 2018.

2. That section 175.5 of the Regulations of the Commissioner of Education is repealed and a new section 175.5 is added, effective July 1, 2018, to read as follows:

Section 175.5. Minimum instructional hours and use of superintendents' conference days for State aid purposes.

(a) Purpose. The provisions of this section are intended to provide school districts with flexibility in meeting the 180-day requirement in order to receive State aid pursuant to Education Law §§1704(2) and 3604(7) for actual instructional time provided to students. Nothing in this section shall be construed to preclude school districts from lengthening the school day and/or school year beyond the annual minimum instructional requirement for both instructional and non-instructional activities, including but not limited to, homeroom periods, lunch, recess, staff development activities, parent-teacher conferences, or any other purpose the school district has determined is necessary for the development of the whole child and/or to improve student achievement.

(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.

(c) Annual Hourly Requirement. Commencing with the 2018-2019 school year, for the purpose of apportionment of State aid, any school district must be in session for at least 180 school days, and during such 180 days the school district must meet the following minimum annual instructional hour requirement:

(1) For pupils in half-day kindergarten, a minimum of 450 instructional hours.

(2) For pupils in full-day kindergarten and grades one through six, a minimum of 900 instructional hours.

(3) For pupils in grades seven through twelve, a minimum of 990 instructional hours.

(d) School calendar development. To ensure that school districts meet the annual instructional requirement in order to receive State aid, it is recommended that school districts establish school year calendars that exceed the minimum requirements as provided herein by at least the average number of emergency days that such district has taken over the previous five school years.

(e) Unscheduled school delays and early releases. Instructional hours that a school district scheduled but did not execute, either because of a delay to the start of a school day or an early release, due to extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, destruction of a school building, or such other cause as may be found satisfactory by the Commissioner, may still be considered as instructional hours for State aid purposes for up to two instructional hours per session day, provided, however, that the

superintendent shall certify to the Department, on a form prescribed by the Commissioner, that an extraordinary condition existed on a previously scheduled session day and that school was in session on that day.

(f) Double or overlapping sessions. The provisions of subdivision (c) of this section shall not apply to schools which operate on double or overlapping sessions, provided the written approval of the Commissioner to operate such sessions has been obtained prior to the scheduling of such sessions for any school year.

(g) The provisions of subdivision (c) of this section shall not apply where the prior written approval of the Commissioner has been obtained to conduct, in a given school year, an experimental or alternative program involving daily sessions consisting of fewer hours than would otherwise be required by the provisions of subdivision (c) of this section.

(h) Use of superintendents' conferences.

(1) Superintendents' conferences to provide staff development activities that are related to implementation of the new high learning standards and assessments, general staff orientation, curriculum development, in service education, or parent-teacher conferences may be credited toward the annual instructional requirement. Provided, however, that the average scheduled hours for a school day based on the school calendar (e.g., 5 hours for elementary, 5.5 for secondary) shall be considered one superintendents' conference day authorized pursuant to Education Law §3604(8) and a district may use up to the product of four such hour amounts in a given school year, and provided that such conferences occur on days when the regular day schools of the school district may legally be in session, and provided further that such conference days

may not be scheduled for routine school administrative matters such as the grading of assignments, the preparation of pupil assignments, record-keeping, or the preparation of lesson plans. Such superintendents' conferences authorized pursuant Education Law §3604(8), may be held, if the school district so elects, in the last two weeks of August, subject to collective bargaining requirements pursuant to article fourteen of the Civil Service Law.

(i) Regents examinations and other state assessments.

(1) Regents examinations. For only the grade levels sitting for a Regents examination, a district may schedule the average number of instructional hours it provides on non-examination days for days on which Regents examinations or Rating Day(s) are held, and have such hours count toward the annual minimum hourly requirement. On such days, attendance need not be taken, and attendance may not be assumed and claimed for State aid purposes under any circumstances. If grades seven through twelve are housed in the same building, school district officials may excuse the students from any grade level for which an examination is not being offered if their class schedules are disrupted by the Regents examination schedule and if staff are needed to properly administer such examinations.

(2) New York State Assessments. Session days during which New York State Assessments, including but not limited to the Grades 3-8 English language arts and mathematics assessments, are administered are days on which attendance must be taken and which instructional hours count toward the annual minimum hourly requirement.

(3) Other state assessments. On session days during which alternative and/or pathway assessments, as defined in section 100.2(f) and (mm) of this Title, are administered, attendance must be taken and only actual instructional hours for pupils in attendance, including the examination time, may be included within the instructional hour requirement. Grade levels that are excused from instruction on those days may not have hours count toward the requirement.

(j) Short session aid deduction. For the purposes of reducing State aid pursuant to Education Law §3604(7), “one day” shall mean:

(1) For pupils in half-day kindergarten, two and one-half hours.

(2) For pupils in full-day kindergarten and grades one through six, five hours.

(3) For pupils in grades seven through twelve, five and one-half hours.

In the event that a school district has a total deficiency in hours that equals a fraction of hours per day pursuant to this paragraph, such deficiency shall be rounded up to the next whole day.

(k) Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on June 30, 2018 during the term of such agreement and until the entry into a successor collective bargaining agreement to the extent required under article 14 of the Civil Service Law.

2. Section 175.2 of the Regulations of the Commissioner of Education is amended, effective July 1, 2018, to read as follows:

Section 175.2. Attendance records for examination days for State aid purposes.

Each school district in which Regents examinations are administered in January, April and June may omit the record of attendance for pupils in the grade levels in which

such examinations are given, on the days designated for the administration of such examinations, for the purpose of computing average daily attendance for State aid. The record of attendance of pupils of the grade level in which the Regents Scholarship examination is given may also be omitted for the day on which such examination is administered. The record of attendance for grades located in the same buildings in which such examinations are administered may be omitted, if it is necessary to suspend instruction for such grades in order to provide adequate staff and space for the administration of such examinations. The hours used on examination days, as well as the days themselves, referred to in this section shall be counted for the purpose of satisfying the minimum instructional hour requirement [that school districts shall provide 180 days of instruction] pursuant to section 175.5 of this Part.

