

# Updated Information on 180 Instructional Day Requirement



Fact Sheet No. 23-09  
(Updated)

December 2023

**This updated Fact Sheet clarifies recent guidance from SED which clearly states that districts CANNOT have a Superintendent Conference Day when there is a holiday.**

## Instructional Hour Requirement History

The Board of Regents at their September 2018 meeting approved regulations that govern how school districts must provide the statutorily required 180 minimum days of instruction. These regulations do not change the requirement to have a minimum of 180 instructional days. While there has been some discussion in the media that there may be proposals to allow districts to hold instructional days during July and August current statute and regulations do not allow for such a change.

## Annual Instructional Hour Requirement

The regulations alter the calculation of the instructional hours needed to comply with the 180 day requirement. Prior to 2018 the Commissioner’s Regulations and related guidance constructed a weekly minimum instructional hourly requirement in order for all five days in a school week to count toward the 180 instructional day requirement.

The 2018 regulations changed to a yearly instructional hour construct that requires grades K-6 to have a minimum 900 hours of instruction per year and grades 7-12 to have a minimum of 990 instructional hours spread out over a minimum of 180 days. A half-day Kindergarten program is required to have 450 instructional hours over a minimum of 180 days.

## Definition of Instructional Time

An instructional hour is defined as an hour, or fraction of an hour, during which students receive instruction from a certified teacher, or a period of time where students are doing supervised study activities such as completing or reviewing homework. The regulations now expressly state that lunch periods shall not count as instructional time. Recess periods may only be counted as instructional time if the recess periods contain supervised activities by a certified physical education teacher, consistent with the physical education standards and are related to Part 135 of the Commissioner’s Regulations for physical education. Homeroom may only be counted if used as supervised study time.

SED has produced a spreadsheet and instructions to provide districts with the methodology to calculate their instructional time over the course of a school year. This spreadsheet (a link to this document is at the end of this

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Fact Sheet) indicates that lunch, “passing time” between periods and homeroom, not used as supervised study time, do not count as instructional time.

The annual instructional day and hour requirements do not specify a specific instructional modality. Instruction may be counted towards these minimums so long as the instruction is authorized, consistent with Commissioner’s Regulations and district remote instructional plans. Schools providing remote instruction due to adverse conditions are considered to be in session and may report these as instructional days.

### **Delays and Early Releases**

The regulations allow districts to count up to two hours toward the instructional hourly requirement for any delay in the start of the school day (or an early release) due to adverse weather conditions, water shortage etc. The Superintendent must attest to the adverse situation / weather that caused the delay (or early release) to the State Education Department. Therefore, if a district operated with a three hour delay due to adverse weather conditions the district could claim only two hours of the three hour delay as instructional hours.

### **Declaration of State of Emergency**

Chapter 605 of the law of 2019 was signed by the Governor on December 6, 2019. Chapter 605 provides if schools are closed on a day(s) when a state or local declaration of a state of emergency has executed, the district will not have to make up that day(s) in order to comply with the 180 day requirement. If one or more schools in the district were not in session for 180 days because of a properly executed state of emergency the district must follow the SAMS reporting process for such days, which includes providing a copy of the relevant emergency declaration or executive order.

### **Extraordinary Conditions**

Section 3604 of the Education Law states that the Commissioner may disregard reduction in Foundation Aid, up to 5 days, if one or more schools of a district were not in session for 180 days because of either extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, lack of electricity, natural gas leakage, unacceptable levels of chemical substances, a credible threat to student safety as reasonably determined by a lead school official or the destruction of a school building either whole or in part. In addition to an extraordinary condition leading to the cancellation of session, districts must make up such canceled days by using any still available scheduled vacation days. If one or more schools of the district were not in session for 180 days because of an extraordinary condition AND the district was unable to make up the days they must follow the SAMS reporting process for such days.

### **Superintendent Conference Days**

Districts may have up to four Superintendent Conference days per year as authorized by state law. These do not need to be used in full day increments and the associated hours for these Conference days may be split up among more than four calendar days.

The new regulations convert the current four day allotment for Conference days into a total hour amount that can be used for Conference days in a school year. The regulations provide that districts may use the average scheduled hours for a school day multiplied by four to compute the total amount of hours for Conference days. Example: If a school building has a six hour instructional day then the school may use 24 hours for Conference time in a given school year (six hours multiplied by four days).

**Also, Education Law §3604(8) provides “staff development [may be provided] on any day during which sessions are allowed” with an exception that allows holding superintendent’s conference days in the last two weeks of August.**

## Regents Exams and State Assessments

When Regents exams are administered and on rating days, a district may count the greater of the instructional hours it provides on non-examination days or the actual testing time towards the instructional hour requirement for the respective grade level for the Regents exams being administered. If grades 7-12 are housed in the same building, then students may be excused if their class schedules would be disrupted by the administration of the Regents exams. The days when the state tests for grades 3-8 ELA and math assessments are administered are days that count toward the instructional hour and 180 day requirement.

## School Holidays

Schools may not be in session on Saturdays or public holidays. The public holidays that impact schools are:

- New Year's Day – January 1
- Dr. Martin Luther King Day - the third Monday of January
- President's Day – third Monday of February
- Memorial Day - the last Monday in May
- Juneteenth – June 19
- Labor Day - first Monday in September
- Columbus Day - the second Monday in October
- Veterans Day – November 11
- Thanksgiving - the fourth Thursday in November
- Christmas Day – December 25

## Lunar New Year

On September 9, 2023 Governor Hochul signed legislation (Chapter 359 of 2023, A.7768/S.7573) amending Subdivision 8 of section 3604 of education law to include the first day of the second lunar month after the winter solstice in the preceding calendar year known as “Asian Lunar New Year” to the list of days schools shall not be in session. This amendment makes Lunar New Year a school holiday, not a general civic holiday. Because of the manner by which the date is set for Lunar New Year it falls on weekends in some years. This is the case in 2024 when it falls on Saturday February 10. So this change will not have an impact on the 2023/2024 school calendar. In 2025 Lunar New Year will fall on Wednesday January 29<sup>th</sup>.

## Diwali

On November 14, 2023 Governor Hochul signed legislation (Chapter 629 of 2023, S.7574/A.7769) that makes Diwali a school holiday, schools will not be in session, in all of the public schools in the New York City School District. Diwali happens October or November, depending on the lunar calendar. In 2023 Diwali fell on Sunday November 12. So this change did not have an impact on New York City's 2023/2024 school calendar. In 2024 Diwali falls on Thursday October 31. This provision for Diwali is only applicable to New York City and not the rest of state.

## Existing Collective Bargaining Agreements

The regulations provide that no existing collective bargaining agreement need be altered to comply with the new regulations. However, this does not absolve a district from complying with the 180 day statutory requirement and the minimum instructional hours regulations. As a result, if a district has less than 900/990 instructional hours in a year and if the contract is not altered then the district will incur a financial penalty. State law provides that school districts will lose 1/180th of their Foundation Aid for each day the district is short of 180 instructional days. Future collective bargaining agreements will need to comply with these regulations. A link to the SED 180 day 2023-24 model calendar spread sheet is below.

[NYSSED:Model Calendars:](#)

**HA/mc- December 15, 2023**