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May 1, 2018

Mr. Brian Cechnicki
NYS Education Building
Office of State Aid
89 Washington Ave
Albany, NY 12234

Dear Mr. Cechnicki:

This letter represents NYSUT's public comments on the school calendar regulations adopted on an emergency basis at the April Regents meeting. NYSUT supports the regulations which provide school districts with flexibility in meeting the school calendar requirements for state aid and protects existing collective bargaining agreements.

We must take exception with one of the responses to the previous public comment period and to slide nine of the power point presentation on the regulation which indicates SED has never included passing time in the hours counted for actual instruction. In reviewing past regulations and guidance, there is no mention of passing time. In fact the regulation only specifically excluded lunch and the previous guidance specifically excluded lunch and recess from the instructional day. None of these documents mentioned passing time.


The State Education Department undertook wide ranging field engagement throughout the summer and fall of 2017 in response to concerns raised by NYSUT and others about the April 2017 field guidance on this matter. This engagement included a statewide advisory group and regional meetings. This resulted in a general consensus to transform the regulatory structure from a weekly instructional requirement to a yearly instructional requirement. NYSUT supports this general shift towards flexibility and local control. However, SED has now determined that passing time between classes as well as homeroom should be excluded from the instructional day. This late starter takes a positive change providing flexibility to districts and turns it into a possible negative for some districts.

We respectfully request you reconsider the elimination of passing time and homeroom from the calculation. Passing time and homeroom are inherent in the nature of an "instructional day" especially at the middle and senior high school level. Passing time and homeroom are not a new concept and have been widely in place for eighty years after schools centralized across the state. Had the Legislature intended to exclude it they would have done so in the statute. The Legislature has repeatedly modified Section 3604 of the Education Law over the years to make a variety of adjustments to the statute and never specified that passing time or homeroom should be excluded from the instructional day. SED is choosing to entirely reinterpret the statute without any change to the governing statutory provision.

I strongly urge you to continue the long standing practice to allow school districts the ability to count passing time between classes and homeroom as part of the instructional day.

Thank you in advance for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Jolene DiBrango". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Jolene DiBrango
Executive Vice President

JD/DK/jad/doc#105861

c: Members of New York State Board of Regents
MaryEllen Elia, Commissioner of Education