

# New 180 Days of Instruction Regulations



**Fact Sheet No. 18-09**

**June 2018**

The Board of Regents at their June 2018 meeting approved revised draft regulations that govern how school districts must provide the required 180 minimum days of instruction. These regulations do not change the requirement to have a minimum of 180 instructional days. These new regulations will take effect for the 2018-19 school year.

The Regents have indicated they will revisit these regulations at their September 2018 meeting and enact final regulations at that time. Also, while there has been some discussion in the media that there may be proposals to allow schools to hold instructional days in July and August these new regulations do not allow for such a change.

## **Background**

The Education Law 3604(7) requires school districts to provide a minimum of 180 days of instruction annually in order to receive all of the otherwise payable Foundation Aid. Each day that the district falls short of 180 days, the district is penalized 1/180<sup>th</sup> of the district's Foundation Aid in the ensuing year. Up to four of the required 180 days may be used as Superintendent conference days to provide professional development.

In April of 2017 SED released revised field guidance that altered the rules around which days counted towards the 180 day requirement. As a result a number of school districts had to modify their 2017-18 calendars to comply with this new guidance. The most noteworthy change made by SED in the 2017 guidance related to how shortened instructional days could (or could not) be counted towards the 180 day statutory requirement.

In response to the significant concerns raised by NYSUT and other education organizations about the April 2017 guidance, the State Education Department formed a 180 Day Advisory Committee to discuss ways of modernizing the Commissioner's regulations that governed the 180 requirement. In addition, SED held regional meetings to hear from stakeholders on calendar issues.

## **Annual Instructional Hour Requirement**

The new regulations alter the calculation of the instructional hours needed to comply with the 180 day requirement. Previously, 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 day mark.

The new draft regulations change 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. Half-day Kindergarten is required to have 450 instructional hours over a minimum of 180 days.

### **Definition of Instructional Time**

Instruction hours are 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 new draft regulations expressly state that lunch periods shall not count as instructional time. Recess periods may be counted as instructional time if the recess periods contain supervised activities.

While we are awaiting field guidance, SED has produced a spreadsheet to provide districts with the methodology to calculate their instructional time over the course of a school year. This spreadsheet indicates that “passing time” between periods and homerooms do not count as instructional time. In the past SED had only specified that recess and lunch were excluded from a typical instructional day to determine the length of the instructional day.

### **Delays and Early Releases**

The draft 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.

### **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 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 revised draft regulations indicate that districts may use the average scheduled hours for a school day in 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, consistent with past practice districts may use Superintendent Conference days during the last two weeks of August subject to collective bargaining agreements.

### **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 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.

### **Existing Collective Bargaining Agreements**

The regulations provide that no existing collective bargaining contract need be altered to comply with the new regulations. However, this does not absolve a district to comply with the 180 day statutory requirement and these 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 in the 2018-19 school year. State law provides that school districts will lose 1/180<sup>th</sup> of their Foundation Aid for each day the district is short of 180 instructional days. Future collective bargaining agreements would need to comply with these regulations.

A link to the SED 180 day calendar spreadsheet is attached below.

[www.nysut.org/modelcalendar](http://www.nysut.org/modelcalendar)