



CLIENT ALERT
June 24, 2020

CORONAVIRUS (COVID-19)

REMOTE LEARNING – WILL IT COUNT FOR THE 180-DAY REQUIREMENT FOR SCHOOLS?

24 P.S. § 15-1504 outlines requirements for instruction time and states, “all public schools are to be open each school year for at least one hundred eighty (180) days of instruction for pupils. The number of instructional hours in a school year is to be at least 450 for half-time pre-K and kindergarten, 900 for full-time pre-K and kindergarten and elementary, and 990 for secondary.”

With the Coronavirus pandemic closing schools nationwide this past March, this 180-day requirement was not feasible as schools were forced to close and begin instruction virtually. In response, the Pennsylvania State Legislature passed and the governor signed Act 13 of 2020. This amended the act of March 10, 1949, known as the Public School Code of 1949, and allowed for the state’s 180-day requirement for schools to be waived, as well as the option for the Secretary of Education to close all schools until the threat of the Coronavirus pandemic has ended. This authority expires on June 30, 2020.

As a result of this impending expiration, the Senate and the House of Representatives have both passed resolutions to end this emergency declaration issued by the Governor. Subsequently, the Governor and the legislature are now challenging each action in court to determine who has the authority to decide to continue or end the emergency declaration.

If this authority granted under Act 13 of 2020 is not extended, remote instructional days or hours will not count towards the 180-day requirement. If virtual instruction is taken away, school districts will once again be left scrambling at the last minute to plug holes and make eleventh hour decisions.

This means that each school district will need to plan for 180 face-to-face student instructional days, including 900 hours of face-to-face instruction at the elementary level and 990 hours of face-to-face instruction at the secondary level.

Unfortunately, this news comes after the Pennsylvania Department of Education directed all school districts to develop Health and Safety Plans for reopening schools which, among the following, could have allowed for remote learning as an option for the upcoming school year:

- (1) Total reopen for all students and staff (but some students/families opt for distance learning out of safety/health concern)
- (2) Scaffolded reopening: Some students are engaged in in-person learning, while others are distance learning (i.e., some grade levels in-person, other grade levels remote learning).

CLIENT ALERT

June 24, 2020

- (3) Blended reopening that balances in-person learning and remote learning for all students (i.e., alternation days or weeks).
- (4) Total remote learning for all students. (Plan should reflect future action steps to be implemented and conditions that would prompt the decision as to when schools will re-open for in-person learning).

Although there is no reason to panic as of yet, those who are responsible for developing a school's Health and Safety Plan need to be aware of this issue and plan accordingly. It is also important for school leaders to keep an open line of communication during this time and share what they are doing with return-to-school plans and how instruction will work. It has been suggested that if lawmakers have an idea of how school will look in the fall, and see the need for flexibility, they will be forewarned about the issues many schools will face and be more willing to see the need for flexibility and address the 180-day requirement sooner rather than later.

The Pennsylvania Association of School Administrators (PASA), Pennsylvania Department of Education (PDE), Pennsylvania State Education Association (PSEA), and Pennsylvania School Board Association (PSBA) are working diligently with all parties in the hopes of rectifying this issue by the beginning of August in order to minimize the impact this could have on school district's reopening plans.

Beard Legal Group will continue to monitor legislative developments and will continue to provide updates and ongoing guidance in response to questions raised as a result of these rapid changes in the legal landscape applicable to our clients. Please do not hesitate to contact us with any specific concerns arising for your organization.

While the Beard Legal Group Client Alert is designed to provide information on topics of concern to Pennsylvania Public Schools, it is not legal advice and School Districts should contact their Solicitor, Labor of Special Counsel for advice related to their specific circumstances.