


## MEMORANDUM

TO: Superintendents and Independent School Heads  
FROM: Dan French, Secretary   
SUBJECT: Continuation of Learning; School Calendars; Attendance  
DATE: March 31, 2020

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### Background

State statute and State Board regulations require each public school district to operate its schools for at least 175 days of student attendance. Additionally, the district must hold at least five teacher in-service days. Within these two minimums, superintendents in each region establish a uniform calendar that includes school attendance days, periods of vacation, holidays and teacher in-service days (16 V.S.A § 1071). State Board Rule 2226.10 requires an approved independent school to maintain a schedule providing a total number of instructional hours each year equivalent to that of a public school serving the same grades.

16 V.S.A. § 1071 provides for waiver of the public school calendar requirements. When a district's school is closed for cause beyond the control of the school board, it may petition the State Board for a waiver. Traditionally, approved independent schools have not sought calendar waivers from the State Board, nor have independent schools' approval status been impacted by unanticipated closures resulting in missed instructional hours.

### Special Authority for Calendar Waivers in School Year 2019-2020

At its March 18, 2020, meeting, the State Board passed the following motion, "That the State Board authorize the Secretary to, on its behalf, grant waivers as the Secretary sees fit for any unanticipated closures under 16 V.S.A. 1071(c) that are the result of consultation with the Secretary of Education and the Commissioner of Health or an order of the Department of Health in the 2019-2020 school year."

The State Board's action means that the Secretary may grant individual or blanket waivers for school closure ordered by Governor Scott for the period of March 18, 2020, through the end of the 2019-2020 school year. The Secretary also may grant waivers for school closures prior to March 18, 2020, on a case-by-case basis, consistent with the State Board's motion.

**Based on the public health considerations that led to the relevant closures, I have determined that all COVID-19 school closures prior to March 18, 2020, will be granted a waiver from the requirement to hold 175 student attendance days.** A superintendent in a district whose schools were closed for one or more days related to COVID-19 prior to March 18, 2020, may request documentation of waiver by completing the [School Attendance Day Waiver Request](#) online.

## Attendance Procedures and Need for Additional Waivers

Current guidance for reporting daily attendance will be followed as if all students are enrolled and receiving education services elsewhere. (See, [Elementary and Secondary School Register, Instructions](#), page 16).

1. *Students who are enrolled in your school but receiving educational services elsewhere are considered in attendance even on days when they are off campus. These students include but are not limited to a Page in legislature who does regular work assignments, a student in a work program that is part of the school day, students participating in off-site flexible pathways experiences under Act 77, a student spending required days in an evaluation program at the Baird Center, a student at a regional career technical center or a student in a hospital receiving tutoring.*

Students who make some form of contact with their classroom teacher or other instructional staff in a day should be counted as present for that day. As stated in existing attendance guidance, “a day of attendance is defined as a day when the school is officially open and the majority of students are recorded as in attendance.” **Accordingly, if a majority of students are counted as present on a day of remote learning in accordance with the Governor’s order closing schools for the rest of the 2019-2020 school year, that day will count for compliance with calendar requirements.**

At the end of the school year, the Secretary will determine whether any further calendar waivers are necessary, or if statewide make-up days will be required. Days during the closure period from March 18 – April 13, 2020, will be specifically considered for a waiver that would apply to all districts in the state. A superintendent need not send a waiver application for March 18 – April 13, 2020. After April 13, 2020, it is the Agency’s expectation that most students will participate in remote learning each day, and no further make-up days will be necessary. However, this form of learning is unprecedented for our state, and we need to reserve the option to hold additional student instruction days, if it is in the best interest of the state’s education system.