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**GUIDANCE MEMORANDUM #21-06**

**TO:** School District Superintendents

**FROM:** Jhone Ebert, State Superintendent of Public Instruction

A handwritten signature in black ink, appearing to read "Jhone M. Ebert".

**DATE:** December 6, 2021

**SUBJECT:** Application for Consideration of Emergency School Closures as Days in Session

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The purpose of this memo is to establish a process by which county school districts may request the State Superintendent of Public Instruction's consideration to count certain school closure days during which distance education was provided as instructional days.

**Background**

Nevada Revised Statutes (NRS) 388.090 establishes expectations that "boards of trustees of school districts shall schedule and provide a minimum of 180 days of free school in the districts under their charge," except as approved under an alternative schedule.

In recent years, the ability of county school districts to sustain safe operations has increasingly been affected by winter storms, wildfires, other natural disasters, and extraordinary circumstances. To support school districts in navigating such emergencies, Nevada Administrative Code (NAC) 387.151(2) sets parameters through which emergency school closure days may be counted as days in session:

*If the closing of all schools in a school district is necessary...and the duration of the closing exceeds the number of required contingent days, the Superintendent of Public Instruction may permit any additional day to be counted as a school day in session.*

In addition, NRS 388.095 sets expectations related to scheduling contingent days in anticipation of potential emergencies:

1. *Each school district shall schedule at least 3 contingent days of school, or its equivalent if the school district operates under an alternative schedule authorized pursuant to [NRS 388.090](#), in addition to the number of days required by [NRS 388.090](#), which must be used if a natural disaster, inclement weather or an accident necessitates the closing of a majority of the facilities within the district. The 3 contingent days of school, or its equivalent, may be scheduled as:
  - (a) Full days of school;
  - (b) An equivalent number of minutes of instruction added to any scheduled day of instruction, except that the minutes added must not be less than 30 minutes per school day; or*

- (c) Any combination thereof.
2. *If more than 3 days of free school or minutes of instruction equaling 3 days of free school, or the equivalent if the school district operates under an alternative schedule authorized pursuant to [NRS 388.090](#), are lost because a natural disaster, inclement weather or an accident necessitates the closing of a majority of the facilities within a school district, the Superintendent of Public Instruction, upon application by the school district, may permit the additional days or equivalent minutes of instruction lost to be counted as school days in session. The application must be submitted in the manner prescribed by the Superintendent of Public Instruction.*

### **Application**

In accordance with NAC 387.120, NAC 387.151, and NRS 388.095(2), the Nevada Department of Education (NDE) has established an application through which districts may request that an emergency school closure affecting the majority (75% or more) of the facilities within a school district after contingency days have been exhausted be counted as a day in session by the Superintendent of Public Instruction. This application is reserved for non-COVID-19-related school building closures; COVID-19-related closures are already approved for implementation of distance education through each district's Plan for Path Forward Programs of Distance Education in their Plans for a Safe Return to In-Person Instruction and Continuity of Services submitted in July 2021.

Applications must be submitted no more than two weeks after the conclusion of the emergency circumstance causing the closure of at least 75% of school buildings. Please note, because the approval of these days is at the sole discretion of the Superintendent of Public Instruction, every effort should be made to complete applications immediately following the closure of school buildings. Applications must include the following information:

- Date(s) on which 75% of schools were closed and distance education was provided to all students
- Dates on which the district has already used or will use contingency days as defined in NRS 388.095
- Detailed description of the nature of the emergency circumstance (i.e., details regarding the inclement weather, uncontrollable circumstances, or accident and its extenuating impact on school facilities)
- Number of schools in district
- Number of schools impacted by emergency circumstance
- Requested date(s) of emergency closures on which distance education was provided and the district is requesting the Superintendent of Public Instruction's consideration to count as day(s) in session
- For each school building affected:
  - School Name
  - School Code
  - Student Enrollment
  - Days in Approved School Calendar
  - Traditional/Alternative School Calendar

In applying for consideration, school district superintendents must certify that:

- The district's Path Forward Program of Distance Education (2021-22 school year) or NDE-approved program of distance education in accordance with NRS 388.820-874 (future school years) was implemented for students in affected school buildings for which "day in session" credit is requested.

- It is the district superintendent’s opinion that treating these days of emergency building closures as days in session is in the best educational interest of the pupils of the school district.
- The school district has exceeded the number of contingency days included in its approved calendar because of previous closures.
- There is no entitlement to count days during which school buildings are closed pursuant to a non-COVID-19-related emergency as a day in session and the decision to do so is the sole authority of the State Superintendent.

In addition, for the Superintendent of Public Instruction to consider approving the application, the school district must meet the following minimum requirements with regard to serving pupils during each of the days during which credit is requested for a day in session:

- All students must have an ability to access and participate in distance education during the days of closure. Such access must include access to the technology necessary to participate in distance education, such as access to a computer and internet connectivity, and accommodations for students without access to such technology;
- The district must engage in specific plans and undertake measures to maintain a continuity of services for the unique needs of English Learners, students with Individualized Education Programs, and students with 504 Plans, and other special populations;
- Licensed teachers and/or licensed substitutes must be accessible to students through the internet or by telephone during the school’s regularly scheduled instructional hours; and
- Students must receive access to the nutrition services to which they are entitled.

Finally, it is NDE’s expectation that if schools were closed due to a natural disaster or public health emergency that threatened the health and safety of students and employees, extracurricular activities, athletics, and school-related travel and events were also canceled on the days for which “day in session” credit is requested. If school buildings were closed for other extenuating circumstances (e.g., plumbing, HVAC, etc.), extracurricular activities, travel, and event schedules can be maintained.

If you have any questions regarding the implementation of this policy or the application, please contact Amelia Thibault in the Student Investment Division at [acthibault@doe.nv.gov](mailto:acthibault@doe.nv.gov).