

## NC Governor Cooper Signs COVID-19 Recovery Act

### COVID-19 Response Resource Center: Timely Counsel for your Business

By Sarah Saint and Elizabeth Troutman and Jill Wilson on 05.04.2020

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On April 24, 2020, Governor Cooper closed schools for in-person instruction for the remainder of the 2019–2020 school year. On May 4, 2020, the Governor signed into law the COVID-19 Recovery Act (the “Act”), effective immediately, which was passed by both houses of the General Assembly on May 2, 2020. The Act affects public schools, personnel, future educators, and students in myriad ways. The stated purpose of the sections of the Act affecting public education is “to clarify or modify certain requirements in consideration of actions and circumstances related to the COVID-19 emergency.” This Client Alert summarizes the effect of this law on public education. The Act also modifies requirements for nonpublic and charter schools, not included here.

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#### Impact on School Calendar

##### School Calendar for 2020-21 School Year

- **Days.** Each school district’s calendar must be 190 days of instruction—185 (or 1025 hours of instruction) that includes five remote instruction days (to test the Remote Instruction Plan) and an additional five instruction days that can only be satisfied by individually separate and distinct full instruction days, not hours.
- **Dates.** Each school district’s calendar must begin for students on Aug. 17, 2020; end no later than June 11, 2021; and not have remote instruction days prior to Aug. 24, 2020. This does not apply to school districts with good cause waivers for the 2020–2021 school year (which have additional requirements), year-round schools, or modified calendar schools.
- **Remote Instruction Days.** The five required remote instruction days may be used as teacher workdays. If a state of emergency is declared which closes schools for more than five days during the 2020–2021 school year, school districts may use additional remote instruction days to satisfy instructional time requirements.

## **Remote Learning**

2019–2020 School Year: Each school district must provide remote instruction for the remainder of its scheduled 2019–2020 school year. For the 2019–2020 school year, remote instruction is defined broadly as “learning that takes place outside of the traditional school setting using various media and formats, including, but not limited to, video conference, telephone conference, print material, online material, or learning management systems.” If a school district provides remote instruction, then that school district has met the statutorily required instruction time for all of the 2019–2020 school year. In addition, the notice requirements of the truancy law, though not the prohibition on truancy, is suspended for the remainder of the 2019–2020 school year.

2020–2021 School Year: Each school district must develop a Remote Instruction Plan for the 2020–2021 school year. The Act lays out various components the Remote Instruction Plan should discuss, such as ensuring attendance, providing special education, and supporting students and teachers with connectivity issues. The school district must submit the plan to the State Board by July 20, 2020.

## **Impact on Students**

### **Summer Learning Program**

Summer reading camps are not required for the 2020 summer. However, DPI will provide funds for districts to create a 2020 summer learning program. Plans must be submitted to DPI by June 22, 2020 and must include the following:

- Reading interventions for K–3 students not on track to meet 2019–2020 year-end expectations, based on diagnostic assessments completed before March 16, 2020;
- Reading interventions for fourth grade students not on track to meet 2019–2020 year-end expectations as identified by their reading teachers;
- Math interventions for K–4 students not on track to meet 2019–2020 year-end expectations as identified by their math teachers.

The summer learning program funds may be used to deliver interventions and instruction to students using methods such as digital resources, printed materials, literacy coaches, and face-to-face instruction, including resources and strategies for parents to provide at home regardless of whether their qualified child attends the program. School districts must comply with executive orders regarding school building use and all social distancing and public health guidelines provided by the Department of Health and Human Services in place at the time of the summer learning program.

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**Testing.**

- EOGs: EOGs are waived.
- EOCs: EOCs are waived.
- ACT: During the fall semester of the 2020–2021 school year, school districts must administer the ACT to all students who were in the 11<sup>th</sup> grade during the 2019–2020 school year who did not take the test, unless the student took a comparable test and scored at or above the level set by the State Board.
- K–3: Additional diagnostic and formative reading assessments for K–3 students beyond those administered prior to March 16, 2020 are not required.
- WorkKeys: School districts are not required to administer the WorkKeys assessment to any students with a concentration in career and technical education courses in the spring semester of the 2019–2020 school year.

**Read to Achieve.**

- Promotion: Principals may make third grade promotion decisions in the same manner as they make them for other grades and must designate if a third grade student is retained due to reading deficiencies.
- Intervention: Third graders retained for 2020–2021 based on principal discretion must receive the same statutorily-required interventions they would have received if they had been mandatorily retained.
- Monthly Progress Reports: Monthly progress reports are waived for students currently retained in third grade after March 16, 2020.
- Parental Notice: Parental notice of students in grades 1–3 not reading at grade level must be provided and be based on data available up until March 13, 2020.
- 3<sup>rd</sup> (now 4<sup>th</sup>) Grade Reading Assessment: No later than the tenth day that school buildings are open to students for the 2020–2021 school year, all fourth grade students must receive the end-of-year diagnostic assessment required of third grade students. The results must be used to identify reading deficiencies and inform instruction and remediation needs in order to ensure that all students achieve proficiency at the earliest date possible.
- Reporting Requirements: Reporting requirements under G.S. § 115C-83.10 are waived, except districts must report to the State Board by September 1, 2020 the following:
  - Number and percentage of students in grades 1–3 on track and not on track based on assessments completed on or before March 13, 2020; and

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- Number and percentage of third grade students retained for reading deficiencies.

**Advanced Math.**

Initial math placement for the 2020–2021 school year is based on local policies with input by each student’s 2019–2020 math teacher. If a student is not initially placed in advanced math, the student may elect to take the 2019–2020 EOG or EOC, and if they score at the highest level of the test, they must be placed in advanced math for the 2020–2021 school year.

**CPR Requirements.**

Students who cannot complete the CPR graduation requirement due to the closure of schools for in-person instruction, but are otherwise qualified to graduate, may graduate.

**Impact on School Performance Reporting.**

**School Report Cards.**

School districts are not required to display school report card data based on the 2019–2020 school year but instead must display a brief explanation that school report cards were not issued for the 2020–2021 school year because assessment data was not collected during the 2019–2020 school year due to COVID-19.

**Alternative Schools**

Data from the 2019–2020 school year must not be used to evaluate the educational performance and growth of students in alternative schools and alternative programs to the extent such programs are based on the accountability system under G.S. § 115C-83.15 and G.S. § 115C-105.35.

**Public School Building Level Reports**

School districts are not required to produce and make the Oct. 15, 2020 public school building report based on building-level data from the 2019–2020 school year.

**Low-Performing Schools**

No new low-performing schools, new continually low-performing schools, and new low-performing local administrative units will be identified based on 2019–2020 school year data. Instead, identifications based on 2018-2019 data will remain, such schools must continue to carry out the plan approved by the State Board, and such schools must include with their online final plans a brief explanation that the identification continues pending assessment data from the 2020–2021 school year. Nonetheless, school districts may request to reform a continually low-performing

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school.

### **Innovative School District (ISD)**

No new school will be selected for the ISD and no schools will be added to the qualifying list for the ISD based on 2019–2020 data. Schools that were added to the qualifying list based on 2018–2019 data will remain on the qualifying list for the 2020–2021 school year.

### **School Improvement Plans**

School improvement plans set to expire at the end of the 2019–2020 school year are extended six months and remain in effect until Dec. 31, 2020. The replacement plan for such plans will only last 18 months instead of 2 years.

### **Impact on Personnel**

#### **Principal Recruitment Supplement Eligibility**

Schools eligible for the principal recruitment salary supplement in the 2019–2020 school year remain eligible in the 2020–2021 school year. This change does not apply to other principal salary supplements.

#### **Teacher Performance Notification**

The requirement for the 2020–2021 school year that principals notify teachers of updated EVAAS data from the 2019–2020 school year is waived.

#### **Teacher Effectiveness Reporting**

The requirements that school districts provide the State Board with teacher performance data from the 2019–2020 school year is waived.

#### **Teacher Evaluation and Observation Requirements**

Annual teacher evaluations from the 2019–2020 school year will be based on evaluations completed in the 2019–2020 school year prior to March 13, 2020 and other artifacts and evidence from the 2019–2020 school year. Required observations not completed prior to March 13, 2020 are waived.

#### **Licensure Requirements and CEUs for Continuing Licensure**

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Teachers have a one-year extension to meet licensure requirements and to meet CEU deadlines of June 30, 2020 for continuing licensure. School administrators and other school personnel with CEU deadlines of June 30, 2020, have an additional one year to meet those requirements.

### **Retirees**

For school employees who retired between Oct. 1, 2019 and April 1, 2020, the required six-month waiting period for re-hire is reduced to one month in cases where the retiree is filling a position needed due to the COVID-19 pandemic, as certified by the school system. This exception expires Aug. 1, 2020.

### **Impact on Future Educators**

The Act modifies Educator Preparation Programs, including admissions, clinical internships, assessments, reporting data and sanctioning for lack of data, and report card publication. The Act also modifies certain school administrator prep program requirements and certain transforming principal prep program requirements. Finally, students who are unable to participate in an apprenticeship program due to the COVID-19 emergency may be eligible for a tuition waiver for community college courses until Dec. 31, 2020.

### **Funding to the Department of Public Instruction (“DPI”)**

The following funds were allocated to DPI in response to COVID-19:

- \$75,000,000 for school nutrition services provided in response to COVID-19;
- \$1,000,000 to improve internet connectivity for students by installing extended reach mobile WiFi gateway router devices in school buses;
- \$11,000,000 to improve internet connectivity for students by providing community and home mobile internet access points;
- \$30,000,000 for computer and electronic device purchasing for student use;
- \$5,000,000 for computer and electronic device purchasing for personnel use;
- \$4,500,000 for cybersecurity;
- \$10,000,000 for school health support personnel, including school counselors, school nurses, school psychologists, and school social workers;
- \$70,000,000 for a summer learning program for students whose learning has been negatively affected by the impacts of COVID-19;
- \$1,488,000 to assist school districts providing remote instruction;

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- \$3,000,000 to provide non-digital remote instruction learning resources to students with limited connectivity;
- \$15,000,000 for grants associated with Extended School Year services or other future services for exceptional children; and
- \$660,029 specifically for the Governor Morehead School for the Blind, Eastern North Carolina School for the Deaf, and North Carolina School for the Deaf;
- \$5,000,000 for grants to support high-quality, independently validated extended learning and integrated student support service programs for at-risk students whose learning has been negatively affected by COVID-19 impacts.

If you have questions regarding the COVID-19 Recovery Act's effect on public education, please contact Jill Wilson, Sarah Saint or Elizabeth Troutman.

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**Tags:** COVID-19 Recovery Act, Remote learning