

August 15, 2007

Address

Salutation:

Greetings! As you begin the new school year, I wanted to take this opportunity to update you and clarify the issue of school closures due to weather or other emergency conditions.

During the past session, the legislature changed the statute relating to what constitutes a full day of instruction. A school must still have one hundred seventy-three (173) full days of instruction. However, the legislature now considers a full day of instruction to be:

During the 2007-08 school year, a full day of instruction consists of:

- (1) At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
- (2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

Beginning with the 2008-09 school year, a full day of instruction consists of:

- (1) At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
- (2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

✓ N.D.C.C. § 15.1-06-04(5)

If a school must close due to weather or an emergency, it may not have to make up those hours under very specific circumstances. If a school district aggregates over the entire school year more than 84 hours of additional classroom instruction, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. A school must extend its normal school calendar day by at least 30 minutes for any additional lost time beyond the six hour credit. See N.D.C.C. § 15.1-06-04(5). Therefore, if a school district has aggregated more than 84 hours of instruction time, it can use those hours to make up one closure day.

If the school has more than one closure day, the school should use any storm days or school breaks built into its school calendar to make up the remaining days. North Dakota law states the Governor can only waive school days if rescheduling classes would create undue hardship for the school district. See N.D.C.C. § 15.1-27-23. If the school district does not have any storm days or school breaks remaining in its calendar, and if the rescheduling of classes would create undue hardship for the school district, the Governor

may waive the additional closed days. State law requires that a school "make every effort to reschedule classes so that students receive at least one hundred seventy-three full days of instruction." Id. In short, the statute does not provide for any automatic waivers.

Please use the Department of Public Instruction's form number SFN 51826, which is located on its website, to request a waiver of a school day.

The education, well being, and safety of our state's children must be top priorities. The Governor recognizes the importance of local control in making the important decisions regarding school closures and appreciates your discretion in helping to ensure the safety of the children and your employees. If you have any further questions about the Governor's authority to waive an instructional day, do not hesitate to contact me.

Sincerely,

Ryan Bernstein  
Legal Counsel