

PUBLIC SCHOOL CODE OF 1949 - FLEXIBLE INSTRUCTIONAL DAYS  
Act of Jul. 2, 2019, P.L. 396, No. 64 Cl. 24  
Session of 2019  
No. 2019-64

SB 440

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in terms and courses of study, providing for flexible instructional days.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a section to read:

**Section 1506. Flexible Instructional Days.--(a) Within thirty (30) days of the effective date of this section, the department shall issue guidance and establish a standard application form for a public school entity seeking to establish or renew a program. The guidance and form shall be published on the department's publicly accessible Internet website.**

**(b) The form under subsection (a) shall require the following information:**

**(1) The procedure for a public school entity to notify students, parents and professional employes that a flexible instructional day is instituted.**

**(2) The procedure for instituting a flexible instructional day, including whether the public school entity will use technology. If technology will be used by the school entity, the procedure shall include information regarding accommodations for students and professional employes without Internet access at home and for digital device access at home and for digital access for families and employes without technology or an insufficient amount of technology for the number of children in the household.**

**(3) The responsibilities of professional employes and students during a flexible instructional day.**

**(4) The procedure for identifying student participation during a flexible instructional day for the purpose of enforcing attendance under Article XIII.**

**(5) Instruction exemplary of a flexible instruction day in each of the following:**

**(i) English language arts in any grade from grades nine through twelve.**

**(ii) Mathematics in any grade from grades nine through twelve.**

**(iii) Science in any grade from grades nine through twelve.**

**(iv) Social studies in any grade from grades nine through twelve.**

**(v) English language arts in kindergarten or in any grade from grades one through eight.**

**(vi) Mathematics in kindergarten or in any grade from grades one through eight.**

(6) Assurance of compliance with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) during a flexible instructional day.

(7) Any additional information that the department deems necessary to determine whether to accept or deny an application to establish or renew a program.

(c) (1) For the first two years for application under this section, a public school entity's application to establish a program shall be submitted to the department on or before September 1 and the department shall notify the public school entity if its application is accepted or denied by November 1.

(2) For each year thereafter, a public school entity's application to establish or renew a program shall be submitted to the department on or before June 1 and the department shall notify the public school entity if its application or renewal is accepted or denied by August 1.

(d) An application accepted under this section shall remain valid for a period of three (3) years.

(e) The department shall issue an annual survey related to the efficacy of flexible instructional days on or before April 30 of each year to each public school entity with an accepted application. Each public school entity shall return the survey to the department by June 30 of the same year.

(f) A nonpublic school may use technology or other appropriate means to provide instruction to students on days when a school building is prevented from opening. In order to provide the instruction, a nonpublic school must have procedures in place to ensure the following:

(1) The enforcement of student attendance under Article XIII.

(2) The fulfillment of the minimum hours of instruction per year under section 1327.

(g) Nothing in this section shall be construed to supersede or preempt the rights, remedies and procedures afforded to school employes or labor organizations under Federal or State law, including the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," or any provision of a collective bargaining agreement negotiated between a school entity and an exclusive representative of the employes in accordance with the "Public Employe Relations Act."

(h) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Department" shall mean the Department of Education of the Commonwealth.

"Flexible instructional day" shall mean a day that satisfies all of the following:

(1) Fulfills one of the minimum required days of instruction under section 1501.

(2) Prevents a school building from opening due to any of the following:

(i) A disease epidemic.

(ii) A hazardous weather condition.

(iii) A law enforcement emergency.

(iv) The inoperability of school buses or other equipment necessary to the public school entity's operation.

(v) Damage to a school building.

(vi) Another temporary circumstance rendering any portion of a school building unfit or unsafe for use.

(3) Provides instruction to students.

"Program" shall mean a program that allows for a number of flexible instructional days not to exceed five (5) days during a school year.

"Public school entity" shall mean any of the following:

- (1) A school district.
- (2) An intermediate unit.
- (3) An area vocational-technical school.
- (4) A charter school or regional charter school, as defined in section 1703-A.

"School building" shall mean a building owned by or under the control of a public school entity or nonpublic school where classes are taught or extracurricular activities are conducted on a regular basis.

Section 2. This act shall take effect in 60 days.

APPROVED--The 2nd day of July, A.D. 2019.

TOM WOLF