

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 1429 (Ochoa Bogh) – As Amended April 30, 2024

SENATE VOTE: 39-0

SUBJECT: Education finance: emergencies: snowstorms

SUMMARY: Adds snowstorms to the list of specified emergency situations a school district, county office of education (COE), or charter school may use to obtain approval of attendance and instructional time credit from the Superintendent of Public Instruction (SPI) when one or more schools are closed, when schools are kept open but experienced a material decrease in attendance, or when attendance records are lost or destroyed.

EXISTING LAW:

- 1) Provides funding to local educational agencies (LEAs) on the basis of average daily attendance (ADA). (Education Code (EC) 42238.05)
- 2) Allows school districts to claim the greater of current year, prior year, or three prior years' ADA for apportionment purposes as a buffer against declining enrollment. (EC 42238.05)
- 3) Requires the SPI, for apportionment purposes, to credit to school district, COE, or charter school a material loss of ADA due to the following reasons, provided the loss has been established to the satisfaction of the SPI by affidavits of the members of the governing board or body of the LEA:
 - a) Fire;
 - b) Flood;
 - c) Impassable roads;
 - d) Epidemic;
 - e) Earthquake;
 - f) The imminence of a major safety hazard as determined by the local law enforcement agency; and
 - g) A strike involving transportation services to pupils provided by a non-school entity. (EC 46392)
- 4) Allows LEAs unable to maintain schools for at least 180 days (for a school district or county office of education [COE]) or 175 days (for a charter school) due to various reasons such as fire, flood, earthquake, epidemic, emergencies declared by military or civil officers, teacher shortages, or teacher illness to receive the same state funding amount as if they had operated for the full required days. This is contingent upon satisfying certain conditions, including

providing affidavits from relevant governing bodies and superintendents to justify the circumstances preventing the maintenance of schools. (EC 46392)

- 5) Requires, in the event of a state of emergency declared by the Governor in a county, the SPI to determine the length of the period during which ADA has been reduced by the state of emergency and prohibits the SPI from extending the period into the next fiscal year except upon a showing by a LEA, to the satisfaction of the SPI, that extending the period into the next fiscal year is essential to alleviate continued reductions in ADA attributable to the state of emergency. (EC 46392)
- 6) Requires, for affidavits submitted to the SPI for events occurring after September 1, 2021, that resulted in a school closure or material decrease in attendance, a school district, COE, or charter school that provides an affidavit to the SPI, as specified, to certify that it has a plan for which independent study will be offered to pupils. Requires the plan to comply with all of the following:
 - a) Requires independent study to be offered to any pupil impacted by any of the specified conditions within 10 days of the first day of a school closure or material decrease in attendance. Requires pupils who are individuals with exceptional needs to receive the services identified in their individualized education programs and authorizes their participation in an independent study program;
 - b) Requires reopening for in-person instruction as soon as possible, unless prohibited under the direction of the local or state health officer; and
 - c) Requires plans to include information regarding establishing independent study master agreements in a reasonable amount of time. (EC 46393)
- 7) Requires a school district, COE, or charter school that is prevented from maintaining its schools during a fiscal year for at least 180 days for a school district or COE or 175 days for a charter school, or is required to operate sessions of shorter length than otherwise prescribed by law because of fire, flood, earthquake, or epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue that order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, established to the satisfaction of the SPI by the affidavits of the members of the governing board of the school district, the governing board of the COE, or the governing board or body of the charter school and of the county superintendent of schools, to receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 180 full-length days for a school district or COE or 175 full-length days for a charter school. (EC 41422)
- 8) Requires the CDE to electronically distribute disaster preparedness educational materials and lesson plans that are currently available to school districts and COEs. Requires the CDE to ensure that the disaster preparedness materials are available in at least the three most dominant primary languages spoken by English learners in California, according to the language census. Requires the CDE to coordinate with the Governor's Office of Emergency

Services (CAL OES) to make sure that all materials are reviewed and updated annually. (EC 32282.5)

- 9) Requires a pupil's individualized education program (IEP) to include a description of the means by which the IEP will be provided under emergency conditions, as specified, in which instruction or services, or both, cannot be provided to the pupil either at the school or in person for more than 10 school days. (EC 56345)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Need for the bill. According to the author, "California school districts are required to track the ADA of their students and report their ADA to the state three times per year. As part of the Local Control Funding Formula (LCFF), school districts do not receive funding for students for days they are absent. Although schools receive credit for ADA funding during most declared emergencies, there is ambiguity in the law when it relates to snow-related events. For rural school districts that experience blizzards and severe winter storms, there is currently no snow-related event listed in the EC that more accurately describes the conditions that occurred in 2023 and caused a drop in ADA. SB 1429 would add snowstorms to the list of disasters in which school districts, county offices of education, and charter schools may be reimbursed for decreases in ADA. Since California is geographically diverse it is important that we recognize and accommodate for all weather conditions. School districts should not miss out on necessary reimbursements."

Apportionment during emergencies. Current law authorizes the SPI to grant normal apportionment credit to LEAs in emergencies, or in instances when one or more schools must be closed because of "extraordinary conditions." When the SPI authorizes credit for days that school was closed, LEAs receive instructional time credit for the day(s) and minutes lost to the emergency closure and approval to reduce the divisor used for calculating ADA. The instructional time credit satisfies state law with regard to both the instructional day and minute requirements.

LEAs are to be held harmless from revenue loss that might otherwise result from the loss of ADA or instructional time in emergencies. LEAs obtain credit for days and minutes lost to emergency closure and material decreases in attendance due to emergency events by submitting a Request for Allowance of Attendance Due to Emergency Conditions (Form J-13A). A Form J-13A approval, combined with other LEA's records, serves to document the LEA's compliance with instructional time laws, show why different divisors may be used in the computation of ADA, and document approval for ADA credit.

All LEAs must submit a certified plan for which independent study will be offered to students that accompanies all Form J-13A requests submitted for a school closure and/or a material decrease in attendance due to a qualifying event.

Recent school closure data. According to data provided by the CDE, there have been 2,040 school closure requests submitted by LEAs from 2014-15 to 2018-19. As shown in the table

below, the total number of school closures reported increased dramatically beginning in 2016-17 due to the wildfires. The vast majority of these school closures lasted less than three days.

Emergency	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Weather	215	43	331	75	263	399	57	57	441
Other	22	27	70	57	17	6	7	21	60
Epidemic	5	2	7	8	14	10	3	76	32
Violence Threat	23	44	8	24	35	21	0	25	18
Wildfire	22	42	30	424	507	185	120	61	37
Power	32	46	26	28	42	20	44	45	35
TOTAL	319	204	472	616	878	641	231	285	623

Source: CDE

Independent study. Due to the growing number of public health emergencies and natural disasters that have impacted the state in recent years, there is an increased need for LEAs to provide continuity of academic instruction for students who are unable to attend in-person instruction during an emergency event. Current law requires LEAs to certify offering independent study within ten days of the first day of a school closure or material decrease in attendance. LEAs are encouraged to provide access to instruction and the opportunity to earn academic credit through independent study for students who are excluded from school (or absent), or school is closed. However, independent study participation during these instances is for the purpose of academic credit only and would not generate attendance for apportionment. Providing independent study is crucial in mitigating the negative impact of lost learning time and supporting mental health. According to the CDE, LEAs can prepare for transitioning students to independent study during school closures through the following recommended best practices:

- Including independent study agreements in back-to-school paperwork provided for parents to sign ahead of time;
- Posting assignments and student academic resources online;
- Assigning laptops to all students;
- Developing emergency partnerships with neighboring LEAs; and
- Maintaining an online instructional platform.

These are best practices and would not preclude LEAs from providing other methods of instruction during closures where online options are limited (e.g. power outages).

Potential Winter Storm Impacts	
	<p>Winter Weather Area Expect Winter Weather. • Winter driving conditions. Drive carefully.</p>
	<p>Minor Impacts Expect a few inconveniences to daily life. • Winter driving conditions. Use caution while driving.</p>
	<p>Moderate Impacts Expect disruptions to daily life. • Hazardous driving conditions. Use extra caution while driving. • Closures and disruptions to infrastructure may occur.</p>
	<p>Major Impacts Expect considerable disruptions to daily life. • Dangerous or impossible driving conditions. Avoid travel if possible. • Widespread closures and disruptions to infrastructure may occur.</p>
	<p>Extreme Impacts Expect substantial disruptions to daily life. • Extremely dangerous or impossible driving conditions. Travel is not advised. • Extensive and widespread closures and disruptions to infrastructure may occur. • Life-saving actions may be needed.</p>

Winter Storm Severity Index (WSSI). According to the National Weather Service (NWS), the purpose of the WSSI is to provide NWS partners and the general public with an indication of the level of winter precipitation (snow and ice) severity and its potential related societal impacts. The NWS notes that the WSSI does not depict official warnings, and should always be used in context with official NWS forecasts and warnings.

Disaster preparedness in schools. Current law requires the CDE to electronically distribute disaster preparedness educational materials and lesson plans that are currently available to school districts and COEs. The CDE must 1) ensure that the disaster preparedness materials are available in at least the three most dominant primary languages spoken by English learners in California, and 2) coordinate with the Office of Emergency Services to make sure that all materials are reviewed and updated annually. Among the materials circulated to LEAs are

information about teaching children proper use of 9-1-1, fire safety information, emergency preparedness, and curriculum-based programs on the emotional, social, and economic effects of natural and human-caused disasters.

Further, each school district and COE is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. Charter schools must include in their petitions the procedures that the charter school will follow to ensure the health and safety of pupils and staff.

Arguments in support. The Rim of the World Unified School District (sponsor, located in San Bernardino County) writes, “Although schools receive credit for ADA funding during most declared emergencies, there is ambiguity in the law regarding snow-related events. For mountainous, rural school districts that experience blizzards and severe weather storms, there is currently no snow-related event listed in the EC that accurately describes the conditions that occurred in San Bernardino County in 2023 that caused a drop in ADA. In a state as geographically diverse as California, it is important to recognize and accommodate for this weather condition. School districts should not be denied ADA reimbursement due to a snowstorm or other snow-related event.”

Recommended Committee Amendments. Staff recommends that the bill be amended as follows: add “snowstorms” to corresponding a corresponding EC section, 41422, which also outlines conditions disqualifying school districts from apportionments.

Related legislation. SB 114 (Committee on Budget and Fiscal Review), Chapter 48, Statutes of 2023, made various changes to instructional time requirements and apportionment in response to the COVID-19 pandemic.

AB 167 (Committee on Budget), Chapter 252, Statutes of 2021, made various changes to instructional time requirements and apportionment in the 2021-22 school year in response to the COVID-19 pandemic.

AB 3120 (O'Donnell) of the 2019-20 Session would have required LEAs to be exempt from various instructional minute fiscal penalties if the LEA added instructional minutes to existing instructional days or if the LEA could demonstrate that it could not meet the instructional day requirements due to specified circumstances.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Office of Education
Office of The Riverside County Superintendent of Schools
Rim of The World Unified School District
Riverside County Public K-12 School District Superintendents
San Bernardino County District Advocates for Better Schools (SANDABS)
San Bernardino County Superintendent of Schools
Small School Districts Association

Opposition

None on file

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