

**Questions and Answers related to SL 2018-135 (SB2)  
Hurricane Florence Relief**

**LAST UPDATED OCTOBER 24<sup>th</sup>, 2018**

**10/24/2018 Reporting Requirements**

***What will the public schools be required to report on?***

- (1) Any days missed due to Hurricane Florence before, on, or after the effective date of this act.
- (2) Of the days missed, any scheduled make up days due to Hurricane Florence before, on, or after the effective date of this act, and the dates of those make up days.
- (3) Of the days missed, any days and hours deemed completed by the public school unit as a result of this act.
- (4) Any compensation provided to employees for instructional days missed and compensated.
- (5) Any other information requested by Fiscal Research.

For each component of the report, separate information shall be included on any individual schools within the public school unit whose information differs from the rest of the unit as a whole.

***Who is required to report?***

All public school units (LEAs, Lab schools, charter schools, ISD and regional school)

***Who will receive the information?***

The chairs of the House of Representatives Committee on Appropriations and the Senate Appropriations/Base Budget Committee, the Joint Legislative Education Oversight Committee, and the Fiscal Research Division of the General Assembly.

***When is the reporting due?***

Public school units are to report by February 15, 2019.

State Superintendent will submit by March 15, 2019.

**Calendar Questions**

- 1. While my LEA missed days due to Florence, our scheduled instructional hours still satisfy the 1,025 minimum. Are we required to make up any time?***

No. If a LEA's school calendar meets the statutory requirement of 1,025 hours or 185 days even after accounting for lost instructional time due to Florence, then no make-up time is required., regardless of whether the LEA is located in a declared disaster area.

- 2. Can an impacted LEA extend its traditional school calendar year beyond the Friday closest to June 11 (i.e., the last-day-of-school date contemplated by the calendar law)?***

Yes. While the calendar law contemplates that an LEA's planned traditional school calendar may not extend past the closest Friday to June 11, the statute allows LEAs to schedule instructional days/time after that date if additional hours/days are needed for district to meet the minimum instructional requirements. Please note, however, that the school year shall not go past June 30, the end of the fiscal year.

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**Compensation**

- 3. *Are employees to be paid differently based on whether or not they work in a declared disaster area or not?***

No, there is no requirement to be in a declared disaster area to require compensation to employees.

- 4. *If a LEA missed instructional days but still meets the statutory minimum for instructional time (1,025 hours or 185 days) without making up any days, is that LEA required to pay the employees for the missed instructional days?***

Yes. Employees are required to be paid for all missed instructional days that were scheduled.

- 5. *If a LEA missed instructional days and then later decides to make ups some or all of the days, are the employees paid for both the missed days and the make-up days?***

No. Employees are not eligible to be paid twice. The following may be common scenarios:

- If the LEA elects not to schedule make-up days for lost days, then employees are to be paid for the days that the LEA deemed “completed”;

OR

- If the LEA elects to schedule a make-up day, then employees are to be paid for the days the LEA “deemed completed” and the make up days.

Illustration: An affected LEA missed five instructional days because of Hurricane Florence and chose to waive two days and schedule three make-up days. Under this circumstance: (a) the LEA pays the employees for the two waived days now and (b) the LEA pays the employees for the three make-up days as actual work days.

The three make-up days are treated as regular work days; therefore, if an employee takes leave on a make-up day, the employee should code the time to annual leave or LWOP.

- 6. *Are charter schools required to pay their employees for missed days?***

No. Charter schools have the option to pay the employees.

- 7. *From what funds do the LEAs pay the employees?***

Employees must be paid for the instructional days missed from the source of funds they would have been paid had the day not been missed due to Florence.

- 8. *Are employees funded from an enterprise fund, other than school nutrition, eligible for compensation for missed instructional days?***

The legislation does not specifically address the payments to receipt supported employees, other than school nutrition employees as they are not during the instructional day eg, before and afterschool. LEAs have the option to pay these employees from receipt funds available.

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**9. Which employees are LEAs required to compensated for missed days?**

ALL employees employed during the instructional day. This includes salaried and hourly employees. Full time and part time, regardless of number of days employed in a year.

**10. Are independent contractors required to be compensated for missed days?**

The intent of the General Assembly is to include contracted employees paid directly by the LEA. If a LEA has a contractual agreement with a vendor, the LEA should consult with its attorney related to the terms of the contract.

**11. Are substitutes eligible for compensation for a missed day?**

A substitute that was scheduled to work on the instructional day is eligible for compensation. Illustration: Mr. Jones is a substitute for Ms. Knight, who is on maternity leave for September 1 to November 30. Mr. Jones is eligible for compensation for a missed instructional day.

In contrast, an ad hoc substitute who was not scheduled to work on a missed instructional day is not eligible for compensation.

**12. How do we determine the amount to compensate the hourly employees, such as bus drivers?**

The legislation requires that the employee is to be compensated in the same manner he/she would have been compensated had the employee worked on the scheduled instructional days that were missed. Therefore, the LEA should pay the hourly employees for the number of hours they would have worked. Such payment may be based upon an estimate based on past work history and/or work schedules.

**13. Is the compensation subject to social security and retirement contribution?**

Yes.

**14. Did the General Assembly appropriate funds to pay for the missed days?**

The General Assembly appropriated \$6.5M to pay for school nutrition workers only. These funds are to provide funding in lieu of the of the lost lunch receipts. Funding for State personnel were appropriated and budgeted in the annual Appropriations Bill.

**15. An LEA had resignations and start dates during the days we were closed due to the hurricane. Should that LEA pay teachers based on the effective start or resignation date in these situations?**

The LEA is required to pay all employees for the time that they were employed. If the resignation day is during the window that the LEA missed instructional days, the employee is eligible for compensation for those days before the resignation. An employee who has not started employment is not eligible for compensation.

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***16. If waiving an instructional day is allowable, how do LEAs handle pay for personnel who reported in for an optional workday?***

Employees are only compensated for missed scheduled instructional days. If the day was originally an instructional day and then was changed to an optional workday, the employee is eligible for compensation.

If the employee took annual leave on the optional work day, the LEA should credit the annual leave back and compensate the employee.

***17. Can comp days be provided to employees who worked on a waived instructional day since employees who did not report to work are required by law to be paid as if they had worked?***

This is a local decision.

***18. Are employees on leave of absence eligible for compensation for missed instructional days?***

An employee who was on scheduled leave (sick, vacation, FMLA) on a missed instructional day would not have been scheduled to work on the missed instructional day and is, therefore, not eligible for compensation under SB2.