

November 13, 2009

Dear Superintendent:

This letter advises you of recent changes in state law regarding school closures during a health and safety emergency and the requirement to draft administrative rules regarding criteria for waivers to the state requirement for hours of instruction. It also provides additional guidance in making decisions to dismiss school.

On October 6, 2009, Governor Doyle signed into law Wisconsin Act 42, which contains a provision regarding school closures for health and safety reasons; this act became effective October 21, 2009, and can be found at <http://www.legis.state.wi.us/2009/data/acts/09Act42.pdf>. Wis. Stat. sec. 115.01(10)(a)3 was amended by section 44 of the act to read:

Days on which school is closed by order of the school district administrator because of a threat to the health or safety of pupils or school personnel, but not including inclement weather, unless the school board determines that the days will not count as school days.

This means that in addition to a local health officer and the Wisconsin Department of Health Services, the local school superintendent may close a school for health and safety reasons. Any days closed in this manner for health and safety reasons may count as days of instruction to meet the required 180 days of instruction. Regardless of who orders a school closed, the minimum number of hours of instruction in a school year must still be met. Those minimums are 437 hours for kindergarten, 1,050 hours for grades 1-6, and 1,137 hours for grades 7-12.

Act 42 requires the Department of Public Instruction (DPI) to develop administrative rules that establish criteria for waiving the requirement for those hours that a school is closed related to student and health safety. Emergency rules are likely to be in place by the end of the 2009 calendar year. The rules will be available at <http://dpi.wi.gov/pb/rulespg.html>. These administrative rules will provide clarity in those rare cases when districts request a waiver of the hours of instruction requirement.

DPI continues to advise that a decision to close schools, and the duration of closure related to H1N1 flu outbreaks, be made jointly by the local health department and school district. Local health departments have public health expertise and data on the spread of the disease, which is critical in making well-informed decisions. Because no threshold of absenteeism for closure exists, the local health department can assist school personnel in making a decision appropriate for the community. School officials must report to the local health officer when schools are closed due to illness (Wis. Admin. Code sec. HFS 145.04(1)(d)).

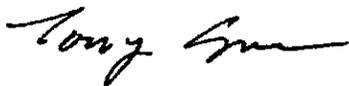
School closure is a highly complex and difficult decision. The factors that school and health department officials may consider in a school closure include:

- the school building average attendance rate for this time of year.
- the current attendance pattern and trends over the past week.
- the types of symptoms reported by the students and school personnel who are out ill.
- the number of students and/or staff hospitalized or who have confirmed cases of H1N1.
- the number of students in attendance who are at high risk, including pregnant teens, students under five years of age, and children with special health care needs.
- the number of students who have received the H1N1 vaccine and when the vaccine was given.

School closures for health reasons are designed to interrupt the transmission of the virus, therefore, cancellation or rescheduling of all student activities is recommended as part of this public health intervention. Additional information is available from the CDC at <http://www.cdc.gov/h1n1flu/schools/technicalreport.htm#dismiss>.

For further information, please visit the department's pandemic influenza website, which contains many resources for schools and links to public health information: <http://dpi.wi.gov/sspw/pandemicflu.html>. If you have additional questions regarding H1N1 please contact Doug White, Director of Student Services/Prevention and Wellness, at 608-266-5198 or [douglas.white@dpi.wi.gov](mailto:douglas.white@dpi.wi.gov). If you have questions regarding the days and hours requirement or waivers, please contact Paul Sandrock, Interim Director of the Content and Learning Team at 608-267-3726 or [s.paul.sandrock@dpi.wi.gov](mailto:s.paul.sandrock@dpi.wi.gov).

Sincerely,



Tony Evers, PhD  
State Superintendent

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