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Flexible Instructional Days

Act 64 of 2019 allows public school entities to apply to the Pennsylvania Department of Education (PDE) for permission to use up to five “flexible instructional days” annually. The law defines “flexible instructional days” (FIDs) as days during which instruction is provided to students and school buildings are prevented from opening due to hazardous weather, disease or epidemic, a law enforcement emergency, damage to the school building or another temporary circumstance rendering use of a school building unsafe.

An LEA applying to PDE to operate a FID program may propose a program that is online, offline, or a combination of the two. If elements of the program rely on the use of technology, the application must include information about accommodations for students and professional employees without Internet access in the home, for digital device access in the home, and for digital access for families and employees without technology or with an insufficient amount of technology for the number of children in the household. Moreover, the LEA must comply with the Free and Appropriate Public Education (FAPE) requirements under the Individuals with Disabilities in Education Act (IDEA), including requirements pertaining to the delivery of services and specially designed instruction.

Flexible Instructional Days: A New Answer to an Old Question

The use of FIDs in Pennsylvania began with a pilot program in 2014 which allowed public school entities to seek PDE authorization to provide up to five days of instruction through non-traditional means on regularly scheduled school days. The pilot program expired at the end of the 2017-18 school year; Act 64 now places the program in statute and makes it permanent.

Some teachers who have participated in FIDs suggest that they may help student learning stay on track for scheduled tests such as AP exams or state assessments. Other teachers say that a FID gives them the opportunity to experiment with new ways to use technology in instruction. But very few teachers suggest that a FID provides an equivalent learning experience to a traditional instructional day. Furthermore, a number of specific issues related to the implementation of FIDs persists. Educators employed by public school entities that apply to operate a FID program should ensure that their employer carefully consider several issues to determine the appropriateness of FIDs as an instructional strategy.

Issues to Consider

The Importance of Planned, Sequential Instruction. Because the use of a FID may be determined only hours before an instructional day is scheduled to begin, educators may not have daily instructional plans that are easily translated to online or hybrid learning (for example, science labs, group learning activities, classroom assessments, or learning activities that require

manipulatives). Consequently, it is likely that educators will need to have general instructional activities held in store for use during FIDs. A few schools that have experimented with FIDs have allowed teachers to write “snow day” lessons at any time and hold them in abeyance until a weather emergency closes school. Clearly, this strategy does not offer the same level of integrated instruction as a planned sequence of content designed to develop understanding and reinforce concepts. Ultimately, instruction delivered during a FID is unlikely to contribute to student learning in the same way as a regularly scheduled day in school would. LEAs considering applying to participate in the FID program should consider how or if it is possible to include FIDs as part of planned, sequential instruction in every content area. Act 64 requires a FID application to include several examples of proposed FID instructional plans in English, mathematics, science and social studies.

The Provision of Special Education Services. Certain types of specialized instruction, accommodations, supports, and related services designed to be provided in a traditional school may be difficult or impossible for educators and support professionals to deliver outside of the regular school building. LEAs considering applying to participate in the FID program should ensure that all state and federal requirements pertaining to the education of students with disabilities can be met through the FID plan. Act 64 reiterates that instruction during a FID must comply with IDEA.

Access to Technology. In a school entity’s application to PDE, the entity must state whether it will use technology to deliver instruction. If technology will be used, then the application must include information regarding accommodations for students and professional employees without Internet access in the home, for digital device access in the home, and for digital access for families and employees without technology or with an insufficient amount of technology for the number of children in the household. Even in LEAs where most students have access to a computer in the home, this can be a difficult task in practical terms, particularly considering the possibility of power outages, different student : computer ratios in different homes, potential parent needs for technology during scheduled FIDs (for example, telecommuting during a snow emergency), the possibility of students spending the FID with a caregiver instead of a parent, and unanticipated slow connectivity.

Hiring Substitute Teachers. During any regularly scheduled school day, there are likely to be one or more teacher absences in an LEA. Teacher absences may be exacerbated on FIDs because teachers are likely to have their own children requiring care at home or because of weather-related emergencies (the need to shovel snow, clear roofs, remove fallen trees or debris, etc.). If a teacher is absent during a FID, the LEA will need to provide alternative instructional coverage for students. Substitutes will not have received training in LEA FID procedures and may not have the necessary instructional materials to participate in a FID. PSEA recommends that all LEAs applying to operate a FID program have a clear plan to ensure substitute coverage in cases of teacher absence.

Privacy. In cases where a public school entity uses technology to deliver instruction during a FID, privacy policies and practices are needed to provide important assurances to teachers, students, and families. In cases of power outages or slow/no connectivity, teachers and students engaged in instruction via technology may be required to go outside of the home to deliver or receive instruction. Public internet hotspots generally do not provide appropriate levels of privacy for student/teacher interactions. LEAs considering applying to operate a FID program should be concerned about liability issues related to student privacy if either students or teachers need to use public internet hotspots to participate in the FID.

Resolving Issues Related to Nonteaching Professionals and Teachers in Nontraditional Instructional Roles. A number of educators—including school librarians, school counselors, school nurses, school psychologists, and instructional coaches, for example—have jobs that cannot easily be performed during a FID. LEAs considering applying to operate a FID program should develop strategies to ensure that all employees are able to engage in meaningful work during a FID.

Impact on “Attendance.” In some schools that have used FIDs nationwide, students are often allowed to complete assignments within several days or weeks of the FID in order to receive credit for “attending” the FID. LEAs considering applying to operate a FID program should seriously consider the impact of the program on LEA attendance policies and timely work completion that is important to sequential instruction.

Issues Related to Employment and Conditions of Work. The implementation of FIDs raises a number of important questions and issues related to the conditions of work of professional, temporary professional, and support professional employees. LEAs that are considering implementing FIDs should consult with their local unions to determine areas of impact bargaining prior to applying to operate a FID program.

PSEA members with specific questions or concerns about an employer’s plan to implement FIDs and the impact of this plan on working conditions should contact their UniServ Representative.

For More Information about FIDs, PSEA members should contact Brad Hull in PSEA’s Education Services Division (bhull@psea.org; 717-255-7108). For specific questions about FID policies and practices within their public school entity, PSEA members should contact their UniServ Representative.