*****Massachusetts Department of***

***Elementary and Secondary Education***

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| Jeffrey C. Riley*Commissioner* |  |

# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:**  | Jeffrey C. Riley, Commissioner |
| **Date:**  | June 26, 2020 |
| **Subject:** | Proposed Regulatory Amendments Addressing Safety and Education Plans During a State of Emergency or Other Exigent Circumstances: 603 CMR 27.00, for Emergency Adoption  |

At the meeting of the Board of Elementary and Secondary Education (Board) on June 30, 2020, I will recommend that the Board adopt amendments to the Student Learning Time regulations on an emergency basis. Following the adoption of the regulatory amendments, the Department of Elementary and Secondary Education (Department) will solicit public comment. I will bring the amendments back to the Board, with any changes resulting from the public comment, for final adoption at the Board’s meeting in September 2020.

**Background and Summary of Amendments**

The proposed amendments establish health and safety standards for providing structured learning time to students during a declared state of emergency or other exigent circumstances that adversely affect the safe environment of schools. The regulatory framework supports the planning that must be done this summer to promote the safe return of as many students as possible to in-person school settings in the fall, to maximize learning and address students’ holistic needs.

The amendments include the following:

* There are two circumstances under which the new requirements come into effect: (1) a declaration by the Governor that an emergency exists which is detrimental to the public health; or (2) a determination by the Board that exigent circumstances exist that adversely affect the ability of students to attend classes in a safe environment unless additional health and safety measures are put in place.
* When the Governor or Board makes such a declaration or determination, the Commissioner will:
	+ Issue health and safety requirements and related guidance to districts, in consultation with medical experts and state health officials;
	+ Require each district to develop and submit a plan that prioritizes providing in-person instruction to all students in a safe environment.
	+ Direct districts providing in-person summer school programs to implement health and safety procedures consistent with requirements issued by the Commissioner.
* District plans must include: (1) health and safety procedures that are consistent with the requirements issued by the Commissioner; and (2) a description of the in-person learning model the district will use to provide instruction to all students.
* The Commissioner may require districts to also include alternative education models, including hybrid learning and remote learning, to address circumstances in which students cannot safely attend classes in an in-person setting.
* Remote learning is defined, and remote learning plans must include:
	+ Procedures for all students to participate in remote learning, including a system for tracking attendance and participation;
	+ Remote academic work must be aligned to state standards;
	+ A policy for grading students’ remote academic work; and
	+ A requirement that teachers and administrators regularly communicate with students’ parents and guardians, including providing interpretation and translation services.
* Districts are required to post their plans on their websites.
* The Commissioner may modify the minimum school year and structured learning time requirements under certain limited circumstances.

The proposed amendments also include some copy-edits and other non-substantive changes to the existing Student Learning Time regulations.

**Recommendation**

The regulations are presented on an emergency basis to allow them to take effect immediately, in conjunction with the Initial Fall School Reopening Guidance published by the Department on June 25, 2020. Under the Administrative Procedure Act, emergency regulations are effective for three months, during which time the agency solicits and reviews public comment. Following the public comment period, the Board would vote on final adoption of these regulations in September 2020.

At the June 30 meeting, Deputy General Counsel Deb Steenland will be available to answer your questions on the proposed amendments to the regulation.

Enclosures: 603 CMR 27.00 Strikethrough version of regulation showing proposed amendments

 Motion