*****Massachusetts Department of***

***Elementary and Secondary Education***

### 75 Pleasant Street, Malden, Massachusetts 02148-4906 Telephone: (781) 338-3000 TTY: N.E.T. Relay 1-800-439-2370

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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:** | February 12, 2021 |
| **Subject:** | Regulatory Amendments Addressing Student Learning Time Standards for Remote Learning and Hybrid Learning: 603 CMR 27.00, for Final Adoption |

On December 15, 2020, the Board of Elementary and Secondary Education (Board) voted to adopt amendments to 603 CMR 27.00, the Student Learning Time regulations, that establish minimum levels for live instruction and synchronous instruction that districts and schools operating hybrid and remote models must provide. The Board adopted the regulation on an emergency basis, as provided by the Massachusetts Administrative Procedure Act (G.L. c. 30A).

The Department of Elementary and Secondary Education (Department) solicited public comment on the regulations, as required by G.L. c. 30A, § 3. Based on the public comment received, I am not recommending any modifications to the amendments. Copies of all the public comment, along with a summary, are included with this memo. I recommend that the Board vote on final adoption of the regulation at the February 23 meeting.

**Background**

As we discussed during the December Board meeting, we have seen a distressing increase in the mental health challenges our students are facing. We know that one way to prevent the isolation and disconnection that many students are feeling is frequent connections and interactions with teachers and peers. To help mitigate the concerning mental health challenges, the amendments to the Student Learning Time regulations establish minimum standards for districts and schools to provide students with frequent and consistent interactions with educators and peers while students are learning in a hybrid or remote model. The amendments include these standards:

* Effective January 19, 2021, districts and schools operating a hybrid learning model must provide at least 35 hours of “live instruction” over a 10-school day period, averaged across the grades in the hybrid model. Live instruction means the combination of in-person and remote synchronous instruction.
* Students must have an opportunity to interact each school day with teachers.
* Effective January 19, 2021, districts and schools operating a remote learning model must provide synchronous instruction each school day; and
* Effective January 19, 2021, districts and schools operating a remote learning model must provide at least 40 hours of synchronous instruction over a 10-school day period, averaged across the grades in the remote model.

The amendments also include that upon the written request of a school or district leader, the Commissioner may, in his discretion, grant a waiver of the live instruction and synchronous instruction requirements.

In early November 2020, the Department conducted a statewide survey of districts to collect structured learning time (SLT) data. The Department gathered information on the number of hours students spend learning over the course of 10 school days. The data showedthat approximately 2/3 of districts were already meeting the new standards for live instruction and synchronous instruction, even before the regulations were amended. The Department provided guidance to assist districts that needed to make adjustments in order to meet the new standards.

The Department is in the process of conducting a second survey to gather information on districts’ current SLT data. I look forward to sharing that survey data with you at a future Board meeting.

**Summary of Public Comment**

The Department received public comment from organizations and individuals, including parents, students, and educators. A complete list of individuals and organizations who submitted comments is included at the end of the summary of public comment.[[1]](#footnote-2)

While some of the comments support the amendments, including comments from parents and the Massachusetts Business Alliance for Education, most of the comments express dissatisfaction with the amendments. For example, some comments describe the stresses that students and teachers are experiencing, and convey frustration with having to make changes at this point in the school year. Some comments observe that additional synchronous time will lead to an increase in screen time and assert that such an increase will not benefit students and will not necessarily lead to their increased engagement, learning, or improved mental health. Some comments raise concerns about live-streaming classes, noting that it is challenging for teachers to simultaneously teach in-person and remote students via livestream. Several comments express concern that due to inequitable access to technology, requiring more synchronous learning, live instruction, and interaction between teachers and their students may exacerbate educational inequity.

While I appreciate the concerns that these parents, teachers, and students have expressed, I remain convinced that requiring a minimum number of live and synchronous hours is the right approach for our students. Based on discussions with the pediatric medical community, research studies, and numerous media reports, I am extremely concerned about the increased prevalence of student mental health challenges arising during the pandemic. Feelings of isolation and disconnection among our students are a contributing cause to this growing mental health crisis, the effects of which may persist for years. As noted above, we know that one way to address these concerns is to provide students with frequent connections and interactions with teachers and peers. In addition, we have addressed some of the concerns raised in the comments by providing additional guidance. For example, with respect to live-streaming, technology leaders from Chelmsford, Easton, Hingham, Hopedale, New Bedford and the Benjamin Banneker Charter School have shared their approaches, challenges and lessons learned [in this document](https://www.doe.mass.edu/covid19/remote-learning/simultaneous-instruction.docx) *(download)*.

Finally, several comments propose additional changes to the amendments. For example, several of the comments identified a need to strengthen the regulation to provide additional protections for students, especially for students with disabilities and English learners. Massachusetts Advocates for Children (MAC) and other advocacy organizations recommend adding a requirement that additional hours of live instruction be provided as necessary to implement a student’s Individualized Education Program (IEP) required pursuant to 20 U.S.C 1400 et seq., G.L. c. 71B, and 603 CMR 28.00 (referring to the federal and state special education laws). MAC and other advocacy groups also recommend expanding the requirement that remote learning models include a procedure for all students to participate in remote learning, to include specific requirements for providing accommodations and services to students with disabilities and services to English learners. They also propose adding language to expand the requirement that remote learning models include procedures for tracking attendance and participation, specifically mandating that school districts excuse student absences based on inability to access remote learning.

While we agree with the advocacy organizations that schools and districts must meet their legal obligations to serve students with disabilities and English learners, even when students are learning remotely, I am not recommending the further revisions to the regulation because state and federal law already require districts to have procedures and systems to meet the educational needs of students with disabilities and English learners. The regulation requires districts providing remote learning to have a procedure “for all students to participate” – and *all students* means each and every student, including students with disabilities and English learners. And, for the avoidance of any doubt, I would like to emphasize that while the regulations set a minimum standard for live instruction in a hybrid model and synchronous instruction in a remote model, districts nonetheless must provide the required services in students’ IEPs, including where that means providing instruction beyond the minimum specified for structured learning time purposes. Our guidance addresses these issues, as well as concerns relating to attendance.

**Recommendation**

As set forth above, to help mitigate the concerning mental health challenges discussed with the Board during our December meeting, I recommend that the Board vote on final adoption of these regulatory amendments.

At the February 23 meeting, Senior Associate Commissioner Russell Johnston, Associate Commissioner Rob Curtin, and Deputy General Counsel Deb Steenland will be available to answer your questions on the final adoption of the amendments.

Enclosures: 603 CMR 27.00 Strikethrough version of regulation showing amendments

Summary of public comment

Public comment \*\*\*

Motion

1. In some instances, names and other identifying information have been redacted to protect student privacy. [↑](#footnote-ref-2)