



District Business and Advisory Services

Judy Lee Kershaw, Director - DBAS: 408-453-6599

Bulletin: 19-027

Date: February 27, 2019

To: District Chief Business Officers
District Fiscal Directors

From: Judy Lee Kershaw, Director-District Business Services

Re: Procedures for Requesting an Allowance of Attendance due to Emergency Conditions

The Santa Clara County Office of Education (SCCOE) is committed to serving, inspiring, and promoting student and public school success. As a result of this commitment, the SCCOE established the following procedures for supporting school districts during emergency conditions that may result in school closure, reduction in attendance, or classroom schedule changes pursuant to Education Code sections 41422, 46200, 46391, 46392 and *California Code of Regulations (CCR)*, Title 5, Section 428.

1. Whenever possible, without compromising the safety of students and staff, districts considering the closure of a single site or multiple sites should collaborate with the SCCOE before implementing their plan. Working together allows the SCCOE to leverage resources and provide the highest level of support to districts.
2. The California Department of Education (CDE) has developed a waiver process for districts to apply for a variance from the minimum number of instructional days and instructional minutes requirements by grade span. Additionally, districts may request a waiver for a material decrease in attendance if schools remained open during an emergency and suffered a reduction of 10% or more in attendance. When faced with a loss of ADA, instructional days or minutes due to emergencies, Districts should complete FORM [J-13A](#) and obtain the approval of their governing board. The **signed original** district board approved form along with **all required supporting documentation** should then be submitted to the SCCOE District Business Advisor (Advisor) assigned to support the district. Redact any personally identifiable information from the supporting documentation submitted with FORM J-13A. Be sure to retain a copy of the form and its supporting documentation. Examples of required supporting documentation:
 - a. Declaration of a State of Emergency by a governmental or other regulatory agency
 - b. News articles or E-mails
 - c. Invoices
 - d. A report or letter from a local safety officer regarding incidents involving police activity, verbal threats, cyber threats, etc.

- e. A notification or letter from a county public health official regarding any incident(s) involving epidemic illness: The letter is to specify that the illness was an epidemic or that there was an increase in the number of cases of disease above the normally expected number of cases for the population in that area.
3. Once the Advisor has verified that the form is complete and the District has provided all required documentation, the Advisor will forward the FORM J-13A to the County Superintendent for review and concurrence. If approved, the County Superintendent will forward the request for allowance of attendance due to emergency conditions to the CDE for final approval.
4. The CDE will notify the SCCOE and the District if the request is approved.

FORM J-13A

The "REQUEST FOR ALLOWANCE OF ATTENDANCE DUE TO EMERGENCY CONDITIONS" or FORM J-13A is located at the CDE J-13A Overview web page, <https://www.cde.ca.gov/fg/aa/pa/documents/j13a.pdf>.

This form must be completed to obtain approval of attendance and instructional time credit. Completion of a FORM J-13A request and submission to the CDE, combined with other supporting documents such as attendance records, serve to document a local educational agency's (LEA) compliance with instructional time requirements. Approval of the FORM J-13A provides authority to maintain a school for less than the required instructional days and minutes without incurring a financial penalty to the LEA's Local Control Funding Formula (LCFF) apportionments.

In the event of closure due to emergency conditions, there is not an immediate impact to LCFF funding, and there is not a specific deadline to submit a FORM J-13A; therefore, it is not necessary to file FORM J-13A amid the emergency event.

More information on the process is located at the CDE Management Advisory 09-01, <https://www.cde.ca.gov/fg/aa/pa/formj13afaq.asp>, summarized below:

Two sections of the *Education Code* allow the State Superintendent of Public Instruction (SSPI) to grant normal apportionment credit to districts in emergencies. *Education Code* Section 41422 authorizes maintenance of apportionments in instances when one or more schools must be closed because of "extraordinary conditions." When the SSPI authorizes credit for days that school is closed, districts receive Average Daily Attendance, (ADA) credit for all purposes and instructional time credit for the day(s) and minutes lost due to the emergency closure. The instructional time credit satisfies state law with regard to both the minimum year and "longer day and year" requirements.

Section 46392 of the *Education Code* provides for the crediting of ADA "whenever the average daily attendance of any school district, county office of education, or regional occupational center or program has been materially decreased because of fire, flood, impassable roads, and other specified circumstances." Although the wording of the two code sections differs in detail, the effect is the same. School districts and county offices are to be held harmless from revenue loss that might otherwise result from the loss of ADA or instructional time in emergencies.

Attendance credit and approval of school closures may be obtained by submitting one copy of FORM J-13A (Request for Allowance of Attendance Due to Emergency Conditions, Revised December 2017) to your county office of education. A second copy of the form should be retained by the requesting district.

Approval requires the affidavits of the district governing board members and the county superintendent of schools (FORM J-13A, page 5).

Requests submitted for charter schools require the signature of the superintendent of their authorizing LEA, in addition to the affidavits of the charter school governing board members and the county superintendent of schools.

After the county superintendent of schools verifies the supporting information and approves the request, the forms are forwarded to the CDE.

Districts and their county offices will be notified when requests for school closure or attendance credit are approved.

Locally maintained attendance records, including teacher registers, should be marked "Emergency Closure" on days when a school has to be closed for emergency conditions. Attendance should be recorded as usual on days that may later be determined to be days of material decrease. Upon approval of a request for relief of a material decrease, the credited days of student attendance will be substituted for actual (decreased) days when computing ADA for reporting on the *School District Attendance* data entry screen in the *Principal Apportionment Revenue Limit* software. Actual attendance records should not be changed for days of material decrease since these records will be needed to substantiate that a material decrease did occur. Since all attendance records are subject to audit, districts and counties should be careful to retain all supporting records and documents for later review.

Child Development Programs

Childcare, child development, and preschool programs are not funded through average daily attendance, but similar allowances exist for the granting of emergency day credit. For further information, contact your assigned consultant in the Early Education and Support Division at 916-322-6233.

Application of Law and Policy to Other Events

The emergency day and material decrease credits that are described in this advisory have been available to districts for many years, although claiming details and policies have changed somewhat over time. In recent years, attendance credit has been granted to districts affected by floods, fires, earthquakes, and various isolated instances of heavy snow, fog-closed roads, and other emergencies.

In past years, the emergency attendance credits were guided by regulations that required the "make-up" of lost time under certain conditions and required various ADA loss calculations to determine if an ADA loss was sufficiently "material." These regulations have been replaced by simpler guidelines that are reflected in this advisory. The elimination of requirements to "make-up" instructional time losses should not be misconstrued. In an emergency, the health and safety of students and staff are the primary concern, but the instructional program should not be allowed to be a secondary casualty. Although no longer required to do so, districts and county offices should make every effort to replace instructional time losses and restore the instructional program as soon as safety allows.

Emergency ADA credit is obviously not intended to be used when the conditions that cause school closure could have been foreseen or avoided. In locales where expected winter snow or fog will predictably force school closure for a few days every year, districts are expected to foresee the need to close and schedule "extra" days in the school calendar in order to compensate for the foreseeable loss of instructional time. Emergency ADA credit will not be granted to districts that attempt to abuse the

allowance to compensate for foreseeable circumstances; however, credit may be requested (as usual) when adverse weather conditions, which could not be reasonably predicted, cause school closure or material decrease. Credit may also be granted to districts that expect and make provision for a few days of weather closure but experience more than expected problems. What is "reasonable" for any given district will vary, of course, but the actual experience of the district over the last five fiscal years should establish a case for the number of days that school may reasonably be expected to be closed for fog, snow, or other weather problems.

For further information or assistance in completing the FORM J-13A, please contact the Principal Apportionment Section at the CDE, at 916-324-4541 or by e-mail at attendanceaccounting@cde.ca.gov.

Please distribute this memo within your District as deemed appropriate.