



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: March 19, 2021

TO: Local and Intermediate School District Superintendents and
Public School Academy Directors

FROM: Kyle Guarrant, Deputy Superintendent KG
Finance and Operations

SUBJECT: Frequently Asked Questions – 20-Hours of In-person Instruction –
MEMO #COVID-19-170

On March 9, 2021, Governor Gretchen Whitmer signed into law Public Act 3 of 2021. Included in Public Act 3, subsection 11r(4)¹ (MCL 388.1611r(4)) appropriates \$136 million in state aid funding to be distributed to districts through an equalization formula to ensure every district receives at least a \$450 per-pupil increase when combined with a district's Elementary and Secondary School Emergency Relief (ESSER) Fund formula allocation.

To be eligible under subsection 11r(4)(b), districts are required to offer, but not necessarily have students participate in, at least 20 hours per week of in-person instruction to **all students** by March 22, 2021. As the deadline to implement draws closer, many districts grapple with how to properly satisfy the requirements of subsection 11r(4)(b) to ensure eligibility for funding.

In response to some of the questions that the department has received to date, the department issued a [letter](#) to the legislature to ask for clarification of language relating to the 20-hours of in-person instruction requirement. Prior to any response from the legislature, this memorandum provides some elucidation about some of the elements of this subsection.

What does "offered" mean?

The common definition of "offered" is to have presented something to another party that can either be accepted or rejected. In this case, 20-hours of in-person instruction. It is also important to recognize the significance that this offer may be rejected by parents of students. As such, participation is optional based on the family's decision.

What does in-person instruction mean?

To respond to this question, the department refers directly to subsection 11r(4)(b), which states, "in-person instruction" means instruction that a pupil receives while he or she is

¹ The complete statutory reference is located on page 2.

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physically present at a school building designated by the district in which he or she is enrolled.

What qualifies as instruction?

It is a period of time when a certified teacher or a substitute teacher with the requisite permit and students are together and one of the following is taking place:

- A certified teacher or a substitute teacher with the requisite permit is purposefully guiding students in their learning.
- A certified teacher or a substitute teacher with the requisite permit is tutoring students in one or more subject areas.
- A certified teacher or a substitute teacher with the requisite permit is assessing student learning, identifying learning needs, and prescribing interventions to achieve a better outcome.

Under subsection 11r(4)(b), instruction taking place during the regularly scheduled periods on a scheduled day of instruction, or added before or after the regular daily schedule, is acceptable.

What does not qualify as instruction?

- A class supervised by someone other than a certified teacher or a substitute teacher with the requisite permit.
- A class where a certified teacher or a substitute teacher with the requisite permit is present but is only responsible for the supervision of students while in class, also known as a study hall.

If a local health department orders a district or school building to close due to a COVID-19 outbreak, is the district still eligible to receive funding under subsection 11r(4)(b)?

Subsection 11r(4)(b) is silent to foregone state aid for non-compliance associated with a COVID-19 closure.

Below, please find the complete statutory reference:

MCL 388.1611r(4)(b)

By not later than March 22, 2021, excluding days that are part of a previously scheduled period of time for which the district is not in session, the district offers in-person instruction at least 20 hours each school week if the district's school week includes 5 school days or, if the district's school week does not include 5 school days, offers in-person instruction in an amount of hours necessary each school week to provide the instruction it would have provided in 20 hours for a 5-school-day school week to all pupils enrolled in the district, regardless of whether or not all pupils enrolled in the district participate in the in-person instruction offered. This subdivision does not apply to a district that operates as a cyber school as that term is defined in section 551 of the revised school code, MCL 380.551. As used in this subdivision, "in-person instruction" means instruction that a pupil receives while he or she is physically present at a school building designated by the district in which he or she is enrolled.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Directors