

Act 16 of 2019: Section 221.3—Full Academic Year Requirement

The 2019 School Code (Act No. [16](#) of 2019; formerly House Bill 1615) includes provisions (Section 221.3—Full Academic Year Requirement) to redefine the full academic year (FAY) requirement for student participation in statewide assessments as contingent on student attendance during the period of October 1 to the last day of the applicable testing window the following spring. Specifically, Section 221.3 would exempt from “school accountability performance calculation” the scores of students who are “absent for at least 20 percent of the school days” during the period used to calculate FAY (Section 221.3(a)).

The provision includes an important caveat, however: “This section shall only be effective if in compliance with Federal law” (Section 221.3(b)).

Section 1111(c)(4)(F) of the Every Student Succeeds Act (ESSA) requires that for “a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)¹ may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year...” (emphasis added)

In the case of Pennsylvania and any state with a 180-day school year, this language creates a 90-day trigger that matters greatly for annual meaningful differentiation (*i.e.*, accountability determinations). Specifically, for purposes of accountability, **a student must miss at least 90 days of school before their assessment data can be excluded from calculations.**

The 20 percent absence rate trigger established by Act 16, which is equivalent to 36 days across the school year, is far short of the ESSA threshold. While the federal law affords states additional flexibility in lower stakes reporting not used for accountability, Act 16 clearly references “school accountability.” Accordingly, the exemption provision in Section 221.3 is incompatible with the ESSA and Pennsylvania’s approved ESSA State Plan.

¹ These indicators include academic achievement, academic growth, English learner proficiency, and school quality and student success indicators.