



Office of Instructional Support
Deputy Commissioner

September 1, 2020

TO: District Superintendents
Superintendents of Schools
Public School Administrators
Nonpublic School Administrators
Charter School Administrators

From: Marybeth Casey, Assistant Commissioner
Office of Curriculum Instruction and Early Learning

Re: Eligibility for Interscholastic Athletics, Inclusive Athletics and Extracurricular Activities

Per the [school reopening guidance](#) that the New York State Education Department (NYSED) issued earlier this month, districts have been afforded flexible scheduling options as they plan to begin the 2020-21 school year. Some districts are planning to open with all or some of their students in person, some have chosen fully remote instruction, and some are offering their students a choice of in person classes or remote instruction.

This guidance is meant to clarify that regardless of the type of schedule chosen by either the district, or in some cases the student, districts must make any planned school sponsored activities available to all students who are enrolled in the district and otherwise qualified to participate. Districts may not exclude students from participating in any school sponsored activity solely on the basis of their instructional program. For purposes of this memo, “enrolled in the district” means those students who are reported in SIRS with a district of resident code and those included in the Average Daily Membership calculation in SAMS for state aid purposes.

If districts are conducting extracurricular activities, including sports, clubs, arts or others, all students enrolled in the district must be given fair and equal access to such activities for which they are otherwise qualified to participate, regardless of the choice of schedule whether made by the student or by the school or district. Schools and districts have the option whether or not to participate in interscholastic sports or provide extracurricular activities as they deem appropriate. However, students may not be restricted or excluded from participating in any activities offered and for which they qualify, simply on the basis of the educational program selected (in person, remote or hybrid). These activities include interscholastic athletics available per the [Governor’s Guidance](#) issued August 24, 2020.

Specific to interscholastic and inclusive athletic activities, and subject to all other usual eligibility requirements, the New York State Education Department regulations (135.4 Physical Education) states the following:

A pupil shall be eligible for interschool competition or inclusive athletic activities in a sport during a semester, provided that he is a bona fide student, enrolled during the first 15 school days of such semester, is registered in the equivalent of three regular courses, is meeting the physical education requirement, and has been in regular attendance 80 percent of the school time, bona fide absence caused by personal illness excepted.”

Students who are enrolled in a school or district, are included in the state aid calculations, and meet the bona fide student regulation noted above must not be restricted from participating in interscholastic athletics or other extracurricular activities simply on the basis of their instructional program format, be it in person, hybrid or fully remote. However, the district is not required to provide transportation to and from the school for such activities to students who are enrolled in a hybrid or fully remote program. Transportation may be provided to students in the in person program as part of their academic day, but districts are not required to provide additional transportation to the student specifically for interscholastic athletics.

All such extracurricular activities shall be conducted per the [Interim Guidance for In-Person Instruction at Pre-K to Grade 12 Schools During the COVID-19 Public Health Emergency](#) issued by the New York State Department of Health. Any questions related to this guidance may be directed to emscurric@nysed.gov.