



TOWN OF BROOKLINE

Massachusetts

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MEMORANDUM

TO: Dr. Andy Liu, Chair
Members of the Brookline School Committee

FROM: Susan Harris, Associate Town Counsel
Joe Callanan, Town Counsel

DATE: December 3, 2024

SUBJECT: Designation of Holidays for School Closure

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The School Committee has inquired about the legality of designating Eid al-Fitr a Category I holiday or “day of low attendance.” This question follows the vote of the Brookline School Committee on October 10, 2024, to express to the Superintendent their desire that Eid al-Fitr be designated as a Category I holiday on the 2025-2026 school calendar and to instruct the Superintendent to update the proposed calendar and return it to them for final adoption.

State law establishes certain legal holidays for which school must be closed, and the minimum length of the school year is established by the state Board of Elementary and Secondary Education. G.L. c. 4, § 7; c. 69, § 1G. Within these boundaries, each school committee has the discretion to establish school year schedules “based on the particular learning needs of students within each school.” 603 CMR 27.03.

A school committee’s discretion, however, is not unlimited. Public officials may exercise their discretion only if their decision is not arbitrary, capricious, an error of law or procedure, unsupported by substantial evidence, an abuse of discretion, or otherwise not in accordance with law, for example. *See, e.g.*, G.L. c. 30A, § 14 (judicial review of administrative decisions). “Substantial evidence” means such evidence as a reasonable mind might accept as adequate to support a conclusion. G.L. c. 30A, § 1 (definitions).

In the past, PSB has relied on measures of attendance to designate Category I, Category II, and Category III holidays. Category I holidays have been described as days of low attendance, on which absences by staff and students impact the ability to conduct class.

This approach is consistent with guidance from the Department of Elementary and Secondary Education that schools may adjust their calendars “while taking into account possible days of low attendance due to religious holidays.”¹

Low attendance is not the only possible evidence that may support school closure based on the particular learning needs of a community’s students. To the extent that designating Eid al-Fitr as a Category I holiday is a deviation from the School Committee’s past practice, however, the School Committee should think through and preferably articulate the substantial evidence underlying its decision on the record.

In the future, there may be additional religious holidays proposed for school closure. Because the school calendar cannot accommodate unlimited days off, your decision here will require some line-drawing. Where the School Committee’s action may seem to favor some religions over others, the School Committee must base its decision on neutral, nondiscriminatory reasons.

Thus, in considering adding or removing school holidays now and moving forward into the future, the School Committee should rely on criteria, tied to the learning needs of PSB students, that are 1) supported by evidence and 2) nondiscriminatory.

Please feel free to give us a call to work through your thoughts on this topic, or if you have other questions or concerns.

¹ Department of Elementary and Secondary Education, “Statewide Legal Holidays; Accommodation for Religious Observances,” January 5, 2024, available at <https://www.doe.mass.edu/news/news.aspx?id=27281>.