

## 5-O-B: SEAT TIME WAIVER

An intermediate school district, a local school district, or a public school academy seeking to offer pupils access to online or alternative learning options and seeking to offer the opportunity to continue working on a high school diploma or grade progression without physically attending at the school facility may choose to do so under a seat time waiver. The seat time waiver is a Department-approved alternative or innovative education program that removes the days, hours, and physical attendance requirements (unless required as a condition of the waiver) and lifts the cap on the number of online courses in which a pupil can enroll during the count period, as defined by Administrative Rule 340.11.

Section 101(9) of the State School Aid Act (MCL 388.1701) permits the State Superintendent to waive the required days and required hours of pupil instruction for alternative education programs or other innovative programs approved by the Department, including a four (4) day school week.

All seat time waivers, regardless of whether granted to an individual district or as part of a consortium agreement, are subject to termination by the State Superintendent at any time during the school year for any reason.

### A) Requirements for Counting in Membership

The district must meet all of the following requirements to count pupils enrolled in a seat time waiver program for membership purposes:

- 1) The **pupil must meet pupil membership eligibility requirements** pursuant to Section 6(4) or 6(6) of the State School Aid Act (MCL 388.1606) **and any other applicable statute.**
- 2) The **pupil shall be registered, enrolled, and participating in the course(s)** pursuant to Section 6(4), Section 6(8) and Section 6a of the State School Aid Act (MCL 388.1606 and MCL 388.1606a).
- 3) **The participation requirement must be satisfied for membership purposes. The participation requirement states that a pupil must complete at least one (1) two-way interaction per week for each week of the four (4) week count period.**
- 4) In the calculation of claimable membership, each **course shall count as one class** on the pupil's class schedule and will generate that portion of an FTE membership that a comparable on-site course offered by the district would generate unless the course is determined to provide less instructional time, in which case the FTE would be prorated according to the number of instructional hours provided.
- 5) **Each pupil must have a course-specific class schedule that includes each enrolled course (with the actual course name) at the time of the count.**
- 6) **The district must provide a teacher of record and mentor for the course as described later in this section.**
- 7) Seat time waiver participants must meet the requirements defined for the specific programs or course types in which they are enrolled, including those in legislation, administrative rule, and this manual.
- 8) The district may adopt additional requirements for pupils enrolled in virtual learning, distance learning, or independent study. Further, a district may choose not to offer a seat time waiver program or to place greater restrictions on its pupils (e.g., eleventh and twelfth grade pupils only) or on the courses offered. This is the local school board's prerogative.
- 9) **Additional documentation must be provided** if requested by the pupil membership auditor. The district must provide all documentation requested by the pupil membership

auditor within five (5) business days of the request. This includes, but is not limited to, documents such as activity logs and copies of email or text message exchanges detailing weekly two-way interactions.

## **B) Types of Seat Time Waiver Programs**

**100% Online Seat Time Waiver:** This type of waiver allows the district to deliver all of a pupil's instruction online, with no requirement for the pupil to attend instruction physically on-site. Districts may choose to include a drop-in lab component with courses, as needed. A district may enroll up to twenty-five percent of its pupils in grades 6-12. However, if a public school academy that is chartered by the intermediate district operates the program, the program is limited to enrolling ten percent of the ISD regionally combined pupil population in grades 6-12. Districts have the option of adding a blended learning component under this type of waiver where pupils will be required to physically attend face-to-face instruction. This should be noted in the district's seat time waiver implementation plan.

**Blended Learning Seat Time Waiver:** This type of waiver is a hybrid of instruction that takes place in part at a supervised school facility (or a location agreed upon by the district and pupil) and in part through a computer-based or internet-connected learning environment that provides pupils with some degree of control over time, location, and pace of instruction. There is no limit on the percentage of the district pupil population in grades 6-12 who may participate. Pupils must receive at least fifty percent of the course instructional time through on-site face-to-face instruction. The district is expected to maintain a schedule of dates where on-site (physical) attendance is required for students enrolled in a blended learning program. The teacher of record will record the actual attendance on these dates in the same manner as the district records attendance for traditionally delivered courses. The scheduled on-site instructional time should amount to at least fifty (50) percent of the instructional hour and day requirements.

**Offline, Computer-Based Learning Seat Time Waiver:** This type of waiver is issued when limited broadband availability would otherwise prevent a pupil from participating in a 100% online seat time waiver program. The district must present the program implementation plan to the intermediate district auditor for his or her review. The plan must detail how the membership requirements will be satisfied. The intermediate district auditor may propose changes to the methods for satisfying the pupil membership requirements presented in the implementation plan. Following this review, the plan must be submitted to the Department.

**Project-based Learning (PBL) Seat Time Waiver:** Project-based learning (PBL) incorporates opportunities for pupils to gain knowledge and skills through the investigation of complex questions, problems, challenges, or tasks. This waiver is necessary if pupils will engage in self-scheduled PBL study where the content exists without online or computer-based components. The district must present the program implementation plan to the intermediate district auditor for his or her review. The plan must detail how the membership requirements will be satisfied. The intermediate district auditor may propose changes to the methods for satisfying the pupil membership requirements presented in the implementation plan. Following this review, the plan must be submitted to the Department.

**K-5 Seat Time Waiver:** Each local public school district, public school academy, and intermediate school district must apply individually to the Department for approval. Districts approved for a 100% online seat time waiver for grades K-5 may request a waiver for up-to twenty-five (25) percent of the pupils in those grades, however, the Department may limit the district to a lesser percent. Districts approved for a blended learning seat time waiver for grades K-5 may provide up to fifty (50) percent of the instructional time in an offsite, self-scheduled format. Districts may request a blended learning waiver for the entire K-5 population; however, the Department may limit the district to a lesser percent.

**C) Modes of Instruction**

Under this section, the Department allows districts to use either teacher-led instruction or self-paced instructor-facilitated instruction for the delivery of course content.

Teacher-led instruction occurs when a Michigan certified (and highly qualified as appropriate) teacher directly delivers all of the course content in a manner similar to that found in a traditional classroom environment.

Self-paced instructor-facilitated instruction occurs when an appropriate grade level certified teacher is responsible for aiding in the delivery of content. This teacher is not necessarily providing the instruction, or may be delivering only a portion of the content. Content should be developed or vetted by a certified (and highly qualified as appropriate) teacher at the appropriate grade level in the content area. This mode of instruction requires that pupils have access to an appropriately Michigan certified or highly qualified teacher of record.

**D) Instructional Components**

Teacher of Record: A teacher who holds a valid Michigan teaching certificate or who is an instructor employed by or contracted through a community college or university for courses provided by a community college or university; who, where applicable, is endorsed in the subject area and grade of the course; and is responsible for providing instruction, determining instructional methods for each pupil, diagnosing learning needs, assessing pupil learning, prescribing intervention strategies, reporting outcomes, and evaluating the effects of instruction and support strategies. As Section 1231 of the Revised School Code (MCL 380.1231) applies, the teacher of record shall be employed by the district.

Mentor: A professional employee of the district who monitors the pupil's progress, ensures the pupil has access to needed technology, is available for assistance, and ensures access to the teacher of record. A mentor may also serve as the teacher of record if the mentor meets the definition of a teacher of record.

Participation: Participation is measured for self-scheduled courses through the use of two-way interaction. For membership purposes, a pupil must complete at least one (1) two-way interaction per week for each week of the four (4) week count period.

The first week in which participation will be measured begins on count day (Wednesday), and continues through the following Tuesday. Each consecutive week will start on Wednesday and end on the following Tuesday, for a total of four (4) weeks including the week that began on count day. The district shall document and retain an online activity log detailing two-way interactions for each seat time waiver pupil. An illustration of this requirement appears below.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			<-----week 1----->			
			Count Day			
-----week 1----->			<-----week 2----->			
-----week 2----->			<-----week 3----->			
-----week 3----->			<-----week 4----->			
-----week 4----->						

If the winter break is 4 school days or longer, the requirement for weekly two-way interaction does not apply for that week. If instruction has been canceled district-wide during a week for 3 school days or longer, the requirement for weekly two-way interaction does not apply for that week.

**Two-way Interaction:** Two-way interaction is the communication that occurs between the teacher of record **or mentor** and pupil, where one party initiates communication and a response from the other party follows that communication. Responses must be to the communication initiated by the teacher of record **or mentor**, and not some other action taken. This interaction may occur through, but is not limited to, means such as email, telephone, instant messaging, or face-to-face conversation. All two-way interaction must be documented and available to the pupil accounting auditor upon request. **Interaction must be relevant to the course or pupil's progress. Parent or guardian facilitated two-way interaction may be required if the pupil is in grades K-5 and does not yet possess the skills necessary to participate in two-way interaction unassisted.**

**Activity Report (Activity Log):** An activity report summarizes each pupil's learning activities, including login records, coursework, two-way interaction records, and other information that demonstrates pupil participation in the seat time waiver program.

### **E) Intermediate District, Local District, and Public School Academy Requirements**

Districts shall agree to operate under the requirements of the seat time waiver as well as the requirements identified in this section. Participation in a seat time waiver program is optional.

Districts are responsible for determining the most effective method on a course-by-course basis. The intermediate school district's board of education, the local school district's board of education, or the public school academy's board of directors must approve the program if the district will award credit according to the requirements of the Michigan Merit Curriculum.

Based upon satisfactory completion of courses or other credit-earning activities, the credits earned through the seat time waiver courses and activities shall be comparable to credits earned for a high school diploma or grade progression in the district's traditional program setting.

In addition, all of the following are required components (unless otherwise noted) for district seat time waiver programs:

#### **1) Class Schedules**

A pupil enrolled through a seat time waiver program shall develop a class schedule with the help of the teacher of record or school counselor that details the credits that the pupil will earn over the school year.

The class schedule shall reflect all courses scheduled, registered, and enrolled for the pupil for the semester. This includes pupils who utilize a sequential learning schedule where the pupil must complete one or some of the scheduled courses before proceeding to the next scheduled course.

**Districts shall maintain a current class schedule for pupils during the count period. If a class schedule changes after the count period, the district must update the class schedule immediately.**

#### **2) Instructional Time Requirements and Waiver Renewal**

Pursuant to Section 101(9)(b) and (c) of the State School Aid Act (MCL 388.1701), seat time waivers must adhere to the following instructional time and renewal requirements:

- a. Blended learning seat time waivers granted for the 2011-2012 fiscal year or a subsequent fiscal year remain in effect unless revoked by the State Superintendent. Blended learning pupils must receive at least 549 hours of on-site instruction in reaching the 1,098-hour requirement.
- b. 100% online seat time waivers granted for the 2011-2012 fiscal year or a subsequent fiscal year remain in effect, unless revoked by the State Superintendent, if educational services are available to pupils for at least 1,098 hours during a school year and ensures that each pupil is on track for course completion at proficiency level.
- c. A waiver not described by (a) or (b) above remains effective for one (1) fiscal year unless the State Superintendent revokes the waiver. The district must request renewal of a waiver in this category annually if the district plans to provide the program in subsequent years.

### 3) Program Effectiveness

The district and Department shall measure seat time waiver program effectiveness using academic benchmarks, such as those derived from the Department-required grade-appropriate assessments, or through other measures identified by the Department. Pupils enrolled in a seat time waiver program must participate in the grade-appropriate state assessment exams.

Districts must assess each pupil to determine academic progress at regular intervals and must use the results from these assessments to develop an education plan that leads to a high school diploma. Districts must maintain the results of these assessments in the pupil's education plan.

As determined by the Department, a variety of benchmarks and measures are used to monitor program effectiveness and to make determinations regarding the continuation of program waivers.

At the end of the 2016-17 school year, districts will be required to report student growth for seat time waiver participants using a growth to proficiency model. The report shall include pupils who are enrolled in their second or greater year of participation in the program.

### 4) Costs, Tuition, and Fees

When electing to operate a seat time waiver program, the district agrees to incur costs associated with operating the program.

Additionally, the district is required to pay any associated tuition charges, costs, and fees for the seat time waiver course(s) and other activities on behalf of the eligible pupil, including:

- **The costs associated with providing the pupil with a computer.** The district must offer to provide a computer for each pupil enrolled under an approved seat time waiver. The computer must include Internet capacity and appropriate software configuration for use by the pupil at home while enrolled in the seat time waiver program.
- **The costs associated with providing the pupil with broadband Internet access.** The district must offer to provide broadband Internet for a pupil enrolled in a seat time waiver program for the duration of the pupil's enrollment in a seat time waiver program. The broadband Internet capacity shall provide at least 3 Mbps download and 1 Mbps upload speeds.

**F) Statutory and Other References**

<u>State School Aid Act:</u>	<u>Revised School Code:</u>	<u>Administrative Rules:</u>
MCL 388.1606	MCL 380.1231	R 340.11
MCL 388.1701	MCL 380.1281	R 340.18
	MCL 380.1311	
	MCL 380.1311a	

Appellate Court Decision:  
Bond v Ann Arbor School District, 383 Mich 693 (1970)

**G) Question and Answer**

- Q #1** How will the State of Michigan track seat time waiver pupils?
- A #1** The district will report through MSDS that the pupil is an alternative education program using Participation Code 9220 and Participation Code 9229, which will indicate that the pupil is enrolled through a seat time waiver program.
- Q #2** If a seat time waiver pupil fails to participate in two-way interaction during each week of the count period, may the district claim a partial FTE for the pupil?
- A #2** No. The district cannot count FTE for a pupil who did not satisfy the participation requirement.
- Q #3** If a pupil completes the equivalent of a year of courses before the supplemental count day, can the district count the pupil in the supplemental count without having the pupil enrolled in any courses during the supplemental count?
- A #3** No. Section 6(8) of the State School Aid Act (MCL 388.1606) requires that a pupil be enrolled and in attendance on the count day in order to be counted for membership purposes.
- Q #4** When a pupil takes courses in a sequential format, such as only three courses over one nine-week period and the number of courses over the semester equal to a traditional pupil's schedule, how should that be documented?
- A #4** Every pupil under a seat time waiver, including a sequential learner, must have a course schedule that reflects all courses in which the pupil is enrolled and which the pupil attended during the semester. The district will use the course schedule to determine the amount of FTE for the pupil.
- Q #5** May the district count a seat time waiver pupil for both general education FTE and special education FTE?
- A #5** The district may count a seat time waiver pupil with a current IEP for special education FTE for that portion of time the pupil is in the classroom with a special education teacher and for general education FTE for that portion of time that the pupil is participating in the seat time waiver program. The sum of the special education FTE and the general education FTE cannot exceed 1.0.
- Q #6** Can a homebound/hospitalized pupil enroll and attend through a seat time waiver or does the pupil require the minimum two weekly 45-minute visits by a certified teacher?
- A #6** The district must provide one-on-one instruction with a certified teacher in order to count a pupil using the homebound/hospitalized requirements (See Section 5-D of this manual). Virtual courses would be optional and in addition to the one-on-one instruction.

Alternatively, the district could choose to count the pupil under a seat time waiver rather than using homebound/hospitalized services; the pupil's class schedule would then determine the amount of FTE claimed.

- Q #7** When a pupil is permanently expelled (state mandated expulsion) under Section 1311 or Section 1311a of the Revised School Code (MCL 380.1311 or MCL 380.1311a), can the pupil receive instruction through a seat time waiver, or is the district required to provide the minimum two weekly one-hour visits by a certified teacher if it wishes to count the pupil in membership?
- A #7** Under Sections 1311 and 1311a of the Revised School Code, the district must provide the pupil with two weekly one-hour individualized instructional visits with a certified teacher in order to count the pupil for a full FTE. Another option under those sections would be for the district to operate an alternative education program for permanently suspended or expelled pupils using a seat time waiver as the method of providing the pupil instruction. If the district chooses to enroll the pupil in a seat time waiver program and does not provide the one-on-one individualized instruction twice a week, the district would calculate the FTE using the requirements for counting pupils in membership as provided in this section.
- Q #8** Must a district request a seat time waiver for any pupil taking online courses off-site?
- A #8** No. A pupil who takes one or two courses off-site may not require a seat time waiver. Additionally, a pupil who has demonstrated previous success with online learning may be allowed to enroll in more than 2 online courses under Section 21f of the State School Aid Act (MCL 388.1621f) if school leadership and the pupil's parent or legal guardian determine it is in the best interest of the pupil.
- Q #9** Must the district provide a computer and broadband access to a pupil enrolled in a seat time waiver program part-time?
- A #9** The district must provide a computer and broadband access to full-time and part-time pupils enrolled through a seat time waiver unless the pupil refuses the computer or broadband access offered by the district.
- Q #10** What are the requirements for a district with a mid-winter break during the 30-day count period?
- A #10** If the winter break is 4 school days or longer, the requirement for weekly two-way interaction does not apply for that week. If the break is 3 school days or fewer, the requirement for a weekly two-way interaction between the teacher of record or mentor and pupil applies.
- Q #11** Is the teacher of record limited to a certain number of pupils?
- A #11** There is no limit on the number of pupils assigned to the teacher of record.
- Q #12** How does a school document the weekly two-way interaction between the teacher of record or mentor and pupil?
- A #12** The teacher of record must maintain an activity log for each pupil documenting his or her two-way interaction. The district may print e-mail exchanges and discussion board conversations, or the teacher of record or mentor may take notes from a telephone or face-to-face conversations that include details of the conversation and date.
- Q #13** Are seat time waiver pupils required to participate in assessments required by the Department?

- A #13** Yes. Participation in Department-required grade-appropriate assessments is a legislative requirement unless the pupil is being home-schooled or is enrolled in a nonpublic school.
- Q #14** If the teacher of record initiates contact with the pupil and the pupil responds by completing a task (such as turning in an assignment) rather than responding to the teacher of record directly, does this count as two-way interaction?
- A #14** No. While a teacher's initiation of contact could lead to some form of action by the pupil, such as completing an assignment, such action cannot be the only result of the teacher's initiation of contact for the purpose of establishing participation. The described action by the pupil provides no additional information to the teacher of record regarding the pupil's progress in the course. The two-way interactions should provide both the teacher of record or mentor and the pupil a better understanding of the pupil's experience and progress and should provide a forum for any other course-related needs that must be resolved in order for the pupil to complete the course successfully.
- Q #15** Can the district enroll pupils in courses that have no online or computer-based component under a seat time waiver?
- A #15** Yes. The district must receive approval from the Department in cases where the district wishes to provide self-scheduled, project-based learning (PBL) courses that have no online or computer-based component. The district must present the implementation plan for a self-scheduled, project-based learning seat time waiver to the intermediate district auditor for review before submitting the plan to the Department. The implementation plan for the course must include provisions regarding how the pupil will satisfy the membership requirements.
- PBL refers to any programmatic or instructional approach that utilizes multifaceted projects as a central organizing strategy for educating pupils. When engaged in project-based learning, pupils will be assigned a project or series of projects that require them to use diverse skills—such as researching, writing, interviewing, collaborating, or public speaking—to produce various work products, such as research papers, scientific studies, public policy proposals, multimedia presentations, video documentaries, art installations, or musical and theatrical performances. Unlike many tests, homework assignments, and other more traditional forms of academic coursework, the execution and completion of a project may take several weeks or months, or it may even unfold over the course of a semester or year. The district must maintain a log of two-way interaction between the teacher of record or mentor and pupil to satisfy the participation requirement.
- Q #16** The district would like to use mass communication with pupils, such as bulk email messages, to meet the two-way interaction requirement. Is this an acceptable practice?
- A #16** Per the membership requirements, two-way interaction must occur between the pupil and teacher of record or mentor. Two-way interaction is intended to be individualized in nature, which mass communications are not. A district could use mass communication to begin a two-way interaction as follows: district sends mass communication -> pupil responds to communication -> teacher of record or mentor responds to pupil.