

## 5A - ALTERNATIVE EDUCATION PROGRAM

Alternative Education is a K-12 program that varies in its delivery from the traditional kindergarten through twelfth grade setting. An alternative classroom may vary from a small group of pupils from several grade levels receiving instruction for several subject areas from one certificated teacher in a non-graded classroom setting to a program lab in which the certificated teacher is present and the pupil works at his or her own pace on assigned subject matter. These pupils may attend on a part-time basis for several hours per day for specified subjects or a pupil may attend a one-on-one teacher/pupil session several times a week. The classes must be of subjects that are acceptable for a pupil to earn credit toward a high school diploma or grade level progression.

### A. Pupils who enroll in Alternative Education Programs

There are any number of reasons a pupil may be enrolled in an alternative education program such as: a pupil who was expelled from school under the mandatory expulsion provisions in sections 1311, and 1311a of the Revised School Code, a pupil who was expelled from school under local district policy, a pupil who was referred by the court system, a pupil who is pregnant or is a parent, or a pupil who was previously a dropout pupil or at risk of dropping out. In addition, an alternative education program may be designed to provide for pupils who simply are more academically successful in a non-traditional setting.

1. **Pupil Expelled Under the Revised School Code 380.1311-380.1311a** - A pupil who has been expelled under the *mandatory expulsion laws*, sections 1311 or 1311a of the Revised School Code, **must be** physically separated from the general population of the school district at all times during the school day. (See suspension and expulsion for additional information.) The separation of such a pupil from the general population is for the following durations.

- a. A pupil in grade 5 or below who has been expelled under the mandatory expulsion laws for the possession of or for threatening another person with a dangerous weapon shall not be reinstated prior to 90 days following the date of expulsion.
- b. A pupil in grade 6 or above who has been expelled under the mandatory expulsion laws for the possession of or for threatening another person with a dangerous weapon, arson, criminal sexual assault, or physical assault against a school employee or volunteer shall not be reinstated prior to 180 days following the expulsion date.
- c. A pupil in grade 5 or below who was expelled for reasons other than a firearm or threatening another person with a dangerous weapon may apply for reinstatement at any time.
- d. A pupil in grade 6 or above may apply for reinstatement after 150 days following the expulsion listed in "b" above.

A district may choose to provide pupil instruction to a pupil who has been expelled under the Revised School Code 380.1311-1311a through *home-based* learning; that

is, one pupil with the certificated teacher at the pupil's home or at a neutral site away from the general population. The district may choose to provide pupil instruction in a group setting for expelled pupils. (See C 2 – below.)

**NOTE:** It is a requirement of the Individual with Disabilities Education Act (IDEA) that a district that expels a special education pupil is responsible for providing that pupil with a free and appropriate public education (FAPE). The parent or legal guardian of a general education pupil who has been expelled is responsible to find an educational program for that pupil. (See CFR 300.121(d))

2. **Cooperative Agreements** - Two or more districts may have an annual cooperative agreement for operating an alternative education program. This agreement must specify the number of pupils that will be enrolled from each participating district and should address the cost to each district. The educating district counts the pupil in membership unless the cooperative agreement specifies that each resident district is to count the resident pupils. However, a cooperative education program that is operated by the intermediate district and is serving general education pupils from several constituent districts must have those pupils counted in membership by the resident district for membership purposes. The intermediate school district is ineligible to count general education pupils.
3. **Pupil's Choice** – A pupil who has dropped out of school or is in the process of dropping out may enroll in an alternative education program. A pupil who is a parent or is pregnant may enroll in an alternative education program. A pupil may be placed in an alternative education program by the courts. A district may also have enrolled the pupil under schools of choice.
4. **Seat Time Waiver** – An annual Department-approved waiver granted for an alternative education program for pupils in grades 9-12 where the enrolled pupils earn credits toward a high school diploma through on-line courses and other innovative strategies rather than counting seat-time. The district must meet all the following requirements for enrolling pupils:
  - provide hardware, software, and the on-line connection to participating pupils who do not have these and are eligible to participate in the on-line operation;
  - document attendance or receipt of instruction on the count date and during the count period;
  - provide a mentor teacher;
  - establish the pupil's individualized plan for grade progression and/or graduation;
  - administer assessments and evaluate the pupil's progress;
  - provide credit toward grade progression and/or high school completion;
  - must require the MME exam;
  - meet all conditions of the waiver.

**B. Pupil Enrollment and Residency Requirements for State School Aid Eligibility**

Pupils enrolled in an alternative education program must meet the enrollment requirements and have proof of residency just as any K-12 pupil. (See sections 1 – 4 of the Pupil Accounting Manual.)

1. **Enrollment Requirements:** An alternative education pupil must meet the age requirements and other regulations as specified in sections 6(4)(l-o) in the State

School Aid Act in order to be counted in state school aid membership. Each pupil must meet the following:

- ✓ The pupil must be less than 20 years of age on September 1<sup>st</sup> of the current school year.
- ✓ The pupil must not hold a high school diploma or GED certificate (“hold” means “to have earned”)
- ✓ The pupil must not be less than 16 years of age on September 1<sup>st</sup> if there are adult education participants in the same program or classroom.
- ✓ The pupil must provide residency information (current address), immunization records (unless 18 years of age or older), proof of identity (show certified copy of birth certificate, visa, etc.), name of district and/or school last attended, grade level completed, etc.
- ✓ The pupil must be enrolled on or before the specified count day to be eligible for membership purposes.

**2. Residency Requirements:** An alternative education pupil’s residence must meet one of the residency requirements for K-12 pupils as defined under sections 3(7), 6(4)(d), 6(6), and 24b of the State School Aid Act in order to be counted in state school aid membership.

- ✓ The pupil’s parent(s) or legal guardian is a resident of the district.
- ✓ The pupil has been placed in the district by the court or state agency i.e. juvenile detention facility, on-grounds child caring institute, licensed home, etc.
- ✓ The pupil resides in the district with a relative for the purpose of a suitable home – grandparent(s), sibling, aunt, uncle, first cousin, step-parent, step-grandparent, step-brother, step-sister, great aunt, or great uncle by marriage, blood, or adoption.
- ✓ The pupil is a member of a military family and was placed in the district under a special power of attorney while the custodial parent is assigned to active duty.
- ✓ The pupil is a foreign exchange pupil or has a F-1 visa and resides with a host family in the district.
- ✓ The pupil meets the definition of a “homeless child”.
- ✓ The pupil is of legal age or an emancipated minor and resides in the district.

Nonresident pupils must have the approval from the resident district to enroll in the alternative education program in order to be counted in state school aid membership, **except** the resident district's approval is not required for the following nonresident pupils.

- ✓ The pupil is enrolled under a court order.
- ✓ The pupil was suspended or expelled from the resident district for any reason.
- ✓ The pupil is pregnant or is a parent.
- ✓ The pupil is a dropout.
- ✓ The pupil is enrolled under a cooperative agreement with the resident district.
- ✓ The pupil is enrolled under schools of choice (section 105 or 105c).
- ✓ The pupil’s district of residence changed after the count day (prior to the supplemental count day) during the current school year.
- ✓ The pupil is a child of an employee.
- ✓ The pupil is a nonpublic part-time pupil.
- ✓ The pupil made an official written complaint to law enforcement as to an assault either at his/her previous school or at a school related function.
- ✓ The pupil is enrolled in a public school academy.

- ✓ The pupil has an inter-district split schedule and is receiving one-half or less of his/her instruction in the nonresident district.

The nonresident pupil who does not meet one of the exceptions above, and has not been enrolled through a cooperative agreement, must have a release from the resident district in order to be counted in membership and is subject to tuition charges. Tuition may not be charged for resident pupils, special education pupils, and nonresident pupils enrolled under one of the exceptions listed above. Tuition charges for the pupil enrolled under a cooperative agreement should be charged to the sending district.

**C. Clock Hours of Pupil Instruction for Determining FTE**

An individual pupil's class schedule in effect on the count day and the pupil's class-by-class attendance is used in determining the FTE membership count. The measurement of the FTE, for an alternative education pupil, remains the same as those requirements for any other K-12 pupil with few exceptions. Alternative education programs are required to meet the minimum requirement of 1,098 hours of pupil instruction. Exceptions to the minimum required hours are listed below.

**NOTE:** a pupil who has been removed from the district and placed in a department approved juvenile detention facility's alternative education program on or prior to the count day and remains in that alternative education program on the count day is counted by the juvenile detention facility's alternative education program.

**1. Waivers Granted to Operate Program for Fewer Hours**

A waiver to operate an alternative education program for fewer hours, than the minimum required 1,098 hours, for a given year may be granted to a department approved alternative education program by the Superintendent of Public Instruction upon application by the district. The minimum hours granted in the waiver are used as the denominator for calculating a pupil's membership FTE. The district must meet the terms of the waiver to avoid a state school aid penalty. A district wanting such a waiver must submit an application *to the Department of Education* each school year.

**2. Instructional Hours for Pupils Under Mandatory Expulsions**

A district may choose to continue a **mandatory expelled pupil's** education through one of the following means:

- a. The expelling district may provide individualized home based instruction with a certificated teacher at a site off campus such as at the pupil's home or the public library. Or, the district may provide the pupil instruction with a certificated teacher at a site on campus that no other pupil from the general population will come into contact with the expelled pupil during the regular school day such as in the school counselor's office. The district must provide the pupil a minimum of two non-consecutive instructional hours per week under the supervision of a certificated teacher. (See section 5C Home-based.) Such a pupil may be counted for 1.0 full FTE.

- b. The expelling district may enroll a pupil, through a cooperative agreement, in an alternative education program operated by a district or by an intermediate district for the purposes of educating pupils who have been expelled or

suspended from school as described in section 1311g of the revised school code (MCL 388.1311g). ~~The expelling district counts the pupil for membership purposes.~~ The FTE for such a pupil must be prorated based upon the ratio of the actual annualized hours the pupil is enrolled and in attendance on the count date to the minimum required hours for a full-time pupil.

3. **Learning Labs** - An alternative education program that operates as a learning lab must offer the minimum 1,098 hours as is required of all K-12 programs. The eligibility requirements for counting alternative education pupils in a learning lab are:
- a. The pupil must be enrolled in and attending courses that are earning credit toward a high school diploma or a GED certificate.
  - b. The pupil must be scheduled for a specified number of lab hours per week.
  - c. A certificated teacher must be present at all times.
  - d. Attendance must be taken and documentation must be provided to ensure that the pupil is in fact attending the number of hours scheduled. A weekly sign in and sign out sheet is necessary to document the actual number of hours per week that the pupil attended.
  - e. The pupil may not generate more FTE per course than would be generated by a pupil in a traditional classroom setting.

Due to the disposition of learning labs, the count period covers a week beginning on the Wednesday count day and continuing through Tuesday following the count day. A pupil must attend the minimum number of hours scheduled.

**Example 1:** The district has a learning lab as part of the alternative education program. The pupil is enrolled for English Composition II from 10:00 until 11:00 and for World History from 11:00 until 12:00 on Mondays, Wednesdays and Fridays. This pupil is also enrolled in Excel Spreadsheets from 10:00 until 12:00 on Tuesdays and Thursdays. That is two hours per day or ten hours per week for an annualized 360 hours (2 X 180 = 360). This pupil must attend the alternative learning center lab a minimum of ten hours during the count week. The FTE count for this pupil is .33 FTE (360 hours enrolled and attending / 1,098 hours required).

A pupil who is absent and does not fully meet the scheduled number of hours during the count week must return for a full schedule during a given week following the 10/30-day rule. The 10/30 days begin on the Wednesday following the count week.

**Example 2:** If this pupil does not attend the ten hours during the count week, the 10/30-day rule must be applied. If during the 10/30 days the maximum number of hours this pupil attends the learning lab is eight hours during any one week, then this pupil's FTE count becomes .26 FTE.

$((8 \text{ hours} \times 60 \text{ minutes}) / 5 \text{ days}) = 96 \text{ minutes per day.}$

$((96 \text{ minutes per day} \times 180 \text{ days}) / 60 \text{ minutes per hour}) = 288 \text{ hours per year}$   
 $(288 \text{ hours} / 1,098 \text{ hours required}) = .26 \text{ FTE}$

- 4. Seat-Time Waivers** – The eligibility requirements for counting alternative education pupils in a program that has been granted a seat-time waiver are:
- a. The pupil must be enrolled in and participating in courses that are earning credit toward a high school diploma or a GED certificate.
  - b. The pupil must be scheduled for a specified number of recognized courses. (The pupil's courses are not scheduled for a specific time period; however, the pupil must be scheduled to complete a specified number of courses for which the pupil's performance is being evaluated.)
  - c. A certificated teacher must be designated as the mentor teacher.
  - d. Attendance on count day must be confirmed by an online or an onsite instructor; the method used must be documented.
  - e. The pupil may not generate more FTE per course than would be generated by a pupil in a traditional classroom setting.

**D. Individual Pupil Attendance**

**Attendance records** are necessary to determine and validate pupil eligibility during the membership count period. The teacher's original attendance record, which has been signed in ink by the teacher, is the official record. An alternative education pupil who had an unexcused absence on the count day must return within 10 school days – that is within ten days that school was in operation. An alternative education pupil who had an excused absence on count day must return within 30 calendar days from the count day. Excused absences must be documented – date of absence, reason for the absence, relationship of person calling on behalf of the pupil, and signature of the approving administrator. An undocumented absence is assumed to be unexcused.

**E. Regulatory References**

State Aid Act:  
388.1606(4)(u-v)  
388.1606(6)(i)  
388.1625  
388.1701(10)

Revised School Code:  
380.1311 - 380.1311a

IDEA  
300.121(d)

Administrative Rules:  
340.2  
340.3  
340.13

### **Alternative Education through Adult Education Program**

Q #1: The student is 17 years of age, is enrolled and attending the Career and Technical Center for vocational education classes in the afternoon and attends GED Prep classes through the district's adult education program in the evening. The district wants to claim this student as an alternative education pupil. Is that allowed?

A #1: Yes. Some districts choose to operate the alternative education program through adult education. An alternative education pupil being educated in the same classroom or program with adult education participants must be 16 years of age or older on or before September 1 of the current fiscal year in order to be counted for pupil membership purposes. All alternative education program classes for K-12 pupils must be recognizable as high school courses such as English, history, science, math, etc.; and, the course must be earning credit toward a high school diploma or GED certificate.

### **Pupil attends two or more schools**

Q #2: A pupil from District A is a full-time pupil in District A. This same pupil is enrolled and attends an alternative education program in District B in the evening. District A claims the pupil for 1.0 FTE and District B is claiming the pupil for .14 FTE. Does District B have any right to claim any FTE?

A #2: This pupil meets the exception in Section 6(6)(b), of the State School Aid Act. The pupil does not need a release to enroll in and attend a class at District B since the pupil is receiving less than one-half of his pupil instruction in District B. If this pupil is receiving credit for the course he is enrolled and attending at District B and that credit is being applied to his transcript toward high school completion, then the two districts must pro-rate each district's FTE count for this pupil based upon the total number of instructional hours this pupil is receiving in both districts.

### **Contracting with outside agencies**

Q #3: Do the alternative education teachers have to be under contract in order to count teacher professional development hours?

A #3: Revised School Code 380.1231 requires that the school board hire and contract with qualified teachers. Contracts with teachers shall be in writing and signed on behalf of the school district by a majority of the board, by the president and secretary of the board, or by the superintendent of schools or an authorized representative of the board. Attorney General Opinion 6915 interprets this to mean that the school district cannot contract with an outside agency to provide K-12 programs. Therefore, the certificated teacher of an alternative education program must be an employee of the district and the professional development time must meet the requirements of professional development. (See section 2 D (Hours of Pupil Instruction – Counting Qualified Teacher Professional Development.)

### **Alternative education programs for expelled pupils**

Q #4: The district wants to operate an area wide alternative education program for seventh and eighth grade pupils who have been expelled under MCL 380.1311-

380.1311a or under local board of education policy. This would be under a cooperative agreement with the local area districts and enrollment would be limited to pupils who reside within the intermediate district. The alternative education program would operate 180 days for 1,098 hours. Section 6(4)(u) permits a district to offer this type of student a minimum of two (2) one-hour sessions per week and count the student for a full FTE. May we count each student for 1.0 FTE?

A #4: No, Section 6(4)(u), of the State School Aid Act, applies to pupils receiving individualized instruction (one-on-one) with a certificated teacher. Section 25, of the State School Aid Act, allows a district or an intermediate district to operate an alternative education program for the purpose of educating pupils who have been suspended or expelled in a classroom setting. The alternative education program classroom setting is not individualized instruction; and thus, the FTE counts must be prorated based upon the actual instruction provided the pupil.

#### **Alternative education program with a waiver for hours**

Q #5: Our district applied for and received a waiver, from the Department, to operate the alternative education program less than the minimum required days and hours of pupil instruction. However, some of the pupils are enrolled for fewer classes than are necessary to meet the waiver. How do we measure the FTE for those pupils?

A #5: The waiver granted specifies the minimum number of days and the minimum number of hours that the program must operate. Assuming that the district met the waiver requirements, the FTE for a pupil enrolled and attending this alternative education program would be based upon those hours agreed upon in the waiver in order to be a full FTE. For example, if the terms of the waiver were for 878 hours and a pupil in that program is enrolled and attends four 55-minute classes with five minute passing time between classes that would total 705 hours. That pupil would equal .8 FTE ( $705/878 = .8$ ).

~~If the district above did not meet the terms of the waiver to operate 878 hours, for example only operated 800 hours, the denominator used to calculate the FTE would be the statutory minimum required hours (currently 1,098).~~

#### **75% attendance rule**

Q #6: May the alternative education program be exempt from the 75% attendance rule?

A #6: The alternative education program is part of K12 system; therefore, attendance must be taken and the pupils in this program are a part of the 75% attendance requirement. However, pupils in a self-paced, off-site, alternative education program under a seat-time waiver is exempt from the 75% attendance requirement. Also, a district that operates an alternative education program and does not provide instruction in all of grades K-12 may apply to the Superintendent of Public Instruction for a waiver to meet a 50% attendance requirement as specified in Section 101(3)(c) of the State School Aid Act.

### **Alternative Education Program with a Seat-Time Waiver**

**Q #7:** District A enrolled a resident home schooled pupil in four (4) non-core curriculum courses and counted this pupil for .57 FTE. This same pupil enrolled full-time in District B's alternative education program with a seat-time waiver. District B is counting this pupil for 1.0 FTE. Do District A and District B need to prorate the FTE based upon the sum of total hours between both districts?

**A #7:** This pupil cannot enroll in District B's alternative education program and claim to be home schooled. Parents who home school their children must provide the basic courses. This pupil must choose to be enrolled in District B's alternative education program and be counted by District B; or, this pupil is home schooled and enrolled in noncore curriculum courses in District A. The pupil cannot do both.

**Q #8:** The district was granted a seat-time waiver which allows a pupil 100% virtual learning with no requirement for concurrent seat time class(es). Can an alternative education program with a seat-time waiver enroll any pupil from anywhere in the state? What are the requirements for enrollment with a seat-time waiver?

**A #8:** No, the district cannot enroll just any pupil in an alternative education program with a seat-time waiver. The pupil must meet the same eligibility requirements for enrollment purposes that a pupil must meet for all other alternative education programs as stipulated in the State School Aid Act (example not have earned his/her high school diploma or GED certificate, must be a resident of the district or qualify for an exception pursuant Section 6(6) of the State School Aid Act, etc.).

Also, seat-time waivers are only being granted for alternative education programs where the pupils are in grades 9-12. Thus, the grade levels are limited. Further, many waivers require once a week face-to-face contact time for the pupil and certificated mentor teacher. Those waivers that do not require a minimum once-a-week session with the mentor teacher require the on-line instructor be a certificated teacher and the district must follow all other virtual learning requirements. Districts should consult the waiver approval letter for conditions placed by the department.