

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE PUBLIC SCHOOL FINANCE ACT OF 1994

1 CCR 301-39

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

This regulation is adopted pursuant to the authority in section: 22-2-107, C.R.S., 22-2-113, C.R.S., 22-54-104, C.R.S., 22-54-108, C.R.S., 22-54-109, C.R.S., 22-54-120, C.R.S., 22-54-129, C.R.S., 22-2-402, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA"), C.R.S. [Eff. 11/30/2008]

2254-R-1.00 Statement of Basis and Purpose **[Eff. 11/30/2008]**

The basis for these Rules amended on March 6, 2003 is found in Article 54 of Title 22, C.R.S., and in Article 2 of Title 22, C.R.S. The State Board has the responsibility to establish Rules and regulations to implement these provisions of these Articles. The purpose of these Rules is to:

Establish regulations and procedures for administration of the Public School Finance Act of 1994, including the procedures for revocation or withholding of school district accreditation for Act violations, determination of district pupil membership and enrollment and district at-risk funding, and assignment of cost of living factors in the event of district reorganizations.

Assure the pupil count associated with the Public School Finance Act of 1994 fairly distributes funding to school districts to provide continuing instructional services.

Establish regulations and procedures regarding out-of-district-placed pupils and coordinate the collection of per pupil operating revenues with approval of facilities as on-grounds schools.

Coordinate these rules with regulations governing the administration of the Exceptional Children Educational Act (article 20 of Title 54, C.R.S.).

The basis for these rules is to establish procedures related to counting of pupils and payments of funding related to publicly placed pupils in eligible facilities. These changes to the rules are necessary due to legislation enacted through HB08-1204, ~~and HB08-1388 and HB09-1189.~~ Effective upon the signing of HB09-1189, signed into law on April 3, 2009, the State Board was required to amend existing rules due to changes in legislation. The rules establish regulations and procedures regarding out-of district-placed pupils and the payment of state average per-pupil revenue to approved facility schools and state programs. The changes set forth below conform the rules to new legislation, and also make necessary modifications based on the recommendations of the Office of Legislative Legal Council's review of the rules approved by the State Board in November 2008. Additionally, the facility schools unit will be adopting rules related to the oversight of approved facility schools allowing the school finance rules to cover only areas related to payment towards educational programs. Sections 14.00 through 20.00 of the Rules of the Administration of the Public School Finance Act of 1994 have been modified.

2254-R-14.00 Pupils Publicly Placed Outside the District of Residence Definitions **[Eff. 11/30/2008]**

- 14.01 "Approved Facility School" as defined in section 22-2-402(1), means an educational program meeting the requirements and standards outlined in Rule 2254-R-20.00 and approved by the State Board, that is operated by a facility to provide educational services to students placed in the facility and that, pursuant to section 22-2-407(2), has been placed on the list of facility schools

that are approved to receive reimbursement for providing educational services to students placed in a facility.

~~14.01(1) — If an approved facility school's authorization, license, certification, or other privilege to operate as required by applicable federal or state statute, rule, or regulation is suspended, terminated, or otherwise restricted, such facility no longer shall be deemed an approved Facility School.~~

~~14.02 — "District" means, a district in which a pupil publicly placed in a non-eligible facility is enrolled and in attendance in an educational program.~~

~~14.03~~ 14.02 "State ~~Operated~~ Program" means ~~a regional center,~~ the Colorado School for the Deaf and the Blind, Colorado Mental Health Institute at Fort Logan, and the Colorado Mental Health Institute at Pueblo.

~~14.04 — "Eligible Facility" means an approved facility school or a state-operated program (state-operated program included in definition only for the purpose of funding eligibility).~~

~~14.05 — "Non-Eligible Facility" means a facility that does not have an approved on-grounds school, such as a group home.~~

~~14.06 — "Eligible Pupil" means a pupil in public placement who is enrolled in and attending a district or who is receiving his/her education from the staff of state-operated program or an approved facility school.~~

~~14.07 — "Group Care Facility or Home" means a group home for the developmentally disabled, a residential child care facility, a residential treatment center, a secure residential treatment center, a hospital, a specialized group facility for children with disabilities, or other appropriately licensed or approved group home with an approved facility school.~~

~~14.07(1) — "Group Home for the Developmentally Disabled" means a state-licensed non-medical residence or dwelling unit providing supervision and training which is capable of housing developmentally disabled persons.~~

~~14.07(2) — "Hospital" means a general hospital or specialty hospital having a license or certificate of compliance issued by the Colorado Department of Public Health and Environment.~~

~~14.07(3) — "Other Appropriately Licensed or Approved Group Home" means a group facility for five or more children approved or licensed by a county department of social services or by the Colorado Department of Human Services or an approved child placement agency for children without disabilities, not including foster homes.~~

~~14.07(4) — "Residential Child Care Facility," "Residential Treatment Center," "Secure Residential Treatment Center," mean a child care center as defined by the Colorado Department of Human Services which provides 24-hour residential care and treatment for five or more children between 3 and 16 years of age, except that this definition shall not apply to licensed residential camps serving children between 8 and 16 years of age. The residential child care facility must be licensed by the Colorado Department of Human Services.~~

~~14.07(5) — "Specialized Group Facility for Children with Disabilities" means a group home or a group center established, supervised, and appropriately licensed or certified by a county department of social services, by the Colorado Department of Human Services or by the Colorado Department of Public Health and Environment for the purpose of~~

~~providing 24-hour care for 5 to 12 children whose special needs can best be met in a small group.~~

~~14.08~~14.03 "Pupil in Public Placement or Pupil Publicly Placed" means a pupil placed in ~~an eligible a~~ facility by ~~the official action of a court order, a county department of social services, the Colorado department of Human Services (which may include division of youth corrections), any other authorized agency, or a district within Colorado. Placements made by entities or organizations outside the State of Colorado are not allowed to be included in billings from facilities or other action by a public entity in Colorado or the pupil has been determined to be homeless as defined in 22-1-102.5, C.R.S.~~

14.04 "Pupil Enrollment" means the number of students receiving educational services at the approved facility school or state program on October 1 of the applicable budget year or on the school day nearest said date.

2254-R-15.00 Pupils Publicly Placed Outside the District of Residence-General [Eff. 11/30/2008]

15.01 The Department shall provide instructions including appropriate definitions of terms for use by ~~eligible-approved~~ facility school or state program personnel in preparing certifications required under these rules and related statutes.

2254-R-16.00 Pupils Publicly Placed Outside the District of Residence-Determining Pupil Membership Enrollment at eligible an Approved Facilities Facility School or State Program [Eff. 11/30/2008]

16.01 To determine its pupil ~~membership enrollment~~, an ~~eligible-approved~~ facility school or state program shall count as of the official count date specified in Rule 2254-R-3.00 each of its Colorado resident, publicly-placed pupils being served who is under age 21 as of the official count date and who has not met ~~the graduation requirements of the education program provided by the district or facility of attendance~~ as of the official count date.

~~16.01(1) — An eligible facility may include in its pupil membership a non-Colorado resident pupil only if parental rights have been terminated, if the pupil is defined as abandoned or homeless pursuant to Section 22-1-102, C.R.S., or Section 22-1-102.5, C.R.S., or if an in-state public agency has publicly placed the pupil in the eligible facility.~~

~~16.01(1.01) — A non-Colorado resident pupil included in an eligible facility's pupil membership shall be considered a resident of the district in which the eligible facility is located.~~

~~16.01(1.02) — A pupil who is defined as abandoned or homeless pursuant to section 22-1-102, C.R.S. or section 22-1-102.5, C.R.S., or with parental rights terminated shall be considered a resident of the district in which the eligible facility is located.~~

~~16.01(2) — An eligible facility serving a non-Colorado resident pupil not qualifying for inclusion in its pupil membership pursuant to Rule 2254-R-16.01(1) is responsible for arranging funding from the pupil's out-of-state district of residence or parent.~~

16.02 No later than October 5, an ~~eligible-approved~~ facility school or a state program shall report to the Department the full name (first, middle, last), gender, date of birth, parent/guardian resident address, district of residence, state assigned student identification number (SASID), and whether the student was publicly placed for each pupil included in its pupil ~~membership enrollment in order to receive education program funding~~.

~~16.02(1) If an eligible facility fails to meet the October 5 notification deadline, the State Board may revoke its approval of such eligible facility's on-grounds school~~

~~16.03 A district which provides the educational services to a non-district resident pupil residing in a non-eligible facility located in the district shall include such pupil in its membership count pursuant to Rule 2254-R-5.01 and in its pupil enrollment pursuant to Rule 2254-R-5.15.~~

2254-R-17.00 Pupils Publicly Placed Outside the District of Residence-Monthly Reporting to CDE for Reimbursement [Eff. 11/30/2008]

17.01 On or before the fifteenth day of each month, an ~~eligible-approved~~ facility school or a state program shall report to the Department using the format required by the department its number of ~~eligible~~-pupils served during the prior calendar month and the corresponding full-time equivalent membership of such pupils determined by the number of instructional days served.

17.01(1) An ~~eligible-approved facility's facility school's or a state program's~~ attendance report received after the fifteenth day of the month shall be deemed late.

17.01(2) The Department may accept amended monthly reports from an ~~eligible-approved~~ facility school or a state program prior to making that month's reimbursement payment pursuant to Rule 2254-R-19.00.

~~17.02 A state-operated program shall report a maximum of one full-time equivalent membership for each eligible pupil in a school year.~~

17.0302 An approved facility school or a state program shall report a maximum of one and one third full-time equivalent ~~membership~~ for each ~~eligible~~-pupil in a school year.

2254-R-18.00 Pupils Publicly Placed Outside the District of Residence-Determining Full-time Equivalent Membership [Eff. 11/30/2008]

18.01 The first day of attendance following ~~an eligible-a~~ pupil's enrollment in the educational program of an ~~eligible-approved~~ facility school or a state program establishes the first day of ~~an eligible-the~~ pupil's full-time equivalent membership in an educational program.

18.02 Membership in an educational program continues until ~~an eligible-the~~ pupil withdraws and ~~such eligible-the~~ pupil's name no longer appears on the roster of the approved facility school or state program, or until terminated automatically after ~~seven-five~~ continuous calendar days beginning on ~~an-the eligible~~-pupil's first day of non-authorized absence from the educational program.

18.02(1) Non-authorized absences are time away from the educational program for any reason other than, but not limited to, ~~days on which no educational program is scheduled~~, pre-approved vacations, sickness, hospitalization, pre-approved therapeutic leave, and sentencing to a detention center.

18.03 Full-time equivalent membership is determined as follows: Total instructional days in membership divided by total instructional calendar days in reporting period (usually a month) equals full-time equivalent membership

18.04 ~~An eligible-The p~~Pupil means a child or youth who has attained three years of age on or before August 1 and who is under twenty-one years of age.

18.05 If ~~an eligible-the~~ pupil returns on or before the ~~seventh-fifth~~ educational calendar day after the first day of non-authorized absences from the educational program, an ~~eligibleapproved~~ facility school

or a state program may include the days the pupil was absent in its calculation of total educational calendar days in membership.

- 18.06 If ~~an eligible~~ the pupil returns after the ~~seventh~~ fifth calendar day after the first day of non-authorized absences from the educational program, an ~~eligible~~ approved facility school or a state program may include only those days preceding and including the last day of actual attendance in the educational program in its calculation of total calendar days in membership.
- 18.07 For authorized ~~eligible~~ pupil absences, an ~~eligible~~ approved facility school or a state program may include the actual number of instructional days the pupil was absent, up to a maximum of ~~fourteen~~ ten, in its calculation of total educational calendar days in membership.
- 18.08 When ~~an eligible~~ a pupil reaches age 21, an ~~eligible~~ approved facility school or a state program may include such pupil in its monthly report of pupils served and in its calculation of full-time equivalent membership only through the end of the semester in which the ~~eligible~~ pupil reaches age 21.
- 18.09 An ~~eligible~~ approved facility school or a state program shall retain documentation of ~~eligible~~ pupils' names, birthdates, addresses, SASID, dates of admission, schedules, records of attendance, dates of discharge, and placement information until audited by the Department or until five years from the date it submits its monthly reports to the Department pursuant to Rule 2254-R-17.00.

2254-R-19.00 Pupils Publicly Placed Outside the District of Residence-Monthly CDE Reimbursement Payments [Eff. 11/30/2008]

- 19.01 On or before the fifteenth day of the month following the month in which an ~~eligible~~ approved facility school or a state program is required to report its numbers of pupils served and its full-time equivalent membership pursuant to Rule 2254-R-17.00, the Department shall pay the facility a proportional amount of the state average per pupil revenues based on the ~~facility's~~ approved facility school's or state program's reported full-time equivalent membership determined by the number of instructional days served.
- 19.01(1) An approved facility school or a state program which operates an educational program shall receive a daily rate of one and one-third times the state average per pupil revenue for each full-time equivalent membership reported. The number of instructional days may range from 176 days to 235 days per year, depending on whether the ~~eligible~~ approved facility school or state program provides a nine, ten, eleven or twelve month educational program.
- ~~19.01(2) A state-operated program which operates an educational program shall receive a daily rate based on the state average per pupil revenue for each full-time equivalent membership reported. The number of instructional days may range from 176 days to 235 days per year, depending on whether the eligible facility provides a nine, ten, eleven or twelve month educational program. State-operated programs are provided other state appropriations to assist with their educational programs.~~
- 19.01 ~~(3)~~ (2) The Department may prorate its reimbursement payments if deemed necessary to accommodate a projected revenue shortfall.
- 19.02 The Department shall pay ~~a~~ an approved facility school or a state program a maximum of one and one-third times the state average per pupil revenues for each full-time equivalent membership for a school year.
- 19.03 The Department is authorized to hold late reports pursuant to Rule 2254-R-17.01(1) and to hold any ~~facility's~~ approved facility school's or state program's adjustment to its full-time membership

information previously reported until the end of the fiscal year, at which time adjusted reimbursement payments may ~~BE~~be made.

- 19.04 An eligible approved facility school or a state program annually shall submit its school year calendar to the Department on or before May 1st.

~~2254-R-20.00—Pupils Publicly Placed Outside the District of Residence-State Board Approval for On-Grounds Schools—[Eff. 11/30/2008]~~

~~20.01—To receive State Board approval for an on-grounds school, an eligible facility shall at a minimum:~~

~~20.01(1)——Ensure that each eligible pupil with a disability under the Elementary and Secondary Education Act or the Individuals with Disabilities Education Act shall have an Individual Education Plan (IEP) that is developed by the pupil's district of residence in cooperation with the eligible facility and that the eligible facility shall deliver the services in accordance with the IEP and that the eligible facility shall assist in IEP reviews, if requested;~~

~~20.01(2)——Ensure that an eligible pupil who is not determined to have a disability under the Elementary and Secondary Education Act or the Individuals with Disabilities Education Act shall have a statement of educational objectives to be accomplished and that such statement shall be prepared by the eligible facility and reviewed at least annually and that in preparing these objectives the eligible facility shall seek input from the pupil's district of residence regarding the pupil's educational history and that the eligible facility shall mail a copy of the statement to the district of residence and that the eligible facility shall notify the district of resident of the status of such objectives upon the pupil's departure from the eligible facility;~~

~~20.01(3)——Demonstrate that it can provide services to meet the requirements of the Individual Education Plan (IEP) or statement of objectives and that such services shall be provided by individuals meeting applicable certification or licensing standards of appropriate state agencies and shall be accompanied by adequate and appropriate educational materials and equipment;~~

~~20.01(4)——Meet all applicable state and federal education laws and regulations;~~

~~20.01(5)——Provide each eligible pupil with the opportunity for enrollment and attendance in instructional services commensurate with that provided by public school districts in a school year program plan (1080 hours for secondary, 990 hours for elementary), except as otherwise approved by the Department when reviewing the intent of all federal and state requirements upon the eligible facility when interpreted as a whole. In no case shall a program be eligible for approval if it provides less than 720 hours of instructional service in a school year.~~

~~20.01(6)——Provide for the evaluation of individual pupil progress;~~

~~20.01(7)——Agree to cooperate with Department on-site review teams;~~

~~20.01(8)——Provide for the maintenance and retention of pupil records;~~

~~20.01(9)——Adhere to requirements as delineated in the Rules for the Administration of the Exceptional Children's Educational Act (Article 20 of Title 22, C.R.S.).~~

~~20.02—An eligible facility may appeal a denial of its on-grounds school approval pursuant to procedures provided in the Rules for the Administration of the Exceptional Children's Educational Act.~~

Editor's Notes**History**

Section 2254-R-5.00 eff. 5/10/2007.

Entire Rule eff. 9/30/2007.

Emer. Rules Sections 2254-R-1.00, 2254-R-14.00 through 2254-R-20.00 eff. 09/11/2008.

Sections 2254-R-1.00; 2254-R-14.00 through 2254-R-20.00 Eff. 11/30/2008.

Annotations

Rule 2254-R-5.19(3) (adopted 08/08/2007) was not extended by Senate Bill 08-075 and therefore expired 05/15/2008.