



Code of Colorado Regulations
Secretary of State
State of Colorado

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT

1 CCR 301-8

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

1.00 STATEMENT OF BASIS AND PURPOSE

These rules implement the Exceptional Children's Educational Act ("ECEA"), §§ 22-20-101, *et seq.*, C.R.S., under the rulemaking authority granted in § 22-20-104, C.R.S., and related statutes.

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2.00 DEFINITIONS

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2.02 Administrative Unit

Administrative Unit (AU) means a school district, board of cooperative services, multi-district administrative unit, a charter school network, a charter school collaborative, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of these Rules. In order to qualify as an administrative unit, an entity shall meet all minimum standards established in Section 3.01 of these Rules. All administrative units shall be approved by the Department of Education.

2.02(1) Administrative unit of residence

Pursuant to sections 22-1-102 and 22-20-107.5, C.R.S., an administrative unit of residence (AUR) shall mean the unit in which the child resides on a day-to-day basis with the following exceptions to apply when a child has been determined to have a disability:

2.02(1)(a) If a child with a disability is living at one of the regional centers, an approved facility school, a group home, a mental health institute operated by the Department of Human Services, or if the child attends the Colorado School for the Deaf and the Blind, such child shall be deemed to reside where the parent or guardian of such child resides.

2.02(1)(b) If a child has been placed by a Colorado public agency and lives in one of the regional centers, a mental health institute, a facility, or a group home, and the AUR cannot be determined because parental rights have been relinquished by the parents or terminated by a court, the parents are incarcerated, cannot be located, reside out of state, are deceased, or the child is legally emancipated, the child shall be considered a resident of the administrative unit in which the regional center, mental health institute, facility or group home is located, except as otherwise provided in Rule 2.02(1)(i) below.

2.02(1)(c) If the child resides in a foster care home, the child shall be deemed to be a resident of the AU in which the foster care home is located, except as otherwise provided in Rule 2.02(1)(i) below.

- 2.02(1)(d) When a child attends a school in another district under the provisions of the public schools of choice law, the child shall be considered a resident of the AU in which the parent or guardian resides.
- 2.02(1)(e) When a child attends a Charter School in another district, the child shall be considered a resident of the AU in which the parent or guardian resides (unless Rule 2.02(1)(h) applies).
- 2.02(1)(f) When a child attends a public school on-line program in another district, the child shall be considered a resident of the AU in which the parent or guardian resides (unless Rule 2.02(1)(h) applies).
- 2.02(1)(g) If a child with a disability is homeless, as defined by Section 22-1-102.5, C.R.S., the provisions of Section 22-1-102(2), C.R.S., apply.
- 2.02(1)(h) If a child with a disability enrolls in a district or institute charter school that participates in an alternative administrative unit, the alternative administrative unit is deemed the administrative unit of residence and of attendance so long as the child is enrolled in the alternative administrative unit.

2.02(1)(i) If a child with a disability is a student in out-of-home placement (as defined in section 22-32-138, C.R.S.), is enrolled in a school of origin (as defined in section 22-32-138, C.R.S.) other than an approved facility school or a state-licensed day treatment facility, and was considered a resident of the school district at the time the child became a student in out-of-home placement or at the time of enrollment in the school of origin (whichever is most recent), then the school of origin's administrative unit remains the student's administrative unit of residence regardless of the out-of-home placement's location.

- 2.02(1)(j) Disputes regarding residency

If there is a dispute as to which AU constitutes the AUR, the Commissioner of Education shall have the authority to determine questions of residency and thus responsibility after reviewing necessary details involved in the determination of residency.

2.02(2) Administrative unit of attendance

An administrative unit of attendance (AUA) shall mean the unit that delivers the special education program for a child. It may be different from the AUR when:

- 2.02(2)(a) The AUR does not have an adequate number of children with similar needs, and chooses to send the child to another AU for his or her special education program.
- 2.02(2)(b) The child resides at one of the regional centers, mental health institutes, residential child care facilities, hospitals, group care facilities or homes or in a facility formerly operated by or under contract to the Department of Institutions and now transferred to the Department of Human Services, or attends the Colorado School for the Deaf and the Blind and the special education program is provided by an AU other than the AUR.
- 2.02(2)(c) The child attends a Charter School, School of Choice or a public school on-line program and the Special Education program is provided by a special education AU other than the AUR.

2.02(3) Alternative Administrative Unit

Alternative Administrative Unit means the state charter school institute acting in accordance with section 22-30.5-105.3 as the administrative unit, pursuant to section 22-20-106(1)(b), for a charter school authorized by a school district; a charter school network authorized and acting as an administrative unit pursuant to section 22-20-106(1)(b); or a charter school collaborative

authorized and acting as an administrative unit pursuant to section 22–20–106(1)(b).

2.02(4) Multi-district Administrative Unit

Multi-district Administrative Unit means a group of two or more school districts that did not form a Board of Cooperative Services but were (a) parties to an agreement existing on January 1, 2011, to provide educational services to exceptional children and to be responsible for the local administration of these Rules, and (b) recognized by the Department as of January 1, 2011, as an administrative unit.

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2.19 Facility

Facility means a day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., or a hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S.

2.19(1) *Approved Facility School* means an educational program that is operated by a facility or a specialized day school authorized by CDE's Office of Facility Schools to provide educational services to students placed in the facility, including special education services to children with disabilities, and that has been placed, pursuant to section 22-2-407, C.R.S., on the list of facility schools that are approved to receive reimbursement for providing those educational services. An educational program provided by an administrative unit at a facility is not an approved facility school, but rather is an educational program of the administrative unit that does not require approval by the Department.

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9.00 OUT OF DISTRICT PLACEMENTS

9.01 DEFINITIONS

9.01(1) “**Applicable revenues**” means:

9.01(1)(a) The Per Pupil Revenue (PPR), as follows:

9.01(1)(a)(i) The PPR of the chartering school district when a child with a disability enrolls in and attends a charter school pursuant to Article 30.5 of Title 22, C.R.S., not including enrollment in multidistrict online schools;

9.01(1)(a)(ii) The PPR of the accounting district, as defined under Section 22-30.5-513 (1)(a), C.R.S., when a child with a disability enrolls in and attends an institute charter school pursuant to Part 5 of Article 30.5 of Title 22, C.R.S.

9.01(1)(a)(iii) The PPR of the district of attendance when a child with a disability enrolls in and attends a school in an administrative unit other than the child's administrative unit of residence pursuant to Section 22-36-101, C.R.S., not including enrollment in multidistrict online schools;

9.01(1)(a)(iv) The PPR of the district of residence when an administrative unit of residence purchases services from another administrative unit for a specific special education program not available in the administrative unit of residence; or

9.01(1)(a)(v) The per pupil funding for online enrollment set by Section 22-54-104(4.5), C.R.S., for a child with a disability enrolled in a multidistrict online school, including a multidistrict online school provided by a charter school.

9.01(1)(c) Monies available from federal sources.

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- 9.01(1)(d) Monies received under ECEA.
- 9.01(1)(e) Monies received from other state agencies, including the per child rate for preschool services as determined by the Colorado Department of Early Childhood pursuant to section 26.5-4-208, C.R.S. (“per child preschool rate”).
- 9.01(1)(f) Monies received from other administrative units, not including tuition.
- 9.01(1)(g) Monies received through grants and donations.
- 9.01(1)(h) For ~~a child with a disability placed in~~ an approved facility school, ~~the~~ amount ~~equal to one and seventy-three hundredths (i.e., 173%) of the statewide base per pupil funding for the applicable budget year, pursuant to of funds received from the state under~~ Section 22-54-129~~(e) (H)~~, C.R.S.
- 9.01(2) **“Charter School”** means a charter school authorized under Article 30.5 of Title 22, C.R.S. **“District Charter School”** means a charter school authorized by a school district pursuant to Part 1 of Article 30.5, C.R.S. **“Institute Charter School”** means a charter school authorized by the state Charter School Institute pursuant to Part 5 of Article 30.5, C.R.S. **“Charter school”** does not include any school authorized pursuant to Section 22-80-102(4)(b), C.R.S.
- 9.01(3) **“Facility”** and **“Approved Facility School”** are defined in section 2.1~~98~~ of these Rules.
- 9.01(4) **“Multidistrict online school”** means an multidistrict online school as defined in Section 22-30.7-102(6), C.R.S.
- 9.01(5) **“Public Agency”**, for purposes of this Rule 9.00, means a public agency that is not an administrative unit and is legally authorized to place a child in a facility with an approved facility school or another out-of-home placement.
- 9.01(6) **“Public Placement”** means the placement of a child with a disability in a facility with an approved facility school or another out-of-home placement by a court or public agency.
- 9.01(7) **“Special Education Expenditures”** means the expenditures as defined in Section 2.00 of these Rules.
- 9.01(8) **“ Tuition Costs ”** ~~shall~~ means:
(a) the amount of expenditures for special education services over and above applicable revenues, as defined in Section 9.01(1) of these Rules, for a child with a disability who receives his or her special education services in an approved facility school, charter school, public school of choice pursuant to Section 22-36-101, C.R.S., or a public on-line program pursuant to Section 22-33- 104.6, C.R.S.; or
(b) the tuition rate for the cost of providing special education services to a child with a disability in an approved facility school established by the Department of Education and approved by the State Board pursuant to Section 22-20-109(2)(a) & (b), C.R.S. and Section 9.06(1) of these rules.

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9.03 RESPONSIBILITY FOR TUITION COSTS

9.03(1) Criteria for School Choice Placements

Tuition shall be owed to the charter school, district of attendance, or multidistrict online school for a child who has a disability identified under 9.03(1)(a) and meets one of the factors set forth in 9.03(1)(b):

- 9.03(1)(a) Eligible Disabilities

The child has been identified as having one or more of the following disabilities, as defined by Section 2.00 of these Rules:

- 9.03(1)(a)(i) A Vision Impairment, Including Blindness;
- 9.03(1)(a)(ii) A Hearing Impairment, Including Deafness;
- 9.03(1)(a)(iii) Deaf-blindness;
- 9.03(1)(a)(iv) A Serious Emotional Disability;
- 9.03(1)(a)(v) Autism Spectrum Disorder;
- 9.03(1)(a)(vi) A Traumatic Brain Injury;
- 9.03(1)(a)(vii) Multiple Disabilities; or
- 9.03(1)(a)(viii) Intellectual Disability.

9.03(1)(b) Indicators of Intensity and Duration of Services

9.03(1)(b)(i) For schools or programs serving a broad range of children with and without disabilities, tuition shall be owed only for those children with disabilities identified in Section 9.03(1)(a) whose program intensity and duration of services differ significantly from the intensity and duration of services provided by the school or program to children with disabilities not included in Section 9.03(1)(a).

9.03(1)(b)(ii) For schools or programs designed primarily to serve children with disabilities which provide an intensity and duration of services that differ significantly from other programs in the administrative unit of attendance, tuition shall be owed for all students listed in Section 9.03(1)(a).

9.03(2) Type of Tuition Placements

9.03(2)(a) Placement in Approved Facility Schools

9.03(2)(a)(i) When a child with a disability is placed, ~~by a public agency,~~ into an approved facility school, the district of residence is responsible for paying the ~~educational costs over and above applicable revenues, also known as~~ tuition costs. ~~The administrative unit of residence shall count the child for the December 1 Special Education Count.~~ The tuition cost ~~rates~~ shall be determined by the Department of Education ~~and approved by the State Board for each approved facility school~~ in accordance with ~~s~~Section 9.06(1) of these Rules. Such tuition costs shall be the maximum amount the district of residence shall be obligated to pay for the special education program. ~~Except that the~~The district of residence may pay a higher tuition cost than the cost established ~~by the Department of Education~~ and approved by the ~~State Board Department of Education~~ for children in need of specialized services, if these services ~~are~~were included in a child's IEP. ~~but were not included in the approved tuition cost. Costs for additional services required by an individual child and documented on an IEP may be negotiated by the approved facility school and administrative unit of residence.~~ The district of residence is not responsible for paying tuition costs for extended school year services for a child unless the child's IEP specifies the need for extended school year services. The Department of Education does not set the amount of tuition costs ~~that~~ the administrative unit of attendance may charge the district of residence for children in group homes served by the administrative unit of attendance.

9.03(2)(a)(i)(A) When a child with a disability is placed into an approved facility school, the administrative unit of residence must count the child for the December Special Education Count. The approved facility school must report monthly student enrollment to CDE as required by Section 22-54-129(4)(a), C.R.S., and 1 CCR 301-39, rule 14.00, and bill CDE for the amounts due under Section 22-54-129(2.5)(a)(I), C.R.S.

9.03(2)(a)(ii) Any court of record, the Department of Human Services, or any other public agency authorized by law to place a child with a disability in a facility with an approved facility school shall notify in writing the child's administrative unit of residence, the administrative unit in which the approved facility school is located and the Department of the placement within fifteen calendar days after the placement. If a court or public agency makes a public placement but fails to provide the required written notice, such court or public agency shall be responsible for the tuition costs for the child until such time as the required notification is made. If the child's administrative unit of residence does not provide written notice of disapproval of the child's placement in an approved facility school by a court or public agency within fifteen calendar days after the required notification, the placement shall be deemed appropriate. A decision to disapprove a placement must be based solely on the unavailability of appropriate educational services. If the placement is disapproved, the administrative unit of residence must assure that the child receives a free appropriate public education until an appropriate placement can be determined in accordance with these Rules.

~~9.03(2)(a)(ii)(A) If an administrative unit of residence initiates a placement of a child with a disability into an approved facility school for its day treatment or residential program, and the approved facility school also provides the child's educational program, the administrative unit of residence shall count the child on its December 1 Special Education Count. The approved facility school shall count the student on the October 1 Count, bill the Department for one and seventy-three hundredths (i.e., 173%) of the statewide base per pupil revenue, pursuant to Section 22-54-129(c)(II), C.R.S., and the administrative unit of residence shall pay the approved facility school all remaining day treatment or residential costs, as well as any additional educational costs agreed to by the parties.~~

~~9.03(2)(a)(ii)(B) If an administrative unit of residence places a child with a disability into an approved facility school for the educational program only, the district of residence must count the child on the October 1 Count as being in a private school placement, and the administrative unit of residence shall count the child on its December 1 Special Education Count as being in a private school placement. The approved facility school shall not bill the Department for one and seventy-three hundredths (i.e., 173%) of the statewide base PPR for the child, pursuant to Section 22-54-129(c)(II), C.R.S. Instead the approved facility school shall bill the administrative unit of residence for the total cost of the child's educational program, as agreed to by the approved facility school and the administrative unit of residence.~~

9.03(2)(b) Placement in Charter Schools

When a child with a disability enrolls in and attends a charter school pursuant to Article 30.5 of Title 22, C.R.S., including a charter school that provides a multidistrict online school, the district of residence shall be responsible for paying to the charter school or the chartering authority, whichever is providing the special education services, the tuition costs incurred in educating the child. The chartering authority shall count the child for the October 1 Count, and the administrative unit of attendance shall count the child for the December 1 Special Education Count. The amount of the tuition costs shall be

determined pursuant to Section 9.06(2) of these Rules. A written approval for the placement is not required from the administrative unit of residence or from the district of residence. Nothing in this subsection shall be construed to apply to the charter contract entered into between a charter school and its chartering authority or to allow a charter school to seek tuition costs from its chartering authority. The tuition responsibility shall be reflected in a contract among the charter school, the administrative unit of residence and the district of residence, if it is not an administrative unit, in a form approved by the chartering authority, and consistent with Section 9.05(1) of these Rules. Under the circumstances described in this subsection, the provisions of Section 22-20-108(8), C.R.S. shall not apply.

9.03(2)(b)(i) Tuition shall be owed to the charter school for those children based on the criteria set forth in Section 9.03(1) of these Rules.

9.03(2)(b)(ii) The provisions in Section 9.03(2)(b) also apply when:

9.03(2)(b)(ii)(A) A child is already enrolled in the charter school and is subsequently identified as a child with a disability in connection with the child find process; or

9.03(2)(b)(ii)(B) A charter school, which has not been billing for tuition costs for an enrolled child with a disability, decides to initiate a tuition contract.

9.03(2)(b)(iii) The provisions in Section 9.03(2)(b) apply only if the charter school complies with the Rules herein governing tuition costs. Likewise, if the charter school does not intend to seek tuition costs, the charter school is not required to comply with Sections 9.03(2)(b), 9.04(2), 9.05(1), 9.06(2) and 9.07(2) of the Rules. This subsection in no way relieves the charter school or the administrative unit of attendance, depending on the charter contract, from the obligation to provide a free appropriate public education to the children with disabilities attending the charter school.

9.03(2)(c) Placement in Traditional Schools of Choice

When a child with a disability enrolls in and attends a school in an administrative unit other than the child's administrative unit of residence pursuant to the provisions of Section 22-36-101, C.R.S., and other than a multidistrict online school, and the school is not a charter school pursuant to Article 30.5 of Title 22, C.R.S., the district of residence shall be responsible for paying the tuition costs for educating the child to the district of attendance. The district where the child attends shall count the child for the October 1 Count, and the administrative unit of attendance shall count the child for the December 1 Special Education Count. The administrative unit of attendance, the district of attendance, if it is not an administrative unit, the administrative unit of residence, and the district of residence, if it is not an administrative unit, must negotiate a contract which does not need to be approved by the Department of Education. No written approval for the placement is required from the administrative unit of residence and/or the district of residence. The administrative unit of attendance shall provide notice in accordance with Section 9.04(1) of these Rules.

9.03(2)(c)(i) Tuition shall be owed to the district of attendance for those children based on the criteria set forth in Section 9.03(1) of these Rules.

9.03(2)(c)(ii) The provisions in Section 9.03(2)(c) of these Rules also apply when:

9.03(2)(c)(ii)(A) A child is already enrolled in the district of attendance under public schools of choice and is subsequently identified as a child with a disability in connection with the child find process; or

9.03(2)(c)(ii)(B) A district of attendance, which has not been billing for tuition costs for an enrolled child with a disability, decides to initiate a tuition

contract.

9.03(2)(c)(iii) The provisions in Section 9.03(2)(c) of these Rules apply only if the district of attendance complies with the Rules herein governing tuition costs. Likewise, if the district of attendance does not intend to seek tuition costs, neither it nor the administrative unit of attendance is required to comply with Sections 9.03(2)(c), 9.04(1), 9.06(3), and 9.07(1) of these Rules. This subsection in no way relieves the administrative unit of attendance from the obligation to provide a free appropriate public education to the children with disabilities attending school in the administrative unit under public schools of choice.

9.03(2)(d) Placement in Multidistrict Online Schools

When a child with a disability enrolls in and attends a multidistrict online school that is not provided by a charter school, the district of residence shall be responsible for paying to the provider of the multidistrict online school the tuition costs incurred in educating the child. The district where the child attends school shall count the child for the October 1 Count, and the administrative unit of attendance shall count the child for the December 1 Special Education Count. The tuition responsibility shall be reflected in a contract among the administrative unit of attendance, the district of attendance, if it is not an administrative unit, the administrative unit of residence and the district of residence, if it is not an administrative unit, in accordance with Section 9.04(3) of these Rules, and in a form approved by the Department of Education. A written approval for the placement is not required from the administrative unit of residence or from the district of residence. The online provider shall provide notice in accordance with these Rules when a child with a disability applies to enroll in the multidistrict online school. The amount of the tuition costs shall be determined pursuant to Section 9.06(4) of these Rules. Under the circumstances described in this subsection, the provisions of Section 22-20-108(8), C.R.S. shall not apply.

9.03(2)(d)(i) Tuition shall be owed to the multidistrict online school for those children based on the criteria set forth in Section 9.03(1) of these Rules.

9.03(2)(d)(ii) The provisions in Section 9.03(2)(d) of these Rules also apply when:

9.03(2)(d)(ii)(A) A child is already enrolled in the multidistrict online school and is subsequently identified as a child with a disability in connection with the child find process; or

9.03(2)(d)(ii)(B) A multidistrict online school, which has not been billing for tuition costs for a child with a disability enrolled in its program, decides to initiate a tuition contract.

9.03(2)(d)(iii) The provisions in Section 9.03(2)(d) of these Rules apply only if the multidistrict online school complies with the Rules herein governing tuition costs. Likewise, if the multidistrict online school does not intend to seek tuition costs, Sections 9.03(2)(d), 9.04(3), 9.05(2), 9.06(4) and 9.07(3) of these Rules do not apply. This subsection in no way relieves the administrative unit of attendance for the multidistrict online school from the obligation to provide a free appropriate public education to the children with disabilities attending the multidistrict online school.

9.03(2)(d)(iv) The provisions in Section 9.03(2)(d), 9.04(3), 9.05(2), 9.06(4) and 9.07(3) of these Rules do not apply to any online program that is providing services that are supplemental to the curriculum of a school district.

9.03(2)(e) Placement by Administrative Units

An administrative unit may purchase services from one or more administrative units where an appropriate special education program exists. The district of residence shall

count the child for the October 1 Count, and the administrative unit of residence shall count the child for the December 1 Special Education Count. The two administrative units must negotiate a contract, including the cost of the program, which does not need to be approved by the Department of Education.

9.03(2)(f) Enrollment in Alternative Administrative Units

Notwithstanding any provision of this Section 9.03 of these Rules to the contrary:

9.03(2)(f)(i) An alternative administrative unit shall not charge the previous district of residence tuition for the excess costs incurred in educating a child with a disability unless the child is placed by a multidisciplinary team pursuant to section 22-20-108(4), C.R.S., in the alternative administrative unit and the child meets the criteria for funding pursuant to section 22-20-114(1)(c)(II), C.R.S. The amount of tuition shall be established in a manner substantially similar to the process in Section 9.03(2)(b).

9.03(2)(f)(ii) If the parents of a child with a disability remove the child from enrollment in the alternative administrative unit after the annual count date to determine state funding for children with disabilities, the alternative administrative unit continues to be deemed the administrative unit of residence for that child for the remainder of the school year and may be required to pay the tuition charge for excess costs to the administrative unit of attendance that enrolls the child for the remainder of the school year. The amount of tuition shall be prorated as appropriate and shall be established in a manner substantially similar to the process in Section 9.03(2)(b).

9.03(2)(f)(iii) If a child with a disability who is enrolled in an alternative administrative unit is placed by an IEP team in an approved facility school or other private setting for special education purposes, the child with a disability continues to be enrolled in the alternative administrative unit (which is thus the district of residence for purpose of Section 9.03(2)(a) of these Rules) until:

9.03(2)(f)(iii)(A) The parents of the child with a disability initiate a change in enrollment that results in the child with a disability attending a school affiliated with a different administrative unit;

9.03(2)(f)(iii)(B) The child with a disability is no longer enrolled in the school of the alternative administrative unit because the child with a disability is no longer entitled by age to continue in the school of the alternative administrative unit, unless the child with a disability has reached the age of eighteen and qualifies for transition services and is enrolled in a school that offers high school;

9.03(2)(f)(iii)(C) The child with a disability is no longer enrolled in the school of the alternative administrative unit because the child with a disability is home-schooled or enrolled in a private school for general education purposes; or

9.03(2)(f)(iii)(D) The placement of the child with a disability in an approved facility school or other private setting for special education purposes ends and, subsequently, the enrollment of the child with a disability in the alternative administrative unit ends for any reason permitted by law.

9.03(2)(f)(iii)(E) Nothing in this rule 9.03(2)(f)(iii) modifies rule 9.03(2)(f)(i) and (ii).

9.04 SCHOOLS OF CHOICE NOTIFICATION REQUIREMENTS

9.04(1) Notice - Public Schools Of Choice That Are Not Charter Schools Or Multidistrict Online Schools

The district of attendance shall provide written notice to the district of residence when a child is admitted in one of its schools and the principal of the school knows that the child is a child with a disability. The specific requirements for the written notice are set forth below:

9.04(1)(a) Applies to Enroll

As required by federal law, the State Board interprets the term “applies to enroll” as used in Section 22-20-109, C.R.S., to refer the point at which this student is admitted, i.e., the district of attendance has offered a space to the child and the parent(s) has accepted the offer.

9.04(1)(b) Content of Notice

The written notice by the district of attendance shall identify the child by name; date of birth; state assigned student identifier (SASID), if available; date of admission; and that the child has been identified as a child with a disability.

9.04(1)(c) Manner

The notice shall be in writing, shall be signed by the school principal and shall be sent to the superintendent of the district of residence, if the district of residence is not an administrative unit, and to the special education directors of the administrative units of attendance and residence. The manner in which the written notice is provided must maintain the confidentiality of the child’s personal information in accordance with the policy of the administrative unit of attendance.

9.04(1)(d) Timing

The notice shall be sent within 15 calendar days after the occurrence of the following two events:

9.04(1)(d)(i) The child has is admitted in the district of attendance; and

9.04(1)(d)(ii) Upon exercising timely and due diligence, the school principal knows that the child is a child with a disability.

9.04(1)(e) Change in District of Residence

If there is a change in the child’s district of residence, the same notification and timelines set forth in this Section 9.04(1) must be followed. In addition, the district of attendance must notify the special education director of the former administrative unit of residence, the superintendent of the former district of residence, if it is not an administrative unit, and the special education director of the administrative unit of attendance that the child has moved and the date that the move occurred, thereby removing from the former district of residence the tuition cost responsibility for that child as of the date of the change in residency.

9.04(2) Notice - Charter Schools

The charter school shall provide written notice to the district of residence when a child is admitted in the charter school and the charter school’s administrator knows that the child is a child with a disability. The specific requirements for the written notice are set forth below:

9.04(2)(a) Applies to Enroll

As required by federal law, the State Board interprets the term “applies to enroll” as used

in Section 22-20-109, C.R.S., to refer the point at which this student is admitted, *i.e.*, the charter school has offered a space to the child and the parent(s) has accepted the offer.

9.04(2)(b) Content of Notice

The written notice by the charter school shall identify the child by name; date of birth; state assigned student identifier (SASID), if available; date of admission; and that the child has been identified as a child with a disability.

9.04(2)(c) Manner

The notice shall be in writing, shall be signed by the charter school administrator and shall be sent to the superintendent of the district of residence, if the district of residence is not an administrative unit, and to the directors of special education for both the administrative units of residence and attendance. The manner in which the written notice is provided must maintain the confidentiality of the child's personal information in accordance with the policy of the administrative unit of attendance.

9.04(2)(d) Timing

The notice shall be sent within 15 calendar days after the occurrence of the following two events:

9.04(2)(d)(i) The child has is admitted in the charter school; and

9.04(2)(d)(ii) Upon exercising timely and due diligence, the charter school administrator knows that the child is a child with a disability.

9.04(2)(e) Change in District of Residence

If there is a change in the child's district of residence, the same notification and timelines set forth in this Section 9.04(2) must be followed. In addition, the charter school must notify the special education director of the former administrative unit of residence, the superintendent of the former district of residence, if it is not an administrative unit, and the special education director for the administrative unit of attendance that the child has moved and the date that the move occurred, thereby removing from the former district of residence the tuition cost responsibility for that child as of the date of the change in residency.

9.04(3) **NOTICE – Multidistrict Online Schools**

The multidistrict online school shall provide written notice to the district of residence when a child is admitted in the multidistrict online school and the multidistrict online school's director knows that the child is a child with a disability. The specific requirements for the written notice are set forth below:

9.04(3)(a) Applies to Enroll

As required by federal law, the State Board interprets the term "applies to enroll" as used in Section 22-20-109, C.R.S., to refer the point at which this student is admitted, *i.e.*, the multidistrict online school has offered a space to the child and the parent(s) has accepted the offer.

9.04(3)(b) Content of Notice

The written notice by the multidistrict online school director shall identify the child by name; date of birth; state assigned student identifier (SASID), if available; anticipated date of admission; and that the child has been identified as a child with a disability.

9.04(3)(c) Manner

The notice shall be signed by the director of the multidistrict online school and shall be sent to the superintendent of the district of residence, if the district of residence is not the administrative unit of residence, and to the directors of special education for the administrative units of attendance and residence. The manner in which the written notice is provided must maintain the confidentiality of the child's personal information in accordance with the policy of the administrative unit of attendance.

9.04(3)(d) Timing

The notice shall be sent within 15 calendar days after the occurrence of the following two events:

9.04(3)(d)(i) The child has is admitted in the multidistrict online school, as defined in this Section; and

9.04(3)(d)(ii) Upon exercising timely and due diligence, the multidistrict online school director knows that the child is a child with a disability.

9.04(3)(e) Change in District of Residence

If there is a change in the child's district of residence the same notification and timelines set forth in this Section 9.04(3) must be followed. In addition, the multidistrict online school must notify the special education director of the former administrative unit of residence, the superintendent of the former district of residence, if it is not an administrative unit, and the special education director for the administrative unit of attendance that the child has moved and the date that the move occurred, thereby removing from the former district of residence the tuition cost responsibility for that child as of the date of the change in residency.

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9.06 DOCUMENTATION OF TUITION COSTS

9.06(1) Approved Facility Schools

9.06(1)(a) Starting the 2024-25 school year, tuition costs for approved facility schools will be structured in tiers. CDE will establish tiers (i.e., levels) for the purpose of tuition cost rates. CDE will annually make two designations: (1) assignment of each approved facility school to a tier; and (2) determination of a tuition cost rate for each tier. The tuition cost rate must be based primarily on special education staff salaries, special education staff employment benefits, and additional expenses for special education programming such as professional development, assessments, and specialized equipment. When determining annual tuition cost rates for each tier, CDE may consider previous tuition cost rates as well as actual costs incurred by approved facility schools to provide special education programming, as demonstrated by documentation submitted to CDE. Annually, approved facility schools must submit to the Department of Education an itemized documentation of the proposed amount of tuition costs charged to an administrative unit of residence for special education services provided to a child with disabilities who is determined to be the responsibility of the administrative unit of residence.

9.06(1)(b) Annually, approved facility schools must submit to CDE information about certain costs to provide special education programming, as requested on forms developed by CDE. At a minimum, CDE may collect information about the following: information about staff-to-student ratios; the number of school days that the approved facility school offers the program; special education expenditures as defined in section 2.00 of these rules; and other education costs. CDE may use the information collected to establish the tiered tuition cost rates. The documentation must be submitted on forms developed by the Department of Education, and must include the following:

~~9.06(1)(b)(i) — Special education expenditures defined in Section 2.00 of these Rules;~~

~~9.06(1)(b)(ii) — The number of days in the school year during which the approved facility school offers the program; and~~

~~9.06(1)(b)(iii) — A separate set of proposed costs for services that differ from those offered during the regular academic year.~~

9.06(1)(c) The State Board must annually review and approve CDE's assignment of approved facility school tiers and determination of tuition cost rates for each tier. Tuition costs shall be determined after deducting applicable revenues, as defined in Section 9.01(4) of these Rules.

9.06(1)(d) A percentage of the baseline funding amount~~per pupil operating revenue~~, to be determined annually by the Department of Education, shall be applied as revenue toward indirect costs of the special education program, such as utilities, maintenance, administrative support services, regular education, and other items that may be determined by the Department.

9.06(1)(e) In no instance shall the total revenues received by the approved facility school for Department of Education approved costs for special education services exceed 100 percent of the total expenditures for the provision of those special education services. In other words, the total revenue should not exceed the total actual costs. ~~Based on this information, the Department will recommend to the State Board of Education tuition rates for approved facility school. Costs for additional services required by an individual child, and documented on an IEP may be negotiated with the administrative unit of residence.~~

9.06(1)(f) If an approved facility school believes it belongs in a different tuition rate tier than the tier designated by the Department of Education and approved by the State Board, the approved facility school may provide written notice to the Department of Education's Office of Facility Schools explaining the basis for its request to be placed in a different tuition rate tier no later than 30 days from the State Board's annual determination of tuition rate tiers. The Department of Education's Office of Facility Schools will review the request for reconsideration and issue a written decision within 30 days of receipt of the request.

9.06(2) Charter Schools, Excluding Charter Schools That Are On-line Programs

The provisions of this section apply only if the charter school intends to seek tuition costs. Likewise, if the charter school does not intend to seek tuition costs, the charter school is not required to comply with this section.

9.06(2)(a) Annually, charter schools, excluding charter schools that are also on-line programs, must submit to the Department an itemized documentation of the proposed amount of tuition costs to be charged to a district of residence for special education services provided to a child with disabilities who is enrolled in the charter school. If appropriate, multiple rates may be set for different programs within the charter school. The special education director of the administrative unit of attendance shall certify that the information contained in the documentation is accurate and that the criteria set forth in 9.03(1) are met.

9.06(2)(b) The documentation must be submitted on forms developed by the Department and in accordance with timelines established by the Department. The documentation must include the following:

9.06(2)(b)(i) Special education expenditures defined in Section 2.00 of these Rules;

9.06(2)(b)(ii) The number of days in the school year during which the charter school

offers the program;

9.06(2)(b)(iii) Expenditures for the regular education program, administration, personnel costs, business services, and occupancy; and

9.06(2)(b)(iv) The average number of children enrolled in the charter school, and the number of those children with disabilities.

9.06(2)(c) For the purpose of establishing a tuition rate, student/staff ratios in a particular program shall be approved by the chartering authority and shall be reasonably consistent with the ratios of the chartering authority, for serving students with comparable disabilities.

9.06(2)(d) The type of supplies and equipment that may be included in the documented special education costs shall be unique for children with disabilities. The Department shall limit the amount for supplies and equipment to be included in the rate to no more than 1.1 times the average cost per child with disabilities for supplies and equipment for administrative units in the most recent year for which data are available.

9.06(2)(e) Tuition costs shall be determined after deducting applicable revenues, as defined in Section 9.01(1) of these Rules.

9.06(2)(f) If the charter school accepts a child for which it has not received PPR or per child preschool rate funding, the PPR or per child preschool rate amounts must still be included as an applicable revenue for purposes of establishing tuition costs.

9.06(2)(g) If the charter school provides an extended school year program for children with disabilities, a separate tuition rate form must be submitted for the program.

9.06(2)(h) In no case shall the total revenues received by the charter school for Department approved costs for special education services exceed 100 percent of the total expenditures for the provision of those special education services.

9.06(2)(i) In no case shall regular education and other education costs exceed the per pupil revenue received by the charter school.

9.06(2)(j) A percentage of the per pupil revenue or per child preschool rate, as documented on the rate setting form for each charter school, shall be applied as revenue toward the special education costs submitted on the rate setting form by the charter school.

9.06(2)(k) Based on this information, the Department will recommend to the State Board of Education for approval, tuition rates for charter schools.

9.06(2)(l) Costs for additional services, supplies or equipment required by an individual child, and documented on an IEP, shall be negotiated with the administrative unit of residence and the district of residence, if it is not an administrative unit, and shall not be included in the tuition rate submitted for approval.

9.06(3) **School Districts**

Special Education tuition costs involving two school districts should be negotiated between the administrative unit of attendance, the district of attendance, if it is not an administrative unit, the administrative unit of residence and the district of residence, if it is not an administrative unit, and do not need to be submitted to the Department of Education for approval. This includes costs for children with disabilities who are attending school outside their district of residence under the Public Schools of Choice law. In establishing the tuition cost, all applicable revenues as defined in Section 9.01(1) of these Rules shall be deducted.

9.06(4) **Multidistrict Online Schools, Including Charter Schools**

The provisions of this section apply only if the on-line program intends to seek tuition costs. Likewise, if the multidistrict online school does not intend to seek tuition costs, it is not required to comply with this section.

9.06(4)(a) Annually, multidistrict online schools must submit to the Department of Education an itemized documentation of the proposed amount of tuition costs to be charged to a district of residence for special education services provided to children with disabilities who are enrolled in the multidistrict online school. The special education director of the administrative unit of attendance shall certify that the information contained in the documentation is accurate and that the criteria set forth in 9.03(1) are met.

9.06(4)(b) The documentation must be submitted on forms developed by the Department and in accordance with timelines established by the Department. The documentation must include the following:

9.06(4)(b)(i) Special education expenditures defined in Section 2.00 of these Rules;

9.06(4)(b)(ii) The number of days in the school year during which the multidistrict online school offers the program;

9.06(4)(b)(iii) Expenditures for the regular education program, administration, personnel costs, occupancy, and business services; and

9.06(4)(b)(iv) The average number of children enrolled in the multidistrict online school, and the number of those children with disabilities.

9.06(4)(c) For the purpose of establishing a tuition rate, student/staff ratios in a particular program shall be approved by the administrative unit of attendance, and shall be reasonably consistent with that unit's ratios for serving students with comparable disabilities.

9.06(4)(d) The type of supplies and equipment that may be included in the documented special education costs shall be unique for children with disabilities. The Department shall limit the amount for supplies and equipment to be included in the rate to no more than 1.1 times the average cost per child with disabilities for supplies and equipment for administrative units in the most recent year for which data are available.

9.06(4)(e) Tuition costs shall be determined after deducting applicable revenues, as defined in Section 9.01(1) of these Rules.

9.06(4)(f) If the multidistrict online school accepts a child for which it has not received the state minimum PPR funding, the state minimum PPR must still be included as an applicable revenue for purposes of establishing tuition costs.

9.06(4)(g) If the multidistrict online school provides an extended school year program for children with disabilities, a separate tuition rate form must be submitted for the program.

9.06(4)(h) In no case shall the total revenues received by the multidistrict online school for Department of Education approved costs for special education services exceed 100 percent of the total expenditures for the provision of those special education services.

9.06(4)(i) In no case shall regular education and other education costs exceed the per pupil revenue received by the multidistrict online school.

9.06(4)(j) A percentage of the per pupil revenue, as documented on the rate setting form for each multidistrict online school, shall be applied as revenue toward the special education costs submitted on the rate setting form by the program.

9.06(4)(k) Based on this information, the Department will recommend to the State Board of

Education for approval, tuition rates for multidistrict online schools.

- 9.06(4)(l) Costs for additional services, supplies or equipment required by an individual child, and documented on an IEP, shall be negotiated with the administrative unit of residence, and the district of residence, if it is not an administrative unit, and shall not be included in the tuition rate submitted for approval.

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