

**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.]*

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**Statement of Basis and Purpose**

These rules are adopted pursuant to the authority in section 22-54-~~103(10) & (10.5)~~, ~~104~~, ~~108-109 (5)(c)(IV)~~, ~~120~~, ~~and~~ ~~129~~, ~~402(6)~~, C.R.S., and ~~is~~ ~~are~~ intended to be consistent with the requirements of the State Administrative Procedures Act, sections ~~24-4-101~~, et seq. ~~(the "APA")~~, C.R.S.

The purpose of these Rules is to:

~~Establish~~ establish regulations and procedures for administration of the Public School Finance Act of 1994, including ~~the (but not limited to)~~ procedures for revocation or withholding of school district accreditation for Act violations; ~~determination of district pupil membership~~ and ~~enrollment~~, and district at-risk funding; English Language Learner funding; and assignment of cost of living factors in the event of district reorganizations;

~~Assure~~ implementing funding for approved facility schools and state programs; coordinating these rules with the administration of the Exceptional Children Educational Act (article 20 of Title 22, C.R.S.); and assuring 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.).~~

**1.00 — Definitions**

**1. — Definitions**

1.01 "Alternative teacher-pupil instruction" means the organized instruction of educational content for pupils enrolled in a brick-and-mortar public school under the supervision of a licensed educator that may take place asynchronously. The term includes any instruction not meeting the definition of direct teacher-pupil instruction, including but not limited to independent study, work study, internships, apprenticeships, blended learning, and supplemental online learning.

1.02 "Applicable count date" means the collection of per-pupil operating revenues with approval of facilities as on-grounds schools. Coordinate enrollment count date under section 3 of these rules with regulations governing or, if approved by the administration of Department, the alternative count date under section 4 of these rules. Exceptional Children Educational Act (article 20 of Title 54, C.R.S.).

~~1.005 — 1.03~~ "BOCES" means a board of cooperative services pursuant to Article 5 of Title 22, C.R.S.

1.04 “Catalog of Courses Using Alternative Teacher-Pupil Instruction” means a listing of alternative teacher-pupil instruction courses that are eligible for student enrollment by a district, BOCES, innovation school, innovation zone, or charter school.

1.04 (a) The catalog of courses using alternative teacher-pupil instruction must include a listing of courses, a description of each of the courses or identification of course provider if applicable, and the equivalent amount of instructional time or credit equivalent for work study, internships, and apprenticeships, that the course will count towards determining funding eligibility. The district must provide the basis for assigning equivalency for alternative teacher-pupil instruction courses, such as identifying the brick and mortar school and associated bell schedule on which the equivalency is based.

1.04 (b) The equivalent amount of instructional time assigned to courses using alternative teacher-pupil instruction shall not be more than 10% greater than the instructional time applied to fully-in person courses/bell schedules used for assigning equivalency.

1.04 (c) Courses using alternative teacher-pupil instruction may have certain content knowledge prerequisites, but otherwise must be offered and available for all eligible public school pupils at appropriate grade levels.

~~1.007—05~~ “Commissioner” means the commissioner of education.

~~1.0406~~ “District” means any public school district organized under the laws of Colorado, except a junior college district. “District” includes a BOCES, innovation school, innovation zone, charter school, or other entity when said entity has legal responsibility for the applicable school calendars and student schedules.

~~1.0207~~ “Department” means the Colorado Department of Education.

~~2.001.08~~ “Direct teacher-pupil instruction” means the organized instruction of educational content for pupils enrolled in public schools under the supervision of a licensed educator that takes place synchronously when the licensed educator and the pupil are in the same physical location, such as a school building, or when the licensed educator and the pupil are in the same virtual classroom.

1.08(a) For the purpose of these rules, “synchronous” refers to instruction which occurs during scheduled times and includes real-time interactions between teacher and pupils in-person, by video, or by phone. “Asynchronous” refers to instruction which, by contrast, the teacher and the pupils engage with the educational content at different times.

~~1.0309~~ “Home-bound pupil” means a pupil who cannot receive instruction in a school setting due to a temporary or permanent condition or status.

~~1.04~~ “Homestudy” 1.10 “Home school pupil” means a pupil receiving a non-public home-based educational program pursuant to Section 22-33-104.5, C.R.S.

1.11 “Licensed educator” or “licensed teacher” means a teacher with an active Colorado educator credential. A licensed teacher may also include any teacher of record when the district has a waiver from Section 22-63-201, C.R.S..

~~1.0512~~ “Local board” means the board of education of a district, ~~or~~ the board of a BOCES, ~~or a~~ charter school, ~~board, as appropriate,~~ innovation school, innovation zone, or other entity when said entity has legal responsibility for the applicable school calendar and student schedule

~~1.06~~ “Independent study” means a program established by a local board under the supervision of a licensed or certificated teacher, as defined by the local board and included in the student’s academic

~~schedule. The student may be receiving all or a portion of his or her educational instruction through independent study.~~

1.0713 “Major Religious Holiday,” for purposes of identifying a statewide pupil enrollment count, means a day or days on which approximately two (2) percent of the state’s K-12 pupil population is likely to be absent in order to observe a religious holiday. The Department will identify the percentage of ~~students~~ pupils likely to observe a religious holiday based on the most current religious demographic data available from a reliable research organization, such as the Association of Religious Data Archives or The Pew Research Center’s Forum on Religion and Public Life.

~~1.14 Parent led or parent directed instruction means the parent is substantially or primarily responsible for establishing the content of the required program of planned instruction and activities, selecting course curriculum, leading such instruction and activities, and/or directly evaluating student progress in the class. For example, even if there is a teacher of record communicating with the parent, it will still be parent-led or parent-directed if it meets the above definition.~~

~~4.08~~

~~1.15 “Private school pupil” means a pupil enrolled in an independent or parochial school which provides a basic academic education pursuant to Section 22-33-104(2)(b), C.R.S.~~

~~1.16 “Pupil” means a person, except as otherwise provided in Section 22-2-402(7) or Articles 20 and 28 of Title 22, C.R.S., a student (1) under age 21 as of October 1 of the pupil enrollment count date or the alternative count date applicable budget year who has not met the graduation requirements of his/her the district as of the pupil enrollment count date or applicable count date, and (2) at least age five as of October 1 of the alternative count date applicable budget year.~~

~~1.09 “Semester” means one-half of the school year.~~

~~4.101.17 “Semester” means the total number of scheduled student contact days for the school year as documented by the district’s adopted board calendar, plus an additional three days (as described in section 22-32-109(1)(n)(II)(A)), divided by two.~~

1.18 “State Board” means the state board of education.

~~1.11 “Pupil enrollment count period” means the five days before and five days after the pupil enrollment count date.~~

~~1.12 “Approved full-day kindergarten program” means a full-day kindergarten program established under the Colorado Preschool Program Act, Section 22-28-104.~~

## 2. General

2.01 The Public School Finance Act of 1994 and ~~the Rules for the Administration of the Public School Finance Act of 1994~~ these rules shall apply to all ~~Colorado school~~ districts. The Commissioner may grant variances to any or all of these Rules ~~for the Administration of the Public School Finance Act of 1994~~.

2.01(1) If the Department determines that a ~~school~~ district has not complied with the provisions of the Public School Finance Act of 1994 ~~or these rules~~, the Department shall notify such district in writing of the specific violation and shall state that the district’s accreditation may be revoked or withheld by the State Board for such violation.

2.01(2) Such district shall have 30 days in which to respond in writing to the Department’s notification.

2.01(~~2-53~~) The Department shall review such responses.

2.01~~(2-53)~~(a) If after making such review, the Department determines that such district is in compliance ~~with the provisions of the Public School Finance Act of 1994~~, no further action is necessary.

2.01~~(2-53)~~(b) If after making such review, the Department determines that such district is still has not complied with the provisions of the Public School Finance Act of 1994 in compliance, it shall forward the notification and the district response to the State Board.

2.01~~(34)~~ When necessary, the State Board shall schedule a hearing with such district at the next available regularly scheduled State Board meeting occurring after the end of the 30-day district response time and shall notify the district of such hearing.

2.01~~(45)~~ At such hearing, the Department shall present its findings of non-compliance to the State Board, and the district shall respond to such presentation.

2.01~~(56)~~ At the regularly scheduled State Board meeting next following such presentation, the State Board shall decide if it intends to revoke or withhold such district's accreditation under section 22-2-106(1), ~~CRS, C.R.S.~~, and shall notify the district in writing of its decision.

2.01~~(67)~~ If the State Board places such district on ~~Nonnon~~-accredited status, the Commissioner shall initiate school organization planning pursuant to Article 30 of Title 22, ~~CRS, and 1 CCR 301-4 State Board of Education Rule 3.04(2)-C.R.S.~~

2.02 The Department shall prepare necessary forms and appropriate directions related thereto, which a district shall use to provide data required by the Department to meet its responsibilities in the Public School Finance Act of 1994.

2.02~~(a1)~~ A district shall submit its electronic data exchange student file, along with a signed form "certification of pupil enrollment", no later than November 10.

2.03 The Department shall make available to a district detailed procedures with standard forms and records, which a district shall use to compute its certification of pupil enrollment to the State Board pursuant to Section 22-54-112, C.R.S.

2.03~~(a1)~~ A district may request and receive approval from ~~the Research and Evaluation Unit of~~ the Department for alternative procedures for documentation which do not follow the standard procedural manual.

2.03~~(b2)~~ The Department requires districts to automate the pupil count process; nonetheless, any such computerization does not reduce or eliminate a district's obligation to provide source documents for auditing purposes.

~~2.04 — Since reporting of state data to the federal government requires an average daily attendance (ADA) figure, the Colorado ADA shall be the average daily attendance entitlements compared to the October 1 memberships for the reporting period. The resulting figure shall be used to compute the ADA figures for federal reporting purposes for Colorado for each reporting period.~~

~~2.0504~~ Computation and reporting of data shall be as outlined below.

~~2.0504 (a1)~~ A district and the Department shall compute and report mill levy data to the nearest thousandth.

~~2.0504 (b2)~~ A district and the Department shall compute and report any dollar data to the nearest cent dollar.

2.0504 (c3) A district and the Department shall compute and report any funded pupil count, pupil membership and pupil enrollment data to the nearest tenth.

~~2.06 — Pursuant to Section 22-32-109, C.R.S., a local board shall determine, prior to the end of a school year, the length of time which the schools of the district shall be in session during the next following school year, but in no event shall said schools be scheduled to have less than one thousand eighty hours of planned teacher-pupil instruction and teacher-pupil contact during the school year for secondary school pupils in high school, middle school, or junior high school or less than nine hundred ninety hours of such instruction and contact for elementary school pupils, less than four hundred fifty hours of such instruction for a half-day kindergarten program or fewer than nine hundred hours of instruction for a full-day kindergarten program. For the Colorado Preschool Program, the number of hours scheduled shall be no less than three hundred sixty hours.~~

~~2.06(1) A local board may reduce the actual hours of teacher-pupil instruction and teacher-pupil contact to no less than one thousand fifty-six hours for secondary school pupils, no less than nine hundred sixty-eight hours for elementary school pupils, no less than four hundred thirty-five hours for half-day kindergarten pupils, no fewer than eight hundred seventy hours for full-day kindergarten pupils or no less than three hundred fifty-one hours for pupils enrolled in the Colorado Preschool Program for parent-teacher conferences, staff in-service programs, and closings deemed by the board to be necessary for the health, safety, or welfare of pupils; except that not more than twenty-four hours per school year may be used for parent-teacher conferences or staff in-service programs.~~

~~2.06(2) Teacher-pupil contact and teacher-pupil instruction means the time when a pupil is actively engaged in the educational process of a district.~~

~~2.02(6)(a) — Each local board shall define “educational process,” which definition may include any work-study time provided under the supervision of a certificated or licensed teacher but shall not include any time provided for lunch. Each local board, shall define “supervision of a certificated or licensed teacher.”~~

~~2.02(2)(b) — Beginning with calendars adopted for the 10-11 school year, each local board shall define “educational process,” which definition may include passing time and which may also include any work-study time provided under the supervision of a certified or licensed teacher but shall not include any time provided for lunch. Each local board shall define “supervision of a certified or licensed teacher.” For purpose of this section “passing time” is defined as the time between two classes or between a class and lunch period.~~

~~2.06(3)~~

#### 2.05 Instructional Time for Purposes of the School Finance Act

2.05(a) To receive funding, a district must provide evidence of Instructional Time for purposes of funding each enrolled and attending pupil.

2.05(a)(1) For grades six through twelve, Instructional Time for funding each pupil may include direct teacher-pupil instruction and alternative teacher-pupil instruction for that pupil.

2.05(a)(1)(I) Alternative teacher-pupil instruction courses may not be considered for funding purposes if the course is not included in the published catalog. Beginning with calendars adopted for the 2024-25 school year and each school year thereafter, districts shall publish a catalog of courses using alternative teacher-pupil instruction (as defined in 1.15 of this rule) for any such courses they intend to provide to secondary pupils that they would also like included as

instructional time. The catalog must be published on the school/district/BOCES website by September 1st of the school year.

2.05(a)(2) For grades kindergarten through five. Instructional Time for funding each pupil may include direct teacher-pupil instruction.

2.05(a)(2)(I) Alternative teacher-pupil instruction time may be used for homebound students, as outlined in 5.03(4).

2.05(a)(3) For all grades, kindergarten through twelve:

2.05(a)(3)(I) Passing between two on-site classes, and between an on-site class and lunch, may be included as instructional time which counts towards funding eligibility. Each passing that can be considered as instructional time which counts towards determining funding eligibility shall not exceed 7 minutes.

2.05(a)(3)(II) Time provided for breakfast or lunch may not be included as instructional time for purposes of determining funding eligibility.

2.05(a)(3)(III) A district may include time for independent study and/or asynchronous learning that occurs off-site when a district conducts remote learning sporadically in response to public health and safety orders and precautions as instructional time for purposes of determining funding eligibility.

2.05(a)(3)(IV) Instructional time for purposes of determining funding eligibility does not include parent-led or parent-directed instruction.

2.05(a)(3)(V) Any specialized programming paid for with public funds and made available to part-time pupils shall also be available for participation by any other public school pupil within the same district.

2.05(a)(3)(VI) In no instance shall a district submit a pupil for funding if the instructional time used to qualify a pupil for funding is provided in an environment that requires participation in a tuition-based non-public school.

2.05(b) A district must comply with Section 22-32-109, C.R.S. regarding planned and actual hours for "teacher-pupil instruction and teacher-pupil contact." The Commissioner issues additional guidance regarding the reporting of "teacher-pupil instruction and teacher-pupil contact" for purposes of Section 22-32-109(1)(n), C.R.S. In the Commissioner's guidance, Instructional Time for purposes of funding under the School Finance Act may be the same or different from "teacher-pupil instruction and teacher-pupil contact" for purposes of planned and actual hours in compliance with Section 22-32-109(1)(n).

2.05 (b)(1) Individual pupils may elect to enroll in fewer hours of instructional time without affecting the satisfaction of this school calendar-planned and actual hours of instruction requirement as long as the opportunity to enroll for the minimum hours each school year is provided to the pupils. A local board may meet the required minimum hours for each school year by contracting for educational services from another entity.

2.06(4) Each local board shall establish the definition of "middle school" for purposes of the one-thousand-eighty-hour requirement.

2.07 — Repealed.

2.08 — Repealed.

~~2.09 — In no case shall a school be in session for fewer than one hundred sixty days without the specific prior approval of the Commissioner of Education.~~

### **3.00 Pupil Enrollment Count Date**

3.01 The Department shall identify the pupil enrollment count date by no later than July 1 of each year. The pupil enrollment count date is October 1 of each year, except as otherwise provided below.

3.01(a) In any year in which October 1 is a Saturday, a Sunday, or any other day on which school is not in session, except as described in section 3.01 (2) of these rules, the pupil enrollment count date is the Monday following that Saturday, Sunday, or other day.

3.01(b) In any year in which a day of a Major Religious Holiday occurs upon October 1, or, in years in which October 1 falls on a Saturday, Sunday, or other day on which school is not in session as described in section 3.01 (1) of these rules, or upon the Monday directly following October 1, the pupil enrollment count day is the first school day immediately following the conclusion of the holiday.

3.01(c) Determination of the pupil enrollment count date shall not be affected by a district's decision to not have a school day on the pupil enrollment count date.

3.02 A district shall use the pupil enrollment count date unless an alternative count date is approved by the Department.

~~3.03 — A district shall count its pupils enrolled and in attendance as of the pupil enrollment count date, and must be able to provide evidence of actual attendance of such pupils prior to said date, unless the pupil is new to the state or has proof of withdrawal from the prior in-state district at the time of enrollment, if the pupil enrolls during the pupil enrollment count period.~~

~~03.04 — A district also shall keep an attendance record indicating a pupil's presence or absence each day.~~

~~3.05~~ 3.03 The Department may accept amended pupil enrollment count date pupil data, with appropriate supporting documentation, as provided by a district, unless the pupil enrollment count date pupil data has been audited by the Department.

~~3.04 — The applicable count period is defined as the five school days preceding the applicable count date, the applicable count date, and the five school days following the applicable count date as determined by the district's adopted calendar.~~

~~3.05~~ 06 In no instance shall a district solicit ~~students~~ pupils from other districts for the sole purpose of attendance during the applicable count period.

~~3.07~~ 06 In no instance shall a district solicit pupils from the ~~homestudy~~ home school population solely for purposes of attendance through the ~~pupil enrollment~~ applicable count period.

### **4.00 Alternative Count Date**

4.01 As needed, a district ~~shall~~ may submit to the Department a proposal for an alternative count date or dates. The Department ~~shall~~ may approve the establishment of district alternative count date(s) as appropriate prior to a district's proposed alternative count date(s). Such alternative count date(s) shall be set not more than forty-five (45) calendar days after the first school day occurring after the pupil enrollment count date.

4.02 A district may request the establishment of an alternative count date in appropriate circumstances, including but not limited to providing maximum flexibility in the operation and scheduling

of alternative program school calendars and of year-round calendars, in circumstances when pupils will be on authorized breaks on the pupil enrollment count date within the applicable budget year, or for other reasons as authorized in statute.

4.02(a) A program designed to return dropout pupils to a school program leading to the completion of the twelfth grade is eligible for an alternative count date.

4.02(b) A program not in session for at least the entire month prior to the pupil enrollment count date is eligible for an alternative count date.

~~4.03 Prior to the alternative count date, a district shall estimate and report on the Form "Certification of Pupil Enrollment" the number of pupils to be counted on its alternative count date. A district shall conduct another count on the alternative count date and report the findings to the Department, which will replace the estimated alternative count date data, and must report a revised form "Certification of Pupil Enrollment."~~

4.04 The count on the alternative count date will be conducted in the same manner as the count on the pupil enrollment count date.

~~4.05 A district shall count its pupils enrolled and in attendance as of the alternative count date.~~

~~4.06 A district also shall keep an attendance record indicating a pupil's presence or absence each day.~~

4.0705 The Department may accept amended alternative count date pupil data, with appropriate supporting documentation, as provided by a district, unless the alternative count date pupil data has been audited by the Department.

#### 5.00 Determination of Membership and ~~of Funded Pupil Count Enrollment~~

5.01 A district's pupil membership and funded pupil count shall include only pupils enrolled in the district and in attendance in the district or educational program with which the district has contracted with to provide instructional services.

5.01(a) No pupil shall be counted in ~~membership a district's funded pupil count~~ more than one full-time equivalent. A pupil in membership in two or more districts or in two or more eligible educational entities shall not be counted in ~~membership the state's funded pupil count~~ more than one full-time equivalent in total.

5.01(b) A pupil included in a district's full-time membership shall equal one full-time equivalent (1.0) ~~for purposes of the district's funded pupil count~~, and a pupil included in a district's part-time membership shall equal one-half of one full-time equivalent (0.5) ~~for purposes of the district's funded pupil count~~.

~~5.01(c) Following the November 10 data submission (as described in 2.02(1) of this section), pupils counted in membership by multiple districts, such that the pupil exceeds one full-time equivalent in the state's funded pupil count will be included in the state's duplicate count process as determined by the Department. During the duplicate count process, the Department will evaluate appropriate documentation submitted by each district to determine which district may include the pupil in membership.~~

~~5.01(d) A pupil that is expelled but that is (1) required to resume attendance within 30 calendar days after the applicable count date, (2) receiving educational services under an Individual Educational Plan (IEP), or (3) receiving educational services under Section 22-33-203(2)(c), C.R.S., is enrolled and in attendance for purpose of these Rules.~~



5.02 A pupil shall be "enrolled" ~~during the school year if such pupil attends school, a public school, or educational program with which the district has contracted with to provide instructional at services, at~~ any time ~~in the school year of the pupil enrollment count date or of the alternative count date~~ on or prior to the ~~applicable count date, pupil enrollment count date or the alternative count date in a district which has met the minimum hours of opportunity requirement in Section 22-32-109, C.R.S., or which purchases comparable instructional services for such pupil.~~

5.02(a4) Enrollment must be evidenced by the receiving district with official registration, entry of pupil, and official individual class schedule dated on or before the ~~pupil enrollment applicable~~ count date, ~~and as well as~~ the date the pupil first attended on or before the ~~pupil enrollment applicable~~ count date.

~~5.02(b) A district shall record withdrawals and transfers as of the last date of attendance prior to the date the pupil or the pupil's parent or guardian gives oral or written notification of the withdrawal or transfer.~~

~~5.02(c) For transfers between schools of the district, a district shall ensure the transferring pupils are not counted more than once in attendance on the applicable count date.~~

5.03 A pupil shall be in "attendance" if one or more of the following apply.

5.03(a4) The pupil attends school for all or any portion of the ~~pupil enrollment count date or of the alternative count date, except as provided below, applicable count date.~~

~~5.03(a4)(1a) A. For pupils exclusively enrolled in alternative teacher-pupil instruction (as defined in 1.15 of this rule), the district must provide attendance verification based upon direct teacher-pupil instruction, in-person educational activities, or evidence of participation in online synchronous and asynchronous internet-based educational activities. Districts may obtain pre-approval from the Department to include other forms of attendance verification.~~

~~5.03(b) The pupil is not in attendance on the applicable count date, for any reason but has attended school with the reporting district at some time prior to the applicable count date during the current school year, has not withdrawn or transferred from the district, and has resumed attendance within 30 calendar days after the applicable count date.~~

~~5.03(c) The pupil is truant, and the district has taken legal action as outlined in Article 33 of Title 22, C.R.S., to compel the pupil's attendance. A district shall document that it has notified the pupil's parent or guardian of its request for action by the court or of its directive to its attorney to file a request with the court. A district shall also document that it has made such a request of the court within 10 school days of the applicable count date. Nothing in this section 5.03(4) modifies the rules for counting dropouts or attendance under 1 CCR 301-1 and 1 CCR 301-78.~~

~~5.03(d) The pupil is home-bound but is enrolled and is receiving direct teacher-pupil instruction and/or alternative teacher-pupil instruction on a regular basis.~~

~~5.03(d)(1) For purposes of applying sections 5.05 and 5.06 of these Rules, the district shall utilize the pupil's home-bound schedule if the student has been receiving home-bound services since the start of the school year, or the pupil's schedule that was in place prior to beginning home-bound services if the pupil established attendance using that schedule during the current school year.~~

5.04 Pupils that first enroll or first attend on or after the applicable count date but within the applicable count period may be included in a district's pupil membership only if one of the following exceptions applies

5.04(a) The pupil is (1) new to the state and (2) enrolls and attends on the applicable count day.

5.04(b) The pupil (1) transfers from another in-state district who newly enrolls and attends on the pupil enrollment count date or the alternative count date or in the five school days preceding the pupil enrollment count date or the alternative count date shall be in attendance for the receiving district. The pupil must show, (2) shows proof of withdrawal from the prior district at the time of enrollment in the receiving district, and (3) enrolls and attends on the applicable count day. If the pupil returns to the prior district within 30 days after the prior district's applicable count day, that district may appeal to the Department for the purposes of determining eligibility to count the pupil.

5.04(c) The pupil transfers after the applicable count date from one district to a district with an approved alternative count date, and the receiving district provides documentation that the pupil does not meet membership criteria in the former district as of the pupil enrollment count date.

5.05 A district shall count a pupil in full-time funded pupil count, if (1) the pupil is enrolled and in attendance as of the applicable count day pursuant to these Rules, and (2) the pupil has a schedule of courses that provides at least 360 hours of Instructional Time (as defined in these Rules) in the semester of the applicable count date.

5.05(a) A pupil receiving services under an IEP which explicitly states the pupil is unable to benefit from a full-time program of services and describes how the pupil's disability affects their involvement, progress, and participation in appropriate activities such that the student would not be able to meet the full-time scheduling requirement, shall be deemed to meet the requirements of this section 5.05.

5.05(b) A pupil who completes one school year of enrollment in a half-day kindergarten educational program and does not advance to first grade, pursuant to Section 22-7-1207, C.R.S., is counted as a full-day pupil for the second year in which the pupil is enrolled in the half-day kindergarten educational program.

5.06 A district shall count a pupil in part-time funded pupil count, if (1) the pupil is enrolled and in attendance as of the applicable count day pursuant to these Rules, and (2) the pupil has a schedule that provides at least 90 hours but less than 360 hours of Instructional Time (as defined in these Rules) in the semester of the applicable count date.

5.06(a) A district shall obtain documentation which evidences the reasons a pupil is enrolled part-time and confirms how the pupil is compliant with the Compulsory school attendance requirements of Section 22-33-104, C.R.S.

5.06(b)(1) This documentation may include the written notification of the intent to homeschool pursuant to Section 22-33-104.5(3)(e), C.R.S.

5.06(c) For a pupil who is only enrolled and attending a part-time program, a district shall count such pupil at most in part-time funded pupil count regardless of the pupil's actual class schedule on the applicable count date.

5.06(d) A district may include home school pupils enrolled and attending a district educational program who meet the requirements of these Rules. A home school pupil is not eligible to be counted for more than a part-time funded pupil count (0.5 FTE).

5.06(e) A district may include a private school pupil enrolled and attending a district educational program who meet the requirements of these Rules. A private school pupil is not eligible to be counted for more than a part-time funded pupil count (0.5 FTE).

~~5.07 For pupils exclusively enrolled in alternative teacher-pupil instruction (as defined in 1.15 of this rule), the district must verify and document student residency in the State of Colorado during the current school year prior to the pupil enrollment count date.~~

~~5.03(1)(b)(i) The receiving district shall notify in writing, with a copy to the Department, the other district of the pupil's new enrollment within 15 calendar days after the pupil enrollment count date or the alternative count date. If the pupil returns to the prior district during the count period, the district may appeal to the Department for the purposes of determining eligibility to count the pupil.~~

~~5.03(1)(c)(ii) This Rule is not intended to apply to situations in which a pupil transfers from an out-of-state district, from an in-district school, or from a private or independent school.~~

~~5.03(2) The pupil is absent on the pupil enrollment count date or the alternative count date but has attended school at some time during the five school days prior to the pupil enrollment count date or the alternative count date, has not withdrawn or transferred from the school as of the start of school on the pupil enrollment count date or the alternative count date, and has resumed attendance within 30 calendar days after the pupil enrollment count date or the alternative count date. This Rule also is intended to allow a district to count pupils who have no classes scheduled on the pupil enrollment count date or on the alternative count date.~~

~~5.03(3) The pupil is absent on the pupil enrollment count date or on the alternative count date, does not attend school on any of the five school days either prior to or following the pupil enrollment count date or alternative count date, and returns to school within 30 calendar days after the pupil enrollment count date or the alternative count date, and the district has on file the pupil's parent's or guardian's written documentation of intent to return the pupil to school within 30 calendar days after the pupil enrollment count date or the alternative count date and to not enroll the pupil in another school.~~

~~5.03(3)(a) The parent or guardian shall sign and date this documentation within 30 calendar days after the pupil enrollment count date or the alternative count date.~~

~~5.03(3)(b) This Rule is intended to allow a district to count a pupil who is on vacation or who has an illness or an unusual family situation which precludes school attendance.~~

~~5.03(4) The pupil is absent on the pupil enrollment count date or the alternative count date, is in attendance at some time prior to the five school days prior to the pupil enrollment count date or the alternative count date, is not in attendance at any time during the five school days immediately prior to the pupil enrollment count date or the alternative count date, and has resumed attendance at some time during the five school days following the pupil enrollment count date or the alternative count date.~~

~~5.03(4)(a) This Rule is intended to allow districts five school days after the pupil enrollment count date or the alternative count date before requesting the written documentation from a pupil's parent or guardian as required in section 5.03(3) above.~~

~~5.03(5) The pupil transfers after the pupil enrollment count date or the alternative applicable count date from one district to a district with an approved alternative count date, and the receiving district provides documentation that the pupil does not meet membership criteria in the former district as of the pupil enrollment count date.~~

~~5.03(5)(a) This Rule does not apply to pupils transferring to a district from out-of-state, or from a private school.~~

~~5.03(6) The pupil has reached at least age 16 as of the pupil enrollment count date or the alternative count date, does not attend any school in either the five school days preceding or following the pupil enrollment count date or the alternative count date, attends school at some time during the current school year prior to the pupil enrollment count date or the alternative count date, and resumes attendance within~~

~~30 calendar days after the pupil enrollment count date or the alternative count date, and the district has on file the pupil's parent's or guardian's written documentation of intent to return the pupil to school within 30 calendar days after the pupil enrollment count date or the alternative count date and to not enroll the pupil in another school.~~

~~5.03(6)(a) — The parent or guardian shall sign and date the documentation within 30 calendar days after the pupil enrollment count date or the alternative count date.~~

~~5.03(7) The pupil is on suspension (either "in school" or "out of school") from school attendance on the pupil enrollment count date or the alternative count date but returns from suspension and resumes attendance within 30 calendar days after the pupil enrollment count date or the alternative count date.~~

~~5.03(8) The pupil is expelled from school prior to the pupil enrollment count date or the alternative count date but is receiving educational services under an Individual Educational Plan (IEP) in an alternate setting as of the pupil enrollment count date or the alternative count date or is required to resume attendance within 30 calendar days after the pupil enrollment count date or the alternative count date.~~

~~5.03(9) The pupil attends school on the pupil enrollment count date or the alternative count date then withdraws or transfers on or after the pupil enrollment count date or the alternative count date.~~

~~5.03(9)(a) — A district shall not include in attendance a pupil who withdraws or transfers prior to the pupil enrollment count date or the alternative count date.~~

~~5.03(9)(b) — A district shall record withdrawals and transfers as of the last date of attendance prior to the date the pupil or the pupil's parent or guardian gives oral or written notification of the withdrawal or transfer.~~

~~5.03(9)(c) — A district shall examine records of transfers between schools of the district to ensure the transferring pupils are not counted more than once in attendance on the pupil enrollment count date or on the alternative count date.~~

~~5.03(9)(d) — A district shall establish in its central district office a listing of pupils who have transferred between schools within the district.~~

~~5.03(10) — The pupil is truant, and the district has taken legal action as outlined in Article 33 of Title 54, C.R.S., to compel the pupil's attendance.~~

~~5.03(10)(a) — The pupil is truant if the pupil is under age 16 as of the pupil enrollment count date or the alternative count date, attends school at some time during the current school year preceding the pupil enrollment count date or the alternative count date, is absent on the pupil enrollment count date or the alternative count date and is absent during the five school days immediately preceding or following the pupil enrollment count date or the alternative count date, has not transferred or withdrawn prior to the pupil enrollment count date or the alternative count date, and has not provided written notice from the pupil's parent or guardian that the pupil will return to the school without enrolling in another school.~~

~~5.03(10)(b) — A district shall document that it has notified the pupil's parent or guardian of its request for action by the court or of its intent to request action by the court as evidenced by its directive to its attorney to file a request with the court.~~

~~5.03(10)(b)(1) A district shall request such action no later than ten school days following the pupil enrollment count date or the alternative count date.~~

~~5.03(10)(b)(2) The request to the court shall include appropriate and available information as requested of the district by the court for purposes of locating the pupil and the pupil's parent(s) or guardian.~~

~~5.03(10)(b)(3) This Rule is not intended to modify the procedure for counting pupils who are dropouts.~~

~~5.04 — A district shall count a pupil in full-time membership, if all of the following apply.~~

~~5.04(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.04(2) The pupil is enrolled as of the pupil enrollment count date or the alternative count date in any grade of the grade 1 through grade 12 group or in an approved full-day kindergarten program.~~

~~5.04(3) The pupil has a schedule as of the pupil enrollment count date or the alternative count date which provides at least 360 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact:~~

~~5.04(3)(a) — A district shall not include the actual time instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~5.04(3)(b) — For a scheduled independent study, a district shall include only the time of actual teacher-pupil instruction and teacher-pupil contact. Except in cases where districts conduct remote learning due to public health and safety orders and precautions as described below, teacher-pupil instruction and teacher-pupil contact during scheduled independent study must occur on-site under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.04(3)(c) — For a workstudy program, a district shall include only the time of instruction and contact provided under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.04(3)(d) — For night school classes, a district shall include time only to the extent that it would be included for a day school class.~~

~~5.04(3)(e) — For independent learning that occurs off-site when a district conducts remote learning due to public health and safety orders and precautions, a district may include time in accordance with the local board's policy and definition of educational process as it relates to these remote learning situations.~~

~~5.05 — A district shall count a pupil in full-time membership, if all of the following apply.~~

~~5.05(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.05(2) The pupil would be enrolled as of the pupil enrollment count date or the alternative count date, but for the pupil's disabling condition(s), in any grade of the grade 1 through grade 12 group or in an approved full-day kindergarten program.~~

~~5.05(2)(a) — The pupil must reach age 6 on or before October 1 to be included in grade 1 enrollment or age 5 on or before October 1 to be included in full-day kindergarten enrollment.~~

~~5.05(2)(b) — A pupil who has not yet reached age 21 as of October 1 or a pupil who reaches age 21 during the semester of the pupil enrollment count date or the alternative count date, and who is receiving services under an Individual Education Plan (IEP) shall satisfy the requirements of section 5.05(2). 5.05(3)~~

~~— The pupil has an Individual Education Plan (IEP) schedule as of the pupil enrollment count date or the alternative count date which provides at least 360 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date. 5.05(3)(a)~~

~~— The pupil receiving services under an IEP but unable to benefit from a full-time program of services shall be deemed to meet the requirements of section 5.05(3).~~

~~5.06 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.06(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.06(2) The pupil is enrolled as of the pupil enrollment count date or the alternative count date in any grade of the grade 1 through grade 12 group.~~

~~5.06(3) The pupil has a schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours but less than 360 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact:~~

~~5.06(3)(a) — A district shall not include the actual time~~

~~instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~.5.06(3)(b) — For a scheduled independent study, a district shall include only the time of actual teacher-pupil instruction and teacher-pupil contact. Except in cases where districts conduct remote learning due to public health and safety orders and precautions as described below, teacher-pupil instruction and teacher-pupil contact during scheduled independent study must occur on-site under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.06(3)(c) — For a work-study program, a district shall include only the time of instruction and contact provided under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.06(3)(d) — For night school classes, a district shall include time only to the extent that it would be included for a day school class.~~

~~5.06(3)(e) — For a pupil who is only enrolled and attending a part-time program, a district shall count such pupil at most in part-time membership regardless of the pupil's actual class schedule on the pupil enrollment count date or the alternative count date.~~

~~5.06(3)(f) — For independent learning that occurs off-site when a district, BOCES, or charter school conducts remote learning due to public health and safety orders and precautions, local board may include time in accordance with the local board's policy and definition of educational process as it relates to these remote learning situations.~~

~~5.07 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.07(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.07(2) The pupil is enrolled as of the pupil enrollment count date or the alternative count date in any grade of the grade 1 through grade 12 group.~~

~~5.07(2)(a) — The pupil must reach age 6 on or before October 1 to be included in grade 1 enrollment.~~

~~5.07(2)(a)(I) — The pupil must reach age 5 on or before October 1 to be included in kindergarten enrollment.~~

~~5.07(2)(a)(II) — The pupil must reach age 3, pursuant to 22-28-104(1)(a.5), C.R.S., or age 4 on or before October 1 to be included in Colorado Preschool Program.~~

~~5.07(2)(b) — A pupil who has not yet reached age 21 as of October 1 or a pupil who reaches age 21 during the semester of the pupil enrollment count date or the alternative count date, and who is receiving services under an Individual Education Plan (IEP) shall satisfy the requirements of section 5.07(2).~~

~~5.07(3) The pupil has an Individual Education Plan (IEP) schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours but less than 360 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date.~~

~~5.08 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.08(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.08(2) The pupil is enrolled in kindergarten.~~

~~5.08(2)(a) — This rule does not apply for any pupil enrolled in an official full-day kindergarten program established by law.~~

~~5.08(3) The pupil has a schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact, a district shall not include the actual time instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~5.08(3)(a) — Regardless of the amount of hours included in the pupil's schedule, a district shall count the pupil meeting the requirements of this Rule section 5.08 only in part-time membership.~~

~~5.09 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.09(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.09(2) The pupil is enrolled in kindergarten.~~

~~5.09(2)(a) — This rule does not apply for any pupil enrolled in an official full-day kindergarten program established by law.~~

~~5.09(3) The pupil has an Individual Education Plan (IEP) schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date.~~

~~5.10 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.10(1) The pupil is enrolled and in attendance pursuant to section 5.02 and R-5.03, respectively.~~

~~5.10(2) The pupil is enrolled in and attending a district-~~

~~preschool program as defined in and established pursuant to Article 28 of Title 54, C.R.S.~~

~~5.10(2)(a) — A pupil cannot be enrolled in and attend a preschool program in more than one district and is not eligible to be counted for more than .5 FTE. The resident district will be the prevailing district for funding. The non-resident district may charge tuition to the parent.~~

~~5.10(3) The pupil has a schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date.~~

~~5.10(3)(a) — Regardless of the amount of hours included in the pupil's schedule, a district shall count the pupil meeting the requirements of this Rule section 5.10 only in part-time membership.~~

~~5.10(4) The pupil has reached age 3 or 4 on or before October 1.~~

~~5.11 — A district shall count a pupil in part-time membership, if all of the following apply.~~

~~5.11(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.11(2) The pupil is a three- or four-year-old with a disability and is receiving an educational program under Article 20 of Title 54, C.R.S., or the pupil has reached age 5 by October 1, is determined to have a disability, and would be in kindergarten but for the disabling condition, or the pupil will reach age 3 during the semester of the pupil enrollment count date and has a disability.~~

~~5.11(3) The pupil has an Individual Education Plan (IEP) schedule as of the pupil enrollment count date or the alternative count date which provides at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date.~~

~~5.12 — A district may count a home-bound pupil in membership, as outlined below, if all of the following apply.~~

~~5.12(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.12(2) The pupil is receiving instruction, including but not limited to instruction delivered using technology under the supervision of a certificated or licensed teacher, as determined by the local board on a regular basis.~~

~~5.12(3) If prior to becoming home-bound, the pupil had a schedule as of the pupil enrollment count date or the alternative count date which would have provided at least 360 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date, then a district shall count the pupil in full-time membership. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact:~~

~~5.12(3)(a) — A district shall not include the actual time instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~5.12(3)(b) — For a scheduled independent study, a district shall include only the time of actual teacher-pupil instruction and teacher-pupil contact. Except in cases where districts conduct remote learning due to public health and safety orders and precautions as described below, teacher-pupil instruction and teacher-pupil contact during scheduled independent study must occur on-site under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.12(3)(c) — For a work-study program, a district shall include only the time of instruction and contact provided under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.12(3)(d) — For night school classes, a district shall include time only to the extent that it would be included for a day school class.~~

~~5.12(3)(e) — For independent learning that occurs off-site when a local board conducts remote learning due to public health and safety orders and precautions, a district may include time in accordance with the local board's policy and definition of educational process as it relates to these remote learning situations.~~



~~5.12(4) If prior to becoming home-bound, the pupil had a schedule as of the pupil enrollment count date or the alternative count date which would have provided at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date, then a district shall count the pupil in part-time membership. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact:~~

~~5.12(4)(a) — A district shall not include the actual time instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~5.12(4)(b) — For a scheduled independent study, a district shall include only the time of actual teacher-pupil instruction and teacher-pupil contact. Except in cases where local boards conduct remote learning due to public health and safety orders and precautions as described below, teacher-pupil instruction and teacher-pupil contact during scheduled independent study must occur on-site under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.12(4)(c) — For a work-study program, a district shall include only the time of instruction and contact provided under the supervision of a certificated or licensed teacher as determined by the local board.~~

~~5.12(4)(d) — For night school classes, a district shall include time only to the extent that it would be included for a day school class.~~

~~5.12(4)(e) — For independent learning that occurs off-site when a local board conducts remote learning due to public health and safety orders and precautions, a district may include time in accordance with the local board's policy and definition of educational process as it relates to these remote learning situations.~~

~~5.12(4)(f) — For a pupil who is only enrolled~~

~~5.13 — A district may count a home-study pupil in part-time membership, if all of the following apply.~~

~~5.13(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03 respectively.~~

~~5.13(2) The pupil also is enrolled and is attending a district educational program which provides at least 90 hours of teacher-pupil instruction and teacher-pupil contact in the semester of the pupil enrollment count date or the alternative count date. For purposes of determining the number of hours of teacher-pupil instruction and teacher-pupil contact, a district shall not include the actual time instruction is suspended for lunch period but may include time for parent-teacher conferences and for staff in-service programs, subject to the limitations in Section 22-32-109, C.R.S.~~

~~5.08 Pupils exclusively enrolled in online classes, but are not enrolled in an online school, must be enrolled in an online program.~~

~~5.09 For pupils enrolled in and attending a part-time program, a district shall count such pupil at most in part-time membership regardless of the pupil's class schedule on the pupil enrollment count date or the alternative count date.~~

~~5.14 — A district may count a pupil enrolled in one or more courses offered by an institution of higher education, for a pupil participating in Early College pursuant to Section§ 22-35-103(10), C.R.S., in membership, as outlined below.~~

~~5.14(1) The pupil is enrolled and in attendance pursuant to section 5.02 and 5.03, respectively.~~

~~5.14(1)(a) — 5.09 (a) A pupil may meet the attendance requirementrequirements of sectionsections 5.03 and 5.04 by attending either the district school or the institution of higher~~

education. ~~A district shall document the attendance as of the applicable count date of all pupils included in its pupil membership who are enrolled in secondary courses and shall provide evidence of tuition payment for courses at institutions of higher learning, on the official count date or the alternative count date.~~

~~5.14(2) If 5.09 (b) Pupils enrolled only in courses offered by an institution of higher education may be counted in full-time funded pupil count if the number of semester credit hours for the courses in which the pupil is enrolled on the official count date or the alternative applicable count date is equivalent to a full-time pupil credit load as defined for the institution of higher education, or is equal to at least twelve seven semester credit hours, then a district shall count the pupil in full-time membership.~~

~~5.0914(c3) Pupils enrolled only in courses offered by an institution of higher education may be counted in part-time funded pupil count if — If the number of semester credit hours for the courses in which the pupil is enrolled on the official count date or the alternative applicable count date is less than a full-time pupil credit load as defined for the institution of higher education, or is less than twelve seven semester credit hours, but is at least three semester credit hours, then a district shall count the pupil in part-time membership.~~

~~5.0914(d4) — If a pupil is attending. Pupils enrolled in both courses offered by the district and courses offered by an institution of higher education may be counted in full-time funded pupil count learning and if the sum of the instructional hours of teacher-pupil instruction and teacher-pupil contact in the district's in the district's educational program is at least 90 hours and the credit hours for the institution's institution of higher education's courses is at least 3 semester credit hours, then a district shall count the pupil in full-time membership.~~

~~5.0914(e5) If a pupil is enrolled in classes through the district only, sections 5.05 and has at least 360 hours 5.06 of these Rules apply pupil-teacher contact time then a district shall count the student in full-time membership; if the number of pupil-teacher contact times is at least 90 hours, but less than 360 hours, then the district shall count the student in part-time membership.~~

~~5.0914(f6) A district shall keep at its central district office a record of pupils included in its pupil membership who are enrolled at institutions of higher learning as of the official applicable count date or, as well as a record of the class schedules of such pupils, alternative count date.~~

~~5.14(7) A district shall keep at its central district office a record of the class schedules of all pupils included in its pupil membership who are enrolled at institutions of higher learning as of the official count date or the alternative count date.~~

~~5.14(8) A district shall document the attendance as of the official count date or the alternative count date of all pupils included in its pupil membership who are enrolled at institutions of higher learning.~~

~~105.15 A district's pupil enrollment shall be the membership of the district as of the pupil enrollment count date or the alternative applicable count date and any adjustments for the following as applicable.~~

~~5.45(10) (a) A pupil enrolled in a public school and receiving education services from another entity through a purchase agreement may be included in the district's enrollment. The district shall provide evidence of payment for the entire cost of services used to determine funding eligibility. Documentation from the educational provider must evidence funding criteria have been met, including contract, provider calendar, provider bell schedule, provider attendance, provider schedule. -~~

~~5.10 (b) A pupil receiving services from a district under Section 22-32-141, C.R.S., on the applicable count date may be included in the district's pupil enrollment. Pupils receiving services from a district under Section 22-32-141, C.R.S., within 30 days after the applicable count date~~

may be included in the district's pupil enrollment if the pupil is not included in any other district's pupil enrollment.

5.11 In the event a pupil meets the funding criteria at multiple districts, the Department will determine which district is eligible for funding. The following duplicate count process criteria will be considered in determining which district is eligible to submit the pupil for funding:

5.11 (a) If one district is using the pupil enrollment count date and another is using an approved alternative count date, the district using the pupil enrollment count date is eligible to submit the pupil for funding.

5.11 (b) If a pupil transfers on the pupil enrollment count date and meets the funding requirements at multiple districts on the pupil enrollment count date, the receiving district is eligible to submit the pupil for funding.

5.11 (c) If a pupil transfers between two districts with approved alternative count dates and meets the funding requirements at both districts on their respective approved alternative count dates, the receiving district is eligible to include the pupil for funding.

5.11 (d) If a pupil is enrolled part-time at two Colorado public schools (and is not a home-school or private school pupil), both reporting districts may be eligible to submit the pupil for a maximum of part-time funding, pending a review of documentation to confirm the pupil's eligibility.

5.11 (e) If a home-school or private school pupil is simultaneously enrolled and receiving educational services at two different districts, and the pupil meets the part-time funding criteria at both, the district of primary residence is allowed to submit the pupil for funding.

5.11 (f) If a pupil transfers from one Colorado public school district to another, after the pupil enrollment count date but within the count period, the pupil is eligible for funding at the receiving district only if the pupil did not meet the funding criteria at the sending district and the pupil established attendance during the current year in a Colorado public school prior to the pupil enrollment count date.

~~5.15(2) A pupil included in the pupil membership of an eligible facility pursuant to section 16.00.~~

~~5.15(2)(a) — A pupil who reaches age 21 during the semester of the pupil enrollment count date or the alternative count date, who is in placement in an eligible facility as of the pupil enrollment count date, and whose district of residence and district of attendance are not the same shall be counted by the district of residence as one pupil on the roll of out-of-district-placed pupils.~~

~~5.15(3) A pupil for whom a district either pays or receives any amount of tuition.~~

~~5.15(3)(a) — A pupil for whom a district receives maximum tuition shall be included only in the pupil enrollment of the district which agrees to pay the tuition. In the event an individual and not a school district is to pay the tuition, no district shall include the pupil in its pupil enrollment.~~

~~5.15(4) A pupil enrolled in a less-than-full-time program.~~

~~5.15(5) Replacement of estimates with actual count figures for programs having alternative count dates.~~

~~5.16 — Pupils eligible to be counted in detention centers~~

~~5.16(1) Students in short-term detention centers on the pupil enrollment count date are eligible to be counted by the district of residence if they meet the following criteria:~~

~~5.16(1)(a) — The pupil was in attendance in the month preceding the count date, has not withdrawn from the district of residence, and the resident district received notification from the district in which the detention center is located verifying the pupil was in the detention center as of the pupil enrollment count day.~~

~~5.16(1)(b) — Students not in attendance in the month preceding the count date are eligible to be counted if the district of residence is also the district where the detention center is located. The district must enroll and establish a schedule with intent to have the pupil attend district schools after release from the detention center.~~

~~5.16(1)(c) — The district where the detention center is located (district of attendance) may count a pupil that is not eligible to be counted by the district of residence. The district of attendance must receive written verification from the district of residence stating that the pupil was not eligible to be counted by the district of residence. The district of attendance must provide the educational program at the detention center.~~

~~5.16(1)(d) — Detention center pupils are not considered facility placed students.~~

~~5.17 — Pupils enrolled in on-line programs~~

~~5.17(1) A pupil enrolled in an on-line program during the 2001-02 school year and who is enrolled and participates in any such on-line program on October 1 within the applicable budget year shall be counted in the "pupil enrollment" of the district and the district shall receive the district's per pupil revenue for the pupil, section 22-54-103(10)(a)(ii), C.R.S.~~

~~5.17(2) A pupil enrolled in an on-line program within the applicable budget year that was enrolled in a public school in the immediately preceding school year, shall be counted in the "on-line" pupil count and the district shall receive the minimum per pupil funding amount for the pupil.~~

~~5.17(3) Repealed May 10, 2007~~

~~5.18 — Fifth-year programs Repealed May 10, 2007~~

~~5.18(1) Repealed May 10, 2007~~

#### **6.00 — District Pupils Eligible for Free Lunch**

~~6.01 — "District pupils eligible for free lunch" means the number of pupils included in the district pupil enrollment pursuant to section 5.15 who are eligible for free lunch pursuant to the provisions of the federal "National School Lunch Act; 42 U.S.C. 1751, et. seq., and of the federal "Child Nutrition Act; 42 U.S.C. 1771, et. seq., which were in effect on July 1, 1994.~~

~~6.02 — A district shall report to~~

#### **6. At-Risk Pupils and English Language Learners Free and Reduced Lunch Eligibility**

~~6.01 Pursuant to Section 22-54-103(1.5)(d), C.R.S., pupils must be identified by a district as eligible for free or reduced lunch as of the applicable count date (or within 30 days thereafter, for pupils not in attendance on the applicable count date).~~

~~6.0302 As evidence of a pupil's qualification for inclusion as a district pupil eligible for free or reduced lunch, a district shall use one of the following items for each pupil claimed as a district pupil eligible for free lunch and shall retain records thereof in its child nutrition/school food service office.~~

~~6.0302 (a4)~~ The pupil's current year "application for free or reduced price school meals," which application shall be for the school year of the ~~pupil enrollment count date or the alternative applicable~~ count date and shall be approved within 30 calendar days after the ~~pupil enrollment applicable~~ count date ~~or the alternative count date.~~

~~6.02(b) 03(4)(a)~~ Absent the current year application, a district may submit the pupil's prior year application, which application shall be valid evidence ~~for a maximum of 30 school days into through the applicable count date of~~ the current year.

~~6.0302 (c)~~ A copy of the direct certification listing as of the ~~pupil enrollment count date or the alternative applicable~~ count date which includes the pupil's name.

~~6.0302 (d)~~ For a district with a school or schools operating under a federal Special Assistance Certification and Reimbursement Alternative (~~7 CFR 245.9~~), evidence of the pupil's inclusion on the district's base year count and further evidence that such pupil remains included in the district's pupil enrollment pursuant ~~to section 5.15. This method shall not be available if a district alters the boundaries of the participating schools.~~

~~6.03(3)(a)~~ A district operating under a federal Special Assistance certification and Reimbursement Alternative (7 CFR 245.9) must notify the Research and Evaluation Unit of the Department at least 30 calendar days prior to the pupil enrollment count date of its intention to document eligible pupils at specific schools pursuant to section 6.03(3).

~~6.03(3)(b)~~ If a district alters the boundaries of a school operating under a federal Special Assistance Certification and Reimbursement Alternative (7 CFR 245.9), the district no longer may document eligible pupils at such school pursuant to Rule section 6.03(3).

~~6.04~~ A district shall retain in its child nutrition/school food service office the records of the applications for free or reduced price school meals and the records of direct certification listings required pursuant to section 6.03.

~~6.50~~

~~6.03~~ Pursuant to Section 22-54-103(6.5)(a), C.R.S., pupils who are English Language Learners are identified with a Language Proficiency of Non-English Proficient or Limited-English Proficient as of the applicable count date and are within the five-year services window defined in English Language Proficiency Act (ELPA).

## **7. Cost of Living Factor – newly organized districts**

~~6.57.01~~ A district shall annually cause a schedule to be placed in the annual audit report of its financial statements which follows the required practices of the Department's Financial Policies and Procedures Handbook as adopted by the State Board.

~~7.01~~ Except in the event of a deconsolidation as described in ~~section~~Section 22-30-102(2)(a), ~~CRS~~C.R.S., resulting in a newly organized district, the Department shall assign a cost of living factor for purposes of the Public School Finance Act of 1994 to a new district organized pursuant to Article 30 of Title 22, C.R.S.

~~6.51(1)~~ Such cost of living factor shall be valid until the staff of the legislative council certifies a cost of living factor for such district pursuant to section 22-54-104(5), C.R.S.

~~6.527.02~~ In determining a cost of living factor to assign, the Department shall review materials used in the most recent cost of living analysis conducted by the staff of the legislative council for those districts affected by the reorganization. ~~The Department shall also consult with representatives of the~~

~~affected school districts and with other parties as necessary. Such cost of living factor shall be valid until the staff of the legislative council certifies a cost of living factor for such district pursuant to Section 22-54-104(5), C.R.S.~~

~~6.53 — In determining a cost of living factor to assign, the Department shall consult with representatives of the affected school districts and with other parties as necessary.~~

~~6.54~~

~~7.03~~ In the event of a consolidation of existing districts and a cost of living factor assigned by the Department which is less than the cost of living factor previously applicable to the district prior to consolidation, the Department's assignment shall be attributable to matters other than the mere consolidation of the districts.

~~6.557.04~~ The Department shall assign such cost of living factor at least 30 days prior to the start of the newly organized district's budget year and shall certify such factor to the district in writing.

## ~~7.00 — District Annual Audit Reports of Financial Statements~~

### ~~8. Department Audits of Districts~~

~~7~~

~~8.01~~ A district ~~The Department shall annually cause a schedule to be placed in~~ ~~perform audits of pupil enrollment count data to be placed in~~ ~~ensure the annual audit report of its financial statements which follows the required practices~~ ~~accuracy of the Department's Financial Policies and Procedures Handbook as adopted by the State Board.~~

~~7.02~~ A district shall submit to the Department the annual audit report of its financial statements within six months next following the fiscal year audited.

~~7.03~~ Since the State Board has determined that the timely filing of the annual audit report is the legal obligation of the district and that the information used to determine funding contained therein including the auditor's opinions has a time value, the Department will identify for the State Board any district that fails to file such a report in a timely manner as provided in statute and in these Rules.

~~8.018.02~~ Each district and ~~eligible~~ ~~approved~~ facility ~~pursuant to section 14.03~~ ~~school~~ shall retain complete documentation supporting any certification made to the Department or any other data given to the Department for purposes of administering the Public School Finance Act of 1994 until audited by the Department or until five years from the certification due date whichever comes first. ~~The Department encourages a district to retain all required documentation in a central location.~~

~~8.03~~ In addition to satisfying section 8.02 of these rules for its own pupils (if any), ~~a .01(1)A BOCES participating in the provision of educational~~ ~~providing~~ services ~~on behalf of a~~ ~~district pupils,~~ ~~charter school, or BOCES~~ shall ensure that its documentation is sufficient to allow ~~asuch~~ ~~district,~~ ~~charter school, or BOCES~~ to meet the requirement in section ~~8.01.~~ ~~8.02~~ ~~The Department encourages a district to retain all required documentation in a central location until audited by the Department or until five years from the certification due date whichever comes first.~~

~~8.03 — Repealed.~~

8.04 If the Department determines that a district or an ~~eligible~~ ~~approved~~ facility ~~school~~ has received payment of funds greater than the amount to which the district or ~~eligible~~ ~~approved~~ facility ~~school~~ is entitled, the district or ~~eligible~~ ~~approved~~ facility ~~school~~ shall be responsible for repayment to the Department within 30 calendar days from the date of said determination.

8.04(a) Audit repayments outstanding after 30 calendar days shall be assessed interest at a rate consistent with Section 5-12-101, C.R.S., beginning from the final settlement date of the audit, as provided in Section 22-2-113(1)(g), C.R.S.

8.04(b) A district or an eligible approved facility school that refuses to pay a determined repayment amount may have its current and future payments or reimbursements withheld until the full amount of the repayment, plus applicable interest, is recovered.

~~8.04(3) If necessary, the Department may adjust future payments to a district or an eligible facility to fully recover outstanding audit repayments plus applicable interest.~~

8.05 If the Department determines that a district or an eligible facility has not received full payment of funds to which it is entitled, the Department shall be responsible for payment to the district or eligible facility.

8.06 A district or an eligible facility may appeal any audit finding in writing to the Commissioner within 30 calendar days. ~~8.06(1)~~ The Commissioner shall rule within 30 calendar days of receipt of a written appeal. The ruling shall be in writing and shall either uphold, modify, or overturn the appealed audit finding(s). ~~8.06(2)~~ The Commissioner's ruling shall be final, and no additional administrative appeals shall be provided.

#### ~~9.00 Business Incentive Agreements~~

~~9.01 A district which negotiates an incentive payment or credit pursuant to Section 22-32-110(1)(ff), C.R.S., or pursuant to Section 22-32-110(1)(gg), C.R.S., shall submit a copy of the agreement to the Public School Finance Unit of the Department.~~

~~9.01(1) A school district board of education shall not enter into an agreement to provide an incentive payment or credit unless the Colorado Economic Development Commission (EDC) has reviewed the agreement. A letter from EDC indicating that the required review has been conducted must also be submitted to the department.~~

~~9.02 Annually, a district shall obtain certification from the county assessor of the amount of the assessed valuation of the property covered by the agreement by January 15 of each fiscal year.~~

~~9.03 The Department shall make any necessary adjustment to a district's state share of total program pursuant to Section 22-54-106, C.R.S., prior to June 30 of each fiscal year.~~

~~9.03(1) Adjustments will be made only for investments occurring within or after the calendar year in which an agreement is signed.~~

~~9.03(2) For compliance with Section 22-54-106(8)(a)(II), C.R.S., the Department annually may calculate the state share payments using the applicable mill levies certified in the current fiscal year.~~

~~9.04 Annually, a district shall certify to the Department the district's compliance with the terms of its agreement(s), including payment of any incentive payment or credit.~~

#### ~~10.00 State Average Per Pupil Operating Revenues~~

~~10.01~~ The Department shall certify the state average per pupil operating revenues pursuant to Section 22-54-103, C.R.S., by June 15 next preceding the fiscal year.

~~10.01(1)~~ The certified state average per pupil operating revenues shall figure may be subject to minor correction and audit changes; agreements between districts and other entities to pay the state average need not be adjusted to the revised figure.

~~41.0010.~~      **Buyout of Categorical Programs**

~~41.01~~      The Department shall certify to those districts required to levy additional mills pursuant to Section 22-54-107, C.R.S., the amount of categorical program funding which is subject to buyout requirements.

~~41.02~~      The Department shall use the best available data, including estimated amounts if actual figures are unknown.

~~41.03~~      ~~The Department shall prorate each categorical program buyout requirement if a district's additional revenues available pursuant to Section 22-54-107, C.R.S., are insufficient to fully buy out the programs.~~

~~42.00~~

**11.      Timely Payment of School District Obligations**

~~12.01~~      ~~If a district has issued general obligation bonds on or after July 1, 1991, pursuant to Articles 42 or 43 of Title 54, C.R.S., or has entered into a lease agreement or installment purchase agreement pursuant to Section 22-32-127, C.R.S., or to Section 22-45-103(1)(c),~~

~~11.01~~      ~~If a district has bonds or other obligations described in Section 22-41-110, C.R.S., and does not have adequate funds to pay principal and interest payments due, such district shall notify the Department in writing of its inability to pay no later than 20 calendar days prior to the payment due date.~~

~~43.0012.~~      **Authorization of Additional Local Revenues**

~~4312.01~~      If a district holds an election pursuant to Article X, Section 20 of the state constitution, ~~Section~~section 22-40-102, C.R.S., Section 22-42-102, C.R.S., or Sections 22-54-~~107.5 through~~ 108-~~7,~~ C.R.S., the president of the local board of education of the district or a designee shall provide to the ~~Public School Finance Unit of the~~ Department no later than ten business days after the election: (1) a copy of the official ballot question language as certified to the county clerk for a coordinated election or a copy of the official ballot marked with the word "sample;" and (2) the number of votes cast for the question and the number of votes cast against the question.

~~4312.02~~      When a local board of education decides not to raise any or all of the amount approved at an election pursuant to ~~Section~~section 22-54-108, C.R.S., the amount approved shall not be reduced and shall be available for the local board to include in determining the general fund levy in any future fiscal years.

~~14.00~~ **Pupils Publicly Placed Outside the District of Residence Definitions**

14.01 "Approved Facility School", as defined in section 22-2-402(1), C.R.S., means an educational program 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), C.R.S., 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.

14.02 "State Program" means, the Colorado School for the Deaf and the Blind, Colorado Mental Health Institute at Fort Logan, and the Colorado Mental Health Institute at Pueblo.

14.03 "Pupil in Public Placement or Pupil Publicly Placed" means a pupil placed in a facility by a court order 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..

**Commented [MB1]:** The remaining sections 14-19 will also be updated to reflect updated approach to facility school funding and placements, per S.B. 23-219. Those changes are not reflected in this redline.



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

**15.00 Pupils Publicly Placed Outside the District of Residence-General**

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

**16.00 Pupils Publicly Placed Outside the District of Residence-Determining Pupil Enrollment at an Approved Facility School or State Program**

16.01 To determine its pupil enrollment, an approved facility school or state program shall count as of the pupil enrollment count date specified in section 3.00 each of its Colorado resident, publicly-placed pupils being served who is under age 21 as of the pupil enrollment count date and who has not met graduation requirements as of the pupil enrollment count date.

16.02 No later than October 5, an 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 enrollment in order to receive education program funding.

**17.00 Pupils Publicly Placed Outside the District of Residence-Monthly Reporting to CDE for Reimbursement**

17.01 On or before the fifteenth day of each month, an approved facility school or a state program shall report to the Department using the format required by the department its number of 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 approved 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 approved facility school or a state program prior to making that month's reimbursement payment pursuant to section 19.00.

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

**18.00 Pupils Publicly Placed Outside the District of Residence-Determining Full-time Equivalent Membership**

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

18.02 Membership in an educational program continues until the pupil withdraws and the pupil's name no longer appears on the roster of the approved facility school or state program, or until terminated automatically after five continuous calendar days beginning on the 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, 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 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 the pupil returns on or before the fifth educational calendar day after the first day of non-authorized absence from the educational program, an approved 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 the pupil returns after the fifth calendar day after the first day of non-authorized absences from the educational program, an 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 pupil absences, an approved facility school or a state program may include the actual number of instructional days the pupil was absent, up to a maximum of ten, in its calculation of total educational calendar days in membership.

18.08 When a pupil reaches age 21, an 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 pupil reaches age 21.

18.09 An approved facility school or a state program shall retain documentation of pupil 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 section 17.00.

**19.00 Pupils Publicly Placed Outside the District of Residence-Monthly CDE Reimbursement Payments**

19.01 On or before the fifteenth day of the month following the month in which an approved facility school or a state program is required to report its numbers of pupils served and its full-time equivalent membership pursuant to section 17.00, the Department shall pay the facility a proportional amount of the state average per pupil revenues based on the 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 approved facility school or state program provides a nine, ten, eleven or twelve month educational program.

19.01(2) The Department may prorate its reimbursement payments if deemed necessary to accommodate a projected revenue shortfall.

19.02 The Department shall pay 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 section 17.01(1) and to hold any 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 made.

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

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**Editor's Notes**

**History**

Section 2254-R-5.00 eff. 05/10/2007.

Entire rule eff. 09/30/2007.

Sections 2254-R-1.00, 14.00 – 20.00 emer. rule eff. 09/11/2008.

Sections 2254-R-1.00; 14.00 – 20.00 eff. 11/30/2008.

Sections SB&P, 2254-R-14.00 through 19.00 emer. rule eff. 06/10/2009; expired 09/10/2009. Section 2254-R-20.00 emer. rule repealed eff. 06/10/2009; expired 09/10/2009.

Sections SB&P, 2254-R-2.00, 2254-R-14.00 through 19.00 eff. 09/30/2009. Section 2254-R-20.00 repealed eff. 09/30/2009.

Entire rule emer. rule eff. 07/30/2012; expired 10/10/2012.

Entire rule eff. 12/30/2012.

Entire rule eff. 10/30/2020.

**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.

Rules 2254-R-14.01(1), 14.03, 14.04, 14.06, 14.07(3), 14.07(5), 14.08, 16.01(1), 16.01(1.01), 16.01(1.02), 16.02, 16.02(1), 17.02, 19.01(2), 20.00 (adopted 10/01/2008) were not extended by House Bill 09-1292 and therefore expired 05/15/2009.