

DEPARTMENT OF EDUCATION

Facility Schools Board

RULES FOR THE ADMINISTRATION OF THE FACILITY SCHOOLS ACT

1 CCR 304-1

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

Statutory Authority: Article 1 of Title 22, C.R.S., Sections § 22-2-406, and § 22-2-407.

222-R-1.00 STATEMENT OF BASIS AND PURPOSE

1.01 The statutory authority for the promulgation of these Rules is found in Article 2 of Title 22, C.R.S. sections 406 through 407.

1.01(1) § 22-2-406 C.R.S. requires the Facility Schools Board to promulgate rules to establish procedures by which a student who participates in an Approved Facility School may apply to receive a high school diploma awarded by the Facility Schools Board. The Facility Schools Board is also required to establish by rule the graduation requirements that a student receiving educational services through an approved facility school shall meet to be awarded the facility school's high school diploma.

1.01(2) § 22-2-407 C.R.S. requires the Facility Schools Board to promulgate rules for the creation and maintenance of a list of Approved Facility Schools to receive reimbursement for providing educational services to students placed in the facility. The rules shall include: the procedures by which a facility school may apply for approval; the information that each facility shall provide in the application; the reporting requirements for Approved Facility Schools; the criteria that a facility school shall meet to be placed on the list of Approved Facility Schools; requirements for maintenance of the school approval, and any additional rules as may be necessary for the implementation of the approval process.

222-R-2.00 DEFINITIONS

2.01 Approved Facility School.

"Approved Facility School" pursuant to § 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 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.

2.02 Eligible Facility. "Eligible Facility" pursuant to § 22-2-402(3) C.R.S. means a day treatment center, residential child care facility, or other facility licensed by the Department of Human Services pursuant to section 26-6-104 C.R.S. or hospital licensed by the Department of Public Health and Environment pursuant to § 25-1.5-103, C.R.S.

- 2.03 Facility Schools Board. "Facility Schools Board" means the seven-member board established pursuant to § 22-2-404, C.R.S. in order to adopt curriculum and accountability measures, and promulgate rules regarding graduation requirements and procedures for the approval process of facility schools. The Facility Schools Board is also charged with issuing high school diplomas for those students who have met graduation requirements established by the board. It may also make recommendations regarding other pertinent issues related to Approved Facility Schools in accordance with § 22-2-406 (2), C.R.S.
- 2.04 Facility Schools Unit. "Facility Schools Unit" pursuant to 22-2-403 C.R.S. means the unit created within the Department of Education. The duties of the Facility Schools Unit are specified in § 22-2-405, C.R.S. The staff of the Facility Schools Unit shall assist the Facility Schools Board in performing its duties.
- 2.05 State Board of Education. "State Board of Education" or "State Board" means the State Board of Education created and existing pursuant to section 1 of article IX of the state constitution.
- 2.07 Least Restrictive Environment. Least Restrictive Environment ("LRE") pursuant to 22-20-103(18) C.R.S., programs used to educate a child with a disability using a delivery system most appropriately meeting the needs of the child. To the maximum extent appropriate as determined by the child's IEP team subject to the appeals procedures outlined in § 22-2-108(3), C.R.S., the term means an environment in which a child with a disability is educated with children without disabilities unless the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily, or when provided with supplementary aids and services, the nature or severity of the disability is so disruptive that the education of other children in such classes would be significantly impaired.

222-R-3.00 ADMINISTRATION

3.01 Minimum Standards for Approved Facility Schools

3.01(1) Criteria for Approved Facility Schools

The purpose of the facility school approval process is to allow an eligible facility to receive public education funding for educational services provided to students. If for any reason the students in the facility are not entitled to Colorado public education funding, the facility is not eligible for approval or participation in this process.

3.01(2) To qualify as an approved facility school program, an Eligible Facility shall meet the following criteria:

3.01(2)(a) Prior licensing by appropriate state agencies:

An Eligible Facility shall first be licensed by the Colorado Department of Human Services as a Residential Child Care Facility, Day Treatment program or other facility, or must be licensed as a hospital by the Colorado Department of Public Health and Environment

3.01(2)(b) The education of the children in placement at the eligible facility is the responsibility of a state of Colorado school district:

To qualify for approval, the students who are placed in the facility must be entitled to Per Pupil Revenue (PPR) funding in Colorado. If the education of the students in the facility is the responsibility of another state the facility is not eligible for approval. If education funding for the program is provided through another Colorado agency budget, legislative appropriation or other means, the facility is not eligible for approval.

To be entitled to PPR funding, placements made to facilities licensed through the Department of Human Services, must be made by a public agency of Colorado. In facilities licensed through the Department of Human Services placements made by private entities or parents/ guardians are not eligible for PPR funding.

For facilities licensed as a hospital through the Department of Public Health and Environment, students must be patients of the hospital to be entitled to PPR funding. This means that the students are admitted to the hospital by a physician or are under the care of a staff physician.

3.01(2)(c) Placement of students into the facility is consistent with Least Restrictive Environment ("LRE") requirements:

A facility shall not qualify for approval if placements into the facility would be considered a violation of LRE requirements.

3.01(2)(d) Employment of Sufficient Qualified Staff

To qualify for approval the facility shall employ sufficient qualified administrative, instructional and support staff to plan for and provide services for all children who are determined to have a disability;

3.01(2)(e) Employment of Special Education Director

To qualify for approval, each Eligible Facility shall employ or contract in writing, on at least a part-time basis, with a Director of Special Education who meets the qualification standards established by ECEA Rules, 1 CCR 301-8, Section 3.04(1)(d) and any other relevant rules promulgated by the State Board of Education;

3.01(2)(f) Implementation of a Comprehensive Plan

To qualify for approval, each facility shall develop and implement an approved comprehensive plan including educational policies and procedures, a description of the facilities philosophy of education, a description of the nature of the needs of the students to be served, demonstration of appropriately qualified treatment staff if serving students with cognitive or developmental disabilities, and any relevant information regarding the mission, history and structure of the agency;

3.01(2)(g) To qualify for approval, a facility shall implement the graduation requirements adopted by the Facility Schools Board;

3.01(2)(h) To qualify for approval, a facility shall implement the curriculum adopted by the Facility Schools Board;

3.01(2)(i) To qualify for approval, a facility shall implement the accountability measures adopted by the Facility Schools Board; and

3.01(2)(j) To qualify for approval, a facility shall agree to carry out the duties and responsibilities identified in these Rules.

3.02 Application Procedures

- 3.02(1) Any facility wishing to obtain state or federal funds to provide education services to children with disabilities shall be approved by the Facility Schools Board.
- 3.02(2) Facilities wishing to establish an approved school program shall submit a letter of intent to the Department of Education, Facility Schools Unit, at least ninety (90) calendar days prior to the day on which the facility is to begin its school program.
- 3.02(3) Facilities wishing to establish an approved school program shall submit to the Department of Education, Facility Schools Unit a comprehensive plan thirty (30) calendar days prior to the submission of its application for approval to the Facility Schools Board.
- 3.02(4) If the Department of Education, Facility Schools Unit, determines that the facility meets state requirements as defined in 3.01 of these Rules and relevant statute, the Facility Schools Unit shall notify the facility that it is being recommended to the Facility Schools Board for approval.
- 3.02(5) At the request of the Facility Schools Board, an agency requesting school approval may be asked to present information regarding the facility to the Board at one of its meetings.
- 3.02(6) If the Department of Education determines that the Eligible Facility is unable to meet requirements, it shall present its reasons for such findings in writing.
- 3.02(7) If within thirty (30) calendar days of the Department's notification of findings, the facility is unable to negotiate a satisfactory resolution of differences with the Department of Education, Facility Schools Unit, it may utilize the appeal process outlined in these Rules.

3.03 Comprehensive Plan.

- 3.03(1) Each facility seeking approval for an on-grounds school shall develop a comprehensive plan in which the educational policies and procedures to be followed in order to be in compliance with all applicable state laws and regulations are stated.
- 3.03(2) At a minimum, the comprehensive plan shall include but not be limited to the following:
 - 3.03(2)(a) An explanation of the purpose of the Eligible Facility, especially as it relates to treatment, care and education of children with disabilities;
 - 3.03(2)(b) A description of the population to be served by the facility;
 - 3.03(2)(c) Policies and procedures to be followed to meet all appropriate federal and state statutes, rules and regulations;
 - 3.03(2)(d) A description of the education curriculum, and specifically how it is aligned with the curriculum adopted by the Facility Schools Board, and how the various components of the agency support that curriculum and the child's individualized educational program (IEP);and
 - 3.03(2)(e) Approval of the facility's governing body.

3.04 Maintenance of Approved Status.

3.04(1) In order to maintain approval of its school program, each Approved Facility shall:

3.04(1)(a) Comply with required policies and procedures as set forth in these Rules;

3.04(1)(b) Comply with the reporting requirements established by the Facility Schools Unit, including use of the Facility Schools Student Data System, October Pupil Count and December Count procedures;

3.04(1)(c) Implement the curriculum adopted by the Facility Schools Board;

3.04(1)(d) Implement the graduation requirements adopted by the Facility Schools Board;

3.04(1)(e) Comply with accountability measures as established by the Facility Schools Board;

3.04(1)(f) Complete an annual self-assessment and develop a school improvement plan based on guidelines established by the Facility Schools Unit.

3.04(1)(g) Notify the Colorado Department of Education, Facility Schools Unit, in writing in the event of:

3.04(1)(g)(i) A change in the management or administration of the facility;

3.04(1)(g)(ii) Purchased by or merger with another agency;

3.04(1)(g)(iii) A change of educational coordinator or special education director;

3.04(1)(g)(iv) An application for a new or different license from the Department of Human Services, the loss of a license or notification of probationary status;

3.04(1)(g)(v) A change in location or the addition of another location;

3.04(1)(g)(vi) A change of program focus;

3.04(1)(g)(vii) A change in the age of students served;

3.04(1)(g)(viii) Any increase in the number of students included in the PPR billing above the number originally approved; and

3.04(1)(g)(ix) Other factors unique to the program or situation.

3.05 Review of Approved Status

3.05(1) Periodic Monitoring

3.05(1)(a) The Department of Education, Facility Schools Unit shall periodically monitor all Approved Facility Schools to determine compliance with stated requirements.

3.05(1)(b) Monitoring procedures shall include review of data, desk audits, on-site visitation, review of student records, interviews and other means necessary to determine compliance.

3.05(1)(c) A written report shall be issued stating any items of non-compliance. The time frame to resolve issues shall be stated in the report.

3.05(1)(d) The Approved Facility School shall submit a corrective action plan outlining the steps to be taken in correcting any compliance issues, including the timeframe for implementation.

3.05(2) Review of Changes and Determination of Approval Status

3.05(2)(a) In the event of any of the changes noted in section 3.04(1)(g) of these rules, the Colorado Department of Education, Facility Schools Unit, shall review the pertinent information and determine whether the change impacts the approved status of the Approved Facility School. The facility shall be notified in writing of any actions which need to be taken in order to maintain approved status.

3.06(2) Revocation of Approved Status

3.06(2)(a) Eligible Facilities with approved school programs that no longer meet state requirements shall be notified in writing by the Department of Education, Facilities Schools Unit of the specific areas of noncompliance and be given a specified period of time in which to remediate the areas of noncompliance.

3.06(2)(b) Per Pupil Revenue (PPR) payments may be delayed until compliance is demonstrated.

3.06(2)(c) Should the Eligible Facility fail to come into compliance, Administrative Units shall be notified that the facility is out of compliance and that excess cost payments should be suspended and the Department of Education, Facility Schools Unit shall request that the Facility Schools Board revoke the facility's approval.

3.06(2)(d) Loss of the license by the appropriate state agency shall result in immediate revocation of the Approved Facility School's approval and any corresponding excess cost rate. The Facility Schools Unit shall notify the Approved Facility School of such revocation in writing. If the Approved Facility School in question wishes to regain its approved status, a new application for approval must be submitted.

3.07(3) Appeal Process

3.07(3)(a) Any decision of the Facility Schools Board relating to the approval or revocation of approval of a facility school may be appealed by the affected entity to the Facility Schools Board within sixty (60) calendar days of the entity's receipt of the written notice from the Facility Schools Unit.

3.07(3)(b) The Facility Schools Board shall conduct a hearing and make a determination concerning the appeal within sixty (60) days from the date of the written request. The decision of the Facility Schools Board shall be final.

3.07(3)(c) A written notice of denial or approval shall be provided to the eligible facility.

222-R-4.00 RESPONSIBILITIES OF APPROVED FACILITY SCHOOLS

4.01 Career, Academic and Post Secondary Planning

- 4.01(1) Approved Facility Schools shall include a request for the Individual Career and Academic Plan (ICAP) document, or access to the electronic portfolio in its general records request to the students' district of residence.
- 4.01(2) Approved Facility Schools shall review, revise and contribute to the previously developed plan as appropriate.
- 4.01(3) If an ICAP has not yet been developed for a student who is likely to be in a facility placement for at least thirty (30) calendar days, the Approved Facility School shall initiate the planning for career, education and independent living beginning in 9th grade or earlier if appropriate. A variety of assessment tools shall be used including those that are used for transition services planning for students with disabilities.
- 4.01(4) The ICAP shall be developed consistent with guidance provided by the Facility Schools Unit.
- 4.01(5) For students identified as eligible for special education services, the ICAP shall be consistent with the transition planning process required by Rules, 1 CCR 301-8, Section 4.03(6)(d)
- 4.01(6) In addition to planning for career preparation, education and post secondary training, the ICAP shall address skills for emancipation and successful independent living in the community as appropriate.

222-R-5.00 GRADUATION REQUIREMENTS AND APPLICATION FOR A HIGH SCHOOL DIPLOMA

5.01 Application

- 5.01(1) A student attending an Approved Facility School may apply for a high school diploma to be granted by the Facility Schools Board.
 - 5.01(1)(a) The education staff at the Approved Facility School shall assist the student in preparing the application.
 - 5.01(1)(b) The application shall include all pertinent information regarding coursework and credits earned, certification that graduation requirements have been met and shall be submitted using the forms and procedures established by the Facility Schools Unit.
 - 5.01(1)(c) Specific coursework and credits required for graduation will be contained in procedures established by the Facility Schools Unit with the approval of the Facility Schools Board.
 - 5.01(1)(d) The Facility Schools Unit shall establish a process whereby diploma applications are reviewed, transcripts evaluated and decisions are made regarding the awarding of high school diplomas. The process shall be developed in a manner which ensures consistent implementation across all approved facility schools.
 - 5.01(1)(e) A student may also apply for a high school diploma with one or more endorsements indicating advanced achievement in one or more of the core academic areas. Procedures for the application, evaluation and approval of diploma endorsements shall be established by the Facility Schools Unit in a manner which ensures consistency across all approved facility schools.

5.02 Methods of Accruing Credits

5.02(1) Various methods of accruing credits are allowed in accordance with guidelines and procedures developed by the Facility Schools Unit, including:

5.02(1)(a) Successful completion of coursework based on semester classes;

5.02(1)(b) Successful performance on approved assessments;

5.02(1)(c) Portfolios or integrated projects according to established guidelines;

5.02(1)(d) Credit Recovery programs approved by the Facility Schools Board;

5.02(1)(e) Service Learning according to established guidelines; and

5.02(1)(f) Authorized paid or unpaid work study credit.

5.03 Wavier Process

5.03(1) A process for requesting a waiver to the graduation requirements shall be established by the Facility Schools Unit. The process shall ensure consistency across all facility schools in the review and granting of specific waivers for legitimate and documented reasons.

5.04 Earning a High School Diploma from a Colorado School District.

5.04(1) When secondary aged students are placed in an Approved Facility School, the Approved Facility School shall request transcripts from previous educational placements and review credits earned against the requirements of the student's district of residence.

5.04(2) If it is likely that the student will be transitioning back to a school district prior to graduation, or if the student and/or parent prefers to seek a diploma from the student's district of residence, the education staff at the Approved Facility School shall assist the student in working with the district or other entity in that process by compiling credit information, providing transcripts and other pertinent information and by assisting with the request for a credit review from the district as appropriate.

5.04(3) In all such cases, the policies and procedures of that school district shall be followed.

5.04(4) A decision regarding whether or not a student may earn a diploma from a particular district always lies with that district.

5.05 Graduation Ceremonies

Diplomas shall be awarded in graduation ceremonies either at the individual facility or in group events at the discretion of the Approved Facility School and the Facility Schools Unit.

5.06 Training

The Facility Schools Unit shall provide appropriate training opportunities related to all aspects of the graduation and diploma process.

Editor's Notes**History**

Entire rule eff. 04/30/2011.