

## **Title 6. Education**

### **Chapter I. Division of Elementary and Secondary Education**

#### **Subchapter E. Special Education**

#### **Part 130. Procedural Requirements and Program Standards**

#### **Subpart 17. Program Standards**

##### **6 CAR § 130-1701. Academic facilities.**

###### **(a) General.**

(1) Barriers that limit child access to special education services must be eliminated.

(2) Toilet areas, building and classroom entrances, etc., must conform to specifications for the accessibility of individuals with disabilities in conformance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

(3) Classrooms should be located within an age-appropriate school building that houses classrooms for nondisabled peers of children with disabilities.

###### **(b) Space requirements and other considerations.**

(1) Academic facilities used for the provision of special education and related services, or their components of FAPE, to a child with a disability must meet the standards set forth in the Arkansas Division of Public School Academic Facilities and Transportation Custodial and Maintenance Manual.

(2) **Exception.** Facilities used to provide special education and related services constructed prior to the promulgation of the manual referenced in subdivision (b)(1) of this section must meet standards previously set forth in the Division of Elementary and Secondary Education's Special Education rules promulgated in 2000.

##### **6 CAR § 130-1702. Least restrictive environment.**

###### **(a) General.**

(1) Each public agency shall ensure that:

(A) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(B) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) Determination of least restrictive environment is made on an individual basis, taking into account both the:

(A) Service or services needed; and

(B) Placement in which the child's IEP can be implemented appropriately.

**(b) Continuum of alternative placements.**

(1) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(2) The continuum required in subdivision (b)(1) of this section must:

(A) Include the alternative placements listed in the definition of "special education", which includes:

(i) Instruction in regular classes;

(ii) Special classes;

(iii) Special schools;

(iv) Home instruction; and

(v) Instruction in hospitals and institutions; and

(B) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(3) The continuum of alternative placements displayed on chart #1-17 of this section delineates service delivery systems.

(4) Any child three (3) to twenty-one (21) years of age who, because of the severity or nature and/or extent of the disability, requires homebound or hospital instruction must have the:

(A) IEP implemented within the facility of confinement for as long as the disability adversely impacts the health, safety, and/or well-being of the child and prevents school attendance; and

(B) IEP and subsequent placement reviewed every three (3) months.

**CHART # 1-17 CONTINUUM OF ALTERNATIVE PLACEMENTS**

Regular Class	Regular Class	Regular Class	Some/or no Instruction in Regular Class	Some/or no Instruction in Regular Class	No Instruction in Regular Class			
Indirect Service	Some Direct Instruction More than 80% of time in the classroom for general education	40% to 79% of the Instructional Day in General Education	Less than 40% of the Instructional Day in General Education	School-based Day Treatment	Special Day School Facility Greater than 50% of time at the facility	Residential School	Hospital Program	Homebound Instruction
1	2	3	4	5	6	7	8	9

**6 CAR § 130-1703. Maximum teacher–pupil caseload.**

**(a) General.**

(1) When calculating the number of children being served, each child is counted only one (1) time.

(2) The following chart illustrates the maximum teacher–pupil caseloads for various service settings and disabilities.

**CHART # 2-17 MAXIMUM TEACHER/PUPIL CASELOAD**

	REGULAR EDUCATION/ SPECIAL EDUCATION CO-TEACHING CLASSROOM	REGULAR EDUCATION/ SPECIAL EDUCATION INTEGRATED CLASSROOM	*INDIRECT SERVICES	ITINERANT INSTRUCTION	RESOURCE SERVICES	SPECIAL CLASS SERVICES OPTIONS		
Noncategorical	1:30 ****	1:24 (2/3 Reg. to 1/3 Spec.)	1:40	1:35	1:25	1:15	1:10	1:6 ***
Categorical			1:40	1:25	1:25	1:15	1:10	1:6 ***
** 1. Speech/ Language Impairment			1:45	1:45				
2. Hearing Impairment				1:20	1:15			
3. Visual Impairment				1:20	1:15			

\* See subsection (g) of this section for additional information regarding part-time teacher/pupil caseload.

\*\* When a Speech/Language Pathologist has an approved Speech/Language Pathology Aide or Assistant the maximum caseload is left to the discretion of the Speech/Language Pathologist.

\*\*\* For a classroom with a 1:6 teacher/pupil caseload, a full-time paraprofessional is required.

\*\*\*\* See 6 CAR § 130-1706(d)(2) for part-time co-teacher.

**(b) Exceptions to the stated maximum teacher–pupil caseloads.**

(1) For each child receiving special class services within a resource setting, not to exceed a total of three (3) children, the maximum teacher–pupil caseload will be reduced by one (1) child.

(2)(A) Up to a maximum of five (5) children may receive resource services in a self-contained classroom with a teacher–pupil caseload of 1:15.

(B) Each child receiving resource services, up to the maximum of five (5) resource children, count the same as a self-contained child for figuring total teacher–pupil caseload, not to exceed an overall caseload of fifteen (15) children.

(3) For each child with a hearing impairment receiving services on a noncategorical basis in a resource setting, the teacher–pupil caseload will be reduced by two (2) children.

(4) For each child receiving braille instruction from an itinerant instructor, the maximum teacher–pupil caseload will be reduced by two (2) children.

**(c) Waiver of the maximum teacher–pupil caseload.**

(1)(A) Should an emergency situation arise creating the need to request a waiver from the maximum teacher–pupil caseload, the public agency must submit a letter to the Administrator for Monitoring and Program Effectiveness of the Division of Elementary and Secondary Education stating the reason or reasons for exceeding the maximum teacher–pupil caseload and outlining a plan to correct the problem.

(B) The administrator will respond in writing, either approving or disapproving the variance.

(2) A ten percent (10%) variance (upward caseload adjustment) of the maximum teacher–pupil caseload is the maximum variance approvable before federal funding is affected.

**Example:** The noncategorical resource setting teacher–pupil caseload is 1:25 with a ten percent (10%) allowable variance equal to 2.5. When approved, this teacher–pupil caseload may then increase to 1:28. For a special class setting with a maximum teacher–pupil caseload of 1:15, a ten percent (10%) variance equals 1.5. When approved, the teacher–pupil caseload may increase to 1:17.

(3)(A) Prior to approval of the ten percent (10%) variance, a full-time paraprofessional must be employed for that class by the requesting district.

(B)(i) For a 1:6 special class setting, a full-time paraprofessional is already required.

(ii) Therefore, an additional paraprofessional must be employed before a district's waiver will be approved.

(4)(A) If a district fails to secure approval for a variance of the teacher-pupil caseload, yet exceeds the teacher-pupil caseload as stated on the Maximum Teacher/Pupil Caseload Chart contained in this section, the district's special education program will not be considered an approved program.

(B) Consequently, federal funds cannot be generated by the nonapproved program.

(5) Under no circumstances will a waiver be granted for an increase in maximum teacher-pupil caseloads for speech-language pathologists (SLP) unless the speech-language pathologist has an approved SLP assistant or SLP aide.

(6) Special education personnel serving children in indirect services will not be granted any waivers of the maximum teacher-pupil caseloads.

**(d) Teacher-pupil caseload — Per period class size.**

(1) For itinerant instruction (excluding speech therapy) and resource services, a maximum of five (5) children per period is the guideline.

(2) Where scheduling does not permit an even flow of five (5) children per period, the number served should be as near to five (5) as possible.

(3)(A) Districts will not be cited for noncompliance with state standards when the per period class size is eight (8) children without a paraprofessional.

(B) However, the adopted guideline of five (5) children per period is considered to be the best educational practice and should be adhered to whenever possible.

**(e) Exceptions to the adopted guideline of five (5) children.**

(1) When the special education teacher teaches one (1) class per day in the area of personal/social adjustment as a prevocational or vocational class, the per period load may be adjusted upward not to exceed the maximum caseload.

(2)(A) When the teacher has a paraprofessional to assist in follow-through activities, the per period class load may be adjusted upward not to exceed forty percent (40%) of the teacher–pupil caseload listed on the Maximum Teacher/Pupil Caseload Chart contained in this section.

(B) For example, the per period load may be increased to ten (10) children for noncategorical resource classes.

(3) The number of children served per period may not be increased beyond the allowable adjustments noted in the two (2) exceptions in subdivisions (e)(1) and (2) of this section regardless of the approved maximum caseload, inclusive of waivers granted.

(4)(A) When special education class services are delivered in a departmentalized manner (configured to group children by specific deficit areas, including but not limited to, course/subject content areas), under no circumstances will the teacher’s total number of child contacts per day be allowed to exceed forty-eight (48) different children.

(B) Guidelines for per period class size apply to departmentalized service delivery.

(5) The per period class size must be reduced when the square footage of the classroom is less than stated facility requirements.

**(f) Noncategorical classrooms.**

(1)(A) At any time children with differing disabilities may be provided services within the same setting.

(B) For example, children with mild disabilities across categories of disability served within the same service setting, and children with moderate to severe disabilities across disability categories may be served within the same service setting.

(2) Such a setting is designated as a noncategorical class.

(3) Refer to the Maximum Teacher/Pupil Caseload Chart to determine the caseload for such classes.

**(g) Indirect instructional services caseload.**

**(1) Full-time consulting teacher.**

(A) The maximum teacher–pupil caseload for a full-time consulting teacher is 1:40.

(B) For the full-time consulting teacher, the following apply:

(i) May serve only children with disabilities on indirect services in accordance with an IEP;

(ii) May not serve any children with disabilities receiving resource services;

(iii) May not receive a waiver or approval for a variance on the maximum caseload (cap) of forty (40) children; and

(iv) A paraprofessional is recommended, but is not required.

**(2) Half-time resource/half-time consulting teacher.**

(A) The maximum teacher–pupil caseload for this teacher is thirty-two (32) children.

(B) The caseload composition is a maximum of twelve (12) resource children and twenty (20) indirect children.

(C) The following apply:

(i) May not seek a waiver for a ten percent (10%) variance from the maximum caseload; and

(ii) A paraprofessional is recommended, but is not required.

**(3) Part-time resource/consulting teacher.**

(A)(i) In this situation, a resource teacher may serve children on indirect by adjusting the resource room caseload.

(ii) The resource teacher may swap resource children for indirect children at the ratio of two (2) indirect for each resource child, up to a maximum of fourteen (14) indirect children.

(iii) A swap of more than this increases the caseload more than what is allowable for a teacher who is half resource and half consulting teacher.

(iv)(a) This combination of resource/consulting teacher is particularly helpful for school districts where the population of children with disabilities is small and staff are fewer in number to serve these children.

(b) Thus, a mixed service pattern is allowable.

(B)(i) The maximum teacher-pupil caseload for the part-time resource/consulting teacher described above is thirty-two (32) children.

(ii) The caseload composition is a maximum of eighteen (18) resource children and fourteen (14) indirect children.

(iii) The following apply:

(a) May not seek a waiver for a ten percent (10%) variance from the maximum caseload; and

(b) If more than fourteen (14) children need indirect services and this teacher is the only one available to provide the services, then the teacher must convert to the half-time resource/half-time consulting teacher status, and its maximum caseload requirements must be followed (twelve (12) resource children and twenty (20) indirect children for a total caseload of thirty-two (32)).

**(4) Half-time direct/half-time indirect speech-language pathologist.**

(A) The maximum teacher-pupil caseload for this split position is forty-five (45) children.

(B) The caseload composition is a maximum of twenty-five (25) children on direct services and twenty (20) children on indirect services.

(C) The following apply:

(i) The maximum caseload of twenty-five (25) children receiving direct speech therapy services is a maximum, not a minimum;

(ii) May not seek a waiver for a variance on the maximum caseload of forty-five (45) children; and

(iii) An SLP assistant or aide is recommended, but is not required.

**6 CAR § 130-1704. Related services — General.**

(a)(1) Related services, by definition, do not stand alone in the absence of special education instruction.

(2) See 6 CAR § 130-201 et seq., for the full federal definition and 34 C.F.R. § 300.34 for examples of related services.

(b) The examples of related services at 34 C.F.R. § 300.34 are not exhaustive and may include other developmental, corrective, and supportive services if they are required to assist a child with a disability to benefit from special education.

(c) A child's need for related services must be determined on an individual basis.

(d) Not every child with a disability needs a related service in order to benefit from special education.

(e) Children with disabilities who need one (1) or more related services in order to benefit from special education do not necessarily need all related services that may be available or that are listed as examples in 34 C.F.R. § 300.34.

### **6 CAR § 130-1705. Indirect services.**

#### **(a) General.**

(1) Children with disabilities who receive special education in the general education classroom are considered to be receiving indirect services if these services are provided by the general education classroom teacher in consultation with qualified special education personnel (consulting teacher).

(2) Indirect services should consist of consultation with, and technical assistance to, the teacher, which could be in the form of communication, observation, monitoring, and maintenance of a child's skills (i.e., program/content, modifications, modeling of instruction, etc.).

#### **(b) Eligibility criteria.**

(1) The child has been determined to be an eligible child with a disability under this part.

(2) The IEP team has:

(A) Developed an IEP for the child; and

(B) Determined the extent to which indirect services are to be provided for the child to achieve his or her goals and objectives in the regular classroom.

(3)(A) By selecting the indirect services delivery model the IEP team has determined that there is no compelling instructional reason why the child's instruction

cannot be provided in the general education classroom with the assistance of a consulting teacher.

(B) The general education classroom teacher should be an active participant in the IEP conference.

(4)(A) The child is not receiving direct services in the same placement (service setting) in which indirect services are being provided.

(B) For example, a child may not receive both direct and indirect services for speech therapy or for special education, etc.

(C) However, the child may be receiving indirect services in lieu of resource services but continue to receive direct speech therapy or vice versa.

(5)(A) Children receiving indirect services will have their progress reviewed and documented a minimum of twice each semester.

(B) Program reviews should coincide with grading periods.

(6) Indirect services can be provided on a part-time basis by any designated special education instructor, consistent with caseload guidelines in 6 CAR § 130-1703(g), but must be provided during the instructional day and without interruption to the special education provided to direct services children assigned to that instructor.

(7)(A) A 2:1 child-to-teacher equivalency ratio can be used to determine the upward caseload adjustment for itinerant and resource teachers who are assigned consulting teacher duties for part of the instructional day.

(B) See 6 CAR § 130-1703(g).

(8)(A) Children receiving indirect services on December 1 are eligible to be included in the federal child count.

(B) Costs associated with the consulting teacher may be applied to meeting the district's special education expenditure requirements.

(C) Costs associated with the general education program may not be treated as special education expenditures.

**(c) Procedures for reviewing progress.**

(1)(A) The consulting teacher will, at a minimum, review and document each child's progress in indirect services twice each semester.

(B) Progress reports are to be filed in the child's due process folder.

(C) Such program reviews should coincide with grading periods.

(2)(A) If the child does not pass a content area course or courses or satisfactorily complete goals and objectives set out in the IEP for two (2) consecutive progress reviews, the consulting teacher will initiate a program review conference in accordance with established due process procedures.

(B) The committee will document its decision as to either the continuation of indirect services or placement in direct services, consistent with any revision of the child's IEP.

(C) For secondary children, should a progress review at any grading period indicate that a child is in danger of failing a content area course or courses, a formal review conference should be scheduled immediately.

**(d) Standards for indirect instructional services.**

**(1) Location.**

(A) The child will receive regular classroom instruction with the majority of the direct instruction being provided by general education personnel.

(B) Implementation of indirect services will be within the regular education environment.

(2) **Total amount of time.** The total amount of time that indirect services will be provided per week (a minimum of thirty (30) minutes and a maximum of ninety (90) minutes per week) must be reflected on each child's IEP.

(3) **Grading responsibilities.** Regular education personnel are responsible for assigning the child's grade or grades.

**(4) Teacher-pupil caseload.**

(A) The teacher-pupil caseload for a full-time consulting teacher is 1:40.

(B) A 2:1 child to teacher equivalency ratio can be used to determine the upward caseload adjustment for itinerant and resource teachers who are assigned consulting teacher duties for part of the instructional day.

**(e) Consulting teachers.**

**(1) General.**

(A) Consulting teachers are special education personnel who have the primary role of consulting with general and special education teachers regarding the modification and/or adaptation of instruction for specific children with disabilities.

(B) The consulting teacher may provide limited direct instruction to the child.

**(2) Consulting teacher responsibilities.**

(A) The consulting teacher provides a minimum of thirty (30) minutes per week and a maximum of ninety (90) minutes per week of consultation/technical assistance (i.e., communication, observation, monitoring, and maintenance of skills) for each child served in indirect services.

(B) On a regularly scheduled basis, the child's program will be reviewed in conjunction with the general education teacher or teachers serving the child.

(C) Consultation with the regular teacher or teachers regarding modifications in instructional methods or pacing that may be necessary for a child with a disability in the general education classroom may include, but is not limited to:

(i) Assisting the regular teacher or teachers in modifying existing materials or in locating alternate materials for use by the child;

(ii) Assisting the children and teachers with special modifications, such as test construction and administration, on an as-needed basis;

(iii) Providing limited demonstration, diagnostic, or team teaching to model alternative instructional approaches for integrating the child with a disability into the regular classroom; and

(iv) Providing consultation in the development of behavioral intervention plans, use of learning strategies, etc.

(D) Consulting teachers should participate, as appropriate, in meetings regarding the children they serve, such as the evaluation/programming conference to develop the child's IEP.

**6 CAR § 130-1706. Co-teaching.**

(a) **General.** Children with disabilities who receive special education in the general education classroom are considered to be receiving direct services if these services are provided by both the general education classroom teacher and qualified special education personnel.

(b) **Eligibility criteria.**

(1) The child has been determined to be an eligible child with a disability under this part.

(2) The IEP team has:

(A) Developed an IEP for the child; and

(B) Determined the extent to which co-teaching services are to be provided for the child to achieve his or her goals and objectives in the regular classroom.

(3)(A) By selecting the co-teaching services delivery model the IEP team has determined that there is no compelling instructional reason why the child's instruction cannot be provided jointly in the general education classroom.

(B) The general education classroom teacher must be an active participant in the IEP conference.

(4)(A) The child is not receiving co-teaching services in the same placement (service setting) in which indirect or other direct services are provided.

(B) For example, a child may not receive both co-teaching and indirect services for speech therapy or for special education, etc.

(C) However, the child may be receiving co-teaching services in lieu of resource services but continue to receive direct speech therapy or vice versa.

(5) Co-teaching services can be provided on a part-time basis by any designated special education personnel and general education teacher, consistent with caseload guidelines in subdivision (d)(2) of this section, but must be provided:

(A) During the instructional day; and

(B) Without interruption to the special education provided to direct services children assigned to that instructor.

(6) Children receiving co-teaching instructional services on December 1 are eligible to be included in the federal child count.

(7) Costs associated with the co-teaching special education teacher may be applied to meeting the district's special education expenditure requirements.

(8) Costs associated with the general education program may not be treated as special education expenditures.

**(c) Procedures for reviewing progress.**

(1)(A) The general education and special education teachers will review and document each child's progress in co-teaching services.

(B) Progress reports are to be filed in the child's due process folder.

(2)(A) If the child does not pass a content area course or courses or satisfactorily complete goals set out in the IEP for two (2) consecutive progress reviews, the special education teacher will initiate a program review conference in accordance with established due process procedures.

(B) The committee will document its decision as to either the continuation of co-teaching services or placement in other direct services, consistent with any revision of the child's IEP.

(3) For secondary children, should a progress review at any grading period indicate that a child is in danger of failing a content area course or courses, a formal review conference must be scheduled immediately.

(4) **Grading responsibilities.** General education personnel in consultation with the special education co-teacher or co-teachers are responsible for assigning a child's grade or grades.

(5) The total amount of time that co-teaching services will be provided per week is to be divided equally between the general education teacher and the special education teacher as documented on the child's IEP.

**(d) Teacher-pupil caseload.**

(1) **Full-time co-teacher.** The teacher-pupil caseload for a full-time co-teaching special education teacher is 1:30.

(2) **Part-time co-teacher.** The teacher–pupil caseload for a part-time co-teaching special education teacher is 1:30 split between co-teaching duties and other direct services provision.

**6 CAR § 130-1707. Inclusion of nondisabled children in school-based day treatment.**

(a) **Purpose.** It is the purpose of this part to set out the general guidelines for the inclusion of a limited number of children who, while not found to be eligible in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., definition, have been otherwise diagnosed as having an emotional disturbance and are in need of a school-based day treatment program.

(b) **Definitions.** As used in this section:

(1) "Day treatment program" means a cooperative program that includes the provision of both education and mental health services for each participating child in a coordinated, therapeutic manner;

(2) "DSM-IV-R" means the Diagnostic and Statistical Manual of Mental Disorder IV-Revised;

(3) "Mental health professional" means a person whose credentials allow them to diagnose and/or treat individuals with mental health needs and who may be:

(A) Employed by:

(i) A mental health facility (public or private);

(ii) A public school; or

(iii) An educational service agency cooperative; or

(B) Engaged in private practice;

(4) "Properly diagnosed" means the child has been determined to have an emotional disturbance on the basis of a DSM-IV-R classification by professionals qualified to make such a diagnosis, which includes:

(A) Psychiatrist (licensed in the State of Arkansas and having completed an accepted residency in psychiatry);

(B) Psychologist (licensed in the State of Arkansas);

- (C) Psychological examiner (licensed in the State of Arkansas);
- (D) Master of social work (licensed in the State of Arkansas);
- (E) Licensed professional counselor (licensed in the State of Arkansas);
- (F) Registered nurse (licensed in the State of Arkansas) with one (1) year supervised experience in a mental health setting;
- (G) Physician (licensed in the State of Arkansas); and
- (H) Persons in a related profession (licensed in the State of Arkansas and practicing within the bounds permitted by their licensing authority) with at least a master's degree and appropriate experience in a mental health setting, including documented, supervised training and experience in diagnosis and therapy of a broad range of mental disorders; and

(5) "School-based services" means services located on a school campus in an age-appropriate general education school building.

**(c) Child eligibility.**

(1)(A) Children who are not eligible in accordance with Individuals with Disabilities Education Act eligibility criteria, but who are eligible for inclusion in the school-based day treatment program funded with special education funds includes those children diagnosed as having emotional disturbance under recognized criteria (such as the DSM-IV-R).

(B) These children may have a diagnosis such as:

- (i) Adjustment disorders;
- (ii) Disorders of impulse control;
- (iii) Conduct disorders;
- (iv) Suicidal;
- (v) Substance abuse; and/or
- (vi) Affective disorders.

(C)(i) Such children may exhibit characteristics of:

- (a) Juvenile delinquency;
- (b) Truancy; and
- (c) Runaway behavior.

(ii) However, juvenile delinquency, truancy, and runaway behaviors alone do not qualify a child for this program.

(2) The child's need for the day treatment program must be determined by a team comprising, at a minimum, the following:

- (A) Mental health professional;
- (B) Teacher in the day treatment program;
- (C) Principal;
- (D) Parent; and
- (E) Other persons knowledgeable about the day treatment program

and/or the child, as appropriate.

(3) The child's needs must be compatible with the services offered.

(4) When the placement of a child who is not eligible under the Individuals with Disabilities Education Act is foreseen or determined to be disruptive to the delivery of services to children who are eligible under the Individuals with Disabilities Education Act, then the child who is not eligible under the Individuals with Disabilities Education Act must be removed and served elsewhere.

**(d) District eligibility for inclusion of nondisabled children in school-based day treatment.**

(1)(A) The school district must have in place a school-based day treatment program that has been approved as such by the Special Education Unit of the Division of Elementary and Secondary Education.

(B) If such approval is not in place, see 6 CAR § 130-1706(d)(2).

(2) If the district is anticipating the opening of a school-based day treatment program, then, prior to the issuance of approval as a day treatment program by the Special Education Unit, the district must demonstrate that it has:

(A) Participated in a planning process including mental health professionals;

(B) Conducted staff development for both the staff of the school-based day treatment program and staff in the regular education program in the building, to include bus drivers and cafeteria personnel; and

(C) Developed a written agreement with mental health professionals, if they are not employees of the school district or ESA, as to their participation in the program.

(3)(A) At least one-third (1/3) of the total teacher–pupil caseload must be children who:

(i) Are eligible under the Individuals with Disabilities Education Act;

and

(ii) Need a school-based day treatment program.

(B) If the teacher–pupil caseload is 1:6, then at least two (2) children must be eligible under the Individuals with Disabilities Education Act.

(C) If the teacher–pupil caseload is 1:8 with three (3) additional staff (including mental health professionals), then at least three (3) children must be eligible under the Individuals with Disabilities Education Act.

(4)(A) The school district must submit a letter to the Administrator for Monitoring and Program Effectiveness in the Special Education Unit requesting approval for the inclusion of nondisabled children in the school-based day treatment program.

(B) The letter must include the:

(i) Number of children not eligible under the Individuals with Disabilities Education Act;

(ii) Number of children eligible under the Individuals with Disabilities Education Act; and

(iii) Number and type of personnel in the program.

(5) The administrator will provide the district with written notice as to whether the request is approved or disapproved.

**(e) Funding.**

(1)(A) This provision is intended to allow the expenditure of federal special education funds for children who are not eligible under the Individuals with Disabilities Education Act, but who:

(i) Have been otherwise properly diagnosed with emotional disturbance; and

(ii) Need a school-based day treatment program.

(B) No additional funds accompany this provision.

(2) Children who are not eligible under the Individuals with Disabilities Education Act are to be counted in the district's regular average daily membership report.

(3) Children who are not eligible under the Individuals with Disabilities Education Act shall not be counted on the district's December 1 child count for funds under Part B of the Individuals with Disabilities Education Act.

(f) **Program guidelines.** The Division of Elementary and Secondary Education Guidelines for School-Based Day Treatment Programs are located at 6 CAR § 132-801 et seq., the companion document to this part, and are to be followed in implementing school-based day treatment programs.

**6 CAR § 130-1708. Standards for integrated classroom model (ICM) (regular/special education).**

**(a) Description.**

(1) The ICM is designed to educate children with mild disabilities in the general education classroom with their nondisabled peers on a full-time basis for the entire school day.

(2)(A) For the purpose of this model, "mild" is defined as children with disabilities who receive resource services for not more than two (2) hours.

(B) Where integrated therapy (i.e., speech therapy, physical therapy, and/or occupational therapy) is clearly an inappropriate method of service delivery, children may receive such therapies in a pull-out program.

(3) The integrated classroom is highly structured, with clear behavioral and academic expectations.

(4) Special education children are completely integrated in all classroom activities, with the majority of teacher time being spent on active instruction.

(5) High positive reinforcement levels are established and maintained and materials are adapted to meet all children's needs.

(6) ICM teachers use a variety of teaching methods to meet child needs and abilities as indicated by the goals and objectives specified in children's individualized education programs (IEPs).

(7) District-adopted curricula and materials are also used in the integrated classroom and are modified to meet the needs of the children.

(8) The district curricula are supplemented by differentiated materials when needed.

**(b) Teacher–pupil caseload and class composition.**

(1) Integrated classrooms are composed of up to one-third (1/3) children with mild disabilities with appropriate IEPs and two-thirds (2/3) children who are nondisabled.

(2) The maximum teacher–pupil caseload of an integrated classroom cannot exceed a total of twenty-four (24) children.

**(c) Child selection.**

(1) Children with disabilities whose IEPs can be implemented in an integrated general education classroom, and for whom this type of setting is determined to be the child's least restrictive environment, may be selected for the integrated classroom.

(2) The selection of this model on the continuum of alternative options is “regular class/some direct instruction”.

(3) All eligible children are assigned to the integrated classroom at the appropriate grade level and, whenever possible, in the building they would normally attend if not disabled.

(4) The assignment of nondisabled children to the integrated classroom is made on the same basis as all other class assignments.

(5) Nondisabled children should be performing academically in the average to above average range.

(6) Participation in pull-out programs should be limited for both the child with disabilities and his or her nondisabled peers.

**(d) Facilities.** The integrated classroom must meet state facility standards established for regular classrooms.

**(e) Personnel.**

(1) Teachers participating in the ICM should be selected jointly by the building principal and special education administrator.

(2) The ICM teacher must be dually licensed in special education and general education or be fully licensed in either special education or general education and have a current additional licensure plan for completion of licensure in the collateral area.

(3) A paraprofessional must be assigned to the integrated classroom for a minimum of fifty percent (50%) of the day.

**(f) Funding.**

(1) A child with disabilities whose IEP is implemented in an integrated classroom on December 1 may be included in the December 1 federal child count.

(2)(A) The costs associated with the provision of special education by the integrated classroom teacher may be considered as special education expenditures.

(B) Such costs include materials and supplies needed to implement the IEPs of children with disabilities.

(3) Up to one-third (1/3) of the teacher's salary and benefits may be charged as special education expenditures.

(4) The costs associated with the general education program may not be considered a special education expenditure.

(5) The total cost of the half-time paraprofessional in the integrated classroom may be considered as a special education expenditure.

**(g) Related services.**

(1) Related services must be provided as specified in each child's IEP.

(2) It may be necessary to provide related services in a location other than the general education classroom.

**(h) Staff development.**

(1) Prior to implementing the integrated classroom model, the ICM staff must receive at least five (5) hours of in-service training before the classroom is operational.

(2) During the first year of operation, an additional five (5) hours of in-service training must be provided for the ICM staff.

(3) A minimum of five (5) hours of staff development must be provided annually following the first year of implementation.

(4) At least one-half (1/2) of the required training must be selected from the following areas:

(A) Classroom management;

(B) Teaching strategies, such as cooperative learning, peer tutoring, learning strategies, etc.;

(C) Learning styles/modalities;

(D) Roles and responsibilities of teachers and paraprofessionals;

(E) Communication skill training/team building;

(F) Teaching social skills;

(G) Coping/self-esteem strategies for children; and

(H) Study skills for children.

(5) Additional staff development topics should be identified and training provided based upon needs assessment.

(6) Training must be provided in the context of regular staff development at the building or district level, provided it is identifiable.

### **6 CAR § 130-1709. Use of dually licensed teachers to implement IEPs.**

(a) **Purpose.** The purpose of this provision is to verify that dually licensed teachers used to implement the IEPs of children with disabilities are considered to be qualified providers.

(b) **Conditions.**

(1) When a district has a teacher or teachers who are dually licensed in general education and special education, then it may be determined that the IEP for a particular child can be fully implemented within the general education classroom with no additional assistance from a certified special education teacher.

(2) The maximum number of children with disabilities for whom a dually licensed teacher is solely responsible for implementing their IEPs is limited to two (2).

(3) When a district has more than two (2) children with disabilities for whom it is appropriate for a dually licensed teacher to implement their IEPs, the district must comply with the requirements of the integrated classroom model described at 6 CAR § 130-1707.

(4) A paraprofessional is required to be in the classroom.

(5) The total teacher–pupil caseload must conform to maximum class size for a general education classroom in accordance with the Division of Elementary and Secondary Education’s standards for accreditation of schools.

### **6 CAR § 130-1710. Homebound children.**

#### **(a) Purpose.**

(1)(A) The purpose of this section is to provide the criteria governing the conditions under which a school district may count a homebound child to generate Formula Foundation Aid.

(B) These criteria were adopted by the State Board of Education at its September 1982 meeting.

(2) The application of these criteria is required in order for a school district to count children with disabilities who are on homebound services on its December 1 federal child count.

#### **(b) Criteria.**

(1) The child is absent from school because of:

(A) An illness;

(B) An accident resulting in serious injury;

(C) Pregnancy;

(D) Other physically disabling conditions; or

(E) In the case of a child with disabilities, the IEP team has determined that the child’s LRE is a homebound placement.

(2) The school district must provide a licensed teacher for the homebound child for at least four (4) hours per week on at least two (2) different visits to the child’s home each week.

(3) The school may use an aide (paraprofessional) to work with the child if the aide (paraprofessional) works under the supervision of:

(A) The regular teacher or teachers; or

(B) In the case of a child with a disability, the teacher or teachers responsible for implementing the child's IEP.

(4) The child's attendance record should show the child as being absent but on roll and a note should be entered in the (child) register or the form being used, indicating that the child was (is):

(A) Receiving instruction at home; and

(B) Being counted as a homebound child for the purpose of generating Formula Foundation Aid.

(5) For a child with disabilities who is homebound, the district must implement the child's IEP using an appropriately qualified provider, i.e., for speech therapy a licensed speech-language pathologist, or for instruction implementing goals and objectives in the IEP, a special education-licensed teacher.

(6) For a child with disabilities who is homebound, the district must provide the related services identified in the IEP during the duration of the period of the child's confinement.

## **6 CAR § 130-1711. Braille assessment and instruction.**

### **(a) General.**

(1) Arkansas Code §§ 6-41-403 and 6-41-404 provide for the:

(A) Annual assessment of child progress of children with visual impairments; and

(B) Identification of the need for and corresponding provision of braille instruction.

(2) Arkansas Code §§ 6-41-403 and 6-41-404 further require that the Division of Elementary and Secondary Education:

(A) Develop procedures to determine when a child with a visual impairment needs braille instruction; and

(B) Establish requirements to become qualified as a braille instructor.

(b) **Definitions.** As used in this section:

(1) "ADE" means the Arkansas Department of Education;

(2)(A) "Braille" means a tactual symbol system for reading and writing used by individuals who are visually impaired.

(B) Braille codes are available in:

(i) Literacy;

(ii) Math;

(iii) Science;

(iv) Music; and

(v) Computer;

(3) "Compliance citation" means a citation issued by the division that documents a school's failure to comply with state or federal education laws;

(4) "Conventional literacy program" means an instructional program of reading and writing in print or braille that generally begins in kindergarten and continues throughout the school years;

(5) "Core academic subjects" means:

(A) English;

(B) Reading or language arts;

(C) Mathematics;

(D) Science;

(E) Foreign languages;

(F) Civics and government;

(G) Economics;

(H) Arts;

(I) History; and

(J) Geography;

(6) "Functional literacy program" means an instructional program that focuses on survival reading and writing skills needed for increased independence in daily life;

(7) "IDEA" means the Individuals with Disabilities Education Act;

(8) "IEP" means individualized education program;

(9) "Learning media assessment" means an objective process of systematically selecting learning and literacy media for children with visual impairments;

(10) "Learning medium" means the broad range of general instructional materials used to teach children with visual impairments in literacy and other academic programs;

(11) "LMA" means learning media assessment; and

(12)(A) "Visually impaired", including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance.

(B) The term includes both partial sight and blindness.

(C)(i) Children with partial sight are those whose vision, although impaired, is still the primary channel of learning and, with adjustments, are able to perform the visual tasks required in the usual school situation.

(ii) Generally, their visual acuity with correction is 20/70 or less.

(D) Children with blindness are those with no vision or with little potential for developing vision as a primary channel for learning and, therefore, must rely upon tactile and auditory senses to obtain information.

**(c) Assessment of child progress.**

(1) The assessment shall:

(A) Address the child's need for braille instruction, using procedures developed by the division, and specify the learning medium most appropriate for the child's educational progress;

(B) Identify the child's strengths and weaknesses in braille skills when that medium is used for instruction; and

(C) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.

(2) The results of the assessment shall be used to develop the child's IEP.

(3) The assessment team may include:

(A) Reading specialist;

(B) General education teacher (including the preschool teacher);

- (C) Teachers of the visually impaired;
  - (D) Certified educational vision consultant;
  - (E) Medical specialist;
  - (F) Parent or parents; and
  - (G) Other personnel, as appropriate.
- (4) Data collected by the team will provide information to:
- (A) Determine if further assessment is warranted; or
  - (B) Develop and/or revise the IEP.

**(d) Process for assessment for “reading” children.**

(1)(A) **Step 1.** Screening to determine the child's reading speed and rate and grade level.

(B) **Tools.** Informal reading inventories administered by a reading specialist and/or general education classroom teacher.

(C) **Results.** Data regarding reading rate, comprehension, and grade level are obtained.

(D) **Action to be taken.** The child either continues with current established reading medium or the child is referred for a LMA.

(2)(A) **Step 2.** Administer the LMA to determine the appropriateness/need for braille instruction and strengths and weaknesses.

(B) **Tools.** Forms 2, 6, and 7 from the LMA Resource Guide for Teachers and a braille skills inventory administered by a:

- (i) Teacher of the visually impaired; or
- (ii) Certified educational vision consultant.

(C) **Results.** Data regarding current level of literacy functioning, strengths and weaknesses, and literacy tools (visual, tactual, auditory) are obtained.

(D) **Action to be taken.** Convene the IEP team to:

- (i) Decide if a media change is warranted; and
- (ii) Review and revise the IEP, if appropriate.

(e)(1)(A) Process for assessment for children with no established reading medium (pre-readers) who will more than likely be taught to read through a conventional literacy program.

(B) Typically these children are in:

- (i) Preschool;
- (ii) Kindergarten; or
- (iii) First grade.

(2)(A) **Step 1.** Determine the readiness level for braille instruction.

(B) **Tools.** Forms 2, 4, and 5 from the LMA Resource Guide for Teachers administered by a:

- (i) Teacher of the visually impaired; or
- (ii) Certified educational vision consultant.

(C) **Results.** Data regarding use of sensory channels, indicators of readiness for a conventional literacy program, and initial selection of literacy medium are obtained.

(D) **Action to be taken.** Convene the IEP committee to develop or revise the IEP, if appropriate.

(3) **Step 2.** Once the child becomes a "reading" child, go to Step 1, screening for "reading" children in subdivision (d)(1) of this section.

(f)(1) Process for assessment for children with no established reading medium (non-readers and/or children with additional disabilities) who will more than likely be taught to read through a functional literacy program.

(2)(A) **Step 1.** Screening to determine readiness for braille instruction.

(B) **Tools.** Forms 2, 9, and 10 from the LMA Resource Guide for Teachers administered by a:

- (i) Teacher of the visually impaired; or
- (ii) Certified educational vision consultant.

(C) **Results.** Data regarding use of sensory channels, readiness indicators for a functional literacy program, and selection of functional literacy program are obtained.

(D) **Action to be taken.** Convene the IEP committee to:

(i) Determine readiness level for appropriate braille instruction or select an alternate medium; and

(ii) Develop or revise the IEP, if appropriate.

(g) **Braille instruction.** Individuals providing braille instruction must:

(1) Hold current teacher licensure designated as “visually impaired” issued by the division; or

(2) Hold current teacher licensure and have an approved additional licensure plan in the area of visually impaired.

**6 CAR § 130-1712. Use of reading specialists to implement IEPs — General.**

(a) Individuals who hold a reading endorsement or who are licensed as reading specialists by the Division of Elementary and Secondary Education may be considered to be qualified providers to implement the goals and objectives related to reading that are stated in an IEP for a child with disabilities.

(b) A pro rata portion of the salary of such individuals may:

(1) Count toward meeting the special education state/local expenditure requirement; or

(2) Be funded with federal special education monies.

(c) Materials and supplies that are needed by children with disabilities may be purchased with special education funds.