
THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

   Sec. 101. (1) To be eligible to receive state aid under this article, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent shall submit and certify to the center and the intermediate superintendent, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance, including identification of tuition-paying pupils, in the district as of the pupil membership count day and as of the supplemental
count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year shall submit and certify to the center and the intermediate superintendent, in the form and manner prescribed by the center, the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the sixth Wednesday after the pupil membership count day and not later than the sixth Wednesday after the supplemental count day, the district shall resolve any pupil membership conflicts with another district, correct any data issues, and recertify the data in a form and manner prescribed by the center and file the certified data with the intermediate superintendent. If a district fails to submit and certify the attendance data, as required under this subsection, the center shall notify the department and the department shall withhold state aid due to be distributed under this article from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If a district does not comply with this subsection by the end of the fiscal year, the district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment is subject to penalty as prescribed by section 161.

(2) To be eligible to receive state aid under this article, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the center, in a form and manner prescribed by the center, the audited enrollment and attendance data for the pupils
of its constituent districts and of the intermediate district. If an intermediate district fails to submit the audited data as required under this subsection, the department shall withhold state aid due to be distributed under this article from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Except as otherwise provided in subsections (11) and (12), (10), (13), and (14), all of the following apply to the provision of pupil instruction:

(a) Except as otherwise provided in this section, each district shall provide at least 1,098 hours and 180 days of pupil instruction. If a collective bargaining agreement that provides a complete school calendar was in effect for employees of a district as of June 24, 2014, and if that school calendar is not in compliance with this subdivision, then this subdivision does not apply to that district until after the expiration of that collective bargaining agreement. A district may apply for a waiver under subsection (9) from the requirements of this subdivision.

(b) Except as otherwise provided in this article, a district failing to comply with the required minimum hours and days of pupil instruction under this subsection forfeits from its total state aid allocation an amount determined by applying a ratio of the number of hours or days the district was in noncompliance in relation to the required minimum number of hours and days under this subsection. Not later than August 1, the board of each district
shall either certify to the department that the district was in full compliance with this section regarding the number of hours and days of pupil instruction in the previous school year, or report to the department, in a form and manner prescribed by the center, each instance of noncompliance. If the district did not provide at least the required minimum number of hours and days of pupil instruction under this subsection, the department shall make the deduction of state aid in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (6).

(c) Hours or days lost because of strikes or teachers' conferences are not counted as hours or days of pupil instruction.

(d) Except as otherwise provided in this subdivision and subdivisions (e), and (f), and (i), if a district does not have at least 75% of the district's membership in attendance on any day of pupil instruction, the department shall pay the district state aid in that proportion of 1/180 that the actual percent of attendance bears to 75%. This subdivision does not apply to an e-learning day, as that term is defined in section 1851b of the revised school code, MCL 380.1851b.

(e) If a district adds 1 or more days of pupil instruction to the end of its instructional calendar for a school year to comply with subdivision (a) because the district otherwise would fail to provide the required minimum number of days of pupil instruction even after the operation of subsection (4) due to conditions not within the control of school authorities, then subdivision (d) does not apply for any day of pupil instruction that is added to the end of the instructional calendar. Instead, for any of those days, if
the district does not have at least 60% of the district's membership in attendance on that day, the department shall pay the district state aid in that proportion of $1/180$ that the actual percentage of attendance bears to 60%. For any day of pupil instruction added to the instructional calendar as described in this subdivision, the district shall report to the department the percentage of the district's membership that is in attendance, in the form and manner prescribed by the department.

(f) At the request of a district that operates a department-approved alternative education program and that does not provide instruction for pupils in all of grades K to 12, the superintendent shall grant a waiver from the requirements of subdivision (d). The waiver must provide that an eligible district is subject to the proration provisions of subdivision (d) only if the district does not have at least 50% of the district's membership in attendance on any day of pupil instruction. In order to be eligible for this waiver, a district must maintain records to substantiate its compliance with the following requirements:

(i) The district offers the minimum hours of pupil instruction as required under this section.

(ii) For each enrolled pupil, the district uses appropriate academic assessments to develop an individual education plan that leads to a high school diploma.

(iii) The district tests each pupil to determine academic progress at regular intervals and records the results of those tests in that pupil's individual education plan.

(g) All of the following apply to a waiver granted under subdivision (f):

(i) If the waiver is for a blended model of delivery, a waiver...
that is granted for the 2011-2012 fiscal year or a subsequent fiscal year remains in effect unless it is revoked by the superintendent.

(ii) If the waiver is for a 100% online model of delivery and the educational program for which the waiver is granted makes educational services available to pupils for a minimum of at least 1,098 hours during a school year and ensures that each pupil participates in the educational program for at least 1,098 hours during a school year, a waiver that is granted for the 2011-2012 fiscal year or a subsequent fiscal year remains in effect unless it is revoked by the superintendent.

(iii) A waiver that is not a waiver described in subparagraph (i) or (ii) is valid for 1 fiscal year and must be renewed annually to remain in effect.

(h) The superintendent shall promulgate rules for the implementation of this subsection.

(i) If a district is providing remote instruction to pupils and that remote instruction exposes those pupils to the academic standards that apply for the pupil's grade level or courses in the same scope and sequence as the district provides for in-person instruction, then subdivision (d) does not apply to that district. Instead, for that district, if the district does not have an average of at least 75% of the district's membership in attendance for each attendance period in the school year, the department shall pay the district state aid in that proportion of 10/180 that the actual average percentage of attendance for that attendance period bears to 75%. As used in this subdivision, "attendance period" means each period of 10 consecutive school days in a school year.

(4) All of the following apply to the provision of pupil
instruction:

(a) Except as otherwise provided in this subsection, the first 6-2 days or the equivalent number of hours for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, pandemics, utility power unavailability, water or sewer failure, or health conditions as defined by the city, county, or state health authorities, are counted as hours and days of pupil instruction. For 2018-2019 only, in addition to these 6 days, if pupil instruction is not provided on 1 or more days that are included in a period for which the governor has issued an executive order declaring a state of emergency across this state, upon request by a district to the superintendent of public instruction, in a form and manner prescribed by the department, that 1 or more of those days and the equivalent number of hours count as days and hours of pupil instruction, the department shall count those requested days and the equivalent number of hours as days and hours of pupil instruction for the purposes of this section. For 2018-2019, the days included in the executive order are January 29, 2019 to February 2, 2019. With the approval of the superintendent of public instruction, the department shall count as hours and days of pupil instruction for a fiscal year not more than 3 additional days or the equivalent number of additional hours for which pupil instruction is not provided in a district due to unusual and extenuating occurrences resulting from conditions not within the control of school authorities such as those conditions described in this subsection. Subsequent such hours or days are not counted as hours or days of pupil instruction.

(b) Days or the equivalent number of hours, not to exceed a
total of 7 days or the equivalent number of hours for those days
each school year, for which pupil instruction is provided as an e-
learning day as described in section 1851b(9)(a) of the revised
school code, MCL 380.1851b, are counted as hours and days of pupil
instruction. The hours and days counted under this subdivision are
in addition to the hours and days counted under subdivisions (a),
(c), and (d).

(c) Days or the equivalent number of hours, not to exceed a
total of 20 days or the equivalent number of hours for those days
each school year, for which pupil instruction is provided as an e-
learning day as described in section 1851b(9)(b) of the revised
school code, MCL 380.1851b, are counted as hours and days of pupil
instruction. The hours and days counted under this subdivision are
in addition to the hours and days counted under subdivisions (a),
(b), and (d).

(d) Days or the equivalent number of hours for which pupil
instruction is provided as an e-learning day as described in
section 1851b(9)(c) of the revised school code, MCL 380.1851b, are
counted as hours and days of pupil instruction. The hours and days
counted under this subdivision are in addition to the hours and
days counted under subdivisions (a), (b), and (c).

(e) Except as otherwise provided in this section, the
department shall not count any hours and days other than the hours
and days described in subdivisions (a) to (d) as hours and days of
pupil instruction for the purposes of this section if pupil
instruction was not provided on those days or for those hours due
to conditions or for reasons described in this subsection.

(5) A district does not forfeit part of its state aid
appropriation because it adopts or has in existence an alternative
scheduling program for pupils in kindergarten if the program
provides at least the number of hours required under subsection (3)
for a full-time equated membership for a pupil in kindergarten as
provided under section 6(4).

(6) In addition to any other penalty or forfeiture under this
section, if at any time the department determines that 1 or more of
the following have occurred in a district, the district forfeits in
the current fiscal year beginning in the next payment to be
calculated by the department a proportion of the funds due to the
district under this article that is equal to the proportion below
the required minimum number of hours and days of pupil instruction
under subsection (3), as specified in the following:

(a) The district fails to operate its schools for at least the
required minimum number of hours and days of pupil instruction
under subsection (3) in a school year, including hours and days
counted under subsection (4).

(b) The board of the district takes formal action not to
operate its schools for at least the required minimum number of
hours and days of pupil instruction under subsection (3) in a
school year, including hours and days counted under subsection (4).

(7) In providing the minimum number of hours and days of pupil
instruction required under subsection (3), a district shall use the
following guidelines, and a district shall maintain records to
substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil
must be scheduled for at least the required minimum number of hours
of instruction, excluding study halls, or at least the sum of 90
hours plus the required minimum number of hours of instruction,
including up to 2 study halls.
(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) Except as otherwise provided in this subdivision, a pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual pupil's best educational interest must be scheduled for a number of hours equal to at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil. A pupil in grades 9 to 12 who is scheduled in a 4-block schedule may receive a reduced schedule under this subsection if the pupil is scheduled for a number of hours equal to at least 75% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive the required minimum number of hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 3 hours per school week, is considered to be pupil instruction time for the purpose of determining whether the pupil is receiving the required minimum number of hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(e) In grades 7 through 12, instructional time that is part of a Junior Reserve Officer Training Corps (JROTC) program is
considered to be pupil instruction time regardless of whether the instructor is a certificated teacher if all of the following are met:

(i) The instructor has met all of the requirements established by the United States Department of Defense and the applicable branch of the armed services for serving as an instructor in the Junior Reserve Officer Training Corps program.

(ii) The board of the district or intermediate district employing or assigning the instructor complies with the requirements of sections 1230 and 1230a of the revised school code, MCL 380.1230 and 380.1230a, with respect to the instructor to the same extent as if employing the instructor as a regular classroom teacher.

(8) Except as otherwise provided in subsections (11) and (12), (10), (13), and (14), the department shall apply the guidelines under subsection (7) in calculating the full-time equivalency of pupils.

(9) Upon application by the district for a particular fiscal year, the superintendent shall waive for a district the minimum number of hours and days of pupil instruction requirement of subsection (3) for a department-approved alternative education program or another innovative program approved by the department, including a 4-day school week. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, the district is not subject to forfeiture under this section for the specific program covered by the waiver. If the district does not comply with the terms of the waiver, the amount of the forfeiture is calculated based upon a comparison of the number of hours and days of pupil instruction actually provided to
the minimum number of hours and days of pupil instruction required
under subsection (3). A district shall report pupils enrolled in a
department-approved alternative education program under this
subsection to the center in a form and manner determined by the
center. All of the following apply to a waiver granted under this
subsection:

(a) If the waiver is for a blended model of delivery, a waiver
that is granted for the 2011-2012 fiscal year or a subsequent
fiscal year remains in effect unless it is revoked by the
superintendent.

(b) If the waiver is for a 100% online model of delivery and
the educational program for which the waiver is granted makes
educational services available to pupils for a minimum of at least
1,098 hours during a school year and ensures that each pupil is on
track for course completion at proficiency level, a waiver that is
granted for the 2011-2012 fiscal year or a subsequent fiscal year
remains in effect unless it is revoked by the superintendent.

(c) A waiver that is not a waiver described in subdivision (a)
or (b) is valid for 1 fiscal year and must be renewed annually to
remain in effect.

(10) For the 2020-2021 school year, the department shall waive
the required minimum number of hours and days of pupil instruction
under subsection (3) for each district that is providing
instruction under an extended continuity of learning plan that has
been approved by an intermediate district or authorizing body, as
applicable, under subsection (11). It is the intent of the
legislature that extended continuity of learning plans described in
this subsection provide districts with maximum flexibility to adapt
their educational programs for some or all pupils at some or all of
the schools operated by the district to respond to the COVID-19 pandemic. An extended continuity of learning plan described in this subsection must contain all of the elements required for inclusion in a continuity of learning and COVID-19 response plan under Executive Order No. 2020-65 and must include all of the following additional elements:

(a) A statement indicating why an extended continuity of learning plan is necessary to increase pupil engagement and achievement for the 2020-2021 school year.

(b) The educational goals expected to be achieved. An extended continuity of learning plan described in this subsection must specify which educational goals described in this subdivision are expected to be achieved by the middle of the school year and which goals are expected to be achieved by the end of the school year. All of the following apply to the educational goals described in this subdivision:

(i) The goals must include increased pupil achievement or growth on a benchmark assessment described in subparagraph (ii) in the aggregate and for all subgroups of pupils.

(ii) The goals must include an assurance that the district shall select a benchmark assessment that is aligned to state standards and an assurance that the district shall administer the benchmark assessment to all pupils in the fall, winter, and spring of the school year to determine whether pupils are making meaningful progress toward mastery of these standards.

(iii) The goals must be measurable through a benchmark assessment described in subparagraph (ii).

(c) A description of how instruction will be delivered.

Instruction, as described in this subdivision, may be delivered at
school or at a different location, in person, online, digitally, by
other remote means, in a synchronous or asynchronous format, or any
combination thereof.

(d) A description of how instruction for core academic areas
provided under the extended continuity of learning plan will expose
each pupil to the academic standards that apply for each pupil's
grade level or courses in the same scope and sequence as the
district had planned for that exposure to occur for in-person
instruction and a description of how pupil progress toward mastery
of the standards described in this subdivision will be graded or
otherwise reported to the pupil and the pupil's parent or legal
guardian.

(e) An assurance and description of how pupils will be
provided with equitable access to technology and the internet
necessary to participate in instruction.

(f) A description of how the district will ensure that
students with disabilities will be provided with equitable access
to instruction accommodation in accordance with applicable state
and federal laws, rules, and regulations.

(g) A requirement that, if the district provides in-person
instruction for the 2020-2021 school year, the district consults
with the local health department regarding any applicable
guidelines issued by the department or department of health and
human services concerning providing in-person instruction at school
for the 2020-2021 school year, including, but not limited to,
guidelines for school building cleaning and school building
occupancy and a requirement that the district, except as otherwise
provided in this subdivision, implement the guidelines, if any,
described in this subdivision. If the guidelines described in this
subdivision include a recommendation that a district close 1 or more of its school buildings, the ultimate decision concerning whether or not to close those school buildings remains with the district.

(h) A requirement that the district offer in-person pupil instruction to all pupils enrolled in grades K to 5 for the 2020-2021 school year.

(i) A requirement that, if the district provides in-person pupil instruction to pupils in any of grades K to 5 for the 2020-2021 school year and if a pupil enrolled in the district, a teacher, or the parent or legal guardian of a pupil enrolled in the district requests some reasonable form of protective barriers, masks, or gloves, the district shall make its best effort to obtain and provide all requested protective barriers, masks, or gloves to the pupil or teacher. If a pupil or the parent or legal guardian of a pupil makes a request under this subdivision, the district is not required to make its best effort to obtain and provide requested protective barriers, masks, or gloves to pupils other than the pupil making the request or the pupil whose parent or legal guardian is making the request.

(11) A district that is not a public school academy that intends to provide instruction under an extended continuity of learning plan shall submit its extended continuity of learning plan described in subsection (10) to the intermediate district in which the district is located by not later than August 15, 2020, and a district that is a public school academy that intends to provide instruction under an extended continuity of learning plan shall submit its extended continuity of learning plan described in subsection (10) to its authorizing body by not later than August
15, 2020, for approval. The intermediate district or authorizing
body shall apply the same approval procedure used for the approval
of a continuity of learning and COVID-19 response plan under
Executive Order No. 2020-65. If a district's extended continuity of
learning plan is approved under this subsection, the district shall
transmit copies of its plan to the superintendent of public
instruction and the state treasurer in the same manner that copies
of a continuity of learning and COVID-19 response plan are required
to be transmitted to the superintendent of public instruction and
state treasurer under Executive Order No. 2020-65. To assess
progress toward educational goals, an intermediate district or
authorizing body may require a district to provide the intermediate
district or authorizing body with access to benchmark assessment
data as a condition to approval of an extended continuity of
learning plan under this subsection. An intermediate district or
authorizing body that approves an extended continuity of learning
plan under this subsection is responsible for both of the
following:

(a) Monitoring the district's implementation of the extended
continuity of learning plan.

(b) Assessment and public reporting regarding the district's
progress toward the educational goals established in the extended
continuity of learning plan.

(12) A district may count up to 38 hours of qualifying
professional development for teachers as hours of pupil
instruction. All of the following apply to the counting of
qualifying professional development as pupil instruction under this
subsection:

(a) If qualifying professional development exceeds 5 hours in
a single day, that day may be counted as a day of pupil instruction.

(b) At least 8 hours of the qualifying professional development counted as hours of pupil instruction under this subsection must be recommended by a districtwide professional development advisory committee appointed by the district board. The advisory committee must be composed of teachers employed by the district who represent a variety of grades and subject matter specializations, including special education; nonteaching staff; parents; and administrators. The majority membership of the committee shall be composed of teaching staff.

(c) Professional development provided online is allowable and encouraged, as long as the instruction has been approved by the district. The department shall issue a list of approved online professional development providers, which must include the Michigan Virtual School.

(d) Qualifying professional development may only be counted as hours of pupil instruction for the pupils of those teachers scheduled to participate in the qualifying professional development.

(e) For professional development to be considered qualifying professional development under this subsection, the professional development must meet all of the following:

(i) Is aligned to the school or district improvement plan for the school or district in which the professional development is being provided.

(ii) Is linked to 1 or more criteria in the evaluation tool developed or adopted by the district or intermediate district under section 1249 of the revised school code, MCL 380.1249.
(iii) Has been approved by the department as counting for state continuing education clock hours. The number of hours of professional development counted as hours of pupil instruction may not exceed the number of state continuing education clock hours for which the qualifying professional development was approved.

(iv) Not more than a combined total of 10 hours of the professional development takes place before the first scheduled day of school for the school year ending in the fiscal year and after the last scheduled day of school for that school year.

(v) No more than 10 hours of qualifying professional development takes place in a single month.

(vi) At least 75% of teachers scheduled to participate in the professional development are in attendance.

(13) Subsections (3) and (8) do not apply to a school of excellence that is a cyber school, as that term is defined in section 551 of the revised school code, MCL 380.551, and is in compliance with section 553a of the revised school code, MCL 380.553a.

(14) Subsections (3) and (8) do not apply to eligible pupils enrolled in a dropout recovery program that meets the requirements of section 23a. As used in this subsection, "eligible pupil" means that term as defined in section 23a.

(15) At least every 2 years the superintendent shall review the waiver standards set forth in the pupil accounting and auditing manuals to ensure that the waiver standards and waiver process continue to be appropriate and responsive to changing trends in online learning. The superintendent shall solicit and consider input from stakeholders as part of this review.

(16) An extended continuity of learning plan described in
subsection (10) and approved under subsection (11) must be made
accessible through the transparency reporting link located on the
district's website.

(17) The amendatory act that added subsection (16) must not be
construed as imposing mandates on nonpublic schools.

Enacting section 1. This amendatory act does not take effect
unless all of the following bills of the 100th Legislature are
enacted into law:

(a) House Bill No. 5910.
(b) House Bill No. 5913.