



Synopsis of School Finance Issues Regarding Hybrid Learning and Distance Learning

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The Arizona Department of Education's ("ADE") Roadmap for School Reopening identifies multiple school finance-related issues that present challenges for school districts. See Roadmap at page 12:
<https://www.azed.gov/communications/2020/03/10/guidance-to-schools-on-covid-19/>.

The Governor's Office has issued three executive orders to address some of the identified challenges for schools. This guidance is intended to review and address some of the school finance issues raised in the Roadmap and Executive Order related to distance learning.

Please follow up with your Trust legal counsel on legal issues related to student membership.

Membership

Average Daily Membership ("ADM") is defined as:

The total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students who are formally withdrawn from schools and students who are absent for ten consecutive school days, except for excused absences identified by the department of education. For the purposes of this section, school districts and charter schools shall report student absence data to

the department of education at least once every sixty days in session. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student or excused absence.

A.R.S. § 15-901(A)(1).

School districts generate ADM through enrollment of students in its schools in one of three ways under current Arizona statutes. ADE will apportion concurrent enrollments not to exceed 1.0 ADM. A.R.S. § 15-901(A)(1)(b)(vi).

ADM is apportioned pursuant to three learning plans under state law:

1. Traditional brick and mortar school. A student enrolls in a brick and mortar school in a school district. Student enrollment is reported to ADE in accordance with the annual hours of instruction requirements for full-time and part-time students contained in A.R.S. § 15-901 *et seq.*
2. Arizona Online Instruction program (“AOI”). A student enrolls in an Arizona Online Instruction program approved by the Arizona State Board of Education (“State Board”). Student enrollment is reported to ADE in a different manner than a traditional brick and mortar school—students positively accrue time in a daily log toward the annual hours of instruction requirements and are funded at a maximum of 85% or 95%, respectively for part-time and full-time enrollment. A.R.S. § 15-808 and A.R.S. § 15-901. ADE external guideline SF 0003 specifically addresses calculation of membership for AOI enrollments. See <https://www.azed.gov/finance/school-finance-external-guidelines/>. ASBA Governing Board Policy IHBHD addresses AOI instruction.
3. Homebound students. A homebound student may be reported as in attendance for each day in a week in which the homebound student receives at least four hours of instruction. Under current Arizona law, a homebound student is required to provide a medical certification for one of the two following scenarios:
 - a. The pupil is capable of profiting from academic instruction but is unable to attend regular classes at school due entirely to illness, disease, accident or other health conditions for not less than three months of school; or
 - b. The pupil is capable of profiting from academic instruction and is able to attend school intermittently due to chronic or acute health problems totaling three school months during a school year.

See A.R.S. §15-761. ASBA Governing Board Policy IHBF governs homebound instruction.

Arizona statutes do not currently address any additional funding mechanisms.

Executive Order 2020-41

The Executive Order issued on June 24, 2020 provides school districts with greatly needed flexibility with respect to receiving funding for learning provided outside a traditional brick and mortar environment.

The Executive Order allows school districts to submit a distance learning plan to ADE in lieu of seeking approval of an AOI through the State Board of Education. The distance learning plan components must include:

- a. Attendance tracking procedures including how attendance is taken for distance learning students and how the school district will ensure all students are contacted and in communication on a regular basis;
- b. Detailed expectations of teachers and other staff working virtually;
- c. Detailed plan and examples for substantive distance learning including modes of instruction, method of content delivery, a process for monitoring learning and a plan to support all students, teachers and staff with a device and internet connectivity;
- d. Detailed plan and examples of how to ensure English language learners and children with disabilities are engaged through distance learning;
- e. Detailed plan and examples of social and emotional learning support including counseling;
- f. Detailed plan and examples of how students will be required to demonstrate mastery and ongoing competency of grade level or advanced grade level content; and,
- g. Detailed plan of how the district will conduct benchmark assessments in Math and English Language Arts for all students in grades K-12 during the first six (6) weeks of school.

The Executive Order provides extensive flexibility to school districts regarding counting students engaged in hybrid learning or distance learning. For purposes of this guidance, “hybrid learning” is defined as enrollment at a brick and mortar school *and* participation in distance learning for at least a portion of the school week. School districts may also provide “distance learning” without an AOI approval if they provide a place for students to congregate on campus to complete their work. The Executive Order appears to allow a school district to provide programming entirely online under the “distance learning” model if the District obtains ADE approval and provides a location for students.

Paragraph 1(b) of the Executive Order states that school districts may report students engaging in hybrid learning or distance learning as enrolled in an AOI if the school district complies with the distance learning plan components listed above. School districts have the option of reporting those students as AOI students even though the district does not have an approved AOI.

Paragraph 3(b) of the Executive Order states school districts that offer hybrid learning or distance learning are eligible to participate in the flexible learning permitted by the Executive Order if the district offers a place for students to learn on its campuses. If a school district offers a district learning plan with all requisite components and a place for students to go if their home environment is not conducive to learning, then the Executive Order provides sufficient flexibility for school districts to count students enrolled in hybrid learning or distance learning as traditional, full time students for ADM receipt under A.R.S. § 15-901.

ADE Guidance to Meet Requirements of Executive Orders

ADE School Finance issued [guidance](#) and [FAQs](#) to explain the requirements of [Executive Orders](#) 2020-41, 2020-44 and 2020-51 and the impact on school funding, enrollment reporting and attendance. The ADE [guidance](#) was first issued on July 15, 2020 and revised on August 12, 2020. Districts are instructed to enroll students engaged in distance learning either through an approved AOI or Distance Learning plan in the same manner as if student was attending in person. For most districts, this will mean enrolling students in the brick and mortar school the student attended during the 2019-20 school year. The first day of the school calendar should reflect the first day of instruction regardless of the method of instruction. Students enrolled in the district must be reported with their attendance within the first 10 days of instruction. If the student does not attend within the first 10 days of instruction, the student should be withdrawn when the student actually attends. Students participating in distance learning are classified as an AOI student for funding purposes only and the Base Support Level funding will be reduced by 5% for full-time students and 15% for part-time students. These funding changes are made in accordance with Executive Orders 2020-41, 2020-51.

ADE has provided flexibility in past guidance for the purpose of stabilizing ADM funding. For instance, in the issuance of ADE Guidelines and Procedure GE-17 (7/07) discussed in more detail below, the School Finance Advisory Committee recognized that the costs for space, teachers and other resources that are incurred by public schools when they prepare for continuing and pre-enrolled students. Those costs are not reduced or eliminated simply because a student is not in attendance on the first day of classroom instruction. Costs for these resources are fixed in nature and are based on planned requirements that do not vary based on per capita attendance. ADE concluded that public schools should be able to recover costs that result from planning and deploying resources for continuing and pre-enrolled students, provided that the student attends classroom instruction during the first ten days of classroom instruction. See GE-17. These same principles apply to the unique and evolving situation schools face with the COVID-19 pandemic.

Requisite School Days/Instructional Hours

Executive Order 2020-41 did not alter the statutory requirements regarding days of instruction or instructional hours. School districts must operate for the required 180 days of instruction or the equivalent number of hours and be physically open at least the same number of days per week during the 2020-2021 school year as it was for the 2019-2020 school year during the same hours offered prior to the 2020 school closure. An exception for a school to be open may be approved by ADE if the school intended to switch schedules for the 2020-21 school year.

Executive Order 2020-51 affirmed that schools may count distance learning toward the minimum instructional days or equivalent hours of instruction required by A.R.S. §§ 15-341.01 and -901.

AOI Program Approval through the State Board or Executive Order Compliance

The ADE Roadmap states that school districts must have a State Board-approved AOI program in order to provide distance learning to students that can be included in the school district's ADM calculation. The Executive Order now offers school districts an alternative path to offering hybrid learning as described above. The State Board has reopened the application process for school districts for AOI programs. See <https://azsbe.az.gov/resources/arizona-online-instruction>. Applications are due to the State Board by July 1, 2020. The State Board will consider those applications at its meeting in advance of school reopenings. Once approved, school districts will be able to provide AOI learning to students and report the time towards ADM as specified in A.R.S. § 15-808 and A.R.S. § 15-901.

Stabilization of ADM Count and Attendance in First Ten Days of School

ADE Guidelines and Procedure GE-17 (7/07) grant school districts leeway if students do not return to school on the first day of class. See <https://www.azed.gov/finance/school-finance-external-guidelines/>. GE-17 allows school districts to roll over student enrollment from the 2019-2020 school year and continue to report the student as enrolled if the student attends school in person or through distance learning for at least one day during the first ten (10) days of the school calendar. The school district must maintain documentation demonstrating the student attended school at some point during the first ten days school was in session in order to justify enrollment at the start of the school year. If a student does not attend at least one day during the first ten days of school, the student must be withdrawn.

The Executive Order specifies that school districts offering hybrid learning or distance learning are required to submit to ADE "day one" attendance figures and "may include a student participating in distance learning as in attendance within the first ten (10) days of school." Executive Order 2020-41 at 1(h). If a student attends either a brick and mortar school or an online program within first 10 days of school, school districts may

count them as attending for purposes of solidifying ADM counts and rolling over 2019-2020 numbers. ADE provided school districts with [Guidance](#) on enrollment and attendance reporting to comply with the requirements of Executive Order 2020-41.

Student Absences

Generally, students with ten consecutive absences must be withdrawn from membership and the effective date of the withdrawal is the last date of attendance by the student. See A.R.S. § 15-901(A)(1). ADE provides guidance to school districts on what constitutes “excused absences” in its School Finance Manual at Chapter G (formerly EX-1), available at <https://www.azed.gov/finance/school-finance-external-guidelines/>.

ADE defines “excused absences” as “an absence due to illness, doctor appointment, bereavement, family emergencies, and out-of-school suspensions...” or family vacations based on the determination of the school district. The COVID-19 pandemic will create school absences that may be excused absences depending on the individual circumstances of the student.

ADE’s current guidance states as follows:

Students who have reached the 10% threshold for cumulative absences (excused and unexcused) based on the number of instructional calendar days at their school, and continue to incur absences may generate non-fundable Average Daily Membership (ADM) intervals in AzEDS.

Under Executive Order 2020-41, school districts may count students as attending if the students are engaged in traditional brick and mortar learning environment, a hybrid distance learning model compliant with the Executive Order, an approved AOI or distance learning with an approved ADE plan.

Counting Absences for Students with Chronic Health Conditions

State law permits school districts to maintain the attendance and enrollment of students who miss more than ten percent of the school year but who are designated as chronically ill pursuant to A.R.S. § 15-346. That statute defines “pupils with chronic health problems” as follows:

1. Pupils who are not homebound, but who are unable to attend regular classes for intermittent periods of one or more consecutive days because of illness, disease, pregnancy complications or accident as certified by a health professional who is licensed pursuant to title 32, chapter 7, 8, 13, 14, 17 or 25 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.

2. Pupils who suffer from a condition requiring management on a long-term basis as certified by a health professional who is licensed pursuant to title 32, chapter 7, 8, 13, 14, 17 or 25 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.
3. Pupils who have an infant with a severe health problem as certified by a health professional who is licensed pursuant to title 32, chapter 7, 8, 13, 14, 17 or 25 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15.

A.R.S. § 15-346(C).

The Arizona School Board Association has a standard Governing Board Policy JHD. For Districts that have adopted that policy, it addresses exclusions and exemption from school attendance and sets out instructional requirements for students who are designated as chronically ill. Districts may need to educate members of its community on the applicability of this exception for some students whose health may not permit them to attend any of the offered programming.

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