

**22-54-129. Facility school funding - legislative declaration - definitions.**

(1) As used in this section, unless the context otherwise requires:

(a) "Approved facility school" shall have the same meaning as provided in section 22-2-402 (1).

(a.5) "Baseline funding" means a funding amount based on student enrollment projections that is intended to provide sufficient funding for minimum education program services for an approved facility school.

(b) "Department" means the department of education created and operating pursuant to section 24-1-115, C.R.S.

(c) "Facility" shall have the same meaning as provided in section 22-2-402 (3).

(d) "Pupil enrollment" means the number of students receiving educational services at the approved facility school or state program on the pupil enrollment count day of the applicable budget year.

(d.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(e) Repealed.

(f) "State program" means the Colorado school for the deaf and the blind or the education program operated by the Colorado mental health institute at Pueblo or Fort Logan for students for whom the institute has responsibility because of a court order or other action by a public entity in Colorado.

(g) "Statewide base per pupil funding" means the amount annually specified in this article 54.

(2) (a) The general assembly finds that:

(I) The unique environments of approved facility schools and state programs and the population of students that they serve create obstacles to learning and academic growth that other public schools and students do not encounter;

(II) Because approved facility schools and state programs must operate year-round, their need for funding remains constant year-round; and

(III) Although students in approved facility schools may or may not be economically at-risk, the circumstances that have resulted in their placement in approved facility schools and state programs make it likely that they are academically at-risk and require costly educational support services to achieve academic growth.

(b) The general assembly finds, therefore, that it is appropriate to fund approved facility schools and state programs:

(I) By an additional one-third above the statewide base per pupil funding amount to recognize the increased costs of educating students in approved facility schools and state programs year-round; and

(II) By an additional forty percent above the statewide base per pupil funding amount to offset the increased costs inherent in providing education services to the students who are placed in approved facility schools and state programs.

(c) (I) For the 2008-09 budget year through the 2012-13 budget year, each approved facility school and state program that meets the requirements of this section shall receive education program funding, which shall be distributed pursuant to subsection (4) of this section. The amount of funding available for all approved facility schools and state programs in a budget year shall be an amount equal to the pupil enrollment of each approved facility school and state program for the applicable budget year multiplied by an amount equal to one and one-third of the state average per pupil revenue for the applicable budget year.

(II) For the 2013-14 budget year and each budget year thereafter, each state program that meets the requirements of this section must receive education program funding, which must be distributed pursuant to subsection (4) of this section. The amount of funding available for all state programs in a budget year is an amount equal to the pupil enrollment of each state program for the applicable budget year multiplied by an amount equal to one and seventy-three hundredths of the statewide base per pupil funding for the applicable budget year.

(III) For the 2013-14 budget year through the 2022-23 budget year, each approved facility school that complies with the requirements of this section must receive education program funding, which must be distributed pursuant to subsection (4) of this section. The amount of funding available for all approved facility schools in a budget year is an amount equal to the pupil enrollment of each approved facility school for the applicable budget year multiplied by an amount equal to one and seventy-three hundredths of the statewide base per pupil funding for the applicable budget year.

(2.5) (a) (I) For the 2023-24 budget year and each budget year thereafter, each approved facility school that meets the requirements of this section must receive education program funding, which must be distributed pursuant to this subsection (2.5). The amount of state funding available for all approved facility schools in a budget year is an amount equal to the sum of the baseline funding of each approved facility school for the applicable budget year, based on student enrollment projections for each approved facility school and per pupil funding for each approved facility school, if applicable, offset by other revenue sources described in subsection (2.5)(a)(III) of this section.

(II) The baseline funding amount must be calculated by using student enrollment projections.

The baseline funding amount may include funding for special education directors, licensed teachers, relevant therapeutic staff, classroom teaching aides, school administration, nonpersonnel costs, and any other elements required to provide minimum education program services for an approved facility school.

(III) The baseline funding amount paid by the state must be offset by a portion of the tuition received for the cost of enrolled students per day for special education services from school districts pursuant to section 22-20-109 and by a portion of hospital revenue for the cost of enrolled students per day from other sources for hospital-based approved facility schools.

(b) The office of facility schools may suspend, reduce, or recoup monthly payments from an approved facility school if the office of facility schools determines that an approved facility school does not provide services for which the approved facility school is funded or serves significantly fewer students than were anticipated when the approved facility school's baseline funding was approved.

(c) Baseline funding must be adjusted based on thresholds for student enrollment count, but an approved facility school shall receive funding for no fewer than eight students. Baseline funding must be adjusted each year for inflationary impacts on each cost element included in the calculation. Student enrollment thresholds provide for funding adjustments for:

(I) Up to eight students;

(II) Nine to sixteen students; and

(III) Seventeen or more students.

(d) (I) Student enrollment projections must be based on actual student enrollment counts from prior years, capacity adjustments, or any other factors relevant to projecting the average student enrollment for each approved facility school in a budget year.

(II) Initial funding levels and monthly payments to approved facility schools must be based on actual student enrollment counts from prior years, which may be adjusted by the office of facility schools to address known changes in the capacity of an approved facility school. If the student enrollment count for an approved facility school is significantly different than the projected student enrollment count, the amount of funding must be adjusted to account for the change.

(III) The department may request additional funds for the current budget year or the next budget year as part of its mid-year budget submission if required based on expenditure projections due to cumulative student enrollment data through November of a given budget year.

(e) (I) For the 2023-24 budget year, the state shall pay baseline funding amounts to approved facility schools with student enrollment thresholds as follows:

(A) Up to eight students must be no more than fifty thousand one hundred forty-nine dollars

per month less the offset amount calculated pursuant to subsection (2.5)(a)(III) of this section and set forth in subsection (2.5)(e)(II) of this section;

(B) Nine to sixteen students must be no more than fifty-nine thousand six hundred ninety-seven dollars per month less the offset amount calculated pursuant to subsection (2.5)(a)(III) of this section and set forth in subsection (2.5)(e)(II) of this section;

(C) The payment for each additional student above sixteen students must be no more than two thousand five hundred forty-one dollars per month per student in addition to the fifty-nine thousand six hundred ninety-seven dollars per month described in subsection (2.5)(e)(I)(B) of this section, less the offset amount calculated pursuant to subsection (2.5)(a)(III) of this section and set forth in subsection (2.5)(e)(II) of this section. The amount per student for each additional student pursuant to this subsection (2.5)(e)(I)(C) must decrease based on student enrollment thresholds established by the department.

(II) The offset amounts described in subsection (2.5)(a)(III) must be calculated as fifty-five dollars per enrolled student per day for special education services from school districts and seventy-five dollars per enrolled student per day for the portion of the hospital revenue from other sources for hospital-based approved facility schools.

(III) For future budget years after the 2023-24 budget year, inflationary adjustments and other adjustments to the amounts set forth in this subsection (2.5)(e) must be set in the annual appropriations bill.

(f) Subject to available appropriations, funding for each approved facility school may be prorated proportionately based on student enrollment.

(3) To receive education program funding pursuant to this section, an approved facility school, through the 2022-23 budget year, or a state program shall submit its pupil enrollment for the applicable budget year to the department on or before November 10, 2008, and on or before October 5 of each budget year thereafter.

(4) (a) In addition to the requirements of subsection (3) of this section, on or before the fifteenth day of each month, an approved facility school or a state program shall report to the department, in a manner to be determined by the department, the actual number of students who received educational services at the approved facility school or through the state program during the prior calendar month and the corresponding number of full-time equivalent students to which the approved facility school or state program provided such services. The department may accept amended monthly reports from an approved facility school or a state program prior to making the distribution of funding for the applicable month pursuant to subsection (4)(b) of this section. Beginning in the 2023-24 budget year, funding for an approved facility school must be distributed pursuant to subsection (2.5) of this section.

(b) (I) On or before the fifteenth day of the month following the month in which a state program reported the number of students to which it provided educational services and the

number of full-time equivalent students to which the state program provided services pursuant to subsection (4)(a) of this section, the department shall pay the state program a proportional amount of the total amount of education program funding as determined pursuant to subsection (2) of this section, based on the state program's reported number of full-time equivalent students.

(II) For the 2013-14 budget year through the 2022-23 budget year only, on or before the fifteenth day of the month following the month in which an approved facility school reported the number of students to whom it provided educational services and the number of full-time equivalent students to whom the approved facility school provided services pursuant to subsection (4)(a) of this section, the department shall pay the approved facility school a proportional amount of the total amount of education program funding as determined pursuant to subsection (2) of this section based on the approved facility school's reported number of full-time equivalent students.

(III) Beginning in the 2023-24 budget year, the department shall pay an approved facility school monthly as set forth in subsection (2.5) of this section.

(c) The department may prorate the payments made pursuant to subsections (4)(b)(I) and (4)(b)(II) of this section, if the department determines that such action is necessary to accommodate a projected shortfall in education program funding as calculated pursuant to subsection (2) of this section.

(5) In each applicable budget year, the general assembly shall appropriate to the department the amount required for education program funding pursuant to subsection (2) of this section.

(6) (a) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the administration and enforcement of this section. In promulgating the rules, the state board shall seek input from approved facility schools, state programs, districts, and organizations that represent facility schools.

(b) In promulgating rules pursuant to paragraph (a) of this subsection (6), the state board shall seek input from the facility schools board created in section 22-2-404.

(7) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing funding for pupils who are placed in a facility and receive educational services through an approved facility school, who attend the Colorado school for the deaf and the blind, or who receive educational services through an education program operated by the Colorado mental health institute at Pueblo or Fort Logan is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** **L. 2008:** Entire section added, p. 1200, § 12, effective May 22. **L. 2009:** Entire section amended, (HB 09-1189), ch. 99, p. 368, § 1, effective April 3. **L. 2012:** (1)(d) amended and (1)(d.5) added, (HB 12-1090), ch. 44, p. 158, § 23, effective March 22. **L. 2013:** (1)(e) repealed,

(1)(g) added, and (2) amended, (SB 13-260), ch. 236, p. 1140, § 6, effective May 17. **L. 2023:** (1)(a.5), (2)(c)(III), and (2.5) added and (2)(c)(II), (3), and (4) amended, (SB 23-219), ch. 88, p. 329, § 11, effective April 20. **L. 2024:** (1)(g) amended, (HB 24-1448), ch. 236, p. 1525, § 25, effective May 23.