

Virginia Board of Education Agenda Item



Agenda Item: J

Date: November 21, 2013

Title	First Review of Guidance Related to Maximum Class Size Requirements in the Standards of Quality for Grades K-6		
Presenter	Ms. Anne D. Wescott, Assistant Superintendent for Policy and Communications		
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Purpose of Presentation:

Other initiative or requirement. Specify below:
Guidance about interpreting the Standards of Quality

Previous Review or Action:

No previous review or action.

Action Requested:

No action requested.
Date: January 16, 2014
Action: Final review

Alignment with Board of Education Goals: Please indicate (X) all that apply:

	Goal 1: Accountability for Student Learning
	Goal 2: Rigorous Standards to Promote College and Career Readiness
	Goal 3: Expanded Opportunities to Learn
	Goal 4: Nurturing Young Learners
	Goal 5: Highly Qualified and Effective Educators
	Goal 6: Sound Policies for Student Success
	Goal 7: Safe and Secure Schools
X	Other Priority or Initiative. Specify: Guidance about the interpretation of maximum class size provisions of § 22.1-253.13:2 (C) of the <i>Code of Virginia</i>

Background Information and Statutory Authority:

Other Priority or Initiative: This document will provide guidance to local school boards about how the Board of Education interprets the provisions of § 22.1-253.13:2 (C) of the *Code of Virginia* related to the student-teacher ratios and maximum class size requirements in grades K-6.

The Standards of Quality (SOQ) are prescribed by the Board and approved by the General Assembly, in accordance with the Virginia Constitution, in Article VIII, § 2, which says:

Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly. The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds.

Standard 2 of the Standards of Quality, § 22.1-253.13:2 of the *Code of Virginia*, outlines the staffing requirements for local school divisions. Subsection C prescribes the divisionwide student-teacher ratios and maximum class sizes for grades K-6, and the divisionwide student-teacher ratios for English classes in grades 6-12. It says:

Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

There are several provisions in the *Code of Virginia* that address the requirement for licensure. Standard 2 of the Standards of Quality, in § 22.1-253.13:2 (B) says:

School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

Section § 22.1-299 says, in part:

No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education....

Standard 8 of the Standards of Quality, § 22.1-253.13:8 of the *Code of Virginia*, addresses compliance with the Standards of Quality. It says, in part:

... Each local school board shall report its compliance with the Standards of Quality to the Board of Education annually. The report of compliance shall be submitted to the Board of Education by the chairman of the local school board and the division superintendent.

Noncompliance with the Standards of Quality shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.

The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.

Summary of Important Issues:

During the 2012-2013 school year, it was brought to the Board's attention that an elementary school had several "pull-out" classes for gifted students that exceeded the maximum class size requirements in the Standards of Quality. The situation was resolved when an additional teacher was hired, but it raised questions about the definition of a class, whether students receiving special education services are included in determining the maximum class size, and when divisions calculate class size for purposes of the Standards of Quality.

Definition of class: The term "class" is not defined in Virginia statute or Board of Education regulation. Therefore, at this time, there is no official description of what constitutes a "class" in Virginia public schools. Because the Board does not presently define or describe "class," it is unclear how the term is interpreted by local school divisions.

The *Merriam-Webster Online Dictionary* provides numerous definitions for "class," including the following: a group of students who meet regularly to be taught a subject or activity; a series of meetings in which students are taught a particular subject or activity; a course of instruction; and one of the meetings in which students are taught a particular subject or activity.

The Standards of Quality: The Standards of Quality are the basis for most of the state funds appropriated to local school divisions. Funding for the Standards of Quality is based on the provisions in Standard 2, as well as language in the Appropriation Act.

As required by Standard 2 of the Standards of Quality and to ensure appropriate instructional staffing levels, local school divisions must employ a minimum number of licensed, full-time instructional personnel as specified in the Appropriation Act for each 1,000 pupils in average daily membership (ADM). The 2013 Appropriation Act requires the following positions per 1,000 pupils in March 31 ADM:

- **Basic Aid:** 51 professional instructional positions and aide positions
- **Gifted Education:** 1.0 professional instructional position

- **Occupational-Vocational and Special Education:** 6.0 professional instructional positions and aide positions

In addition, Standard 2 sets forth divisionwide ratios of students in ADM to full-time equivalent (FTE) teaching positions, and it establishes maximum class sizes. The divisionwide ratios do not include special education teachers, principals, assistant principals, counselors, and librarians.

Grade	Maximum Class Size	Student-Teacher Ratio (Divisionwide Ratio)
Kindergarten	29 (if more than 24, a teacher's aide is required)	24 to 1
1-3	30	24 to 1
4-6	35	25 to 1
English class, 6-12	None	24 to 1
Middle and High Schools	None	21 to 1

Special Education: It should also be noted that the Board's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, in 8 VAC 20-81-340, include the following special education caseload maximums as funded by the Appropriation Act:

Figure 1: Local school division caseload maximums as funded by the Virginia Appropriation Act.			
Disability Category	Level II		Level I
	With Paraprofessional 100% of the time	Without Paraprofessional 100% of the Time	
Autism 8		6	24
Deaf-blindness 8		6	
Developmental Delay: age 5-6	10	8	
Developmental Delay: age 2-5	8 Center-based 10 Combined	12 Home-based and/or Itinerant	
Emotional Disability	10	8	24
Hearing Impairment/Deaf	10	8	24
Intellectual Disability	10	8	24
Learning Disability	10	8	24
Multiple Disabilities	8	6	
Orthopedic Impairment	10	8	24
Other Health Impairment	10	8	24
Speech or Language Impairment	NA NA		68 (Itinerant)
Traumatic Brain Injury	May be placed in any program, according to the IEP.		
Combined group of students needing Level I and Level II services	20 Points (see Figure 2)		

Figure 2: Values for students receiving Level I services when combined with students receiving Level II services.			
Disability Category	Level II Values		Level I Values
	With Paraprofessional 100% of the time	Without Paraprofessional 100% of the time	
Autism	2.5	3.3	1
Deaf-blindness	2.5	3.3	1
Developmental Delay: age 5-6	2.0	2.5	1
Emotional Disability	2.0	2.5	1
Hearing Impairment/Deaf	2.0	2.5	1
Intellectual Disability	2.0	2.5	1
Learning Disability	2.0	2.5	1
Multiple Disabilities	2.5	3.3	1
Orthopedic Impairment	2.0	2.5	1
Other Health Impairment	2.0	2.5	1
Traumatic Brain Injury	2.0	2.5	1

Career and Technical Education: The Board’s *Regulations Governing Career and Technical Education* address maximum class size, in 8 VAC 20-120-150, which say:

Enrollments in career and technical education courses shall not exceed the number of individual work stations.

1. Career and technical education laboratory classes that use equipment that has been identified by the U.S. Department of Labor for hazardous occupations shall be limited to a maximum of 20 students per laboratory. The career and technical education courses that have this restriction are published annually by the Virginia Department of Education.
2. Career and technical education courses designed specifically and approved for students who are disadvantaged shall be limited to an average of 15 students per instructor per class period with no class being more than 18.
3. Career and technical education courses designed specifically and approved for students with disabilities shall be limited to an average of 10 students per instructor per class period with no class being more than 12 or up to an average of 12 students per class period with no class being more than 15 where an instructional aide is provided.
4. Career and technical education programs offering classes that require the cooperative education method of instruction shall:
 - a. Be limited to an average of 20 students per instructor per class period with no class being more than 24; and
 - b. Have a class period assigned to the instructor for on-the-job coordination for each 20 students participating in the on-the-job training.

Compliance with the Standards of Quality: Each year, as a part of the annual report to the General Assembly on the condition and needs of public education in Virginia, the Board of Education is required to report the level of compliance by local school boards with the requirements of the Standards of Quality (SOQ). In order to accomplish this requirement, on an annual basis, the Virginia Department of Education (VDOE) collects data from local school divisions relative to compliance with the SOQ.

With respect to § 22.1-253.13:2(C) of the *Code of Virginia*, local school divisions are required to respond either “yes” or “no” to the following statements:

1. The school division has a divisionwide ratio of pupils in average daily membership to full-time equivalent teaching positions (excluding special education teachers, principals, assistant principals, counselors, and librarians) no greater than the following ratios:
 - a. Twenty-four to one in kindergarten, with no class larger than twenty-nine; twenty-four to one in grades one, two and three with no class larger than thirty at any of these levels.
 - b. A full-time teacher's aide is assigned to any kindergarten class where the average daily membership exceeds twenty-four pupils.
 - c. Twenty-five to one in grades four through six with no class larger than thirty-five pupils.
 - d. Twenty-four to one in English classes in grades six through twelve.
2. The school division assigns instructional personnel in a manner that produces schoolwide ratios of students in average daily membership to full-time equivalent positions of twenty-one to one in middle and high schools.
3. The school division provides all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

If a school division responds “no” to any statement, then the division is required to submit information regarding corrective action that is being taken or will be taken by the division to ensure compliance with the specific requirement of the SOQ. Once the data submission is complete, a verification report is generated asserting compliance with the SOQ and other miscellaneous reporting requirements. The signature page of the report must be signed by the local school board chairman and the division superintendent (or authorized designee) and submitted to VDOE. It is important to note that, while the annual SOQ compliance data collection pertains to the current school year and typically takes place during the spring, local school divisions are not instructed to provide responses tied to a specific date or time frame during the school year.

Other States: Finally, a number of other states have adopted legislation that defines “class-size” or “class.” A compendium prepared by the Education Commission of the States is attached.

Impact on Fiscal and Human Resources:

There could be an impact on fiscal and human resources at the local school division level.

Timetable for Further Review/Action:

Final review and approval is planned for January 16, 2014.

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education accept the guidance for first review.

Guidance Regarding Maximum Class Size and Student-Teacher Ratios in the Standards of Quality

Statutory Authority

Standard 2 of the Standards of Quality, in § 22.1-253.13:2(C) of the *Code of Virginia*, says:

“Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.

“Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

“Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.”

Standard 2 of the Standards of Quality, in § 22.1-253.13:2 (B) says:

“School boards shall employ licensed instructional personnel qualified in the relevant subject areas.”

Furthermore, as specified in § 22.1-299:

“No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education.”

Guidance

All local school divisions are expected to meet the divisionwide and schoolwide student-teacher ratios specified in the Standards of Quality (SOQ). The calculations for SOQ funding are based in part on the divisionwide and schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions.

The special education caseload maximums, as prescribed in the Board’s *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, in 8 VAC 20-81-340, shall apply for students with disabilities. The maximum class size requirements in the Board’s *Regulations Governing*

Career and Technical Education, in 8 VAC 20-120-150, shall apply to career and technical education classes.

Elementary schools and any other public schools that include grades K-6 shall not exceed the maximum class sizes for all K-6 classes.

For the purpose of this guidance, a *class* is a grouping of students in which they regularly receive instruction in the Standards of Learning by one or more teachers. If more than one teacher is assigned to a class for purposes of instructing students, each teacher shall count towards meeting the student-teacher ratio and any maximum class size requirements.

The student-teacher ratio shall not include special education teachers, principals, assistant principals, counselors, and librarians, as specified by the SOQ. Student teachers or teachers who observe classes are not counted towards meeting SOQ student-teacher ratios or maximum class size requirements.

For the purpose of this guidance, the following would not be considered a class:

- Enrichment programs and independent or collaborative projects conducted by students under the supervision of a licensed teacher
- Groupings of students for remediation or additional instruction unless that is how the students regularly receive primary instruction in the Standards of Learning
- “Homeroom” settings in which primary instruction in the Standards of Learning is not provided

Certification of Compliance

Standards of Quality funding for instructional positions is calculated based on the annual September 30th report of student enrollment and the March 31st report of average daily membership. For purposes of this guidance, school divisions shall determine compliance with required divisionwide and schoolwide student-teacher-ratios and maximum class sizes based on data reported September 30th and March 31st.

School divisions should make every effort to be in compliance with the student-teacher ratio and maximum class size requirements by September 30th and throughout the year; however, from time to time there may be unpredictable enrollments and unexpected circumstances that cause a school division to be temporarily out of compliance. When this occurs, the school division should make arrangements to come in to compliance as soon as possible.

For the purpose of these guidelines, compliance with the student-teacher ratio and maximum class size requirements are based on the average daily membership for the class, the school, and the school division, as may be applicable, consistent with the Standards of Quality funding calculations.

Each year, during August and early September, local school divisions must self-certify compliance with the Standards of Quality for the previous school year. The report is made to the Virginia Department of Education (VDOE) through a single sign-on, Web-based data collection instrument. Both the superintendent and the school board chairman must sign the certification of compliance. If a school division is not in compliance with any requirement of the Standards of Quality, it must submit a corrective action plan for that requirement. The corrective action plan is included as a part of the single sign-on Web-based compliance form.

Each year, as a part of the annual report to the General Assembly on the condition and needs of public

education in Virginia, the Board of Education is required by § 22.1-18 of the *Code of Virginia* to report the level of compliance by local school boards with the requirements of the Standards of Quality.

Noncompliance with the required divisionwide student-teacher ratios and maximum class size requirements, as well as the other requirements in the Standards of Quality, shall be enforced as prescribed by Standard 8 of the Standards of Quality, § 22.1-253.13:8 of the *Code of Virginia*:

“As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.

“The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.”

Examples of “class” definitions or standards

Note: Delaware “unit of pupils” definitions are the last entry, as they are the longest.

Florida

Preamble (Laws 2003, c. 2003-391):

“WHEREAS, in 1998 the voters approved an amendment to Section 1, Article IX of the State Constitution that required the Legislature to establish by law a uniform, efficient, safe, secure, and high-quality system of free public schools that allows students to obtain a high-quality education, and

“WHEREAS, in 2002 the voters of Florida approved a further amendment to Section 1, Article IX of the State Constitution to assure that students obtain a high-quality education, and

“WHEREAS, the voters defined a high-quality education as, by 2010 a prekindergarten through grade 3 core-curricula class size of no more than 18 students assigned to a teacher, a grade 4 through grade 8 core-curricula class size of no more than 22 students assigned to a teacher, and a grade 9 through grade 12 core-curricula class size of no more than 25 students assigned to a teacher, and

“WHEREAS, the Legislature finds that a high-quality education cannot be achieved solely by small class sizes but also requires well-educated, well-trained, well-compensated, and effective classroom teachers and school administrators who maintain orderly, disciplined classrooms conducive to student learning, and

“WHEREAS, Section 1, Article IX of the State Constitution requires that such reduced class sizes be accomplished through a system that is both efficient and uniform, and

“WHEREAS, the constitutional principle of efficiency includes the school districts' use of their facilities, teachers, and other resources in the most efficient manner, and

“WHEREAS, the Florida Supreme Court in considering the provisions of Amendment 9 to Section 1, Article IX of the State Constitution, found that ‘rather than restricting the Legislature, the proposed amendment gives the Legislature latitude in designing ways to reach the class size goal articulated in the ballot initiative, and places the obligation to ensure compliance on the Legislature,’ and

“WHEREAS, the Legislature has chosen to focus on student achievement, provide clarity of goals, safeguard the efficient use of public funds, allow flexibility to reach those goals, recognize issues relating to efficiency and equity of implementation, and require accountability to meet the standards set forth in the State Constitution, NOW, THEREFORE,”

Georgia

Rules: <http://rules.sos.state.ga.us/docs/160/5/1/08.pdf>

and

§ 20-2-182. Program weights to reflect funds to pay teachers and other personnel; maximum class size

(a) The program weights, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of all teachers needed to provide essential classroom instruction in order to ensure a Quality Basic Education Program for all enrolled students, subject to appropriation by the General Assembly.

(b) The program weights for the primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, and middle school programs, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of specialists qualified to teach art, music, foreign language, and physical education, subject to appropriation by the General Assembly.

(c) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for at least one school counselor for every 450 full-time equivalent students. Beginning in Fiscal Year 2015 and thereafter, the program weights for the English for speakers of other languages program and the programs for persons with disabilities shall also earn school counselor funding. Further, beginning in Fiscal Year 2016 and thereafter, the program weights for the program for intellectually gifted students and the remedial education program shall also earn school counselor funding. The duties and responsibilities for such school counselors shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor's time to be spent counseling or advising students or parents.

(i)(1) It is the intent of this paragraph to provide a clear expectation to parents and guardians as to the maximum number of students that may be in their child's classroom in kindergarten through eighth grade. Beginning with the 2006-2007 school year, for the following regular education programs, the maximum individual class size for mathematics, science, social studies, and language arts classes shall be:

(A) Kindergarten program (without full-time aide)	18
(B) Kindergarten program (with full-time aide)	20
(C) Primary grades program (1-3)	21
(D) Upper elementary grades program (4-5)	28
(E) Middle grades program (6-8) and middle school program (6-8) as defined in Code Section 20-2-290	28

For school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, the system average maximum class size for each instructional program covered under this paragraph shall be the

same as the maximum individual class size for each such program, and local boards of education shall be considered in compliance with this paragraph so long as the system average maximum class size is not exceeded; provided, however, that if the State Board of Education approves a blanket waiver or variance pursuant to subsection (h) of Code Section 20-2-244, such maximum individual class sizes shall be the system average maximum class sizes for purposes of this paragraph.

(2) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article except those programs included in paragraph (1) of this subsection the maximum number of students which may be taught by a teacher in an instructional period. For the remedial education, career, technical, and agricultural education laboratory, alternative education, and early intervention programs, the State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional program covered under this paragraph, the maximum number of students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number; provided, however, that this provision shall not apply to general education programs in mathematics, science, social studies, and language arts for grades 9 through 12. Beginning with the 2007-2008 school year, each local board of education shall be allowed to exceed maximum class sizes set by the state board pursuant to this paragraph for general education programs in mathematics, science, social studies, and language arts for grades 9 through 12 and may establish such maximum class sizes that shall not exceed the funding class size by more than 39 percent and shall annually report to the state board and to each school council in its school system such class sizes established.

(3) The maximum individual class size for the kindergarten and primary grades programs is defined as the number of students in a physical classroom. The maximum individual class size for all other purposes shall be defined as the maximum number of students that may be taught by a teacher in a class segment. Maximum class sizes for the programs covered in paragraph (2) of this subsection that result in a fractional full-time equivalent shall be rounded up to the nearest whole number as needed.

(4) The number of students taught by a teacher at any time after the first 15 school days of a school year may not exceed the maximum such number unless authorization for a specific larger number is requested of the state board after the first FTE count of a school year as required in subsection (a) of Code Section 20-2-160. The state board may approve said request only in the limited circumstance where educationally justified and where an act of God or other unforeseen event led to the precipitous rise in enrollment within that school system or led to another occurrence which resulted in the local board's inability to comply with this subsection. The state board shall not reduce class sizes without the authorization of the General Assembly if this reduction necessitates added costs for facilities, personnel, and other program needs. Local boards of education may reduce class sizes, build additional facilities, and provide other resources at local cost if such actions are in the best interest of the local school systems' programs as determined by the local boards of education.

(j) In its report of the initial full-time equivalent program count required by subsection (a) of Code Section 20-2-160, each local school system shall report to the Department of Education the number of students in each class in each school as of the date of the initial enrollment count; for schools where

students change classes during the school day, the local school system shall report the number of students in each class period. Each local school system shall also report to the Department of Education by March 15 of each school year the number of students in each class in each school as of the first Monday in March; for schools where students change classes during the school day, the local school system shall report the number of students in each class period.

CREDIT(S)

Laws 1985, p. 1657, § 1; Laws 1987, p. 1169, § 1; Laws 1988, p. 612, § 8; Laws 1988, p. 1412, § 2; Laws 1988, p. 1496, § 1; Laws 1990, p. 847, § 4; Laws 1990, p. 918, § 1; Laws 1991, p. 94, § 20; Laws 1991, p. 1531, § 5; Laws 1994, p. 1315, § 4; Laws 2000, p. 618, § 27; Laws 2001, p. 148, § 9; Laws 2003, Act 30, § 4, eff. May 20, 2003; Laws 2004, Act 449, § 5, eff. May 4, 2004; Laws 2005, Act 19, § 20, eff. July 1, 2005; Laws 2005, Act 155, § 4, eff. July 1, 2005; Laws 2006, Act 450, § 2, eff. July 1, 2006; Laws 2007, Act 352, § 2, eff. July 1, 2007; Laws 2009, Act 8, § 20, eff. April 14, 2009; Laws 2010, Act 384, § 3, eff. May 20, 2010; Laws 2011, Act 227, § 4, eff. May 13, 2011; Laws 2011, Act 245, § 20, eff. May 13, 2011; Laws 2012, Act 618, § 2, eff. July 1, 2012; Laws 2013, Act 335, § 12, eff. July 1, 2013.

Tennessee

§ 49-1-104. Class size; intent

(a) It is the intent of the general assembly that every LEA move expeditiously and promptly toward the goals established in this section, and to that end, neither the commissioner nor the state board of education shall grant waivers from the maximum class sizes established in this section. Every public local school system shall have as a policy that pupil-teacher ratios should not exceed the averages prescribed in this section. In no school building shall the average size of any grade level unit prescribed in this section exceed the stated average, though any individual class within that unit may exceed the average; provided, that no class shall exceed the prescribed maximum size.

<u>Grade Level</u>	<u>Average</u>	<u>Maximum Class Size</u>
K-3	20	25
4-6	25	30
7-12	30	35
Vocational Education	20	25

(b) The state board of education, in consultation with the state department of education, shall establish class size standards and case load standards for instructional personnel and teachers having the primary responsibility for the development, implementation and updating of a student's individualized education plan (IEP). In addition to case load requirements, these standards shall address class size in all classrooms that include students with disabilities and students eligible for special education services.

(c) The average pupil/teacher ratios in this section shall establish the minimum number of regular classroom teaching positions in a school exclusive of the principal, assistant principal, counselor, elementary art, elementary music, elementary physical education, librarian, special education or other specialized positions.

(d) Class size limits may be exceeded in such areas as typewriting, junior reserve officers' training corps (JROTC) and instrumental and vocal music classes; provided, that the effectiveness of the instructional program in these areas is not impaired.

(e)(1) No local school system shall establish split-grade classes for the purpose of complying with this section. This subsection (e) does not prevent school systems from using transitional, ungraded or unstructured classes.

(2) No local school system shall establish split-grade classes for any purpose without the approval of the local board of education.

(3) The average size specified for the grade levels involved in split-grade classes will be the maximum size allowed in such classes, notwithstanding the maximum size otherwise allowed by this section.

(f) In the event of a natural disaster that results in the enrollment of displaced students, the commissioner of education may grant a waiver from the maximum class sizes established in this section.

(g)(1) The Metropolitan Nashville public school system in Davidson County is authorized to continue the pilot initiative begun on July 1, 2008, that allows class sizes in career and technical education classes to be extended; provided, that the class sizes do not exceed the limit set for academic classes in grades seven through twelve (7-12) and that the pilot initiative is only implemented in schools or programs that use the career academy or small learning community model. The extension of class sizes shall be granted by the commissioner.

(2) The department of education shall convene a committee for the purpose of reviewing and making recommendations based on the pilot initiative, assessing potential statewide implications for career and technical education funding within the BEP. The committee shall be comprised of, but not limited to, representation from the department of education, the state board of education, private industry, local career and technical education directors and higher education.

(3) The committee shall submit recommendations to the speakers of the senate and the house of representatives, the chairs of the education committees of the senate and the house of representatives and the BEP review committee no later than December 1, 2015, and triennially thereafter as long as the pilot initiative continues in existence.

(h) Any LEA operating a virtual school or virtual education program shall not exceed the teacher/pupil ratio for virtual schools set by the state board of education.

CREDIT(S)

1984 Pub.Acts (1st Ex. Sess.), c. 7, § 100; 1992 Pub.Acts, c. 535, § 37; 2001 Pub.Acts, c. 374, § 1, eff. June 12, 2001; 2006 Pub.Acts, c. 579, § 1, eff. May 4, 2006; 2007 Pub.Acts, c. 313, § 1, eff. May 31, 2007; 2008 Pub.Acts, c. 993, § 1, eff. May 21, 2008; 2010 Pub.Acts, c. 696, §§ 1, 2, eff. March 31, 2010; 2012 Pub.Acts, c. 558, § 1, eff. March 13, 2012; 2012 Pub.Acts, c. 999, § 1, eff. May 10, 2012.

Oklahoma

§ 18-113.1. Class size limitation--Penalties--Exemptions

A. The provisions of this subsection shall apply only to grades one through three.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than twenty (20) students.
2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if:
 - a. the creation of an additional class would cause a class to have fewer than ten (10) students; and
 - b. a teacher's assistant, as defined in Section 6-127 of this title, is employed to serve with each teacher in a class that exceeds the class size limitation provided for in this subsection.
3. No school district shall be penalized for exceeding class size limitations set forth in this subsection if the limitations are exceeded beginning after the first nine (9) weeks of the school year.

Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

- a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and
- b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and
- c. Sum the products of subparagraphs a and b of this paragraph.

B. The provisions of this subsection shall apply only to grades four through six.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than twenty (20) students.
2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if the creation of an additional class would cause a class to have fewer than sixteen (16) students.
3. No school district shall be penalized for exceeding class size limitations set forth in this subsection if the limitations are exceeded beginning after the first nine (9) weeks of the school year.
4. Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:
 - a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and

- b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and
- c. Sum the products of subparagraphs a and b of this paragraph.

C. Classes in the following subjects shall not be subject to the class size limitations provided for in subsections A and B of this section:

- 1. Physical education; and
- 2. Chorus, band, orchestra and similar music classes.

D. If a school district groups its grades as grades one through five, grades six through eight, and grades nine through twelve, then as to such district the provisions of subsection B of this section shall apply to grades four and five rather than grades four through six, and the provisions of Section 18-113.3 of this title shall apply to grades six through twelve.

E. Any violations of the provisions of this section shall result in denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

F. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitation provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if:

- a. the school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and

- b. on the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of Article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

G. Any school district which exceeds the class size limitations as set forth in this section shall submit a written report to the State Board of Education, on or before July 1 of each year, setting forth the procedures that the district will follow in order to comply with this section.

H. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations specified in this section.

CREDIT(S)

Laws 1985, c. 329, § 3, emerg. eff. July 30, 1985; Laws 1986, c. 259, § 19, operative July 1, 1986; Laws 1987, c. 204, § 84, operative July 1, 1987; Laws 1988, c. 207, § 3, operative July 1, 1988; Laws 1989, c. 214, § 1, emerg. eff. May 9, 1989; Laws 1989, 1st Ex.Sess., c. 2, § 28, operative July 1, 1990; Laws 1990, c. 263, § 69, operative July 1, 1990; Laws 1991, c. 280, § 71, eff. July 1, 1991; Laws 1992, c. 324, § 15, eff. July 1, 1992; Laws 1996, c. 314, § 1, eff. July 1, 1996.

Utah

§ 53A-17a-124.5. Appropriation for class size reduction

- (1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.
- (2) Each district or charter school shall receive its allocation based upon prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53A-17a-106(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).
- (3)(a) A district may use its allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).
 - (b)(i) Each district or charter school shall use 50% of its allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.
 - (ii) If a district's or charter school's average class size is below 18 in grades kindergarten through grade 2, it may petition the state board for, and the state board may grant, a waiver to use its allocation under Subsection (3)(b)(i) for class size reduction in the other grades.
- (4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of their allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.
- (5)(a) A school district or charter school may use up to 20% of its allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.
 - (b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the school district or charter school may use up to 50% of any allocation it receives under this section for classroom construction.
- (6) This appropriation is to supplement any other appropriation made for class size reduction.
- (7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade eight.

Wyoming

§ 21-9-101. Educational programs for schools; standards; core of knowledge and skills; special needs programs; class size requirements; cocurricular activities

(a) The board of trustees of each school district within the state shall cause the schools under its jurisdiction to provide an educational program in accordance with uniform standards defined under this section and rules and regulations promulgated by the state board of education pursuant to W.S. 21-2-304(a).

(b) Each school district within the state shall provide educational programs sufficient to meet uniform student content and performance standards at the level established by the state board of education in the following areas of knowledge and skills:

(i) Common core of knowledge:

- (A) Reading/language arts;
- (B) Social studies;
- (C) Mathematics;
- (D) Science;
- (E) Fine arts and performing arts;
- (F) Physical education;
- (G) Health and safety;
- (H) Humanities;
- (J) Career/vocational education;
- (K) Foreign cultures and languages;
- (M) Applied technology;
- (N) Government and civics including state and federal constitutions pursuant to W.S. 21-9-102.

(ii) For grades one (1) through eight (8), reading, writing and mathematics shall be emphasized under the common core of knowledge specified under paragraph (b)(i) of this section;

(iii) Common core of skills:

- (A) Problem solving;
- (B) Interpersonal communications;
- (C) Keyboarding and computer applications;
- (D) Critical thinking;
- (E) Creativity;
- (F) Life skills, including personal financial management skills.

...

(d) In addition to subsections (b) and (c) of this section, each school district within this state shall endeavor to maintain when practicable, in kindergarten through grade three (3) within the district, an average class size of no more than sixteen (16) students per teacher, excluding children with disabilities who spend more than fifty percent (50%) of their time outside of regular classroom instruction.

(e) Nothing in this section shall be construed to prohibit school districts from establishing cocurricular activity programs which have as their purpose to provide educational experiences not otherwise

provided by the local district. The legislature specifically encourages school districts to establish programs of this type.

(f) It is the intent of the legislature that the funding mechanism established by law for schools encourage school districts to achieve the goal of reduced class sizes.

(g) Not later than the 2002-2003 school year, all school districts shall provide instruction in foreign languages to students in kindergarten through grade 2 in accordance with standards promulgated by the state board.

CREDIT(S)

Laws 1969, ch. 111, § 178; Laws 1997, Sp. Sess., ch. 3, § 301, eff. July 1, 1998; Laws 1999, ch. 110, § 503, eff. July 1, 1999; Laws 2002, Sp. & Bud. Sess., ch. 58, § 1, eff. March 11, 2002; Laws 2008, ch. 70, § 1, eff. March 7, 2008; Laws 2012, ch. 99, § 1, eff. March 15, 2012.

Delaware

§ 1703. Unit of pupils

<Text of section subject to expiration of 78 Laws 2011, ch. 7, § 3 and reinstatement of prior language if not affirmatively reauthorized by the General Assembly by 4-1-2014. See Historical and Statutory Notes under this section. See also section effective upon expiration of 78 Laws 2011, ch. 7, § 3 and reinstatement of prior language.>

As used in this chapter:

(a) "Unit" or "unit of pupils" is defined according to this schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31 of this title:

Beginning July 1, 2011

Preschool--12.8

K-3--16.2

4-12 Regular Education--20

4-12 Basic Special Education (Basic)--8.4

Pre K-12 Intensive Special Education (Intensive)--6

Pre K-12 Complex Special Education (Complex)--2.6

(b) All such units must be authorized by the Department of Education under rules and regulations promulgated by the Department.

Whenever more than 1 unit of pupils is authorized in a district in a given category, the first unit shall be a full unit. Partial unit funding is provided for all units based on the cash-in value of the unit.

(c) In the case of kindergarten, "unit" or "unit of pupils" is defined as 32.4 pupils for half-day kindergarten and 16.2 pupils for full-day kindergarten.

(d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for children with disabilities and all other children. The preschool unit shall be 1 unit for 12.8 students. The kindergarten through third grade unit (K-3) shall be 1 unit for 16.2 students, except as noted in subsection (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1 unit for 20 students. The basic special education (basic) unit for grades 4 through 12 shall be 1 unit for 8.4 students. The intensive special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 21, whichever occurs first, as defined in Chapter 31 of this title.

(1) Preschool unit--

a. student shall be counted in the Preschool unit if the student is identified as eligible for special education and related services and not counted in the Intensive unit or Complex unit described below and is:

1. Eligible for special education and related services from birth; or
2. At least 3 years of age; or
3. Eligible as described in the interagency agreement with the Department of Health and Social Services; or
4. Not yet entered kindergarten.

b. The following provisions shall apply to the preschool unit:

1. Partial unit funding is provided for between 1 and 12.8 students based on the cash-in value of the unit.
2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
3. The units include Divisions II and III.
4. Districts must use all funds generated by preschool unit to support services for the students counted in the preschool unit. Districts are not limited to using the funds to employ teachers only. The funds may be used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or other related services personnel as determined at the local level. The units may also be used to secure contractual services per requirements for the contractual option described in Chapter 13 of this title.
5. Districts may use tuition to pay for the local share and excess costs of special education and related services.
6. The units are considered teacher/instructional units for purposes of other unit counts.
7. A student is not required to receive a minimum number of hours in special education instruction to count in the preschool unit.

(2) K-3 unit--

a. A student shall be counted in the K-3 unit if the student is enrolled in kindergarten through grade 3 and not counted in the intensive unit or complex unit described later in this section.

b. The following provisions shall apply to the K-3 unit:

1. Partial unit funding is provided for between 1 and 16.2 students based on the cash-in value of the unit.
2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
3. The units include Divisions II and III.

4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.
5. At least 20% of teachers at the K-3 building level must be certified in the area of special education. The units are considered teacher/instructional units for purposes of other unit counts.

(3) 4-12 regular education unit--

- a. A student shall be counted in the grades 4-12 unit if the student is enrolled in grades 4 through 12 and not identified as eligible for special education and related services.

1. Partial unit funding is provided for between 1 and 20 students based on the cash-in value of the unit.
2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
3. The units include Divisions II and III.
4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.
5. The units are considered teacher/instructional units for purposes of other unit counts.

(4) 4-12 basic special education (basic)--

- a. A student shall be counted in the basic unit if the student is enrolled in grades 4 through 12; and identified as eligible for special education and related services; and not counted in the intensive unit or the complex unit described below.
- b. The following provisions shall apply to the 4-12 basic special education ("basic") unit:
 1. Partial unit funding is provided for between 1 and 8.4 students based on the cash-in value of the unit.
 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
 3. The units include Divisions II and III.
 4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the buildings that generate them.
 5. A student is not required to receive a minimum number of hours of instruction to count as a student in the basic unit.
 6. The units are considered teacher/instructional units for purposes of other unit counts.
 7. All units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.
 8. Districts are authorized to use up to 5% of the units for para-professionals or to cash them in for related services.

(5) Pre-K-12 intensive special education (intensive)--

- a. A student shall be counted in the intensive unit if the student is:
 1. Enrolled in preschool through grade 12; and
 2. Identified as a student eligible for special education; and
 3. In need of a moderate level of instructional, behavioral, personal support, or health support characterized individually or in combination by the following: A. Need for adult-student ratio of 1:3 to 1:8 for a substantial portion of educational program; B. Need for staff support for mid-range or moderate-use assistive technology; C. Need for some extended school year or relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services; D. Need for moderate level of related services, including interpreter, therapy, and school nurse and health services; E. Need for nonroutine or frequent accommodations or adaptations to curriculum or educational environment; and F. Such

additional criteria as may be adopted by the Department with the approval of the State Board of Education through regulation.

b. The following provisions shall apply to the pre-K-12 intensive special education (“intensive”) unit:

1. Partial unit funding is provided for between 1 and 6 students based on the cash-in value of the unit.
2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
3. The units include Divisions II and III.
4. 100% of the units must support the students that generate them.
5. The student is not required to receive a minimum number of hours of special education instruction to count as a student in the intensive unit.
6. The units are considered teacher/instructional units for purposes of other unit counts.
7. Units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.
8. Units may also be used to cash-in for other related services.
9. Districts may use tuition to pay for the local share and excess costs of the program.

(6) Pre-K-12 complex special education (complex)--

a. A student shall be counted in the complex unit if the student is:

1. Enrolled in preschool through grade 12; and
2. Identified as a student eligible for special education; and
3. In need of a high level of instructional, behavioral, personal, or health support characterized individually or in combination by the following: A. Need for adult-student ratio of 1:1 to 1:2 for a substantial portion of educational program; B. Need for staff support for high-tech or extensive-use assistive technology which may include both high and low technology items; C. Need for extensive extended school year or relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services; D. Need for extensive level of related services, including interpreter, therapy, and school nurse and health services; E. Need for extraordinary or extensive accommodations or adaptations to curriculum or educational environment; and F. Such additional criteria as may be adopted by the Department with the approval of the State Board of Education through regulation.

b. The following provisions shall apply for the pre-K-12 complex special education (“complex”) unit:

1. Partial unit funding is provided for between 1 and 2.6 students based on the cash-in value of the unit.
2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus 10 years of experience as defined in § 1305(a) of this title.
3. The units include Divisions II and III.
4. One hundred percent of the units must support the students that generate them.
5. The student is not required to receive a minimum number of hours of special education instruction to count in the complex unit.
6. The units are considered teacher/instructional units for purposes of other unit counts.
7. Units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.
8. Units may also be used to cash-in for other related services.
9. Districts may use tuition to pay for the local share and excess costs of the program.

(7) Counting students in preschool, basic, intensive, or complex shall be based on the Individual Education Program (IEP) and according to rules and rubrics described in Department of Education regulations.

(8) At the completion of the IEP meeting, the team will discuss and review the needs based funding unit and assure in writing that adequate resources are available to implement the IEP.

(9) The Department shall request any financial reports or other information it deems necessary from districts and charter schools to ensure the appropriate use of all units earned. Districts and charter schools shall be required to provide reports and information as requested by the Department.

(e) Programs shall be conducted on a 12-month schedule for children who are identified with severe mental disability, trainable mental disability, autism, traumatic brain injury, deaf-blindness or orthopedic disability, limited to cerebral palsy, muscular dystrophy, spina bifida, juvenile rheumatoid arthritis, amputation, arthrogryposis, or contractures caused by fractures or burns. Such programs shall not exceed 1282 hours of school attendance and 222 teacher days in length except that in the case of programs for children identified with autism a school district may extend school attendance to 1,426 hours. Enrollment of pupils beyond 180 days per year in any such program will be on a voluntary basis upon application by the parent, guardian or other person legally responsible for the enrollee. The state share of the salary paid to teachers for the number of units authorized in accordance with the rules and regulations of the Department of Education during the 11th and 12th months shall be at the rate of number of days employed multiplied by the daily rate defined in subsection (j) of this section of the particular teacher's entitlement for a regular school year.

(f) The state share for programs conducted on a 12-month schedule for children identified in subsection (e) of this section shall be calculated based on 100% of complex units and 30% of intensive units earned. The state share of the salary paid to teachers for the number of units authorized in accordance with the rules and regulations of the Department of Education during the eleventh and twelfth months shall be at the rate of the number of days employed multiplied by the daily rate defined in subsection (j) of this section of the particular teacher's entitlement for a regular school year. The calculation using the count of complex and intensive units does not establish a categorical right to 12-month programs for students who are counted in those units. The calculation of 100% of complex and 30% of intensive units is used to establish the state share provided in support of 12-month programs as described in subsection (e) of this section. The determination of eligibility for extended school year services is determined by IEP teams in conformity with applicable federal and state laws and regulations independent of 12-month program eligibility of students identified in subsection (e) of this section.

(g) An occupational-vocational unit for financing purposes shall mean 27,000 pupil minutes per week; provided, however, units shall be counted on the basis of 1 unit for each 30 students for students enrolled in the New Castle County Vocational-Technical School District, the Kent County Vocational-Technical School District and the Sussex County Vocational-Technical School District. Computation of 27,000 pupil minutes per week shall be in accordance with the rules and regulations established by the Department of Education.

(h) Notwithstanding the fact that such pupils have been counted in regular units of pupils, grades 7 to 12, inclusive, in the same or another school district, pupils who are enrolled in a vocational or occupational education program which has been approved annually by the Department of Education

and which is conducted by any public school district shall also be counted for entitlement to vocational units.

(i) Pupils having been counted in the occupational-vocational units of pupils shall be deducted from the regular unit entitlement of a comprehensive high school according to the following formula:

$$\text{Occupational-vocational units} \times .5 = \text{deductible units}$$

(j) Effective for fiscal year beginning July 1, 2001, each public high school may hire an occupational-vocational teacher for an additional 15 days for participation in program development and oversight of summer vocational-occupational cooperative programs. Commencing in FY 2002, these teachers shall be entitled to payment of the state share of salaries at the rate of 1/188 of their entitlement for a full school year multiplied by the number of days employed.

(k) In the case of children at the pre-kindergarten ages who are partially deaf or hard of hearing, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education as authorized in § 203 of this title, that will provide special education and training for these children and their parents. The minimum age described in § 3101 of this title shall not be applicable to children served under this section. Units so established shall be based upon statewide needs. Time spent with each child each week may approximate the time devoted to kindergarten programs.

(l) In the case of children, infant through the end of the school year in which the child with a disability turns 21, or the receipt of a regular high school diploma, whichever occurs first, who are identified with autism, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education as authorized in § 203 of this title, that will provide special education and training. Programs for children of the pre-kindergarten ages may include the parents of those children. The minimum age described in § 3101 of this title shall not be applicable to children served under this subsection. Enrollment of children with disabilities in programs other than those administered in the district of residence may occur with the mutual agreement of the district of residence and the district administering the specialized program. The district which accepts and enrolls the child may count that child for unit count purposes and the enrollee shall not be counted in any other school district. The district where the child is enrolled may count that child for the purposes of related services units or any other administrative unit such as director or principal.

(m) In the case of children, infant through the end of the school year in which the child with a disability turns 21 or the receipt of a regular high school diploma, whichever occurs first, who are identified as deaf-blind, programs of instruction may be prepared, according to rules and regulations of the Department of Education with the approval of the State Board of Education. Programs for children of the pre-kindergarten ages may include the parents of those children. The minimum age described in § 3101 of this title shall not be applicable to children served under this subsection.