

Regulations, including days, hours, curricula and teacher certification requirements. Any alternative program not approved by PDE must adhere to the same requirements as a regular education setting, including at least 900 instructional hours per year for 6th grade and at least 990 instructional hours per year for 7-12th grade (22 Pa. Code §11.3); and “highly qualified” teacher requirements (22 Pa. Code §403.4).

Eligible applicants must apply for AEDY program approval as prescribed by the Pennsylvania Department of Education. PDE may revise guidelines for program approval and grant funding on an annual basis. Before applying, eligible applicants should review the most current AEDY Program Guidelines.

Private Alternative Education Institutions (private providers) must seek approval on a renewal basis every 3 years as required by 24 P.S. §19-1903-E. PDE approval allows private providers to enter into contractual agreements with eligible public school entities to provide AEDY services. *PDE approval does not provide or imply any licensure or accreditation for any private provider entity.* Private provider applications.

Eligible public school entities that wish to contract with an approved private provider must submit an AEDY Program Application PRIOR to placing students in the private provider program.

### **Eligible Students and Allowable Transfers**

AEDY programs are designed for seriously and persistently disruptive students. By law, districts may refer students to AEDY programs *only if, at the time of the recommended transfer*, they demonstrate, to a marked degree, any of the following conditions:

- disregard for school authority, including persistent violation of school policy and rules;
- display or use of controlled substances on school property or during school activities;
- violent or threatening behavior on school property or during school-affiliated activities;
- possession of a weapon on school property, as defined under 18 Pa. C.S. §912;
- commission of a criminal act on school property or during school-affiliated activities;
- misconduct that would merit suspension or expulsion under school policy; and,
- habitual truancy.

Students in grades 6-12 are eligible for placement in an AEDY Program. The program must enable all students to make normal academic progress and to meet the requirements for graduation in their home school district. Placement in an AEDY program should be considered only after all other options for improving behavior have been exhausted. This includes the use of the school’s Student Assistance Program.

Regulations, including days, hours, curricula and teacher certification requirements. Any alternative program not approved by PDE must adhere to the same requirements as a regular education setting, including at least 900 instructional hours per year for 6th grade and at least 990 instructional hours per year for 7-12th grade (22 Pa. Code §11.3); and “highly qualified” teacher requirements (22 Pa. Code §403.4).

Eligible applicants must apply for AEDY program approval as prescribed by the Pennsylvania Department of Education. PDE may revise guidelines for program approval and grant funding on an annual basis. Before applying, eligible applicants should review the most current AEDY Program Guidelines.

Private Alternative Education Institutions (private providers) must seek approval on a renewal basis every 3 years as required by 24 P.S. §19-1903-E. PDE approval allows private providers to enter into contractual agreements with eligible public school entities to provide AEDY services. *PDE approval does not provide or imply any licensure or accreditation for any private provider entity.* Private provider applications.

Eligible public school entities that wish to contract with an approved private provider must submit an AEDY Program Application PRIOR to placing students in the private provider program.

### **Eligible Students and Allowable Transfers**

AEDY programs are designed for seriously and persistently disruptive students. By law, districts may refer students to AEDY programs *only if, at the time of the recommended transfer*, they demonstrate, to a marked degree, any of the following conditions:

- disregard for school authority, including persistent violation of school policy and rules;
- display or use of controlled substances on school property or during school activities;
- violent or threatening behavior on school property or during school-affiliated activities;
- possession of a weapon on school property, as defined under 18 Pa. C.S. §912;
- commission of a criminal act on school property or during school-affiliated activities;
- misconduct that would merit suspension or expulsion under school policy; and,
- habitual truancy.

Students in grades 6-12 are eligible for placement in an AEDY Program. The program must enable all students to make normal academic progress and to meet the requirements for graduation in their home school district. Placement in an AEDY program should be considered only after all other options for improving behavior have been exhausted. This includes the use of the school’s Student Assistance Program.

All students recommended for assignment to an AEDY program must be provided with due process *prior to placement* including an informal hearing in accordance with 22 Pa. Code §12.8 (c). The informal hearing is held to bring forth all relevant information regarding the event for which the student may be transferred to AEDY and for students, their parents or guardians and school officials to discuss concrete strategies for avoiding future offenses. The following due process requirements shall be observed in regard to the informal hearing:

1. Notification of the specific reasons for the recommendation of transfer shall be given in writing to the parents or guardians and to the student.
2. Sufficient notice of the time and place of the informal hearing shall be given.
3. A student has the right to question any witnesses present at the hearing.
4. A student has the right to speak and produce witnesses on his or her own behalf.
5. The school entity shall offer to hold the informal hearing prior to placement in the program. However, if the student's presence in the regular classroom poses a danger to persons or property or provides a disruption of the academic process, immediate placement in the alternative program for disruptive youth may occur with the informal hearing to follow as soon as practicable.

### **Students Formerly Adjudicated Delinquent or Convicted of a Crime**

AEDY programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent or who have been convicted of committing a crime in an adult criminal proceeding.

When a student returns to a school district from a delinquency placement, the school district cannot automatically place a child in an AEDY program merely because the child had been adjudicated delinquent. Each specific case must be examined on an individual basis. As with any other student being transferred to an AEDY program, students returning from delinquency placement are entitled to an informal hearing prior to being placed in an alternative education program.

The purpose of the hearing is to determine whether the student is currently fit to return to the regular classroom or meets the definition of a disruptive student. Factors a school should consider include: whether the incident causing the adjudication occurred at school or at a school-sponsored event, the child's behavior in placement, and the recommendations of teachers and other adults (such as juvenile probation officers and residential treatment staff) who have worked with the youth.

Students often make significant progress while in placement and some may be best served by returning to a regular classroom. Many want the chance to prove they are able to thrive in a regular school setting. Thus each case should be considered individually, based on the circumstances of a student at the time of return to the district.

### **SPECIAL EDUCATION STUDENTS**

AEDY programs must comply with the Individuals with Disabilities Education Act (IDEA) and all related federal and state regulations (20 U.S.C.A. §§1400-1485, 34 C.F.R. §300 & 30, and 22 Pa. Code Chapters 14, 15 & 16). The sending school district maintains the ultimate

responsibility for ensuring that special education students in AEDY programs receive a free and appropriate public education (FAPE) that conforms to federal and state law and regulations.

No student eligible for special education services pursuant to the IDEA shall be transferred to an AEDY program except in accordance with 34 C.F.R. §§ 300.530-300.536, 22 Pa. Code §14.143, and 22 Pa. Code § 711.61 (pertaining to charter schools). See PDE B.E.C. "Disciplinary Exclusions of Students Who Are Eligible for Special Education." A special education student placed in an AEDY program must be appropriately supported in making progress toward the goals in his or her Individualized Education Program (IEP).

Special education services must be provided to a child with a disability who has been removed from the child's current placement and whose IEP Team has determined the educational setting, such as AEDY, is appropriate.

**Where a child is removed from the current placement for more than 10 consecutive school days or 15 cumulative days and placed in an AEDY Program he/she must:**

1. Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.
  - a. The disciplinary exclusion of a student with a disability for more than 10 consecutive or 15 cumulative days in a school year will be considered a pattern so as to be deemed a change in educational placement (22 PA Code 14.143(a)). A removal from school is a change in placement for a student who is identified with mental retardation, except if the student's actions are consistent with 34 CFR 300.530(g)(1)-(3) (relating to authority of school personnel).
  - b. The parent can agree to the change in educational placement via the notice of recommended educational placement/prior written notice.
  - c. The LEA must conduct a manifestation determination. Within 10 calendar days of any decision to change the placement of a child with a disability because of violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file.
  - d. A functional behavioral assessment must be conducted if it is determined that the child's behavior impedes the child's learning or that of other and a positive behavioral support plan is required.

- e. A change in placement could occur if the student has been subjected to a series of removals that constitute a pattern because the series of removals total more than 10 school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another (34 CFR 300.536(2)(2)(i)(ii)(iii)).

Before a school may effect a change in placement for disciplinary purposes, the student's IEP Team must meet and determine whether the behavior for which the transfer is considered is a "manifestation" of the child's disability (called a "manifestation determination").

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that does not constitute a change in educational placement i.e., is for 10 consecutive school days or less and not a change of placement), the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the LEA's failure to implement the child's IEP.

If the LEA, the parent, and relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

- If the LEA, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of the LEA's failure to implement the IEP, the LEA must take immediate action to remedy those deficiencies. For a copy of a manifestation determination worksheet developed by the PA Department of Education, go to PATTAN Publications: Manifestation Determination Worksheet. The school may not transfer the student until the IEP Team has met and determined whether the behavior was *a manifestation of the student's behavior*.

In specific circumstances regarding drugs, weapons and serious bodily injury, whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

- Carries a weapon (see the Definitions below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of the LEA;

- Knowingly has or uses illegal drugs (see the Definitions below), or sells or solicits the sale of a controlled substance, (see the Definitions below), while at school, on school premises, or at a school function under the jurisdiction of the LEA; or
- Has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a LEA.

## Definitions

*Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

*Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

*Serious bodily injury* has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

*Weapon* has the meaning given the term "dangerous weapon" under *paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.*

If one of the above exceptions applies, the student can be transferred to an AEDY program for up to 45 school days without a manifestation determination. See 34 C.F.R. §300.530(g).

If the child is transferred, the *IEP Team* must determine what services the student will require while in the AEDY program in order to:

- participate in the general education curriculum and to progress toward the goals set out in his or her IEP, and
- receive, as appropriate, a functional behavioral assessment and behavior intervention services and modifications that are designed to address them as behavior that triggered the transfer so that it does not recur

## PROGRAM REQUIREMENTS

In order to receive approval and/or funding to operate or place students in an AEDY program, applicants must demonstrate how they will meet the requirements listed below. School districts – whether they implement their own internal program or contract with an intermediate unit or approved private provider - remain accountable for students' progress in AEDY programs. Districts must hold the programs that serve their students accountable for adherence to program guidelines, academic standards and for students' academic and behavioral progress. PDE may remove funding and/or approval if a district or program fails to meet program requirements. Specific program requirements are as follows:

1. Programs must offer *at least 20 hours of academic instruction per week* and provide a course of study that satisfies the requirements of the State Board of Education Academic Standards (22 Pa. Code Chapter 4) for each student according to his or her grade level.
2. Programs must be developed in consultation with the faculty and administrative staff of the school and parents and members of the community.
3. Programs must establish policies that identify students as eligible for placement in the AEDY program and clearly communicate that to parents, students, and school staff.
4. Programs must comply with the informal hearing procedures set forth in 22 Pa. Code §12.8(c) prior to placement of students. Placement in an AEDY program may occur only when other established methods of discipline and intervention (such as student assistance) have been utilized and have failed, unless the seriousness of the student's behavior warrants immediate placement. School districts are required to demonstrate that any student recommended for placement in an AEDY program have participated in the Student Assistance Program. School districts must document other methods utilized *prior* to assigning a child to an AEDY program. Schools must also consider whether a child might need an evaluation for special education prior to making a decision to recommend a transfer, in accordance with the school's Child Find responsibilities under the IDEA and 22 Pa Code Chapter 14.
5. Programs must operate five days per week, at least 180 days per year, *and a minimum of 810 hours per year (Programs operating below 990 hours annually must have PDE approval)*
6. Students being served in an AEDY program must be provided with:
  - a. a course of instruction sufficient to make normal academic progress and work toward the requirements for graduation as defined by the placing district,
  - b. clear and measurable academic performance goals, established after administering required academic assessments described in AEDY Guidelines. Plans for individual students' academic programs should be formulated in close collaboration with the sending school and school district,
  - c. a course of instruction that recognizes their special needs and prepares them for successful return to a regular school curriculum and/or completion of the graduation requirements established by their home district, and
  - d. individual evaluation to measure progress in the core academic subjects in relationship to the academic standards established by 22 Pa Code §4.
7. Programs must provide at least *2.5 hours per week* of individual or group counseling for every student. The goal of the counseling is to remediate the behavior that triggered the transfer and to help prepare the student for return to the regular classroom. *The 2.5 hours of counseling per week must be provided in addition to the required hours of academic instruction.*

8. Programs must develop a behavior plan for each student that has clear and measurable goals. This plan must address the disruptive behavior that preceded placement in the AEDY Program. The goal of the behavior plan is to prepare students for return to the regular classroom. AEDY programs are required to use approved behavioral assessment tools, as explained in the AEDY Guidelines, to measure and document student success towards behavioral goals.
9. Programs must have in place a formal, documented process for periodic review and evaluation of each student's academic and behavioral goals to determine the appropriateness for return to the regular classroom. This review must occur, at a minimum, *at the end of every semester* the student is in the program, but may occur more frequently at the program's discretion. The purpose of this review is to determine whether the student is ready to return to the regular classroom. *The review team should consist of AEDY Program administrators, teachers, counselors and a representative from the sending school's administration. In addition, the parent, student, and any other advocate(s) with knowledge of the child's history should be involved in this process.* The review will include an evaluation of the student's academic and behavioral progress. This review must be documented and kept on file in each individual student's record. *Within each school year, programs are expected to return students to the regular school environment at a target rate of 20%.*
10. Teachers assigned to AEDY programs must be highly qualified and possess a Level I or Level II Pennsylvania Professional Teaching Certificate in the area of instructional assignment, as provided for in 22 Pa. Code Chapter 49, relating to certification of professional personnel. Approved private provider program staff are exempt from this requirement. However, any student eligible for special education services under IDEA in a public or private AEDY program must be taught by a teacher with a special education certification.
11. Applicants seeking *renewal* for AEDY Programs must demonstrate a track record of effectiveness in improving the academic and behavioral performance of students.
12. LEAs must collect data and submit program reports as required by PDE to document student academic and behavioral progress and the rate of return to the regular school setting. Details can be found in the program guidelines, issued annually by PDE. Districts that contract with private providers must make sure that providers are collecting and recording all data that the district will need to satisfy the state reporting requirements.

## **PERFORMANCE MEASUREMENT AND ACCOUNTABILITY**

Funding and program approval decisions for AEDY programs are made annually based on program performance and outcomes data submitted to PDE by sending school districts on all students and programs. End of year reporting will require programs to provide data from individual student academic and behavioral assessments. The results will be reviewed by PDE to ensure compliance and quality implementation of programming. LEAs that contract with private providers are responsible to ensure that these programs operate in compliance with school code and PDE AEDY Guidelines. LEAs are required to analyze program data to

ensure students are receiving appropriate academic and behavioral services. Specific data reporting requirements and protocols will be established and published by PDE.

## **BEST PRACTICES FOR AEDY PROGRAMS**

PDE strongly recommends that AEDY programs adhere to nationally recognized “best practices” for alternative education for disruptive youth. Adherence to best practices will be considered in the review of funding and approval of applications.

- Full-day programs totaling at least 27.5 hours per week
- Student teacher ratios at or below 10:1
- Individual Program Plans for each student and flexible instruction
- Positive emphasis in behavior management
- Integration of a career preparation component within the academic curriculum
- Experiential learning opportunities
- Integration of evidence-based programs that support pro-social behavior
- Adult mentors in the program
- Parent and community involvement
- A formal comprehensive periodic review of each student’s progress toward achieving individual goals established upon placement in the AEDY Program

<sup>1</sup>Charter schools applying for program approval and/or funding must submit documentation as follows:

- a) Original signed copy (by Chief Executive Officer) of the charter school’s mission statement on school letterhead
- b) Original signed copy (by Superintendent) of the chartering school district’s letter of support

## **REFERENCES:**

### **Purdon’s Statutes**

24 P.S. Article 19-1901C

### **State Board of Education Regulations**

[22 Pa. Code § § 4.1-4.83](#)

[22 Pa. Code Chapter 14](#)

[22 Pa. Code Chapter 15](#)

[22 Pa. Code §12.8\(c\)](#)

[22 Pa. Code §711.61](#)

**Federal Statutes**

Individuals with Disabilities Act, 20 U.S.C. § § 1400 et seq  
34 C.F.R. §§ 300.530-300.536

**CONTACT BUREAU/OFFICE:**

Division of Student and Safe School Services  
Office of Elementary/Secondary Education  
Pennsylvania Department of Education  
333 Market Street, 5th Floor  
Harrisburg, PA17126-0333  
Voice: 717.705.6908