

2013-15 Alternative Education for Disruptive Youth Program Guidelines

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION**

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Overview

All students in Pennsylvania must be given the opportunity to graduate from high school proficient in all core content areas and ready for postsecondary success. In order to ensure that every student has the opportunity for success, the Pennsylvania Department of Education (PDE) supports districts and schools in creating academic programs that meet Pennsylvania's rigorous academic standards, make use of aligned assessments and curricula, and provide high quality materials and interventions for students who struggle. Additionally, all schools are encouraged to address the key areas of high expectations, meaningful student engagement, connectedness and bonding, skills for life, clear and consistent boundaries, and unconditional support¹.

Even with high-quality supports, a small percentage of students may exhibit extreme behavior difficulties that require additional supports in an alternative placement. The Alternative Education for Disruptive Youth (AEDY) Program was established in Pennsylvania in order to assist districts in helping this small group of students.

In all but a few cases, a student's local school setting is the most appropriate environment for receiving an education. Every effort must be made to provide students appropriate services in the least restrictive setting possible. Alternative education placements are temporary in nature, and should be considered only when severe or persistent behavioral problems require more intensive intervention services and after all other avenues have been exhausted. The goal of alternative education is to continue providing education services along with behavioral interventions to overcome the disruptive behavior and return students to the regular school environment. While there is variation in design and types of programs, all must adhere to the requirements of the Pennsylvania School Code (24 P.S. § 19-1901-C *et seq.*) and these guidelines.

AEDY programs serve the purpose of temporarily removing persistently disruptive students in grades 6 through 12 from regular school programs. AEDY programs must provide these students with a sound educational course of study that meets or exceeds state standards mandated by 22 Pa Code Chapter 4 and allows students to make normal academic progress toward graduation in their home district. AEDY programs must also provide behavioral supports and counseling aimed at modifying the disruptive behavior that led to the transfer.

AEDY programs may operate outside the hours of the normal school day and on Saturdays. School districts that do not apply for and receive approval from PDE to operate an AEDY program must provide basic education programs for all students in conformity with all requirements of the Pennsylvania School Code and the Pennsylvania State Board of Education's Regulations, including days, hours, curricula and teacher certification requirements. Any AEDY program not approved by PDE must adhere to the same requirements as a regular education setting, these include, but are not limited to, at least 900 instructional hours per year for students in grade 6 and at least 990 instructional hours per year for students in grades 7 through 12 (22 Pa. Code §11.3) and highly qualified teacher requirements (22 Pa. Code §403.4).

¹ Henderson, N. & Milstein, M. (2003) Resiliency in schools. Thousand Oaks, CA: Corwin Press.

Definitions

The following are definitions of terms used throughout these guidelines:

Alternative Education for Disruptive Youth (AEDY) Program: A program approved by the Pennsylvania Department of Education (PDE) that is designed to support a school's efforts to provide a temporary placement for disruptive students in grades 6 through 12. Students enrolled in a program will continue to make academic progress and work to remedy disruptive behavior through counseling and other behavioral interventions. Unless the seriousness of a student's behavior warrants immediate placement, local programs shall refer and admit students only when other documented and established methods of discipline have failed, and shall limit enrollment to disruptive students as defined by the Pennsylvania School Code (24 P.S. 19-1901-C (5)).

Approved Private Alternative Education Institution (private provider): An institution that is operated by an individual, or a for-profit or not-for-profit entity and is approved by the Pennsylvania Department of Education (PDE) to provide alternative education programs in accordance with the requirements of the Pennsylvania School Code (24 P. S. § 19-1901-C *et seq.* and 24 P. S. § 19-1901-E *et seq.*). Private providers do not have authority to operate a school but are permitted to contract with school districts to provide services for students placed in approved AEDY programs. This approval does not constitute a license or an accreditation. A list of approved private providers is available on PDE's website at www.education.state.pa.us, keyword AEDY.

Controlled substance: 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)).

Disruptive student: A student, in grades 6 through 12, who poses a clear threat to the safety and welfare of other students or the school staff, who creates an unsafe school environment, whose behavior materially interferes with the learning of other students, or disrupts the overall educational process. The disruptive student exhibits to a marked degree any or all of the following conditions:

1. Disregard for school authority, including persistent violation of school policy and rules;
2. Display of or use of controlled substances on school property or during school-affiliated activities;
3. Violent or threatening behavior on school property or during school-related activities;
4. Possession of a weapon on school property, as defined by Pennsylvania Crimes Code (18 Pa. C.S.A. Section 912 - relating to possession of weapon on school property);
5. Commission of a criminal act on school property;
6. Misconduct that would merit suspension or expulsion under school policy; and/or

7. Habitual truancy (all procedures, including the implementation of a Truancy Elimination Plan must have been implemented and followed prior to placing habitually truant students in AEDY programs).

Eligible entities/applicants: A school district, career and technical school, a combination of school districts, an intermediate unit, or a qualifying charter school (24 P.S. §19-1901-C). Charter schools must meet the following criteria to qualify for funding to operate an AEDY program:

1. Their central mission is to provide an alternative education program within or to a chartering school district or school districts; and
2. They have a written letter of support from their chartering school district.

Illegal drug: 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 legal authority under any other provision of federal law.

Serious bodily injury: The meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of Title 18, United States Code.

Weapon: The meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of Title 18, United States Code.

Students Formerly Adjudicated 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 for disruptive youth 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 AEDY 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) 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. In order to not deny them that opportunity, each case should be considered individually, based on the circumstances of a student at the time of return to the district.

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 the Pennsylvania

Code (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 an AEDY program 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; and
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 an AEDY program may occur with the informal hearing to follow as soon as practicable.

Students Requiring Special Education Services

AEDY programs must comply with the Individuals with Disabilities Education Act (IDEA) and all applicable federal and state regulations pertaining to the education of children with disabilities. 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 laws and regulations.

No student eligible for special education services pursuant to IDEA shall be transferred to an AEDY program except in accordance with Code of Federal Regulations (34 C.F.R. §§ 300.530-300.536) and the Pennsylvania Code (22 Pa. Code §14.143, and 22 Pa. Code § 711.61). 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 an AEDY program, 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 student'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)). The 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 the Code of Federal Regulations (34 CFR 300.530(g)(1)-(3)).
 - b. The parent can agree to the change in educational placement via the notice of recommended educational placement/prior written notice.
 - c. The local education agency (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 others, 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 a 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), 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:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. 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. A copy of the *Manifestation Determination Worksheet*, developed by PDE, is available on PDE's website at www.education.state.pa.us, keyword AEDY. 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 disability.
3. 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:
 - a. 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;
 - b. 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
 - c. Has inflicted serious bodily injury (see the definitions below) upon another person while at school, on school premises or at a school function under the jurisdiction of the PDE or a LEA.

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 the Code of Federal Regulations (34 CFR §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:

1. Participate in the general education curriculum and to progress toward the goals set out in his or her IEP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the misbehavior that triggered the transfer so that it does not recur.

For additional information regarding special education students and AEDY programs, please refer to PDE's Basic Education Circular (BEC) entitled *Disciplinary Exclusions of Students Who Are Eligible for Special Education* available on PDE's website at www.education.state.pa.us, keyword BEC.

Program Approval for Districts Utilizing Approved AEDY Private Providers

The Pennsylvania School Code (24 P.S. § 19-1901-E *et seq.*) allows eligible public school entities, to contract with approved private alternative educational institutions (private providers) to provide specific educational services required for AEDY programs. Any eligible public school entity that wishes to contract with an approved private provider must submit an AEDY program application via PDE's eGrants system seeking program/placement approval prior to placing students in the approved private provider setting. The public school entity must also submit a copy of the contractual agreement with the approved private provider to PDE. A sample recommended contractual agreement may be found on PDE's website at www.education.state.pa.us, keyword AEDY.

It is the responsibility of the public school entity that chooses to contract with the approved private provider to ensure the provider is qualified to perform the contracted services and to conduct on-going reviews of the provider's performance to ensure compliance with statutory requirements found in the Pennsylvania School Code (24 P.S. § 19-1901-C *et seq.*) and with these guidelines. The list of approved private providers is continually updated and available on PDE's website.

Public school entities that are providing a program of instruction for disruptive students and do not submit an application to operate an AEDY program must provide basic education programs as set forth in the Pennsylvania Code (22 Pa. Code Chapter 4) and comply with all applicable regulations, including the days, hours, teacher certification and curriculum requirements.

AEDY Program Requirements

In order to receive approval 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 academic standards and for students' academic and behavioral progress. PDE may rescind 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's 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 district, 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 the Pennsylvania Code (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 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 has participated in the Student Assistance Program or, in the case of truancy, a truancy elimination plan must be created and implemented prior to consideration of placement. School districts must document other intervention 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 the Pennsylvania Code (22 Pa. Code Chapter 14).

5. Programs must operate five days per week, and at least 180 days per year, and a minimum of 810 hours per year (programs operating for less than 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 as described in Appendix B of this document. Plans for individual 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. An individual evaluation to measure progress in the core academic subjects in relationship to the academic standards established by the Pennsylvania Code (22 Pa. Code Chapter 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 caused 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. Individuals delivering counseling services must hold one of the following credentials and should have experience in providing services to students in the appropriate age range: certified school counselor; licensed social worker; school social worker; certified/licensed therapist; certified addictions counselor (as appropriate); school psychologist; psychologist; or an appropriate credential in a behavioral health discipline.
8. Programs must develop a behavior plan for each student that has clear and measurable goals. This plan must address the disruptive behavior that prompted 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 to measure and document student success towards behavioral goals as described in Appendix B of these guidelines.

9. Programs must have a formal, documented process for periodic review and evaluation of each student's academic and behavioral goals to determine the readiness 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 the AEDY program's 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 student's record. Within each school year, programs are expected to return students to the regular school environment at a minimum target rate of 20 percent.
10. Teachers working in 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 the Pennsylvania Code (22 Pa. Code Chapter 49), relating to certification of professional personnel. Approved private provider program staff is 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 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. 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 Measures and Accountability

End-of-year reporting will require programs to provide pre- and post-test data relative to individual student academic and behavioral assessments listed in the program requirements section. Programs will be expected to provide all of the information listed below in the end of year report. Instructions for submission of data will be available on PDE's website. The results will be reviewed by PDE to ensure compliance and quality implementation of programming. School districts that contract with private providers are strongly urged to analyze the data to ensure program goals are being met.

NOTE: Private providers are required to complete and submit this data as part of the application process. Private providers who have operated AEDY programs in previous years must complete an *AEDY Program Evaluation Data Collection Sheet* for each of the past three years (or since the first school year the program opened, whichever came first). If this is the first year you are applying to become an approved private provider, you are exempt from submitting an *AEDY Program Evaluation Data Collection Sheet*. However, you must collect the following data

throughout the school year as you will need to submit this information for the required end-of-year report.

1. Grade level (column already completed).
2. Total # of AEDY students served at each grade level.
3. Average daily attendance for AEDY student population at every grade level.
4. Of the number of students in column B, how many at every grade level met behavioral goals on their behavior plan as defined in the application?
5. Of the number of students in column B, how many students at every grade level met academic goals as determined by the Periodic Review Team?
6. Of the number of students in column B, how many were promoted to the following grade (for grades 7 through 11)? How many graduated from grade 12?
7. Of the number of students in column B, how many students at every grade level transitioned to regular school setting due to success in meeting goals? Note: The target for this performance indicator is a minimum of 20 percent within each school year.
8. Of the number of students in column B, how many at every grade level dropped out and did not re-enroll in any educational program (sending school or other)?
9. Of the number of students in column B, how many at every grade level transferred to another program without having met their behavioral or academic goals (i.e., were not successful)?
10. Number of total student suspensions for the students in column B at every grade level during this school year.
11. Number of total expulsions for the students in column B at every grade level during this school year.
12. Number of times police intervention, of any type, was required for students in column B at every grade level.
13. Of the number of students in column B, how many at every grade level passed all four core content subjects (science, math, English and social studies) while in your program?
14. Of the number of students in column B, how many at every grade level passed at least three of four core content subjects (science, math, English and social studies) while in your program?
15. Of the number of students in column B, how many at every grade level participated in a career prep training program (this includes, but is not limited to: work-based learning, work-study, career and technical education or job-coaching)?
16. Of the number of students in column B, how many at every grade level have an IEP?

17. Of the number of students in column B, how many at every grade level entered your program already identified as a student with an IEP?
18. Of the number of students in column B, how many at every grade level were identified as needing special education services (as defined by IDEA) while in your program?
19. Of the number of students in column B, how many at every grade level have been in your AEDY placement for 0-6 months?
20. Of the number of students in column B, how many at every grade level have been in your AEDY placement for 7-12 months?
21. Of the number of students in column B, how many at every grade level have been in your AEDY placement for 13-23 months?
22. Of the number of students in column B, how many at every grade level have been in your AEDY placement longer than 24 months?

Program Revisions

After initial approval of the contract, program revisions not consistent with a grantee's initial AEDY application, may only be made with prior written approval and must be submitted to PDE prior to implementation. Please contact PDE's AEDY Program at 717.705.6908 to request any revision to your program.

Appendix A: The Pennsylvania School Code

24 P.S. 19-C & E

ARTICLE XIX-C

DISRUPTIVE STUDENT PROGRAMS

(Art. added June 25, 1997, P.L.297, No.30)

Section 1901-C. Definitions. For purposes of this article, the following terms shall have the following meanings:

(1) "Alternative education program" or "program." Any applicant's program applying for funds under this article, which program is implemented by a school district, an area vocational-technical school, a group of school districts or an intermediate unit, which removes disruptive students from regular school programs in order to provide those students with a sound educational course of study and counseling designed to modify disruptive behavior and return the students to a regular school curriculum. Notwithstanding section 1502, alternative education programs may operate outside the normal school day of the applicant district, including Saturdays. School districts shall adopt a policy for periodic review of students placed in the alternative education program for disruptive students. This review shall occur, at a minimum, at the end of every semester the student is in the program or more frequently at the district's discretion. The purpose of this review is to determine whether or not the student is ready to return to the regular school curriculum. Programs may include services for students returning from placements or who are on probation resulting from being adjudicated delinquent in a proceeding under 42 Pa. C.S. Ch. 63 (relating to juvenile matters) or who have been judged to have committed a crime under an adult criminal proceeding.

(2) "Applicant." A school district or a combination of school districts that applies for funds under this article.

(3) "Community resources." Those agencies and services for children and youth provided by the juvenile court and the Department of Health and the Department of Public Welfare and other public or private institutions.

(4) "Department." The Department of Education of the Commonwealth.

(5) "Disruptive student." A student who poses a clear threat to the safety and welfare of other students or the school staff, who creates an unsafe school environment or whose behavior materially interferes with the learning of other students or disrupts the overall educational process. The disruptive student exhibits to a marked degree any or all of the following conditions:

(i) Disregard for school authority, including persistent violation of school policy and rules.

(ii) Display or use of controlled substances on school property or during school-affiliated activities.

(iii) Violent or threatening behavior on school property or during school-affiliated activities.

- (iv) Possession of a weapon on school property, as defined under 18 Pa. C.S. Section 912 (relating to possession of weapon on school property).
- (v) Commission of a criminal act on school property or during school-affiliated activities.
- (vi) Misconduct that would merit suspension or expulsion under school policy.
- (vii) Habitual truancy.

No student who is eligible for special education services pursuant to the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. Section 1400 et seq.) shall be deemed a disruptive student for the purposes of this act, except as provided for in 22 Pa. Code Section 14.35 (relating to discipline).

(6) "School." Any school classified by the Department of Education as a middle school, junior high school, senior high school or area vocational-technical school.

(7) "Secretary." The Secretary of Education of Commonwealth. (1901-C added June 25, 1997, P.L.297, No.30)

Section 1902-C. Applications.

Applicants shall submit applications at the time, in the manner and containing or accompanied by such information as the department may prescribe but, in any case, shall document the following:

- (1) The program is developed in consultation with the faculty and administrative staff of the school and parents and members of the community.
- (2) That the applicants have established policies to identify those students who are eligible for placement in the program and that the placement of such students will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c) (relating to hearings). Notice of the hearing should precede placement in the program. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.
- (3) That school personnel assigned to the alternative education program for which funding is sought under this article possess a Level I or Level II Pennsylvania certificate as provided for in 22 Pa. Code Ch. 49 (relating to certification of professional personnel).
- (4) The program provides participating students with a course of instruction that recognizes their special needs, prepares them for successful return to a regular school curriculum and/or completion of the requirements for graduation.
- (5) The program is used only when other established methods of discipline have been utilized and have failed unless the seriousness of the student's behavior warrants immediate placement.

(6) A determination of the scope, type and severity of student disruption and a survey of community and school resources available to the applicant for the remediation of student disruption.

(7) A description of the educational program to be provided. The program may modify the requirements established in sections 1327, 1501 and 1504 insofar as they are related to the number of days or hours of instruction. The application shall describe how the student will make normal academic progress and meet requirements for graduation. (1902-C added June 25, 1997, P.L.297, No.30)

(8) An applicant applying for funds under this section that contracts with a private alternative education institution under Article 19-E shall be exempt from the application requirements in clauses (1), (3) and (6).

Section 1903-C. Alternative Education Grants.

The department shall establish grants for alternative education programs, which meet the requirements of this article, to include the following:

(1) An application procedure for grant eligibility.

(2) A review process to annually evaluate the effectiveness of alternative education programs, to include an annual report to the Education Committee of the Senate and the Education Committee of the House of Representatives.

(3) The department shall determine an annual grant amount calculated by dividing the amount appropriated by the estimated average number of students enrolled in eligible programs, further divided by thirty-six. Each applicant shall be eligible to receive this grant amount, per average number of pupils enrolled, per week of participation in an eligible program. Commonwealth grants shall be limited to funds appropriated for this program but in no event shall a school district receive funding for more than two percent (2%) of a school district's average daily membership as defined in section 2501 for students enrolled in grades seven through twelve. (1903- C added June 25, 1997, P.L.297, No.30)

Section 1904-C. Construction of Article.

Nothing contained in this article shall be construed to supersede or preempt any provisions of a collective bargaining agreement negotiated by a school entity and an exclusive representative of the employees in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employee Relations Act." (1904-C added June 25, 1997, P.L.297, No.30)

Section 1905-C. Retroactivity.

This article shall be retroactive to July 1, 1996. (1905-C added June 25, 1997, P.L.297, No.30)

ARTICLE XIX-E

PRIVATE ALTERNATIVE EDUCATION INSTITUTIONS FOR DISRUPTIVE STUDENTS

Section 1901-e. Definitions.--for purposes of this article, the following terms shall have the following meanings:

"private alternative education institution." an institution operated by an individual or a for-profit or not-for-profit entity to provide alternative education programs as defined in section 1901-c(1).

"school entity." a school district, joint school, charter school, area vocational- technical school, combination of school districts or intermediate unit.

Section 1902-e. Contracts with private alternative education institutions.—

(1) A school entity may contract with a private alternative education institution.

(2) A contract under this section shall specify the policies established by the school entity to identify those students who are eligible for assignment to the institution and assure that the placement of a student will comply with the informal hearing procedures set forth in 22 Pa. Code § 12.8(c) (relating to hearings). Notice of the hearing should precede placement in the institution. Where the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student may be immediately removed from the regular education curriculum with notice and a hearing to follow as soon as practicable.

(3) A private alternative education institution shall:

(i) Be exempt from statutory requirements established in this act and the secretary of education, except the following: sections 111, 325, 326, 327, 431, 436, 437, 443, 518, 527, 736, 737, 738, 739, 740, 741, 753, 755, 771, 809, 810, 1112(a), 1303(a), 1317, 1317.1, 1317.2, 1327, 1332, 1361, 1366, 1501, 1513, 1517, 1518, 1546 and 1547 of this act; articles xiii-a and xiv of this act; 22 Pa. Code Chapters. 4 (relating to academic standards and assessment); 11 (relating to pupil attendance) and 14 (relating to special education services and programs); act of July 17, 1961 (p.1.776, no.341), known as the "Pennsylvania Fair Educational Opportunities Act"; and regulations promulgated pursuant to this article.

(ii) Comply with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion or ancestry and shall provide for enrollment and hiring in a nondiscriminatory manner.

(iii) Be nonsectarian in all operations and shall not provide any religious instruction, nor shall it display religious objects and symbols on the premises of the institution.

(iv) Be subject to any additional requirements established through regulation.

(v) Submit an application to the department of education as prescribed by the department of education.

(4) A private alternative education institution shall submit an annual report to the department of education containing information required by the department of education.

Section 1903-e. Approval by department of education.—

(a) A private alternative education institution may not operate in this commonwealth unless it is approved by the department of education.

(b) The department of education shall be responsible for evaluating a private alternative education institution's initial application to operate in this commonwealth and each private alternative education institution operating in this commonwealth shall be reevaluated for approval every three years.

(c) The department of education may issue guidelines for the operation of a private alternative education institution.

Section 6. The sum of \$10,000,000, or as much thereof as may be necessary, is hereby appropriated to the department of education for fiscal year July 1, 1999, to June 30, 2000, for alternative education. This amount shall replace the amount appropriated for alternative education in section 212 of the Act of May 5, 1999 (P.L., No.1a), known as the General Appropriation Act of 1999. Any expenditures from the appropriation in section 212 of the General Appropriation Act of 1999 shall be credited to this appropriation.

Section 7. This act shall take effect as follows:

(1) The amendment of sections 914.1-a and 1902-c and the addition of Article XIX-E of the act shall take effect immediately.

(2) Section 6 and this section shall take effect immediately.

(3) The remainder of this act shall take effect July 1, 2000.

Appendix B: Guide to Academic and Behavioral Assessment

AEDY programs must measure the academic and behavioral improvement or progress of all students. All students must be assessed upon entry into the program and then reassessed periodically. Student academic and behavioral plans must be based on empirical data gathered through the assessments. Assessments serve three primary purposes:

1. To guide individual academic and behavioral program planning for each student;
2. To provide for smooth transition and credit transfer back to the sending school for each student who leaves an AEDY program; and
3. To measure overall program effectiveness of the AEDY program in supporting academic achievement and behavioral progress for students.

Academic Programming and Assessment

An academic assessment system evaluates individual student growth in the core subjects in relationship to the Pennsylvania Code (22 Pa. Code Chapter 4). Each AEDY program should use a combination of the types of teaching and assessment tools listed below. These assessments should guide individualized academic program planning, evaluate individual student progress and indicate the effectiveness of the program over all.

AEDY programs should use course grading, report cards, portfolios, graduation projects, exhibitions of student work and other local assessment tools to monitor student progress. These assessments should align as closely as possible with the student's sending school district. This will facilitate transition back to the regular classroom and ensure that credit is given in the home school for work completed in the AEDY program. Additional assessment strategies that support success in the particular AEDY program are also encouraged.

Achievement Tests

Achievement tests are used to measure academic levels and progress. They assess the level of competence, diagnose strengths and weaknesses and can be used to assign grade levels. AEDY programs should use both formative and summative assessment strategies. They must administer the PSSAs or PASAs as required. Other nationally normed achievement tests may also be used to help formulate individual academic programs, measure student progress and document program effectiveness. Examples include:

- Gates McGinity
- Terra Nova
- Iowa Test of Basic Skills
- Peabody Individual Achievement Test Kaufman Test of Educational Achievement
Wechsler Individual Achievement Test Wide Range Achievement Test
- Woodcock Johnson Psycho-Educational Battery

Aptitude Tests

Aptitude tests are designed to measure strength, talent or ability in a particular area. Examples include:

- Key Math
- Group Assessment and Diagnostic Evaluation
- Woodcock Reading Mastery Test

Screening Tests

Screening tests are broad-based assessments that sample a few items across the curriculum. Examples include:

- Test of Adult Basic Education (TABE) Arlin Test of Formal Reasoning
- Personal Style Inventory-Personal Development Survey
- Scholastic Achievement Test for Adults (SATA) Learning and Study Strategies Inventory (LASSI)

Diagnostic Tests

Diagnostic Tests are designed to identify strengths and weaknesses in a specific subject area. Examples include:

Brigance

Sanford Diagnostic (math and reading) Stanford - Binet Intelligence Test

Woodcock-Johnson Test of Cognitive Ability

Neuropsychological Tests

Neuropsychological Tests are objective tests to evaluate brain function. Examples include:

- Halstead-Reitan Neuropsychological Battery Kaufman Short Neuropsychological Assessment California Verbal Learning Test
- Ammons Quick Test

Behavioral Assessment and Modification System

AEDY programs must systematically address the specific behaviors that led to the transfer to the AEDY program. Each student must have an individual behavior plan, based on an empirical assessment, with clear and measurable goals.

Behavior assessment and modification systems in all AEDY programs should:

1. Develop an individual behavior plan for every student that is designed to address the specific behaviors that led to that student's transfer to the program.

2. Develop the individual behavior plan based on data collected through an empirical behavior assessment (see list of approved assessment tools below. If a program prefers to use an instrument not on the list it must apply to PDE for pre-approval).
3. Perform behavioral assessments immediately after transfer into the program and at regular intervals of 6-8 weeks thereafter.
4. Provide a program-wide, progressive behavior management system for the monitoring and evaluation of student behavior with a focus on helping students to develop good decision-making skills, take responsibility for their actions and be accountable for their behavior. Key components of a program-wide progressive behavior management system include:
 - a. Social skills training
 - b. A clear, concise written explanation of conduct expectations for students and communication of behavior system elements to all program constituents including the posting of these elements in several prominent locations within the facility
 - c. Explanations of consequences that are leveled and designed to promote increased acceptance of responsibility for the decisions students make
 - d. A system in which students' behavior is scored on a daily basis to target behaviors and triggers. Scoring should be as frequent as structure will allow.
 - e. Regular communication with parent or guardian about behavior and progress toward goals
 - f. A process for reviewing student progress at regular intervals
 - g. Individual and group incentive systems

Behavioral Assessment Tools

Programs are required to use behavioral assessment to measure and document student success towards behavioral goals. Below is a list of assessments recommended by PDE. If programs wish to use an assessment not on this list, they may submit an alternate assessment to PDE for approval.

1. Functional Assessment Checklist for Teachers and Staff (FACTS-Part A& B)
2. The Child & Adolescent Functional Assessment Scale (CAFAS)
3. School Social Behaviors Scale (SSBS)
4. The Behavioral and Emotional Rating Scale-2 (BERS-2)