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ND ADC 67-16-01-01, 02, 03, 04, 05, 06, 07, 08; ND ADC 67-19-04-01, 02, 03, 04, 05, 06; ND ADC 67-32-01-01
Administrative Agency Rulemaking Hearings
July 20, 2022
Public Instruction, Superintendent of
FULL TEXT OF REGULATION(S)

Alternative High Schools; Educational Opportunities with Sponsoring Entities; Local Policy for Curriculum Review

TAKE NOTICE that the North Dakota Department of Public Instruction (NDDPI) will hold a public hearing to address proposed changes of N.D. Admin. Codes 67-16, Alternative Education Program; 67-19, Accreditation: Procedures, Standards, and Criteria; and the creation of 67-32, Critical Race Theory; at 9:30 AM on Thursday, September 8, 2022, in the Peace Garden Room at the State Capitol, 600 E. Boulevard Ave., Bismarck, ND 58505.

TITLE 67

PUBLIC INSTRUCTION, SUPERINTENDENT OF

ARTICLE 67-16

ALTERNATIVE EDUCATION PROGRAM

CHAPTER 67-16-01

ALTERNATIVE EDUCATION PROGRAM HIGH SCHOOLS

ND ADC 67-16-01-01

ND ADC 67-16-01-01. Definition and Eligibility.

For the purposes of this chapter, "alternative high school" means a school created for students completing required coursework leading to high school graduation through methods apart from the traditional high school model. Any public school district in North Dakota may apply to the superintendent of public instruction for establishment of an alternative education program high school for students from the ages of sixteen to twenty-one who have dropped out of school. The alternative programming high school shall be under the administration of a public school district.

History: Effective January 1, 2000; amended effective January 1, 2023.

General Authority: NDCC 15-40.1-07.2; 15.1-02-11, 15.1-27-03.1(1)(e), 28-32-02

Law Implemented: NDCC 15-40.1-07.2 15.1-02-11, 15.1-27-03.1(1)(e)

ND ADC 67-16-01-02

ND ADC 67-16-01-02. Applications.

Applications ~~forms~~ provided by the department of public instruction require the following information:

1. Name and address of the high school district through which the alternative high school ~~program~~ is provided.
2. Names and addresses of any school districts that have entered into cooperative agreements approved by the department of public instruction and will be providing authorization to students in their district to attend this alternative ~~program~~ high school.
3. A description of the alternative ~~program~~ high school as follows:
 - a. The setting and location of the ~~program~~ alternative high school, including the schedule that the alternative high school will be available to students.
 - b. Information on the staffing of the alternative ~~program~~ high school.
 - c. ~~Instruction strategies to be utilized~~ Provide a detailed description of the delivery model and instructional supports.
 - d. ~~A schedule indicating the time or times of day the program will be available to students.~~
 - e. ~~A detailed description of the curriculum to be provided.~~
 - f. ~~Other descriptions~~ Descriptions or explanations of what makes the ~~program~~ alternative high school different from the traditional high school model.

History: Effective January 1, 2000; amended effective January 1, 2023

General Authority: NDCC 15-40.1-07.2, 15.1-02-11, 15.1-27-03.1(1)(e), 28-32-02

Law Implemented: NDCC 15-40.1-07.2 15.1-02-11, 15.1-27-03.1(1)(e)

ND ADC 67-16-01-03

ND ADC 67-16-01-03. Certification.

The school district must certify that the alternative ~~program~~ high school will be in compliance with the provisions of statute by providing the signature of the board chairperson and the school district superintendent.

History: Effective January 1, 2000; amended effective January 1, 2023.

General Authority: NDCC 15-40.1-07.2, 15.1-02-11, 15.1-06-06, 28-32-02

Law Implemented: NDCC 15-40.1-07.2, 15-40.2-04 15.1-02-11, 15.1-06-06

ND ADC 67-16-01-04

ND ADC 67-16-01-04. Courses.

If an alternative ~~education program~~ **high school** is authorized by the superintendent of public instruction under this chapter, courses in the alternative ~~education program~~ **high school** need not meet the minimum curriculum in North Dakota Century Code section 15.1-21-02, but all ~~program~~ courses must lead toward graduation for each of the participants.

History: Effective January 1, 2000; amended effective April 1, 2010; **January 1, 2023.**

General Authority: NDCC 15.1-02-11, 28-32-02

Law Implemented: ~~NDCC 15.1-09-03~~ , 15.1-21-02(7), 15.1-27-03.1(1)(e)

ND ADC 67-16-01-05

ND ADC 67-16-01-05. Students.

Students must be from the ages of sixteen to twenty-one and ~~have been dropped from the regular school membership~~ to be reported for foundation aid payments in the alternative ~~program~~ **high school**.

History: Effective January 1, 2000; **amended effective January 1, 2023.**

General Authority: ~~NDCC 15-40.1-07.2~~, **15.1-02-11, 15.1-27-03.1(1)(e)**, 28-32-02

Law Implemented: ~~NDCC 15-40.1-07.2~~ **15.1-02-11, 15.1-27-03.1(1)(e)**

ND ADC 67-16-01-06

ND ADC 67-16-01-06. Monitoring.

The department of public instruction will monitor alternative ~~programs~~ **high schools** by reviewing annual documentation including fall reports and completion rate data:

1. ~~Certificate of compliance~~ **Annual compliance report.**
2. School calendar.
3. MIS03 certified personnel record.
4. ~~Pupil membership report~~ **Enrollment report.**

History: Effective January 1, 2000; **amended effective January 1, 2023.**

General Authority: ~~NDCC 15-40.1-07.2~~, **15.1-02-11, 15.1-06-06**, 28-32-02

Law Implemented: ~~NDCC 15-40.1-06.4, 15-40.1-07.2~~ **15.1-02-11, 15.1-06-06**

ND ADC 67-16-01-07

ND ADC 67-16-01-07. Cooperative alternative programs.

School districts may develop cooperative programs with other school districts to provide access to courses for as many students as possible. Tuition agreements must be completed and approved by the districts involved in the cooperative alternative program. No written agreement is necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged. Repealed effective January 1, 2023.

History : Effective January 1, 2000.

General Authority : NDCC 15-40.1-07.2, 28-32-02

Law Implemented : NDCC 15-40.1-07.2, 15-40.2-04

ND ADC 67-16-01-08

ND ADC 67-16-01-08. Payments.

Foundation aid payments for high school students will be made based on days of membership in an approved alternative program. Proportionate foundation aid payments will be made for students enrolled in less than four units based on the number of units carried and the high school weighting factor. Repealed effective January 1, 2023.

History : Effective January 1, 2000.

General Authority : NDCC 15-40.1-07.2, 28-32-02

Law Implemented : NDCC 15-40.1-07, 15-40.1-07.2

ARTICLE 67-19

ACCREDITATION: PROCEDURES, STANDARDS, AND CRITERIA

CHAPTER 67-19-04

EDUCATIONAL OPPORTUNITIES WITH SPONSORING ENTITIES

ND ADC 67-19-04-01

ND ADC 67-19-04-01. Local policy.

In order to provide educational opportunities through sponsoring entities, boards of school districts and governing boards of nonpublic schools shall adopt a local policy in accordance with North Dakota Century Code section 15.1-07-35.

History: Effective January 1, 2022.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ND ADC 67-19-04-02

ND ADC 67-19-04-02. Creation of proposal.

Any proposal submitted by an eligible sponsoring entity to a board of a school district or governing board of a nonpublic school under subsection 5 of North Dakota Century Code section 15.1-07-35 must include:

1. The name and information of the sponsoring entity;
2. The course title for each course provided by the sponsoring entity;
3. The state course code number for each course provided by the sponsoring entity;
4. A teacher of record who is employed by the school district or nonpublic school, is licensed under North Dakota Century Code chapter 15.1-18, and has approved the proposal;
5. An assurance that courses meet course content standards, as determined by the superintendent of public instruction; and
6. The statement of how students will demonstrate proficiency and how students will be evaluated.

History: Effective January 1, 2022.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ND ADC 67-19-04-03

ND ADC 67-19-04-03. Submission of proposal.

1. Because of the dual nature of the kindergarten through grade twelve education coordination council review and department of public instruction approval, the department will act as a liaison between the schools and the kindergarten through grade twelve education coordination council. Proposals approved by the board of a school district or governing board of a nonpublic school must be submitted to the following address:

North Dakota Department of Public Instruction

Attn: North Dakota K-12 Education Coordination Council

600 East Boulevard Avenue, Department 201

Bismarck, ND 58505-0440 ndk12ecc@nd.gov

2. For educational opportunities during the 2022-23 school year, proposals must be submitted to the director of the office of school approval and opportunity a minimum of ninety days prior to the beginning of instruction:

a. No earlier than January 23, 2022, or later than February 1, 2022; or

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b. ~~No earlier than May 23, 2022, and no later than June 1, 2022.~~

3. ~~Beginning with the 2023-24 school year, proposals must be received by the director of the office of school approval and opportunity:~~

a. ~~No earlier than October twenty-third and no later than November first of the preceding school year; or~~

b. ~~No earlier than May twenty-third and no later than June first of the preceding school year.~~

4. ~~3.~~ All proposals must include the local policy and the school board meeting minutes documenting the adoption of the local policy and the approval of the proposal from the sponsoring entity.

5. ~~4.~~ Upon receiving the proposal, the director of the office of school approval and opportunity shall submit the proposal to the president of the kindergarten through grade twelve education coordination council for review.

History: Effective January 1, 2022; Amended effective January 1, 2023.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ND ADC 67-19-04-04

ND ADC 67-19-04-04. Review and approval of proposals.

1. Within ~~sixty~~ **thirty** days of receiving the proposal, ~~the superintendent public instruction shall provide the members of the kindergarten through grade twelve education coordination council shall~~ **with the opportunity** to review the proposal to ensure compliance with ~~section 67-19-04-02.~~ **Members of the kindergarten through grade twelve education coordination council may provide feedback to the superintendent of public instruction** ~~submit the proposal to the superintendent of public instruction to approve or deny the proposal .~~

2. Following review by the kindergarten through grade twelve education coordination council, the superintendent of public instruction shall approve or deny the proposal, in accordance with subsection 6 of North Dakota Century Code section 15.1-07-35.

3. In accordance with subsection 6 of North Dakota Century Code section 15.1-07-35, the department of public instruction shall notify boards of school districts and governing boards of nonpublic schools of their approval status.

History: Effective January 1, 2022; Amended effective January 1, 2023.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ND ADC 67-19-04-05

ND ADC 67-19-04-05. Program evaluation data.

No later than June thirtieth of each school year, school districts or nonpublic schools providing educational opportunities with sponsoring entities shall provide program evaluation data to the superintendent of public instruction. Program evaluation data submitted may include:

1. Academic indicators, such as:
 - a. Proficiency scales;
 - b. Self-assessments;
 - c. Assessments from supervisor;
 - d. Career-ready standards met; and
 - e. Content standards met;
2. Descriptions of how the program:
 - a. Improved the delivery of education;
 - b. Improved the administration of education;
 - c. Provided increased education opportunities for students; and
 - d. Improved the academic success for students;
3. Other evaluation measures, such as attendance, disciplinary incidents, student engagement, student voice, student and parent surveys, and evidence of improved instructional practices.

History: Effective January 1, 2022.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ND ADC 67-19-04-06

ND ADC 67-19-04-06. Revocation of proposal.

1. If program evaluation data indicates that a proposal is not providing success for students, the superintendent of public instruction may:
 - a. Make recommendations for improvement; or
 - b. Revoke the proposal.

2. If the superintendent of public instruction revokes a proposal as authorized in subsection 10 of North Dakota Century Code section 15.1-07-35, school districts and nonpublic schools must be allowed to revise and resubmit their proposal to the department for approval. The department shall notify school districts and nonpublic schools of their resubmission status within thirty days of resubmission.

History: Effective January 1, 2022.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15.1-07-35

ARTICLE 67-32

CRITICAL RACE THEORY

CHAPTER 67-32-01

LOCAL POLICY FOR CURRICULUM REVIEW

ND ADC 67-32-01-01

ND ADC 67-32-01-01. Adoption of Local Policy for Curriculum Review.

1. The board of each school district shall adopt a policy related to critical race theory, as defined in chapter 15.1-21-05.1 of the North Dakota Century Code.
2. A policy adopted under this section must:
 - a. Allow curriculum, resources, and instructional materials to be made available for public viewing upon request, and include the timeline involved in viewing materials;
 - b. Include the process or mechanism for curriculum, resources, and instructional materials to be viewed by the public;
 - c. Include the process for addressing issues found to violate chapter 15.1-21-05.1 of the North Dakota Century Code; and
 - d. State that the board of the school district shall ensure district-led or district-sponsored professional development complies with chapter 15.1-21-05.1 of the North Dakota Century Code.

History: Effective January 1, 2023.

General Authority: NDCC 15.1-21-05.1, 28-32-02

Law Implemented: NDCC 15.1-21-05.1