

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

**SUBCHAPTER 29. ALTERNATIVE EDUCATION ACADEMIES, PROGRAMS, AND
SCHOOLS**

210:35-29-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Alternative Education" means an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who have not utilized their capacity to do so within traditional educational settings. Alternative education programs must meet all requirements listed at 70 O.S. § 1210.568 and at section 210:35-29-7 of this title.

"Abbreviated school day" means, for purposes of an alternative education program approved by the State Board of Education:

(A) A school day which consists of not less than four (4) hours and twelve (12) minutes per day devoted to academic instruction for the locally approved 180 day school calendar, ~~provided that student(s) must be physically present, in person, and on site in the alternative education program for a minimum of 4 hours and 12 minutes a day or 756 hours in a 165 day calendar as indicated in the Alternative Education Plan;~~ or

(B) A school day which may consist of less than four (4) hours and twelve (12) minutes per day devoted to academic instruction, provided that students in alternative education programs ~~receive receive are present on site for~~ at least seven hundred fifty-six (756) hours of academic instruction per school year. A school district that chooses the total instructional hours scheduling approach for its alternative education program must notify the State Board of Education by ~~September 15~~ September 1 of each applicable school year.

"Academic instruction" means, for purposes of an alternative education program approved by the State Board of Education:

(A) Instruction in any subject offered by the school district for core or elective credit, whether part of the standard educational program or offered specifically to students in the alternative education program;

(B) Instruction in any subject offered for credit through a technology center or through concurrent enrollment at a college or university; and

(C) Participation in programs and activities that are part of the school district or interlocal cooperative's approved Alternative Education Implementation Plan and are intended to fulfill the requirements for alternative education programs, including counseling, life skills instruction, concurrent enrollment, work study, and other content approved by the State Board of Education.

"At-risk student" means a student whose present or expected status indicates they might fail to complete their secondary education for reasons which may include academic deficiency, behavioral difficulties, excessive absences, pregnancy or parenting, family issues, substance abuse, financial issues, physical or mental health issues, juvenile justice involvement, or other such factors, not including disability status.

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210:35-29-8. Requirements for alternative education programs

(a) **General requirements.** Alternative education is an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who are at risk of failing to complete their secondary education for reasons which may include academic deficiency, behavioral difficulties, excessive absences, pregnancy or parenting, family issues, substance abuse, financial issues, physical or mental health issues, state custody, juvenile justice involvement, and/or other such factors, not including disability status. An alternative education program must provide the additional services and supports outlined in statute, and not merely an opportunity for credit recovery. To qualify as an approved alternative education program, a school district's alternative school or alternative education program must meet all requirements listed at 70 O.S. § 1210.568, including:

- (1) Student-teacher ratios conducive to effective learning for at-risk students, which typically should not exceed a 15:1 student to teacher ratio;
- (2) Appropriate structure, curriculum, interaction, and reinforcement strategies for effective instruction, typically including:
 - (A) Utilize attendance, academic, and behavior data for program improvement, and
 - (B) Utilize a system of student support such as RTI, PBIS, or MTSS;
- (3) An intake and screening process to determine eligibility of students, typically including:
 - (A) Students are involved in enrolling in the program such that the program is accurately described as a “school of choice,” and
 - (B) An “at-risk” assessment should be used to determine eligibility in the program;
- (4) Appropriately certified teaching faculty, ~~which means that a certified teacher is present in the Alt Ed classroom for all program hours identified in the alternative education plan;~~
- (5) Teaching faculty with experiences or personal traits that qualify them for successful work with at-risk students, typically including
 - (A) At least one representative of the district’s alternative education program must attend at least one of the Fall regional meetings at the State Department of Education, and
 - (B) Professional development intentionally designed to support alternative education is used to improve instruction and student success;
- (6) Collaboration with state and local agencies;
- (7) Courses that meet the curricular standards adopted by the State Board of Education and additional remedial courses;
- (8) Individualized instruction;
- (9) Clear and measurable program goals and objectives;
- (10) Counseling and social service components, typically including:

(A) Students meet with licensed/certified counselor(s) at least ~~twice~~ once a month in a group or individual setting

(B) ~~As needed, A~~an “at-risk” assessment is used to determine social service needs

(C) Counseling and social service agencies are an integral part of the alternative education program. Alternative ~~E~~education programs engage with these agencies to provide additional student supports;

(11) Graduation plan for each student;

(12) Life skills instruction, which should typically be integrated weekly to include long term transition to self-sufficiency, employment, or financial stability for adult life;

(13) Opportunities for arts education, which must be infused into the academic curriculum for interested students at least monthly;

(14) A proposed annual budget;

~~(15) An evaluation component that includes an annual written self evaluation;~~

~~(16)~~(15) Service to students in grades ~~six (6)~~ seven (7) through twelve (12) who are most at risk of not completing high school for reasons other than disability, including

(A) Allocating adequate funding and resources to support and protect the integrity of the program; and

(B) Providing Alternative Education students standard services including but not limited to physical classroom space, library access, school nutrition, and transportation; and

~~(17)~~(16) Opportunities for student participation in vocational programs and extra-curricular activities such as athletics, band, and clubs.

(b) **Submission of alternative education plan.** ~~Each~~ Every school district, except those deregulated by OAC 210:35-29-9, shall submit and certify an Alternative Education Implementation Plan to the State Department of Education by September ~~14~~5 of each year. This plan shall outline how the district will meet the criteria listed in subsection (a) to serve its at-risk students. The plan must be submitted and certified by school districts providing their own alternative education programs, as well as districts which offer alternative education through interlocal cooperative arrangements, and districts which have no alternative education program and receive no alternative education funding.

(c) **Alternative education waiver available for elementary school districts.** [Revoked rule text because statute addresses waiver and additional rules are unnecessary.] ~~For an elementary school district, which does not offer high school grades, the State Board of Education is authorized at 70 O.S. § 1210.568(F) to grant a waiver from the statutory requirement to implement and provide an alternative education program. An elementary school district wishing to request such a waiver must submit an application to the State Department of Education Office of Accreditation no later than May 15 prior to the school year for which the waiver is requested. An elementary school district that has not received any alternative education funding pursuant to 70 O.S. § 1210.568 shall be granted this waiver automatically and need not apply, but an elementary district that has received any amount of alternative education funding must apply for the waiver by May 15 prior to the applicable school year in order to be exempt from implementing an alternative education program.~~

(d) **Deregulation not necessary for conforming alternative education programs.** A school district need not apply to the State Board of Education for a deregulation in order to implement an alternative education program that meets all requirements listed in this subchapter and at 70 O.S. § 1210.566 through 70 O.S. § 1210.568.

(e) Board appeals for the sixteen criteria. Any school district who has valid reasons to comply with the criteria under subsection (a) aside from the typical definition, and any school district

otherwise dissatisfied with the State Department of Education's application of the criteria, may request review by the State Board of Education within thirty days of receiving a report from the Department.

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210:35-29-9. Requirements for incentive amount for participating in a cooperative agreement

(a) A school district currently participating in a cooperative agreement that identifies zero alternative education students after completing its needs assessment under 70 O.S. § 1210.566(A) may, at its option, be exempt from filing the plan under 70 O.S. § 1210.566(B) and in receipt of an automatic waiver under 70 O.S. § 1210.568(I).

(b) In order to be eligible for an allocation for participating in a cooperative agreement, districts must file the plan provided under 70 O.S. § 1210.566(B) ~~send students to the cooperative agreement's local education agency (LEA)~~ for alternative education. Districts who do not file a plan ~~send any students to a cooperative agreement's LEA for two years in a row are deemed no longer part of the cooperative agreement and~~ are ineligible for the incentive amount.

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes

**Chapter 35. Standards For Accreditation of Elementary, Middle Level, Secondary, and
Career and Technology Schools**
Subchapter 29. Alternative Education Academies, Programs, and Schools

210:35-29-2. Definitions [AMENDED]

210:35-29-6. Personnel: certification; criminal record searches [AMENDED]

210:35-29-8. Requirements for alternative education programs [AMENDED]

**210:35-29-9. Requirements for incentive amount for participating in a cooperative
agreement [NEW]**

Summary of Public Comment	Agency Response
Many commenters are opposed to a requirement for in-person instruction.	<ul style="list-style-type: none">• The relevant provisions are not in the final version of the rules.
Some commenters support a requirement for in-person instruction.	<ul style="list-style-type: none">• The relevant provisions are not in the final version of the rules.
Fifteen commenters oppose the requirement to send students to a cooperative in order to be counted as participating in a cooperative for purposes of extra funding. Most commenters indicated that the funding is needed for continued viability of certain alternative education cooperatives. Some commenters indicated that they are required to provide a alternative education setting regardless of the number of students and should have funds that match those requirements.	<ul style="list-style-type: none">• The agency disagrees that sending students to a cooperative is distinct from participating in a cooperative. Mere existence of an agreement, without any students at issue for multiple years in a row, is a claim for funds with no basis in actual participation.• The agency agrees that the requirement to file a plan for zero students could be construed as participation in a cooperative where that cooperative is the subject of the plan. The proposed rule has been modified to acknowledge that lack of participation means zero students and no filing of a plan, with the relevant deregulatory provision to implement that path.•
One commenter stated that examining for number of students for participation unlawfully interferes with the local ability to enter into agreements.	<ul style="list-style-type: none">• The commenter is confusing the existence of an agreement with actual participation in that agreement. The rule only addresses the awarding of bonus funds and does not prohibit any agreement.

<p>Some commenters were opposed to one-size-fits-all definitions of the sixteen criteria for alternative education.</p>	<ul style="list-style-type: none"> • The commenters appear to misunderstand that local education agencies only receive agency review when seeking to be approved for funding from agency. Local education agencies do not need agency approval just to operate a program. • The commenters appear to misunderstand that agency staff already review programs for compliance with these criteria. The concept of state review for state funding is in the existing rule, not part of the proposed rules. • The definitions are general guidelines, not fixed rules, because they are implementing transparency rather than setting hard cut-offs. The agency has added clarifying language and an explicit appeals process to confirm that intent.
<p>Some commenters stated that all definitions of the sixteen criteria are unlawful.</p>	<ul style="list-style-type: none"> • The commenters appear to misunderstand that agency staff already review programs for compliance with these criteria. The concept of state review for state funding is in the existing rule, not part of the proposed rules. • To the extent commenters prefer the individual judgment of agency staff to Board guidance, the agency disagrees that the Board is prohibited from setting clear guidance.
<p>Two commenters suggested that the proposed definition for counseling exceeded the general need in alternative education. One of those commenters suggested revising to once a month.</p>	<ul style="list-style-type: none"> • The agency has made the suggested revision.
<p>One commenter suggested that the definitions for several criteria should be modified to acknowledge they are only as needed.</p>	<ul style="list-style-type: none"> • The agency has qualified the definitions to clarify that the expectation is for typical circumstances and permits flexibility.