

## **Credit Flexibility Guidance: School Finance**

### **Background**

Currently, Ohio's school funding model is built upon the premise that students are present in a learning environment over the course of a school year that has certain variable and fixed costs inherent in providing instruction to students.

Credit flexibility affords districts the ability to award credit for a student's completion of tasks other than attendance in the requisite classes. As a result, a student may complete other activities to demonstrate a complete and thorough understanding of the subject matter through several different mechanisms, including, but not limited to, a written or oral examination, a detailed project or presentation or laboratory demonstrations.

Please note the Department has attempted to group like questions and answers together for ease of reference. However, a reader should carefully review the entire document before making a decision regarding how to implement credit flexibility and its effects on funding.

### **Legal Requirements**

Ohio Revised Code (ORC) 3313.64<sup>1</sup> establishes the basic residency requirements for a student to attend a public school district. Inherent in these requirements is that a student be able to attend a public school where the student resides tuition free.

ORC 3317.03 establishes how students are counted for the purposes of average daily membership (ADM) for city, local, exempted village, and joint vocational school districts. Included within this statute is a discussion of requirements for districts to maintain records relating to the student's attendance and membership within a district's school.

Ohio Administrative Code (OAC) 3301-69-02 establishes the standards for districts to excuse students from compulsory education as well as the standards for documenting such absences. Additionally, ORC 3321.041 adds the concept of "experience days" to the list of reasons students may be excused from physical classroom attendance.

ORC 3314.08 establishes how students are counted for community schools where enrollment is defined as the full time equivalency (FTE) for the portion of the year the student participates in learning opportunities provided by the school. For community schools, these learning opportunities must be defined in the contract the school has with its sponsor "which shall describe both classroom-based and non-classroom-based learning opportunities".

### **Practical Funding Considerations When Granting Credit Under Credit Flexibility**

As a precursor to any discussion of funding, it is implied that students will continue to receive instruction from and remain enrolled in the school district regardless of credit granted to the student through credit flexibility. Based on the requirements of ORC 3317.03, students must be enrolled and attending for a school district to receive funding for that student's education. For students enrolled in a community

---

<sup>1</sup> Commonly known as the "tuition law"

school, any non-classroom-based learning opportunities must be in compliance with criteria and documentation requirements for student participation established by the department.

Fundamentally, if a student is enrolled and attending a school in a school district, the student is funded and the school district is paid for that enrollment and attendance. Further, because funding is based on average daily membership in a district established by counting students in the first full week of October, student enrollment and attendance is critical to establishing funding levels for an individual student.<sup>2</sup>

Based on the previously cited Ohio Revised and Administrative Code sections, there is no requirement that a student be actually in attendance in a classroom in order to be counted for funding. However, during the October count week, districts must have sufficient documentation on file and available for inspection to support the student's EMIS attendance data. This includes, but is not limited to excused absence documentation required by OAC 3301-69-02. For students enrolled in a community school, the school must adhere to the requirements of the department.

### **Frequently Asked Questions**<sup>3</sup>

#### *General Questions*

Q1. Can a district charge for the cost of additional examinations or other fees required for a student to demonstrate proficiency in a course in order to receive credit?

A1. A student is entitled to a free education in the district of residence based on ORC 3313.64. By counting the student in ADM under 3317.03, the district has already been compensated for the cost of this student. Additionally, districts are not permitted to charge any fees for students which qualify for free lunches pursuant to ORC 3313.642. However, districts may charge students individually for special instructional fees, such as AP tests, in accordance with board of education policy and within the normal course of business for the school's operations. These fees must be clearly for activities outside the normal course of business and in addition to any activities that happen during the school day. Further, students may not be charged a fee for credit flexibility courses if the same fee is not applied equally to students not participating in credit flexibility. Districts must be extremely cautious in applying fees to students in violation of ORC 3313.642<sup>4</sup> and for activities that would be included within the normal and customary instruction provided by the district pursuant to ORC 3313.64.

---

<sup>2</sup> Prior to State Fiscal Year 2010, the Department of Education provided state funding to city, local and exempted village school districts based on formulas derived from the number of students enrolled and attending at a school district. Beginning in State Fiscal Year 2010, an evidence-based funding model provided funding based on a variety of factors including the average daily membership (ADM) at a district, the number of organizational units derived from the ADM, and other factors independent of the ADM. . Therefore, it is important to recognize that a student directly and indirectly generates funding for a school district.

<sup>3</sup> While the Department has attempted to group like questions and answers together for ease of reference, a reader should carefully review the entire document before making a decision regarding how to implement credit flexibility and its effects on funding.

<sup>4</sup> This statute prohibits boards of education from charging fees to a student eligible for "free lunch" under US Department of Agriculture regulations "for any materials needed to enable the pupil to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any materials needed to enable a pupil to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction."

As educational entities consider the implications of fees on their credit flexibility program, the Department would encourage entities to adopt and implement policies which are student friendly and conscious of the role each entity plays in making successful citizens.

Q2. Who pays for background checks for individuals not licensed as a teacher?

A2. Because the student is enrolled and attending the educational entity<sup>5</sup> and funding is already being provided through the state's funding formula, no additional funds are provided to educational entities to cover the costs of background checks. Generally, individuals are responsible for the background check absent a local board policy.

Q3. What is the funding ramification if a student is not enrolled and attending, as defined in ORC 3317.03 but does participate in credit flexibility?

A3. Just as in a traditional school setting, there is no funding paid for that student. Only students enrolled and attending in a school district qualify for funding through the state's funding formula.

Q4. If a local artisan, musician or other similar person not employed by an educational entity but providing educational opportunities wishes to charge a fee for services provided to the student and the school, how does the school district pay for this cost and are there additional funds allocated to pay for this service?

A4. There are no additional funds provided for services provided in this manner. Educational entities should make arrangements for those activities with the understanding that no additional funding will be provided through the state funding formula.

Q5. Can Federal grant funds be used to pay for fees?

A5. No. As the activities provided are within the state's responsibility to provide education and because the ability to provide credit flexible opportunities is provided through state law and the basic state funding formula, a presumption of supplanting exists to use Federal funds.

Q6. If a teacher is monitoring a student participating in the credit flexibility program, does that teacher have to complete time and effort documentation in accordance with OMB Circular A-87<sup>6</sup>?

A6. If the teacher is paid by all or partially by Federal funds and is working on more than one cost objective, then yes, time and effort documentation must be completed. If the teacher is solely paid from one Federal fund or cost objective, then the teacher may complete either time and effort documentation or a semi-annual certification in accordance with OMB Circular A-87. If the teacher

---

<sup>5</sup> For purposes of this guidance, an educational entity is defined as a traditional public school, a nonpublic school, a community school, an educational service center or any other entity providing educational services to students kindergarten through grade 12, including any grade span or division therein.

<sup>6</sup> OMB Circular A-87 can be found at [www.whitehouse.gov/omb](http://www.whitehouse.gov/omb) under the section entitled Circulars. Additionally, Department guidance on this subject can be found within the Comprehensive Continuous Improvement Plan (CCIP) document library.

is solely paid from solely state and local sources, then time and effort documentation and semi-annual certifications are not required to be completed.

Q7. Can an educational entity pay for a teacher license or other certification for an artisan, musician or other similar person not employed by the educational entity but providing learning opportunities through credit flexibility?

A7. No, unless the educational entity pays for all employee licenses and certifications as a function of board policy and/or collective bargaining unit.

Q8. Can a district charge to a student a fee for a district teacher's time used to review plans, tests or other educational related activities associated with credit flexibility?

A8. Generally, this is not permitted as students are receiving the free education permitted under ORC 3313.64. However, the Department recognizes there could be limited, extraordinary circumstances where a fee could be assessed. Any fee assessed should be grounded in a clear study of actual costs incurred and clearly linked to the specific activity related to credit flexibility. Educational entities are responsible for maintaining such documentation that clearly and unambiguously indicates the actual costs associated with this fee. However, districts must be cognizant of the prohibition on charging fees to student eligible for "free lunch" pursuant to ORC 3313.642.

Q9. Can a district charge for materials and supplies used for coursework that a student uses credit flexibility options?

A9. Generally, this is permitted in accordance with the board of education's policies on fees for materials and other supplies used in the traditional classroom setting. However, districts must be cognizant of the prohibition on charging fees to student eligible for "free lunch" pursuant to ORC 3313.642.

Q10. A student with an IEP requirement for an aide participates in credit flex. What is the responsibility of the district for the aide services while the student participates in credit flex?

A10. The district should refer to the specific language as outlined in the IEP. If the language clearly states that the aides services should be provided then it is the responsibility of the school district to provide that service.

#### *Traditional Public Schools*

Q11. If a student is enrolled and attending pursuant to ORC 3317.03 but is absent from classroom attendance for count week due to completion of a course requirement under credit flexibility, such as laboratory examination off school grounds, can the student be counted for funding purposes?

A11. Yes, if the student is enrolled and attending based on the requirements of ORC 3317.03 and sufficient documentation exists at the school district outlining the reason for the student's absence during count week.

Q12. If a student attends a college or university under Post Secondary Enrollment Options (PSEO), how will funding be calculated if the student wants to earn credit through credit flexibility at the resident district?

A12. There is no change in the process to calculate the payments under PSEO. Districts would be entitled to collect funds for the amount of time the student is enrolled and attending the school district of residence with a deduction from funding for the amount of time the student participates in PSEO.

Q13. If a student receives some amount of instruction, including credit flexibility awarded by another educational entity outside the school district of residence, how is the funding calculated for the resident school district?

A13. There is no change in the current process of credits and deductions in place for resident school districts. For the time the student is enrolled and attending at the resident district, the resident school district would receive funding. For the time the student attends another educational entity, including but not limited to joint vocational students, open enrollment students or other educational options, funding would be deducted from the resident school district and credited to the educating school district.

Q14. A student is open enrolled from district A to district B and while at district B participates in credit flexibility opportunities. What are the funding implications for both district A and district B when this student participates in credit flexibility?

A14. As long as the student is enrolled and attending district B as an open enrollment student, funds will be credited to district B and deducted from district A for open enrollment. Once the student is no longer open enrolled and attending district B, funding ceases to district B. However, the district of residence will still count the student in their average daily membership (ADM) for calculation of organizational unit funding in the Evidence Based Funding Model.

Q15. A student is court placed from district A to district B and while at district B participates in credit flexibility opportunities. What are the funding implications for both district A and district B when the student participates in credit flexibility?

A15. As long as the student is enrolled and attending district B as a court placed, tuition student, funds will be credited to district B and deducted from district A for tuition payment. Once the student is no longer court placed and attending district B, funding ceases to district B.

Q16. If a student is enrolled and attending for a full day in a traditional school setting and receives additional credit(s) by demonstrating mastery of course content, how much additional funding is generated by the student for the additional course?

A16. None. Regardless of the number of credits earned by the student, the student only generates 1.0 FTE for funding purposes at the educational entity. No additional funding is generated for educational opportunities outside the 1.0 FTE.

### *Transportation*

Q17. Does a student have a right to transportation to receive instruction when participating in credit flexibility?

A17. Pupil transportation is only required between a student's primary residence and their educational program. If a student elects to participate in a credit flex program, the educating school district of record is not responsible for any additional transportation requirements.

Q18. Can a school charge a student for transportation to receive instruction at an offsite location?

A18. Since transportation to and from offsite locations for purposes of credit flex is not required under ORC 3327.01, parents may obtain that service from any source that provides qualified student transportation. They may purchase that service from the school district at cost, however the district is not required to provide that service.

Q19. Is transportation to and from offsite locations for credit flex opportunities required to be compliant with all Ohio laws, rules, and regulations?

A19. Yes, based on ORC 4511.76, any transportation provided for school students other than by parents for their own children must comply with all Ohio laws, rules, and regulations that pertain to pupil transportation.

Q20. If the credit flex opportunity is included in a student's IEP, must the transportation be provided?

A20. If transportation is listed as an appropriate related service on the IEP, then transportation must be provided at no cost in accordance with Federal IDEA regulations.

### *Community Schools*

Q21. Because community school students are funded on an FTE basis, how is the funding determined to be added to the community school and deducted from the district of residence?

A21. Funding for a community school is based on the number of hours or days of learning opportunities provided by the community school. Therefore, any activities that occur must comport with the requirements for a community school to offer a minimum of 920 hours of learning opportunities as provided in Ohio law.

Q22. Does a community school need to modify its contract with its sponsor to participate in the credit flexibility program?

A22. Yes; learning opportunities must be defined in the contract the school has with its sponsor. Insofar as the contract between the sponsor and community school does not define credit flexibility programs within the contract, the contract must be modified. .

Q23. Does credit flexibility allow students at e-schools to participate in more than 10 hours of instruction time per day?

A23. No. ORC 3314.27 limits students participating in on-line learning opportunities to 10 hours in any 24 hour period. Participation in credit flexibility options does not waive or remove this requirement.

### *Nonpublic Schools*

Q24. How should nonpublic school students participating in credit flexibility be counted in student counts used to calculate auxiliary services and administrative cost reimbursement funds?

A24. Students must be enrolled and attending the nonpublic school in order to be counted for purposes of auxiliary services and administrative cost reimbursement funding.

Q25. Can a traditional public school student enroll in a nonpublic school and use credit flexibility at the nonpublic school to get credit for coursework? If so, what are the funding ramifications with such an activity?

A25. As a baseline, a student can only be 1.0 FTE when counted for nonpublic funding and no dual enrollment of students between nonpublic and public schools is permitted. Additionally, there are religious and nonreligious schools in Ohio which may participate to differing degrees in credit flexibility, particularly based on the coursework that may be completed by a student. As is current practice, public school districts may enter into contractual vendor arrangements with nonpublic schools to provide services within the bounds of Ohio statute. Public school districts should be consider carefully that Article VI, Section 2 of the Ohio Constitution prohibits religious groups from having the exclusive right to or control of any part of school funds.

Q26. Can a nonpublic school submit costs associated with credit flexibility as administrative cost reimbursements claimed under ORC 3317.063?

A26. No. ORC 317.063 delineates specific allowable costs for the administrative cost reimbursement program. The program permits only claims of services that “are not an integral part of the teaching process.” Because credit flexibility is part of the instructional and teaching process, these costs would not be reimbursable.

Q27. Can a nonpublic school use auxiliary services funding administered through the assigned public school district to participate in credit flexibility programs?

A27. Yes, as long as nonpublic school and public school district continue to adhere to the requirements of ORC 3317.06. Both nonpublic and public entities should be aware of the ramifications of providing services under the auxiliary services program which are not permitted by statute.

Q28. Can nonpublic schools permit credit flexibility for religious or other sectarian courses?

A28. Yes. However, no public funds may be used in any way to support the credit flexibility of religious or sectarian courses.

Q29. Can a nonpublic school charge fees for participation in credit flexibility?

Q29. Since nonpublic schools are funded differently than traditional public schools, a local policy adopted by the nonpublic school should address the payment of fees by students attending a nonpublic school. The Department takes no position regarding charging fees for participation in credit flexibility opportunities by nonpublic school students and encourages nonpublic schools to contact their accrediting organization prior to adoption of a policy that includes fees for credit flexibility participation.