

4 AAC 33.420 is repealed and readopted to read:

**4 AAC 33.420. Department approval.** (a) A district may not operate a statewide correspondence study program, including a statewide correspondence study program operated by a charter school, unless the district has current written approval from the department to operate a statewide correspondence study program. A district shall apply for approval on a form provided by the department. The department will make the form available on or before October 1 of each year. A district must apply annually on or before December 31 of each year for the next school year.

(b) For a new program, the department will approve an application, disapprove an application, or return an application to the district with a request for supplemental information. The department will approve a district's application if the application satisfactorily demonstrates that the district's program

(1) complies with the requirements in 4 AAC 33.405 – 4 AAC 33.490; and

(2) is designed to achieve high academic standards for its statewide enrollees; in

evaluating an application under this paragraph, the department will consider the

(A) resources that the district will commit to the statewide correspondence study program;

(B) proposed student-teacher ratio based on the number of in-state teachers who are highly qualified under 4 AAC 04.210 that the district employs or intends to employ in its statewide correspondence study program;

(C) district's record of success of demonstrating adequate yearly progress under 4 AAC 06.805; and

(D) degree to which the district will provide individualized planning and evaluation for each student enrolled in the statewide correspondence study program.

(c) For a program that has operated a statewide correspondence study program in previous years, the department will approve an application, approve an application on a probationary status, disapprove an application, or return an application to the district with a request for supplemental information. In evaluating an application for a continuing program, the department will consider the factors listed in (b) of this section, the academic achievement of students in the program, including the program's record of demonstrating adequate yearly progress under 4 AAC 06.805, the program's record of compliance with applicable statutes and regulations as determined in a compliance monitoring conducted under 4 AAC 33.460, and the program's record of compliance with assurances given upon application as determined in a compliance monitoring conducted under 4 AAC 33.460. If the department finds that students in the program have not demonstrated sufficient academic achievement or that the program has had substantial and material instances of noncompliance, the department will

(1) disapprove the application if the department determines that continued operation of the program is not in the best interest of the students or the state; or

(2) approve the application for one year, on a probationary status if the department determines that the district has an appropriate plan to address the deficiencies in performance or compliance; at any time during the probationary year, if the department

determines that continued operation of the program is not in the best interest of the students or the state, the department will advise the district that the program should prepare a transition plan to cease operation because the program will not be approved the following year.

(d) In determining whether students at a program have demonstrated sufficient academic achievement under (c) of this section, the department will consider all evidence of student academic achievement and improvement, including evidence of

(1) students' scores and improvement of students' scores on statewide student assessments under 4 AAC 06.710;

(2) the program's record of demonstrating adequate yearly progress under 4 AAC 06.805, and the reasons for its success or failure to demonstrate adequate yearly progress; and

(3) the academic achievement of students and subgroups of students attending similarly-situated schools and correspondence study programs, including the record of those schools and programs in demonstrating adequate yearly progress.

(e) In determining whether the noncompliance determined in a compliance monitoring under 4 AAC 33.460 is substantial and material under (c) of this section, the department will consider all evidence, including evidence of whether the noncompliance was within the control of the program.

(f) A district that has an application denied under (b) or (c) of this section, or that is advised under (c) of this section that its program will not be approved in the following year, may seek reconsideration from the commissioner. A district must send its request for reconsideration to the department within 15 days after the district's receipt of the notice of the

Register 173, APR 2005 EDUCATION AND EARLY DEV.

action that gives rise to the request. A district may submit additional evidence and a memorandum in support of its request. The evidence and memorandum must be received by the department within 30 days after the district sends the request unless an extension of time is granted. In determining a request for reconsideration, the commissioner will consider all evidence, including evidence compiled by the department relating to the standards under this section. A decision by the commissioner is a final decision.

(g) In this section, “subgroup of students” means a subgroup set of in 4 AAC 06.830(a). (Eff. 5/1/99, Register 150; am 6/15/2000, Register 154; am 12/25/2002, Register 164; am 2/20/2005, Register 173)

**Authority:** AS 14.07.020 AS 14.07.060 AS 14.17.430  
AS 14.07.030 AS 14.14.110 AS 14.30.010  
AS 14.07.050

Publisher: Delete the editor’s note that follows 4 AAC 33.420.

4 AAC 33.421 is amended by adding a new subsection to read:

(m) The total money spent on fine arts, music, and physical education for a student may not exceed 15 percent of the base student allocation provided in AS 14.17.470, whether spent by the district or the parent through a fund account under 4 AAC 33.422. (Eff. 12/25/2002, Register 164; am 8/6/2004, Register 171; am 2/20/2005; Register 173)

**Authority:** AS 14.03.090 AS 14.07.060 AS 14.14.110  
AS 14.07.020 AS 14.08.111 AS 14.17.430  
AS 14.07.030 AS 14.14.090 AS 14.30.010

AS 14.07.050

4 AAC 33.460 is amended by adding new subsections to read:

(c) If, in a monitoring conducted under (a) of this section, a statewide correspondence study program is found to be substantially and materially out of compliance, the department may order

(1) the program to immediately re-apply for approval under 4 AAC 33.420; or

(2) a summary suspension of a program's approval, under which the program will be given at least 10 days notice to cease and desist its operations; the department may order a summary suspension only if the department determines that

(A) the noncompliance was intentional; or

(B) immediate suspension of the program is necessary to protect the interests of the students at the program or the interests of the state.

(d) A district may seek reconsideration under the procedures described in 4 AAC 33.420(f) of any order issued by the department under (c) of this section. Notwithstanding a request for reconsideration, an order of summary suspension becomes effective within the time period specified in the order. (Eff. 12/25/2002, Register 164; am 2/20/2005, Register 173)

Authority: AS 14.07.020 AS 14.07.060 AS 14.17.430

AS 14.07.030 AS 14.07.070