

CHAPTER 67-11-24
CERTIFICATES OF COMPLETION FOR SCHOOL HEALTH TECHNICIANS

Section

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67-11-24-01. Definition.

For the purpose of this chapter, a “school health technician” is an individual who has demonstrated an understanding of common school health needs and can respond appropriately and efficiently in a school setting and determine when referrals are needed.

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

67-11-24-02. Certificate of completion required.

Individuals providing services as a school health technician in educational settings must hold the North Dakota certificate of completion for school health technicians.

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

67-11-24-03. Issuing agency.

The North Dakota certificate of completion for a school health technician is issued by the:

Superintendent of Public Instruction

Department of Public Instruction

600 East Boulevard Avenue, Dept. 201

Bismarck, ND 58505-0440

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

67-11-23-04. Certificate of completion standards.

To obtain a certificate of completion as a school health technician, an individual must submit a completed online application and have completed the following training approved by the North Dakota department of public instruction and the North Dakota department of health and human services:

1. Successful completion of first aid, cardiopulmonary resuscitation, and automated external defibrillator training
2. Successful completion of online training that may include:
 - _____ a. School health guidelines
 - _____ b. Emergency guidelines
 - _____ c. Disease control guidelines; and
3. Successful completion of medication administration course taught by a registered nurse

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

67-11-23-05. School health technician services.

1. While working in the role of a school health technician, an individual may perform the duties outlined in the required training
2. While working in the role of a school health technician, the individual must comply with all HIPAA and FERPA regulations
3. While working in the role of a school health technician, the individual may not:
 - a. Perform the duties of a school nurse
 - b. Perform the duties of unlicensed assistive personnel

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

67-11-24-06. Renewal

The certificate of completion for the school health technician must be renewed every two years. In order to renew the certificate, the individual must complete following renewal-level training approved by the North Dakota department of public instruction and the North Dakota department of health and human services:

1. Must possess current certification in first aid, cardiopulmonary resuscitation, and automated external defibrillator training
2. Successful completion of online training that may include:
 - a. School health guidelines
 - b. Emergency guidelines
 - c. Disease control guidelines; and
3. Successful completion of medication administration course taught by a registered nurse

67-11-24-07. Reconsideration.

If an application for a school health technician certificate of completion is denied, the applicant will be notified of the opportunity for reconsideration. Upon receipt of a written denial, the applicant may request a reconsideration of the denial. A request for reconsideration must be in writing and must be received by the superintendent of public instruction within twenty-one days of the date the denial was mailed to the applicant by the superintendent of public instruction. Untimely requests will not be considered. The request for reconsideration must discuss:

1. The fact, law, or rule the applicant believes was erroneously interpreted or applied; and
2. The applicant's arguments on how the fact, law, or rule should have been applied, giving specific reasons and a thorough analysis.

The superintendent of public instruction will issue a final written response on the reconsideration request within twenty-one days after receiving a complete and timely reconsideration request. If the superintendent's written response denies the reconsideration request, the superintendent's written response shall notify the applicant of the applicant's right to a hearing conducted pursuant to chapter 28-32. The applicant must request the hearing within thirty days.

History: January 1, 2022

General Authority: NDCC 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-16

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CHAPTER 67-19-04
EDUCATIONAL OPPORTUNITIES WITH SPONSORING ENTITIES

Section	
67-19-04-01	Local Policy
67-19-04-02	Creation of Proposal
67-19-04-03	Submission of Proposal
67-19-04-04	Review and Approval of Proposals
67-19-04-05	Program Evaluation Data
67-19-04-06	Revocation of Proposal

67-19-04-01. Local Policy

In order to provide educational opportunities through sponsoring entities, boards of school districts and governing boards of non-public schools must adopt a local policy in accordance with NDCC 15.1-07-35.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-07-35

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 non-public school under NDCC 15.1-07-35, subsection 5, shall include:

1. Name and information of the sponsoring entity
2. Course title for each course provided by the sponsoring entity
3. State course code number for each course provided by the sponsoring entity
4. Assurance that the teacher of record who will be working with the sponsoring entity is fully licensed in accordance with NDCC 15.1-18 for courses being taught
5. Assurance that North Dakota content standards will be met
6. 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: 15.1-07-35

67-19-04-03. Submission of Proposal

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

North Dakota Department of Public Instruction
Attn: North Dakota K-12 Coordination Council
600 E. Boulevard Avenue, Department 201
Bismarck, ND, 58505-0440
NDK12ECC@nd.gov

2. For educational opportunities during the 2022-2023 school year, proposals must be submitted to the director of the office of school approval and opportunity:
 - a. No earlier than January 23, 2022, or later than February 1, 2022; or
 - b. No earlier than May 23, 2022 and no later than June 1, 2022.
3. Beginning with the 2023-2024 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. 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. 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 coordination council for review.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-07-35

67-19-04-04. Review and Approval of Proposals

1. Within sixty days of receiving the proposal, the kindergarten through grade twelve coordination council shall review the proposal to ensure compliance with section 2 of this chapter, request further information as needed, and submit to the superintendent of public instruction to approve or deny the proposal.
2. Following review by the kindergarten through grade twelve coordination council, the superintendent of public instruction shall approve or deny the proposal, in accordance with NDCC 15.1-07-35, subsection 6.
3. In accordance with NDCC 15.1-07-35, subsection 6, 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

General Authority: NDCC 28-32-02

Law Implemented: 15.1-07-35

67-19-04-05. Program Evaluation Data

No later than June thirtieth of each school year, school districts or non-public 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
 - 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
 - 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: 15.1-07-35

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 superintendent of public instruction revokes proposal as authorized in NDCC 15.1-07-35, subsection 10, school districts and non-public schools shall be allowed to revise and re-submit their proposal to the department for approval. The department shall notify school districts and non-public schools of their re-submission status within thirty days of resubmission.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-07-35

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CHAPTER 67-23-03 FEDERAL FUNDING FOR SPECIAL EDUCATION

Section

- 67-23-03-01 Definition
- 67-23-03-02 Application for Federal Funds Under Part B of IDEA
- 67-23-03-03 Recovery of Funds for Misclassified Children Under Part B of IDEA
- 67-23-03-04 Authorized Use of Part B of IDEA Funds
- 67-23-03-05 Excess Cost Requirement Under Part B of IDEA
- 67-23-03-06 Recordkeeping for Funds Under Part B of IDEA
- 67-23-03-07 School District or Organization Opportunity for Hearing Under Part B of IDEA

67-23-03-01. Definition.

As used in this chapter, "excess costs" means those costs that are in excess of the average annual student expenditure in a local education agency during the preceding school year for an elementary or secondary school student.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59, 15-59-05; 20 USC 1400-1419

67-23-03-02. Application for federal funds under part B of IDEA.

To apply for available federal funds, each district shall file forms provided by the department relative to the December child count requirement, the IDEA data reports, and the application form prescribed by the department.

1. The December child count requirement means reporting students who have an IEP, individualized service plan, or service plan for home education, and are receiving special education and related services as of December first of the current year.
2. The IDEA data reports mean the following:
 - a. Data on each student who exited special education during the past year; and
 - b. A report on special education and related services personnel needed and employed.
3. Applications for federal funds include collection of the following information:
 - a. Maintenance of effort, meaning expenditures from state and local sources for special education, for the most current three years;
 - b. Project participants;
 - c. Project narratives;
 - d. Budget summary;
 - e. Assurances; and
 - f. Required signatures.

History: Effective February 1, 2000; amended effective January 1, 2008; January 1, 2022.

General Authority: NDCC 15.1-32-09

Law Implemented: NDCC 15.1-32-02, 15.1-32-07, 15.1-32-21; 20 USC 1400-1419

67-23-03-03. Recovery of funds for misclassified children under part B of IDEA.

1. The department shall seek to recover any funds made available under part B of IDEA as amended for services to any child who has been determined erroneously classified as eligible to be counted through the December first child count.
2. The department shall use the following procedures for implementing and monitoring child count:
 - a. The department shall review annually the federal part B of IDEA regulations for conducting a statewide child count;
 - b. The department shall send letters annually explaining December first child count procedures as required by part B of IDEA to all special education units;
 - c. Each local education agency shall respond to the request by submitting required data in an electronic format specified by the department;
 - d. Each individual responsible for collecting child count information shall verify to the best of the individual's knowledge that the child count is a true, accurate count by submitting a sworn affidavit;
 - e. Data must be edited through computer checks as well as visual scanning to identify errors. Each apparent error must be checked with the local education agency from which it was submitted and changes entered into a statewide child count data base;
 - f. The department shall compile all child count information on a federally required reporting form;
 - g. Child count information must be submitted by special education units for analysis and comparison of data to other records collected by the department containing numbers of served students with disabilities; and
 - h. The department must monitor procedures to verify accuracy of special education unit child counts as follows:
 - (1) A sample of students from the current child count must be selected, with an attempt made to include all categories of disability;
 - (2) The files of the selected students must be reviewed onsite for timeliness and completeness; and

- (3) Evidence of student eligibility must be based on the following criteria:
 - (a) The IEP must have been in effect and the child with disabilities receiving special education and related services at the time of the child count;
 - (b) That the child with disabilities has been evaluated and determined to be a child with a disability eligible to receive special education and related services; and
 - (c) That the student was enrolled in school at the time of the child count.
3. The department shall request the special education units to return federal funds for all misclassified children who were included in the child count.
4. Funds for misclassified students must be returned to the department within thirty days of the department's notification to the special education unit.
5. The department shall request the return of federal per pupil allocations in a direct ratio to the percentage of error found during monitoring.
6. The request for return of funds may not be made without first affording the special education unit a review after reasonable notice has been given and the unit has had an opportunity to present information and data relating to the error calculation.
 - a. If the error is substantiated, the funds in question must be returned within thirty days of the request.
 - b. If the special education unit does not return the funds, the department shall suspend federal financial assistance immediately until the situation is corrected.
7. The department shall return all funds to the United States department of education office of special education programs for misclassified children who were included in the child count.
8. Final disapproval action may not be taken by the department on any applications submitted by a special education unit without first affording the applicant reasonable notice and opportunity for a hearing.
9. The following procedure, set forth under section 76.401 of the education department general administrative regulations as amended provides the procedures for an appeal:
 - a. The applicant must request the hearing of the department within thirty days of the action of the department;
 - b. Within thirty days after it receives a request, the department will request the assignment of an administrative law judge from the North Dakota office of administrative hearings, who shall hold a hearing on the record and shall review the department's action;

- c. No later than ten days after the hearing by the administrative law judge, the administrative law judge shall issue a written ruling, including findings of fact and reasons for the ruling.
 - (1) If the administrative law judge determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the department shall rescind its action; or
 - (2) If the department does not rescind its final action after a review, the applicant may appeal to the secretary of the United States Department of Education, 400 Maryland Avenue Southwest, Washington, DC 20202-0002. The applicant must file a notice of the appeal with the secretary within twenty days after the applicant has been notified by the department of the results of the department's review. For purposes of appeal, the notice must state a description of the violation, the corrective action sought by the department, and the relief sought by the applicant. If supported by substantial evidence, findings of fact of the department are final; and
- d. The department shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section, including records of other applicants.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59-05, 15-59-05.1, 15-59-05.2; 20 USC 1400-1419

67-23-03-04. Authorized use of part B of IDEA funds.

- 1. After the special education unit has documented through an amendment to its current approved plan and on its part B of IDEA application for federal funds that it has met the excess costs and maintenance of effort requirements, the part B funds may be used for whatever special services and activities are necessary to meet the requirements of part B of the Individuals With Disabilities Education Act.
- 2. For purposes of this section, maintenance of effort means that funds provided to a local education agency under part B of IDEA may not be used to reduce the level of expenditures for the education of children with disabilities made by the local education agency from local funds below the level of those expenditures for the preceding fiscal year.
- 3. Any other use of funds under part B of IDEA unless expressly authorized by the department or the United States department of education is prohibited.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59-05, 15-59-05.1, 15-59-05.2; 20 USC 1400-1419

67-23-03-05. Excess cost requirement under part B of IDEA.

1. The excess cost requirement means that the local education agency must spend a certain minimum amount, as specified in part B of IDEA and as calculated in section 67-23-03-06, for the education of its disabled children before IDEA part B funds may be used.
2. After a local education agency has shown on an annual amendment to its current approved plan that, on the average, it has spent the minimum for the education of its children with disabilities, the local education agency has met the excess cost requirement and all additional costs are excess costs.
3. Part B of IDEA funds may then be used to pay for those additional costs.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59-05, 15-59-05.1, 15-59-05.2; 20 USC 1400-1419

67-23-03-06. Recordkeeping for funds under part B of IDEA.

A local educational agency shall keep records to show that it has spent at least the minimum amount or average amount determined through the formula process on the education of its students with disabilities. The formula process to determine the minimum or average amount is as follows:

1. Add all local educational agency expenditures in the preceding year, except capital outlay and debt service;
2. Subtract federal, state, and local funds spent in the preceding year for three categories of children disabled, educationally deprived, and bilingual; and
3. Divide the result by the average daily membership of students enrolled in the local educational agency, computing elementary and secondary into different computations.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59-05, 15-59-05.1, 15-59-05.2; 20 USC 1400-1419

67-23-03-07. School district or organization opportunity for hearing under part B of IDEA.

1. When a school district or organization has been notified that it is not compliant and is not eligible for funding under part B of IDEA, the school district or organization may request an opportunity for a hearing.
2. The request must be in writing to the superintendent within thirty days of the date of the department's notice of noncompliance and must include a description of the violation, corrective action required by the department, and the relief sought by the applicant.

3. The withholding of funding under part B of IDEA specified in the department's original notice must remain in effect as identified in the notice.
4. Upon receipt of the hearing request, the department will request the assignment of an administrative law judge from the North Dakota office of administrative hearings. The administrative law judge may modify, suspend, or keep in effect the withholding of funding under part B of IDEA specified in the original notice to the school district or organization until after the hearing and final decision.
5. Any final decision of the administrative law judge, which must contain findings of fact and reasons for the ruling, must be issued within thirty days of the request for a hearing, unless all parties are in agreement to a request for extension of the timeline.

History: Effective February 1, 2000.

General Authority: NDCC 15-59-05

Law Implemented: NDCC 15-59-05, 15-59-05.1, 15-59-05.2; 20 USC 1413(c)(d)

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**ARTICLE 67-30
VIRTUAL LEARNING**

Chapter	
67-30-01	Virtual Learning Because of Weather or Other Conditions
67-30-02	Virtual Schools

**CHAPTER 67-30-01
VIRTUAL LEARNING BECAUSE OF WEATHER OR OTHER CONDITIONS**

Section	
67-30-01-01	Definitions
67-30-01-02	Local Policy
67-30-01-03	Average Daily Membership Payments
67-30-01-04	Reporting Days of Virtual Learning Under this Chapter

67-30-01-01. Definitions

As used in this chapter:

1. "Virtual instruction" means teaching and learning that takes place remotely and can be synchronous or asynchronous.
2. "Weather or other conditions" means inclement weather, other unforeseen circumstances that render the school building unusable or inaccessible, or other conditions that temporarily warrant remote instruction.
3. "Cancel hours of instruction" means that a school district or nonpublic school has decided not to hold in-person instruction for all or part of a previously scheduled school day.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-01-02. Local Policy

If the board of a school district or governing board of a nonpublic school that operates a physical plant chooses to provide virtual instruction when the decision is made to cancel hours of instruction because of weather or other conditions, that board must adopt a local policy to define those procedures. Instruction under this chapter is limited to nine calendar weeks. If the building closure lasts longer than nine calendar weeks, the school district or non-public school must contact the North Dakota department of public instruction.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4, 15.1-27-23

67-30-01-03. Average Daily Membership Payments

1. In order to receive average daily membership payments for days covered under this chapter, school districts must provide virtual instruction based on the policy approved by the local school board or governing board of a nonpublic school.
2. The school district shall determine the method of virtual instruction provided to students on days of virtual instruction when the decision is made to cancel hours of instruction because of weather or other conditions.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4, 15.1-27-23

67-30-01-04. Reporting

At the conclusion of each school year, the school district or nonpublic school shall report the days in which virtual instruction was provided under this chapter in the manner required by the superintendent of public instruction.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4

**CHAPTER 67-30-02
VIRTUAL SCHOOLS**

Sections

67-30-02-01	Definitions
67-30-02-02	General Provisions
67-30-02-03	Local Policy
67-30-02-05	Approval of Virtual Schools
67-30-02-05	Attendance
67-30-02-06	Standards

67-30-02-01. Definitions

As used in this chapter:

1. "Virtual instruction" means teaching and learning that takes place through digital means and can be synchronous or asynchronous.
2. "Virtual school" means an educational institution operated by a school district or nonpublic school in this state that offers virtual instruction. Virtual schools generally do not maintain a physical facility, and students and teachers are geographically remote from one another.
3. "Academic pacing guide" means a document created or adopted by the school district or nonpublic school that outlines the amount of course content covered during each portion of the school year.
4. "Educational equity" means every student has access to the resources and educational rigor they need at the right moment in their education regardless of race, gender, ethnicity, language, disability, family background or family income.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-02-02. General Provisions

1. If the board of a school district or governing board of a nonpublic school that operates a physical plant chooses to provide virtual instruction under NDCC 15.1-06-04 and 15.1-07-25.4 as part of a virtual school, that board must adopt a local policy relating to virtual instruction.
2. Virtual instruction under this chapter must only be conducted as part of a virtual school.
3. Virtual schools under this chapter may not be established for temporary purposes.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-02-03. Local Policy

Local policy regarding virtual schools must address:

1. Procedures for transferring into or out of the virtual school.
2. Procedures for engaging parents or legal guardians to assist in making the decision to enroll students in the virtual school.
3. Attendance policies for the virtual school, in accordance with Section 5 of this chapter.
4. Standards and curriculum for virtual instruction, in accordance with Section 6 of this chapter.
5. Procedures for standards-based professional development specific to virtual learning and support for virtual school staff.
6. Educational equity needs of all students enrolled in the virtual school.
7. Cost sharing agreements with other school districts.
8. Procedures for child find and evaluation obligations under requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.
9. Procedures for administering annually administered statewide summative assessments.

History: Effective January 1, 2022

General Authority: NDCC 28-32-02

Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-02-04. Approval of Virtual Schools

1. No later than June 1 prior to the school year that a virtual school is to begin operating, the board of the school district or governing board of a nonpublic school shall submit the following to the superintendent of public instruction:
 - a. Approved school board minutes establishing local policy on virtual schools; and
 - b. Approved school board minutes stating the name and grade configuration of the virtual school.
2. In the event of an extenuating circumstance, the superintendent of public instruction may accept approved school board minutes for virtual schools after June 1.

History: Effective January 1, 2022
General Authority: NDCC 28-32-02
Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-02-05. Attendance

Virtual schools shall measure student attendance based on course content that the student has completed according to academic pacing guides. Academic pacing guides, as well as the amount of content that is comparable to a day of instruction, shall be determined at the discretion of the board of the school district or the governing body of the nonpublic school.

History: Effective January 1, 2022
General Authority: NDCC 28-32-02
Law Implemented: 15.1-06-04, 15.1-07-25.4

67-30-02-06. Standards

When operating a virtual school, the board of a school district or governing board of a nonpublic school shall address how quality virtual instruction is being provided through adoption of quality virtual learning standards.

History: Effective January 1, 2022
General Authority: NDCC 28-32-02
Law Implemented: 15.1-06-04, 15.1-07-25.4

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