

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION  
RULES GOVERNING STUDENT SPECIAL NEEDS FUNDING**

**PUBLIC COMMENTS AND AGENCY RESPONSES**

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**Name:** Lucas Harder, ASBA

**Comment:**

3.2318.1.2: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education”.

If “Commissioner of Elementary and Secondary Education” is parenthetically abbreviated as “Commissioner” here, then the abbreviated title would be able to be used later in the document.

4.01.1.6: I believe that “provide” should be “provides”.

I believe that this should be “through 4.01.1.5” instead of only “4.01.1.4”.

4.02.4.5: As this is supposed to be individualized, I would recommend changing this to read “a barrier to the student’s success”.

5.05.2: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6.3: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6.5: For consistency, “NSL” should be “NSLA”.

6.08: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.6: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.8.1: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.8.3: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

~~6.12~~11.2: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at 3.2318.1.2.

~~6.12~~11.3: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at 3.2318.1.2.

6.12.1: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.13.23: This should still be citing to “6.13” instead of “6.14”.

~~6.13.2.23.2~~: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at 3.2318.1.2.

**Agency Response:** Corrections made.

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**Name: Shannon Warren, Scranton High School ALE teacher and director, NWA Representative for AAAE**

**Comment:** Concerned about proposed changes to rules and how they will affect ALE educators. Addition of 3.02 – definition of ALE Hybrid Program – students who can learn remotely and be successful are not the students usually in ALE; it is often difficult getting ALE students to do AMI work; students in ALE need to be at school to receive the support and services available; if students want to be in a hybrid or virtual program, there are other options available for that, such as Virtual AR, that wouldn't take away from ALE funds

**Agency Response:** The proposed 'hybrid model' is already in existence and being used by districts. Adding this to the rules clearly defines protocols for these programs.

**Comment:** Change to 4.03.2.1 – increases student-teacher ratio for K-6 from 12-to-1 to 15-to-1 – this is an extreme increase that teachers will not be able to handle; recommend leaving at 12-to-1 and requiring a para after 6 for elementary and after 8 for middle school

**Agency Response:** The initial 10:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the adult to student ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 3, keeping the adult to student ratio 7.5:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

**Comment:** Change to 4.03.2.2 – increases student-teacher ratio for 7-12 from 18-to-1 to 20-to-1; recommend leaving at 18-to-1 and requiring a para after 8 with caseload of 20

**Agency Response:** The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

**Comment:** Paras are needed in ALE to provide the extra attention and support that student in ALE need; these students often have some of the highest needs

**Agency Response:** Districts may, and many do, provide additional paraprofessional support as increased needs arise. Comments considered but no changes made at this time.

**Comment:** It is also recommended that caseloads be added for ALE teachers, similar to how they apply to special education teachers; recommend caseload max of 15 for K-6 and 20 for 7-12

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** Currently, 4.04.1 requires an assessment of each ALE student either before or upon entry into the ALE to determine current academic capability; it is recommended that the assessment be require PRIOR to entering the ALE program so staff can accurately determine where to place students and how to serve them; flexibility should be available for exceptional circumstances

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** It is recommended that ALE funding not be allowed to be used for teacher salaries, which takes money away from the students who need it most; ALE teacher salaries should be paid from other funds

**Agency Response:** Districts may, but are not required to, use ALE funding for teacher salaries. Comments considered but no changes made at this time.

**Comment:** The 3% cap of population for ALE students limits the number of students that can be served, especially in smaller schools, and ends up requiring multiple grade levels in the same classroom; it is recommended that schools with fewer students (maybe less than 1000) have a 5% cap

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** The extra requirements, paperwork, and caseloads for ALE teachers already make it difficult to recruit/retain ALE teachers; increasing ratios and adding hybrid programs will make it even more difficult

**Agency Response:** Comments considered but no changes made at this time.

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**Name: Mary Eary, AE Director, Batesville School District**

**Comment:** I am the alternative ed director for White River Academy, Batesville School District. I have a concern regarding the possible changing of student ratios. The current 15 to 1 and 18 to 2 is a doable number. Raising the ratio to 20 would have a significant impact on students in regards to their achieving goals. Our student population requires us to be very flexible with giving our students the necessary guidance, tools, and academics to help them reach their goals. Please consider keeping the current ratios in place for the success of the alternative students.

**Agency Response:** The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after

receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

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**Name: Lori Lamb, AAAE President, Mansfield School District**

**Comment:** The Special Needs Funding rules, highly affect alternative education students and programs. The development of these rules are based on the AR Supreme Court ruling concerning adequacy in education. In alternative education, educators accept all students that are the hardest to reach and most in need according to the school district. The students display a large amount of barriers to learning, deficits socially, emotionally and academically often exist. The intensive interventions required take much relationship building through direct instruction, direct contact, and direct deficit remediation. The students reflect needs equivalent to a range of 4-10 students in comparison to traditional students. Public comment was received from AAAE and other alternative educators during the last round of rules that are dated: July 2020. At that time comments given back were basically wrapped up into a general comment that specific rules discussion will occur in the near future. We were assured consideration to the suggestions will be reviewed, while a group (to include AAAE board members) will meet prior to new rule changes. We are responding to rule changes once again without any current board members being included. The AAAE provides the majority of ALE professional development through the summer conference and regional meetings, through identification of student success and academic performance at the annual Leadership Day at The Capitol. We have continuously operated a strong organization for more than twenty-five years in AR. AAAE membership was highly instrumental in establishing NAEA (National Alternative Education Association) to include their organization documents. AAAE is an active, non-profit state association that represents the membership strongly for the betterment of our hardest to reach students. Please provide a list of meetings and membership included that discussed and helped prepare the new rules for Special Needs Funding. It appears that some of the rules are suggested from the perspective of individuals that are not familiar with what occurs daily in an ALE classroom. The comments included in the pdf attached reference the current mark-up draft; however when copying the draft the line-through and underline did not copy when pasted to the document. You can reference the comments back to your mark-up draft. We look forward to your responses. We are deeply committed to supporting the intensive needs of our hardest to reach students. I am available for further discussion as needed.

**Agency Response:** This is an introductory paragraph to specific comments below and requires no response.

**Comment:** 3.02 “Alternative Learning Environment Hybrid Program” is a program that provides ALE services through a combination of on-site and distance learning – The state already allows all districts to provide a combination of these services, students that learn well using this methodology are independent learners with strong academic abilities, they are NOT ALE students. ALE students need many more interventions, much more remediation of skills, much more encouragement and 1:1 face-to-face direct instruction. Recommendation to strike the identification above as ALE. It can remain called a Hybrid Learning Program, just not funded with additional ALE funding when the students are getting less of what a traditional school

offers. It is already allowed (Act 1240). Don't make it a for profit opportunity at the expense of our most vulnerable students. Remove Hybrid or Flexible programs from ALE identification. STRONG Recommendation to remove this identification from ALE Special Needs Funding. The flexibility is already allowed through state waivers for ALL students. This is NOT an ALE. Funding for a distance learning online curriculum costs LESS than the ADM provisions, do not incentivize the misidentification of our neediest students by giving additional funding through ALE.

**Agency Response:** The proposed 'hybrid model' is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

**Comment:** 3.06 "Coordinated School Health Coordinator" is an individual that coordinates the implementation of the Whole School, Whole Community, Whole Child (WSCC) model components, facilitates the Wellness Plan, and has a minimum of a bachelor's degree (master's degree preferred) in education, nursing, health services administration, social services, psychology/mental health services, or nutrition. The coordinator will be in addition to other school health staff or positions.

3.07 "Coordinated School Health (CSH)" is an effective system designed to connect health (physical, mental/emotional, and social) with education. This coordinated approach improves students' health and their capacity to learn through the support of families, communities, and schools working together. The CSH approach consists of ten major components. Although these components are listed separately, it is their composite that allows CSH to have significant impact. The ten components include: health education, physical education and physical activity, health services, nutrition environment and services, social and emotional school climate, counseling, psychological, and social services, physical environment, employee wellness, family engagement, and community involvement.

3.15 "Licensed Mental Health Professional (LMHP)" is someone who holds a master's degree from a graduate program in the field of professional mental health services. They may render mental health care services to individuals, families, or groups. LMHPs use therapeutic techniques to define goals and develop treatment plans aimed toward prevention, treatment, and resolution of mental and emotional dysfunction. Mental Health Professionals are licensed by the specific state boards corresponding with their licensure (i.e., Board of Examiners [LPC, LAC], Board of Psychology [PhD, LPE), Social Work Licensing Board [LCSW, LMSW, LSW], which also monitors professional conduct).

3.27 "Social Worker" is someone who has an undergraduate or graduate degree in social work or a related mental health field, and is trained in psychotherapy and social work techniques. Family therapists and employee assistance program counselors are often social workers. Social workers who work in private agencies or independent practice must hold state licenses from the Board of Registration of Social Workers. A Licensed Certified Social Worker (LCSW), Licensed Master Social Worker (LMSW), or a Licensed Social Worker (LSW) may practice in an agency setting under proper supervision. Professional conduct is monitored by the State of Arkansas Social Work Licensing Board.

The above is showing in the mark-up as being stricken from Special Needs Funding rules. Mental Health Therapy services are instrumental to the wellness of the at-risk and highly vulnerable students. This is an integral partnership in meeting the needs of these students. Recommendation to keep the definitions in place or to add additional rule statement defining mental health therapeutic services.

**Agency Response:** These definitions were removed because the terms are no longer included in the rules. Removal of the definitions does not prohibit a school from using appropriate funds to provide these services or personnel.

**Comment:** 4.01.1.3 A school district may use Participation in an ALE operated by an education service cooperative established under The Education Service Cooperative Act of 1985, Ark. Code Ann. § 6-13-1001 et seq.; or

A school district that works with an Education Service Cooperative, should stay within the jurisdiction of their cooperative. We have allowed one cooperative to sell their services to districts around the whole state. That cooperative created a “for profit” business according to their own public presentations. The cooperatives are designed to support needs of local districts “within” their regional designation. This is already allowed locally to assist and create a local consortium. The 1985 Act was created prior to many new developments. It was designed to support local cooperative districts, not to become a profitable business. Cooperatives are already paid for by the state, the cooperatives also participate in state insurance and benefits, establishing this large statewide ALE continues to cost the state more concerning insurance and benefits of cooperative employees. This strategic plan benefits the cooperative, not true ALE students. Students that can teach themselves using online curriculum are strong, independent students, NOT true ALE students. The current cooperative ALE design gives less direct instruction, less accountability, less certified educators, less full time employees, less counseling/therapy, less 1:1.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.01.1.5 An ALE hybrid program may be established to serve students in grades nine through twelve (9-12). For funding purposes, FTEs are calculated based on the percentage of on-site instruction for a student in a hybrid program.

An ALE “Hybrid Program” is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE.

**Agency Response:** The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

**Comment:** 4.02.3.1 Assess the student either before or upon entry into the ALE;

The Placement Team should gather this information for most accurate decision making prior to a student beginning ALE. Entry to an ALE is strategic and requires much focused attention. Current assessment of skills and needs should occur prior to the committee meeting for consideration of an ALE placement.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.03.2 Every classroom in an ALE program shall maintain student/teacher ratios as follows:

An ALE caseload maximum is needed particularly for small rural school districts where one teacher coordinates multiple grade levels, multiple content instruction, social skills and other needed courses that they are qualified to deliver. Even when students transition back to traditional classes, the ALE teachers still help support student success, work completion and emotional support of the students until they are fully exited from ALE.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.03.2.1 For grades kindergarten through six (K-6), no more than ten (10) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than fifteen (15) to one (1).

Elementary students are the most difficult to provide interventions for due to the way they frequently kick, scream, bite, spit, fight, throw items, try to harm other students, etc. This is the place where the LOWEST numbers are needed. Special Education Behavioral rooms are not readily available, we have elementary students returning from hospitalization or residential care that need a learning environment with few children and flexible learning provided strategically. Often a partnership with Special Education and ALE occurs with these students. Special education has caseload limits, ALE must also. Recommendation for 1:8, NEVER to exceed 8 students and always with a paraprofessional assisting whenever half the classroom capacity (4 students) is exceeded.

**Agency Response:** The initial 10:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the adult to student ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 3, keeping the adult to student ratio 7.5:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

**Comment:** 4.03.2.2 For grades seven through twelve (7-12), no more than fifteen (15) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than twenty (20) to one (1).

One teacher to fifteen students is the maximum number of students. The paraprofessional may be present whenever the number of students exceeds ten students.

**Agency Response:** The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

**Comment:** 4.03.2.3 In a middle school where the grade configuration includes grades five (5) or six (6), or both, the student/teacher ratios for grades seven through twelve (7-12) may be applied.

Middle school students are the highest increase of suicide attempts and suicide deaths. During this time of identity issues, students desperately seek acceptance. We MUST recognize and keep closer track of identifying the number of suicide deaths from students enrolled in AR schools. We must help prevent them by providing ample support for these students and families. Jason's Foundation: 12/2021 "In ages 10 – 14, we have seen an alarming increase in suicides. The number of suicides for this group has more than doubled since 2006, making it the second leading cause of death for that age group."

Recommendation: 1:12 students, NEVER to exceed 15 students; with a paraprofessional assisting whenever half the classroom capacity (6 students) is exceeded. REMOVE the grade configuration including (5) or (6) for teacher ratios to match secondary 7-12. Middle School students are recognized nationally and within our state as 6 - 8. This group of students experience prepubescent challenges,

**Agency Response:** See previous comments about ratios remaining the same.

**Comment:** American Psychiatric Association: "Some people who are transgender will experience "gender dysphoria," which refers to psychological distress that results from an incongruence between one's sex assigned at birth and one's gender identity. Though gender dysphoria often begins in childhood, some people may not experience it until after puberty or much later." This is a growing area of intervention, a new development throughout our state.

Google Definition: "In the United States, middle school is the period in a student's life that takes place after elementary school and before high school. Typically, the middle school grades are 6th, 7th, and 8th grade, although some school districts include 9th grade in their middle school programs. Sep 17, 2020"

Recommendation to Review the Public Comments submitted prior to the State Board approval in 2020.

**Agency Response:** Comments considered but no changes made at this time.



**Comment:** 4.03.2.4 For an ALE hybrid program including any of grades nine through twelve (9-12), no more than thirty (30) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than

Recommendation to fully remove the ALE Hybrid from ALE funding. An ALE “Hybrid Program” is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE funding.

**Agency Response:** The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

**Comment:** 4.04.1 An ALE shall assess each ALE student either before or upon entry into the ALE with effective, research-based assessment tools to determine the student’s current academic capability.

Students shall have current academic abilities determined prior to recommendation for the ALE placement.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.04.4.1 An ALE may use courses or teachers from a digital provider approved by the Division. The instruction provided must be synchronous to be considered direct teacher instruction. The physical classroom must be staffed by a licensed teacher who will monitor, assist, and facilitate as needed, and adhere to the ALE class size ratios identified in 4.03.2.

Excellent, unfortunately, many of the “Google Classroom” lessons delivered through a cooperative providing for ALE programs far exceeded hundreds of students on their class enrollment. Teachers for those classes were by name and license, they had multiple additional responsibilities like increasing district enrollment, being director of the programs, completing all legal paperwork, etc. The Regional representatives from the cooperative visited multiple programs weekly, never staying long enough to truly have direct contact with students and programs for consecutive days in a row.

**Agency Response:** “Google Classroom” lessons are not considered synchronous instruction. Districts should ensure that ALE programs meet requirements of the rules for ALEs.

**Comment:** 4.04.4.2 An ALE hybrid program must meet all required components of an ALE program.

4.04.4.2.1 Students in an ALE hybrid program must participate on-site for direct support at least twenty percent (20%) of the total instructional time to be counted for funding.

4.04.4.2.2 A district using an ALE hybrid program must develop clear criteria for monitoring student success to determine the need for additional direct support if there is a lack of expected progress. Additional direct support may include an increased percentage of on-site instruction and additional services and supports.

4.04.4.2.3 An increased percentage of remote instruction, or placement of a student in an ALE hybrid program, should only be used to meet a student's academic and social and emotional goals outlined in the Student Action Plan, not as a punishment or negative consequence.

Recommendation to fully remove the ALE Hybrid from ALE funding. An ALE "Hybrid Program" is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE funding. Recommendation to allow the Hybrid Model of Instructional Delivery for all students using ADM or a portion (.5) of the ADM funding already available. Recommendation to remove ALE Hybrid terminology from Special Needs Funding, these are traditional students, NOT ALE students.

**Agency Response:** The proposed 'hybrid model' is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

**Comment:** 4.04.4.3 A student receiving fully remote instruction shall not be considered to be part of an ALE program.

Excellent addition to Special Needs Funding and the intent to provide interventions for our most at-risk and neediest students.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.05.4.2 The number of students enrolled in an ALE program who returned to the regular educational environment, who dropped out of school, who graduated, or who received a high school equivalency diploma;

This appears to be four different indicators of effectiveness. Should it be listed as four different requirements (example 4.05.4.2, 4.05.4.3, 4.05.4.4, 4.05.4.5)

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.05.11 On or before September 15 of each year, the Division shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report

on: 4.05.11.1 The information reported to it under Section 4.05; and 4.05.11.2 The effectiveness of ALE programs evaluated by the Division.

Annually, information required is not available until after the deadline which was established prior to the extensive data collection by the state. To increase efficiency for the DESE Division and Alternative Education Division; it is recommended that the date be moved to November 15th or thereafter.

**Agency Response:** Comments considered but no changes made at this time.

**Comment:** 4.06.4 Each student participating in an ALE hybrid program for the required time specified in 4.04.4.2.1 shall be counted as .5 FTE for funding purposes.

A “Hybrid” or flexible option of education is clearly allowed now with the pandemic options of AMI, the broad use of Google Classroom, and state supported Virtual Arkansas; as well as other “flexible, online educational deliveries of education. Khan Academy, many online providers of curriculum such as Moby Max, IXL, Apex, etc are being used by school districts. These are provided to all students in the district using ADM (Daily attendance funding per student). It is true that an online delivery with occasional visits to school weekly for minimum contact cost much less for a district than face-to-face direct instruction. Recommendation to not use ALE funds to support the Hybrid model, due to an overlap of funding available. This delivery may continue and be paid for with funding and permission already available, do NOT continue to identify that model as an ALE. Students that do well using all online delivery are independent learners with strong established academic skills. They do not require, or need the additional support for at-risk learners that ALE provides.

**Agency Response:** The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

**Comment:** Add this statement to the funding section: “4.07.1 Teacher salaries shall be paid from Average Daily Membership (ADM 3.03).”

ALE funding must be used to provide paraprofessionals, enhanced resources, extensive community/environmental learning experiences, hands on project based/problem based learning STEM opportunities, etc.

**Agency Response:** Districts may, but are not required to, use ALE funding for teacher salaries. Comments considered but no changes made at this time.

**Comment:** Small rural districts (defined as less than 1,000 students enrolled total K-12) shall be allowed up to 5% of the student population to be identified as ALE students.

In a small rural district where an elementary, a middle school and a high school program all exist to serve the tremendous needs of poverty, education, death of family members, addiction issues, etc. The total district FTE allowed with 3% population data only covers one educator and one

program. Mixing of K-12 students into one program with one teacher does not follow “age-appropriate” peer relationships and needs. The building configuration in a small rural district (total population under 1,000) must allow at least one educator in ALE per building configuration which may require a 3% - 5% spread for reimbursement of services provided. The 3% has been enforced even though it is not represented in the rules. It has been enforced by “precedence”,

**Agency Response:** DESE cannot enforce requirements that are not included in law or rules. Comments considered but no changes made at this time.

**Comment:** STRONG recommendation to allow Small Rural Districts (defined as those with less than 1,000 students) the number to be represented in the rules as “no more than 5% of total population identified. This will then allow a small rural district to have a K-12 continuum of services available concerning ALE. Small rural districts do NOT have the tax millage available in mid size to large districts to amply provide for the needs adequately without this provision. If the 5% is not put into the rules for small rural districts, than a recommendation of full reimbursement that exceeds 3% up to 5% be allowed. It is wrong that small districts meet the needs of the hardest to reach students experiencing homelessness, a lack of food, needing resources, supplies, materials, remediation due to frequent relocations, mental health needs, students experiencing death or incarceration of a parent, addiction issues, etc. by creating an ALE per building configuration (Elementary, Middle and HS), then they are penalized by not being reimbursed for those provisions.

**Agency Response:** Comments considered but no changes made at this time.