

Delaware
Department of Education



Verification Procedures for
Special Education Funding Units
and Local Assurances

Exceptional Children Resources
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1.0 Introduction

State funding for the education of students with disabilities is administered pursuant to Title 14 of the Delaware Code and the State's special education regulations at 14 DE Admin Code §§ 701 and 928. The Department of Education ("DOE") is authorized by Title 14 of the Delaware Code to adopt rules and procedures to administer and authenticate the count of children with disabilities as outlined in Chapter 17, Title 14 of the Delaware Code. The DOE is also governed by the Administrative Procedures Act as outlined in Chapter 101, Title 29 of the Delaware Code, except where specially exempted by law.

These procedures shall guide the DOE's administration and verification of the September 30th, 2012 unit count for students with disabilities.

2.0 Criteria for Counting Students in General and Special Education Units Under 14 Del. C. § 1703

For the September 30th unit count, the Delaware Code requires school districts and charter schools to count students in one of six funding units based on the following statutory criteria:

2.1 Preschool Unit. A student shall be counted in the preschool unit if the student is identified as eligible for special education and related services and not counted in the intensive unit or complex unit and is:

- (a) Eligible for special education and related services from birth; or
- (b) Eligible as described in the interagency agreement with the Department of Health and Social Services; or
- (c) Not yet entered kindergarten.

A student is not required to receive a minimum number of hours of special education instruction to count in the preschool unit. 14 Del. C. §1703(d)(1)

2.2 K-3 Unit. A student shall be counted in the K-3 unit if the student is enrolled in kindergarten through grade 3 and not counted in the intensive unit or complex unit described later in this section. 14 Del. C. §1703(d)(2)

2.3 4-12 Regular Education Unit. A student shall be counted in the grades 4-12 unit if the student is enrolled in grades 4 through 12 and not identified as eligible for special education and related services. 14 Del. C. §1703(d)(3)

2.4 Basic Special Education Unit (Basic). A student shall be counted in the basic unit if the student is enrolled in grades 4 through 12; identified as eligible for special education and related services; and not counted in the intensive unit or the

complex unit. A student is not required to receive a minimum number of hours of special education instruction to count as a student in the basic unit.

14 *Del. C. §1703(d)(4)*

2.5 Pre-K-12 Intensive Special Education Unit (Intensive). A student shall be counted in the intensive unit if the student is enrolled in preschool through grade 12; identified as a student eligible for special education; and

- (a) In need of a moderate level of instructional, behavioral, personal support, or health support characterized individually or in combination by the following:
 - (i) Need for adult-student ratio of 1:3 to 1:8 for a substantial portion of educational program;
 - (ii) Need for staff support for mid-range or moderate-use of assistive technology;
 - (iii) Need for some extended school year or relatively frequent but intermittent out-of-school services (e.g. hospital, homebound);
 - (iv) Need for moderate level of related services, including interpreter, therapy, and school nurse and health services; and
 - (v) Need for non-routine or frequent accommodations or adaptations to curriculum or educational environment.
- 14 *Del. C. §1703(d)(5)*

2.6 Pre-K-12 Complex Special Education Unit (Complex). A student shall be counted in the complex unit if the student is enrolled in preschool through grade 12; identified as a student eligible for special education; and

- (a) In need of a high level of instructional, behavioral, personal support, or health support characterized individually or in combination by the following:
 - (i) Need for adult-student ratio of 1:1 to 1:2 for a substantial portion of educational program;
 - (ii) Need for staff support for high-tech or extensive-use assistive technology which may include both high and low technology items;
 - (iii) Need for extensive extended school year or relatively frequent but intermittent out-of-school services (e.g. hospital, homebound);
 - (iv) Need for extensive level of related services, including interpreter, therapy, and school nurse and health services; and

- (v) Need for extraordinary or extensive accommodations or adaptations to curriculum or educational environment.
14 *Del. C.* §1703(d)(6)

Note: a student is counted in the preschool, basic, intensive, or complex unit based upon the educational needs of the student identified in the individualized education program (IEP). The needs of the student must be adequately detailed in the IEP and, support the need for moderate to high level of instructional, behavioral or personal support if the student is reported in the intensive or complex funding units.

3.0 DOE Verification Procedures for Special Education Unit Count

The DOE shall conduct a verification process to ensure districts and charter schools report students in special education units in a manner consistent with 14 *Del. C.* § 1703 and 14 DE Admin Code §§ 928 and 701. Verification will occur in the following manner for the September 30th 2012 Unit Count:

3.1 Five Percent Increase or Decrease in Special Education Units Reported

The DOE shall compare the number of special education units reported by the districts and charter schools in 2012 to the number reported in 2011. If 5% more or less units in a category are reported between 2011 and 2012, the DOE shall:

- 3.1.1 Contact the district or charter school and request a written explanation for the increase or decrease in units reported; and/or
- 3.1.2 Conduct a formal audit of the units reported by the district/charter school. The audit may include, but not be limited to, on-site record reviews, as well as classroom observations, and/or interviews with teachers, administrators, related service providers, and other school staff.

3.2 Unit Verification and IDEA Compliance Monitoring Combined

The Individuals with Disabilities Education Act ("IDEA") requires the DOE to monitor school districts and charter schools to ensure the proper implementation of special education regulations, including areas related to IEP development, educational placement, and procedural safeguards. The DOE currently conducts on-site compliance monitoring of each district and charter school on a three year rotating cycle. The districts and charter schools monitored by the DOE in 2012, however, will also be included in a verification process to ensure the proper count of children with disabilities are reported. The verification process may include, but not be limited to, on-site record reviews, as well as classroom observations, and/or interviews with teachers, administrators, related service providers, and other school staff.

3.3 Erroneous Reporting

If the DOE receives any information indicating the erroneous reporting of special education units, the DOE may conduct a verification process and/or refer the matter to the State Auditor of Accounts and other agencies required by law.

4.0 Written Notification

The DOE shall promptly notify a district or charter school, in writing, of the results of the DOE's verification process conducted under Section 3.0. If the DOE identifies a student reported in a special education unit who does not meet the statutory requirements of that unit, the DOE shall take any or all of the following actions:

- (1) Adjust the unit to align with 14 *Del. C.* § 1703 based on the needs of specific students;
- (2) Direct the district or charter school to count and report students in special education units in the manner required by 14 *Del. C.* § 1703;
- (3) Require the district or charter school staff to receive technical assistance focused on the unit count requirements and permissible use of funds generated by special education students;
- (4) Order the district or charter school to institute additional corrective actions as warranted; and/or
- (5) Impose other conditions and sanctions as permitted or required by law.

5.0 Rubric for Intensive and Complex Funding Units

The rubric attached as **Appendix "A"** shall be used by DOE staff when conducting verification activities to ensure districts and charter schools are reporting students with disabilities in the intensive and complex units in a manner consistent with statutory requirements. The rubric may also be used by districts and charter schools to guide the local level count of students with disabilities in funding units for the September 30th Unit Count.

6.0 Local Assurance of Earned Staff

The DOE is authorized by the Delaware Code to request financial reports or other information the DOE deems necessary from districts and charter schools to ensure the appropriate use of units earned. *See, 14 Del. C. § 1703(9)*. Districts and charter schools are required to provide reports and information as requested by the DOE.

Each district and charter school shall provide a statement of assurance to the DOE as part of the September 30th, 2012 unit count submission to include:

- (1) The number of funding units generated by the district or charter school under each unit category in accordance with in 14 *Del. C. § 1703*; and
- (2) A written statement assuring the units earned by the district or charter school are used in accordance with 14 *Del. C. § 1703*.

The written assurance of earned staff shall be provided on the DOE's form attached as **Appendix "B"**.

7.0 Verification Procedures for Use of Earned Staff

The DOE shall conduct verification activities to ensure districts and charter schools are allocating the units generated by special education students to support students with disabilities in the manner required by 14 *Del. C. § 1703*.

After the DOE's certification of the September 30th, 2012 unit count under 14 *Del. C. § 1704(2)*, districts and charter schools shall submit data to the DOE demonstrating that earned and allocated units are consistent with the assurance statement provided under Section 6.0.

The DOE shall promptly review and analyze the reported data. If the data fails to show the units generated by special education students were used to support students with disabilities in the manner required by 14 *Del. C. 1703*, the DOE shall:

- (1) Contact the district or charter school and request a written explanation and/or additional information to explain the discrepancy; and/or
- (2) Conduct a formal audit of the earned staff units reported by the district/charter school. The audit may include, but not be limited to, on-site record reviews by staff from the Exceptional Children Resources group, as well as classroom observations, and/or interviews with teachers, administrators, related service providers, and other school staff.

8.0 Written Notification

If the DOE determines the district or charter school expended units in a manner inconsistent with the requirements of 14 *Del. C.* § 1703, the DOE shall take any or all of the following actions:

- (1) Direct the district or charter school to revise and resubmit the data under Section 7.0 to the DOE;
- (2) Direct the district or charter school to use the earned units in a manner consistent with 14 *Del. C.* § 1703;
- (3) Require the district or charter school staff to receive technical assistance focused on the unit count requirements and permissible use of funds generated by special education students;
- (4) Order the district or charter school to take other corrective actions as warranted; and/or
- (5) Impose other conditions and sanctions as permitted or required by law.

Nothing in these rules shall prohibit the DOE from reporting the matter to the State Auditor of Accounts and other agencies as required by law.

9.0 Local Assurance of Adequate Resources to Implement IEP

The Delaware Code requires school districts and charter schools to count students with disabilities in needs based funding units based on the individual needs of each student. At the completion of the IEP team meeting, the team (which includes parents or guardians) must discuss and review the needs based funding unit as it relates to the adequacy of resources to implement the program and placement outlined in the IEP. *See* 14 *Del. C.* § 1703(d)(8). The review and discussion should occur at least once a year, and may coincide with the IEP team's annual review of the child's IEP required by 34 C.F.R. § 300.324.

In addition, the Delaware Code requires districts and charter schools to assure in writing that adequate resources are available to implement the program and services outlined in the child's IEP. *See*, 14 *Del. C.* § 1703(d)(8). The written assurance must be provided on the DOE's form in **Appendix "C"**. The completed form should be maintained in the child's special education audit file and be made available to the DOE staff (upon request) during monitoring periods.

Note: the IEP team must include a representative of the school district or charter school who has the authority to commit resources and be able to ensure that whatever services are set out in the IEP will actually be provided. *See*, 14 DE Admin Code § 925.21.1.8.

The written assurance required by 14 Del. C. § 1703(d)(8) should therefore be completed by the administrator representative of the school district or charter school serving the child.

10.0 Additional Actions

Nothing in these rules shall prohibit the DOE from reporting information to the State Auditor of Accounts and complying with any additional actions required by law.

Appendix "A"

**Rubric for Intensive and Complex
Funding Units**

Rubric for Intensive and Complex Needs Based Funding Units

A student shall be counted in the **intensive unit** if the student is:

1. Enrolled in preschool through grade 12; and
2. Identified as a student eligible for special education; and
3. In need of a moderate level of instructional, behavioral, personal support, or health support characterized individually or in combination by the following criteria:

Note: the IEP must describe each of the criteria in sufficient detail. The supports can be detailed in the Statement of Services, Services/Aides/Modifications, within the Annual Goals, and/or other relevant areas of the IEP or attached documentation.

A student shall be counted in the **complex unit** if the student is:

1. Enrolled in preschool through grade 12; and
2. Identified as a student eligible for special education; and
3. In need of a high level of instructional, behavioral, personal, or health support characterized individually or in combination by the following criteria:

Note: the IEP must describe each of the criteria in sufficient detail. The supports can be detailed in the Statement of Services, Services/Aides/Modifications, within the Annual Goals, and/or other relevant areas of the IEP or attached documentation.

Intensive

Criteria A. Need for adult-student ratio of 1:3 to 1:8 for a substantial portion of educational program. (14 Del. C. § 1703(d)(5)(3)(A))

Note: In order to count a student in the Intensive Unit, the needs of the child and the services provided to support the child must be detailed in the IEP to support the need for an adult-student ratio of 1:3 to 1:8 for greater than 50% of the educational program.

Complex

Criteria A. Need for adult-student ratio of 1:1 to 1:2 for a substantial portion of educational program. (14 Del. C. § 1703(d)(6)(3)(A))

Note: In order to count a student in the Complex Unit, the needs of the child and the services provided to support the child must be detailed in the IEP to support the need for an adult-student ratio of 1:1 to 1:2 for greater than 50% of the educational program.

Strong Moderate Weak N/A

Strong Moderate Weak N/A

Examples:

- One-to-one or small group support for specific times of day (e.g., 1:1 to 1:2 less than half of day OR 1:3 to 1:8 for more than half of day)
- Flexible grouping beyond grouping as part of core instruction
- Behavior intervention plan (e.g., student check-in at end of day or class periods, behavior skill instruction)
- Interventions to prevent occasional disruptions to the educational environment

Comments:

Examples:

- One-to-one instruction for substantial portion of day (e.g., more than half of the day with 1:1 to 1:2 by combination of general ed, special ed, para support, and other specialists)
- Behavior intervention plan (e.g., behavior analyst, interventionist, one-on-one support staff that follows the student throughout the day)
- Interventions to prevent escaping from building, extreme aggression, danger to self or other students, continuous disruptions to the educational environment
- Staff support for safety concerns related to health, physical disability, or behavior

Comments:

Intensive			
Criteria B. Need for staff support for mid-range or moderate-use assistive technology. (14 Del. C. § 1703(d)(5)(3)(B))			
<i>Note: Support for assistive technology - Need for moderate level of staff support to provide direct instruction, facilitated use, or development of materials.</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • <u>Intermittent instruction/assistance</u> for a student to use assistive technology (e.g., low, moderate, and high tech systems) • Use of AT for multiple domains (e.g., expressive/ receptive communication, daily living, content area instruction) 	Comments:		

Complex			
Criteria B. Need for staff support for high-tech or extensive use assistive technology with may include both high and low technology items. (14 Del. C. § 1703(d)(6)(3)(B))			
<i>Note: Support for assistive technology – Need for extensive level of staff support for high-tech or extensive-use assistive technology which may include both high and low technology items.</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • <u>On-going instruction/ facilitation</u> for extensive support across settings • Supported use of AT for multiple domains (e.g., expressive/ receptive communication, daily living, content area instruction) • Instruction and use of AT is also part of related services 	Comments:		

Intensive			
Criteria C1. Need for some extended school year. (14 Del. C. § 1703(d)(5)(3)(C))			
<i>Note: Need for staff support to provide <u>some extended school year services</u> such as but not limited to the provision of related services, the provision of instruction in some academic areas as ESY.</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • ESY – continuation of therapy services or after-school tutoring for limited areas intermittently <p>Criteria C1 can be met for a student participating in the 12 month program <u>if the student</u> is also eligible for ESY and the ESY requires the level of staff support described in C1.</p>	Comments:		

Complex			
Criteria C1. Need for extensive extended school year. (14 Del. C. § 1703(d)(6)(3)(C))			
<i>Note: Need for staff support to provide <u>extensive extended school year services</u> such as but not limited to the provision of related services, the provision of instruction in some academic areas as ESY.</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • ESY – services across multiple areas of need throughout summer/breaks <p>Criteria C1 can be met for a student participating in the 12 month program <u>if the student</u> is also eligible for ESY and the ESY requires the level of staff support described in C1.</p>	Comments:		

Intensive				Complex			
<p>Criteria C2. Need for relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services. (14 DeI. C. § 1703(d)(5)(3)(C))</p> <p><i>Note: Need for staff support to provide <u>relatively frequent but intermittent</u> supportive instructional and/or related services such as hospital or homebound setting resulting from out-of-school placement.</i></p>				<p>Criteria C2. Need for relatively frequent but intermittent out-of-school (e.g., hospital; homebound) services. (14 DeI. C. § 1703(d)(6)(3)(C))</p> <p><i>Note: Need for staff support to provide <u>relatively frequent but intermittent</u> supportive instructional and/or related services such as hospital or homebound setting resulting from out-of-school placement.</i></p>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A	<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<p><i>Examples:</i></p> <ul style="list-style-type: none"> Hospital/homebound – services for 5 hours or less per week <p>Criteria C2 is not met when out of school services are provided because the student has been removed from school for disciplinary reasons.</p>		<p>Comments:</p>		<p><i>Examples:</i></p> <ul style="list-style-type: none"> Hospital/homebound – services for more than 5 hours per week in combination with other services <p>Criteria C2 is not met when out of school services are provided because the student has been removed from school for disciplinary reasons.</p>		<p>Comments:</p>	

Intensive				Complex			
Criteria D. Need for moderate level of related services, including interpreter, therapy, and school nurse and health services. (14 Del. C. § 1703(d)(5)(3)(D))				Criteria D. Need for extensive level of related services, including interpreter, therapy, and school nurse and health services. (14 Del. C. § 1703(d)(6)(3)(D))			
<i>Note: The combination of the related services (including type, frequency and duration of the services) should reflect the intensity of needs.</i>				<i>Note: The combination of the related services (including type, frequency and duration of the services) should reflect the intensity of needs.</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A	<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • One type of therapy provided individually across multiple days • Two or more therapies provided in a group and/or consult support • Nursing services – support at specific times per day for a regular medical procedure (e.g., daily nebulizer treatment, tube feeding, suction) • Intermittent interpreter services (e.g., less than half of day) • Specialized transportation (e.g., door to door) 		<i>Comments:</i>		<i>Examples:</i> <ul style="list-style-type: none"> • Multiple therapies (combination of individual and group services) • Individual therapies provided in combination of individual, group and/or consult with instruction to generalize skills • Interpreter services for substantial part of day (e.g., more than half of day) • Nursing care, tube feeding, assistance or significant concerns for breathing, suctioned, etc • Assistance with daily living skills due to limited level of independence • Orthopedic needs (transfers or positioning throughout the day), personal care, toileting 		<i>Comments:</i>	

Intensive				Complex			
Criteria E. Need for nonroutine or frequent accommodations or adaptations to curriculum or educational environment. (14 Del. C. § 1703(d)(5)(3)(E))				Criteria E. Need for extraordinary or extensive accommodations or adaptations to curriculum or educational environment. (14 Del. C. § 1703(d)(6)(3)(E))			
<i>Note: Need for staff support to provide the accommodation(s) or to teach the student use of the accommodation(s).</i>				<i>Note: Need for extensive staff support to provide the accommodation(s) or to teach the student use of the accommodation(s).</i>			
<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A	<input type="checkbox"/> Strong	<input type="checkbox"/> Moderate	<input type="checkbox"/> Weak	<input type="checkbox"/> N/A
<i>Examples:</i> <ul style="list-style-type: none"> • High level of accommodations <u>used intermittently</u> • Accommodations beyond routine accommodations utilized on a regular basis (e.g., assess student individually, multiple assessment administrations, modified format of test items, scribe, enlarged print) • Modifications easily available (e.g., high/low readers for students reading below grade level) • Consistent/frequent verbal and physical prompts (systemized) 		Comments:		<i>Examples:</i> <ul style="list-style-type: none"> • High level of accommodations and modifications <u>used throughout day</u> • Modifications that must be individually tailored, staff intensive for creation • Extensively modified curriculum – changes to representation & expression • Extensive modifications/ adjustments to the classroom, building, or school environment to provide increased access/mobility 		Comments:	

Appendix "B"

Local Assurance of Earned Staff

Unit Count Needs Based Program for September 30, 2011 by School

School District (31)

Grade	PreK Ratio: 12.8		K-3 Ratio: 16.2		4-12 Ratio: 20.0		Basic Ratio: 8.4		Intensive Ratio: 6.0		Complex Ratio: 2.6		Total	
	Pupils	Units	Pupils	Units	Pupils	Units	Pupils	Units	Pupils	Units	Pupils	Units	Pupils	Units
KN	0	0.00	91	5.62	0	0.00	0	0.00	3	0.50	0	0.00	94	6.12
01	0	0.00	87	5.37	0	0.00	0	0.00	0	0.00	2	0.77	89	6.14
02	0	0.00	87	5.37	0	0.00	0	0.00	2	0.33	0	0.00	89	5.70
03	0	0.00	74	4.57	0	0.00	0	0.00	0	0.00	1	0.38	75	4.95
K-3	0	0.00	339	20.93	0	0.00	0	0.00	5	0.83	3	1.15	347	22.91
04	0	0.00	0	0.00	70	3.50	12	1.43	1	0.17	0	0.00	83	5.10
05	0	0.00	0	0.00	82	4.10	12	1.43	2	0.33	0	0.00	96	5.86
4-12	0	0.00	0	0.00	152	7.60	24	2.86	3	0.50	0	0.00	179	10.96
PK-12	0	0.00	339	20.93	152	7.60	24	2.86	8	1.33	3	1.15	526	33.87

Initial each statement of assurance and sign and date below.

- I certify that all students reported on this form were enrolled on September 30, 2011 and in attendance during the last 10 days of school in September.
- I certify that students with disabilities reported on this form are receiving special education services in accordance with a valid IEP in place on September 30, 2011.
- I certify that students with disabilities reported on this form counted in PreK, 4 – 12 Basic Special Education (Basic), PreK – 12 Intensive Special Education (Intensive) and PreK – 12 Complex Special Education (Complex) are in accordance with 14 Del.C. §1703 and 14 DE Admin. Code 928. Unit count verification of this signed assurance will be conducted by the Department of Education, Exceptional Children Resources Group. Districts and charter schools shall make available upon request documentation of earned staff units to be reviewed by the Department of Education or State Auditor of Accounts.

Principal: _____ **Date:** _____

Appendix "C"
Assurance of Adequate Resources
to Implement IEP

**Assurance of Adequate Resources
to Implement IEP**

School District or Charter School:	
Date of IEP Meeting:	School:
Child's Name:	Child's Date of Birth:

I am an administrator or designee of the school district or charter school serving the above-referenced child. I am qualified to provide, or supervise the provision of, specially designed instruction to meet the needs of children with disabilities. I am knowledgeable about the general education curriculum and the available resources of the district or charter school. 14 DE Admin Code § 925.21.1.4

At the completion of the above-referenced IEP team meeting, the team discussed and reviewed needs based funding as it relates to the adequacy of resources to implement the program and placement outlined in this child's IEP. 14 Del. C. § 1703(d)(8)

By signing below, I assure that adequate resources are available to implement this child's IEP.

District or Charter School Representative: _____

Title: _____

Date: _____

Note: A copy of this statement shall be maintained in child's special education audit file and made available to the Department of Education auditors upon request.