
SUBSTITUTE SENATE BILL 5410

State of Washington

61st Legislature

2009 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Oemig, Morton, McAuliffe, Tom, and Eide)

READ FIRST TIME 02/13/09.

1 AN ACT Relating to online learning; amending RCW 28A.150.262;
2 adding a new chapter to Title 28A RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to:

5 (1) Provide objective information to students, parents, and
6 educators regarding available online learning opportunities, including
7 program and course content, how to register for programs and courses,
8 teacher qualifications, student-to-teacher ratios, prior course
9 completion rates, and other evaluative information;

10 (2) Create an approval process for multidistrict online course
11 providers;

12 (3) Enhance statewide equity of student access to high-quality
13 online learning opportunities; and

14 (4) Require school district boards of directors to develop policies
15 and procedures for student access to online learning opportunities.

16 NEW SECTION. **Sec. 2.** (1) "Multidistrict online course provider"
17 means:

1 (a) A private organization or nonprofit organization that enters
2 into a contract with at least one school district, with the digital
3 learning commons, or both, to provide online courses or programs to K-
4 12 students from more than one school district; and

5 (b) An individual school district that provides online courses or
6 programs to students who reside outside the geographic boundaries of
7 the school district. This does not include a school district online
8 learning program in which less than ten percent of the students
9 enrolled in the program are from other districts under the
10 interdistrict student transfer provisions of RCW 28A.225.225. In
11 addition, it does not include regional online learning programs that
12 are jointly developed and implemented by two or more school districts
13 or an educational service district through an interdistrict cooperative
14 program agreement that addresses, at minimum, how the districts will
15 share student full-time equivalency for state basic education funding
16 purposes and how categorical education programs, including special
17 education, will be provided to eligible students.

18 (2)(a) "Online course" means a course that:

19 (i) Is delivered primarily electronically using the internet or
20 other computer-based methods; and

21 (ii) Is taught primarily by a teacher from a remote location.
22 Students enrolled in the course may have access to the teacher
23 synchronously, asynchronously, or both.

24 (b) An online course may be delivered to students at school as part
25 of the regularly scheduled school day. An online course also may be
26 delivered to students, in whole or in part, independently from a
27 regular classroom schedule, but such course or courses must comply with
28 RCW 28A.150.262 to qualify for state basic education funding.

29 NEW SECTION. **Sec. 3.** The superintendent of public instruction
30 shall:

31 (1)(a) In collaboration with the state board of education and with
32 the assistance of the digital learning commons, develop and implement
33 approval criteria and a process for approving multidistrict online
34 course providers and a process for monitoring and, if necessary,
35 rescinding the approval of individual courses offered by the provider;
36 and an appeals process. The approval process and criteria shall be
37 adopted by rule by November 1, 2009;

1 (b) When developing the approval criteria, the superintendent shall
2 consider the accreditation standards being developed for online
3 learning programs by the Northwest association of accredited schools
4 and the standards developed by the international association for K-12
5 online learning. In addition to other criteria, the approval criteria
6 shall include the degree of alignment with state academic standards,
7 guidelines for student-to-teacher ratios and require that all teachers
8 be certificated in accordance with Washington state law;

9 (c) Initial approval of course providers by the superintendent
10 shall be for two years. The superintendent shall develop a process for
11 the renewal of approvals and for rescinding approvals based on
12 noncompliance with approval requirements. The superintendent may
13 develop an abbreviated approval process for online course providers
14 that were approved by the digital learning commons before the effective
15 date of this section;

16 (d) The superintendent may charge multidistrict online course
17 providers a fee to process requests to be reviewed and approved;

18 (2) Enter into a multiyear contract with the digital learning
19 commons to carry out the duties in section 4 of this act if sufficient
20 funds are appropriated for this purpose;

21 (3) Develop model policies and procedures, in consultation with the
22 Washington state school directors' association, that may be used by
23 school district boards of directors in the development of the school
24 district guidelines required in section 5(1) of this act. The sample
25 policies and procedures shall be disseminated to school districts by
26 October 1, 2009;

27 (4) Submit by January 15th a report regarding online learning to
28 the state board of education, the governor, and the legislature. The
29 report shall cover the previous school year and include, but not be
30 limited to, student demographics, course enrollment data, aggregated
31 student course completion and passing rates, activities and outcomes of
32 course and provider approval reviews, and trainings provided to school
33 districts by the digital learning commons;

34 (5) By September 1, 2009, modify the school district guidelines for
35 providing course information to the superintendent of public
36 instruction in accordance with RCW 28A.300.500 and for purposes of the
37 standardized transcript to designate if the course was an online

1 course. Both the designation and the guidelines shall be required
2 beginning with the 2010-11 school year.

3 NEW SECTION. **Sec. 4.** To the extent funds are appropriated, the
4 digital learning commons must:

5 (1) Develop and maintain a web site that provides objective
6 information for students, parents, and educators regarding online
7 learning opportunities offered by multidistrict online course providers
8 that have been approved by the office of the superintendent of public
9 instruction in accordance with subsection (2) of this section. The web
10 site shall include information, or links to information, regarding the
11 online provider's overall instructional program, specific information
12 regarding the content of individual online courses, how to register for
13 online learning programs and courses, teacher qualifications, student-
14 to-teacher ratios, prior course completion rates, and other evaluative
15 information. Information also shall be provided regarding the process
16 and criteria for approving online providers. The digital learning
17 commons may not charge school districts, students, or parents to access
18 information on or through its web site;

19 (2) Assist the superintendent of public instruction in developing
20 and implementing approval criteria and a process for approving
21 multidistrict online course providers and a process for monitoring and,
22 if necessary, rescinding the approval of individual courses offered by
23 the provider. After the approval criteria is adopted, the digital
24 learning commons shall review applications submitted by multidistrict
25 online course providers and within three months recommend to the
26 superintendent whether the provider should be approved;

27 (3) When reviewing multidistrict online course providers that offer
28 high school courses, the digital learning commons shall ensure that the
29 content of courses offered by the provider is eligible for high school
30 credit. However, final decisions regarding the awarding of high school
31 credit shall remain with the school district;

32 (4) Negotiate standard agreements with approved multidistrict
33 online course providers in order to provide programs and courses to
34 students in school districts. The purpose of the agreements is to
35 allow individual school districts, at the discretion of the school
36 district's board of directors, to offer the multidistrict online course

1 provider's courses to students in their school district. The
2 agreements may include central registration, billing, and reimbursement
3 through the digital learning commons;

4 (5) Provide technical assistance and support to school district
5 personnel in the development and implementation of online learning
6 programs in their school districts.

7 NEW SECTION. **Sec. 5.** School district boards of directors shall:

8 (1) By June 1, 2010, develop policies and procedures for student
9 access to online courses and online learning programs. The policies
10 and procedures shall include, but not be limited to: Student
11 eligibility criteria; the types of online courses available to students
12 through the school district; the methods districts will use to support
13 student success, which may include a local advisor; when the school
14 district will, and will not, pay course fees and other costs; the
15 granting of high school credit; and a process for students and parents
16 or guardians to formally acknowledge any course taken for which no
17 credit is given. The policies and procedures shall be effective
18 beginning with the 2010-11 school year. School districts shall submit
19 their policies to the superintendent of public instruction by July 1,
20 2010. By December 1, 2010, the superintendent shall summarize the
21 school district policies regarding student access to online courses and
22 submit a report to the legislature;

23 (2) Provide students information regarding online courses that are
24 available through the school district, including those that are offered
25 through the digital learning commons. The information shall include
26 the types of information described in subsection (1) of this section;

27 (3) When providing course information to the superintendent of
28 public instruction in accordance with RCW 28A.300.500 and for purposes
29 of the standardized transcript, designate if the course was an online
30 course. The designation shall be required beginning with the 2010-11
31 school year; and

32 (4) When developing local or regional online learning programs,
33 make use of the approval criteria developed by the superintendent of
34 public instruction under section 4(2) of this act.

35 NEW SECTION. **Sec. 6.** (1) Beginning with the 2010-11 school year,

1 school districts may claim state basic education funding, to the extent
2 otherwise allowed by state law, only for students enrolled in online
3 courses that are:

4 (a) Online courses offered by multidistrict online course providers
5 approved by the superintendent of public instruction;

6 (b) District-sponsored online learning programs if the program and
7 courses serve students who reside within the geographic boundaries of
8 the school district. This includes school district programs in which
9 less than ten percent of the program's students reside outside the
10 school district's geographic boundaries; and

11 (c) Regional online learning programs and courses that are jointly
12 developed and implemented by two or more school districts or an
13 educational service district through an interdistrict cooperative
14 program agreement.

15 (2) Criteria shall be established by the superintendent of public
16 instruction to allow online courses that have not been approved by the
17 superintendent to be eligible for state funding if the course is in a
18 subject matter in which no courses have been approved and, if it is a
19 high school course, the course meets Washington high school graduation
20 requirements.

21 NEW SECTION. **Sec. 7.** Nothing in this chapter is intended to
22 diminish the rights of students to attend a nonresident school district
23 in accordance with RCW 28A.225.220 through 28A.225.230 for the purposes
24 of enrolling in online courses.

25 **Sec. 8.** RCW 28A.150.262 and 2005 c 356 s 2 are each amended to
26 read as follows:

27 Under RCW 28A.150.260, the superintendent of public instruction
28 shall revise the definition of a full-time equivalent student to
29 include students who receive instruction through (~~digital programs.~~
30 ~~"Digital programs" means electronically delivered learning that occurs~~
31 ~~primarily away from the classroom.~~) alternative learning experience
32 online programs. As used in this section, an "alternative learning
33 experience online program" is a set of online courses as defined in
34 section 1 of this act that is delivered to students in whole or in part
35 independently from a regular classroom schedule. The superintendent of
36 public instruction has the authority to adopt rules to implement the

1 revised definition beginning with the 2005-2007 biennium for school
2 districts claiming state funding for the programs. The rules shall
3 include but not be limited to the following:

4 (1) Defining a full-time equivalent student under RCW 28A.150.260
5 or part-time student under RCW 28A.150.350 based upon the district's
6 estimated average weekly hours of learning activity as identified in
7 the student's learning plan, as long as the student is found, through
8 monthly evaluation, to be making satisfactory progress; the rules shall
9 require districts providing programs under this section to nonresident
10 students to establish procedures that address, at a minimum, the
11 coordination of student counting for state funding so that no student
12 is counted for more than one full-time equivalent in the aggregate;

13 (2) Requiring the board of directors of a school district offering,
14 or contracting under RCW 28A.150.305 to offer, (~~(a digital)~~) an
15 alternative learning experience online program to adopt and annually
16 review written policies for each program and program provider and to
17 receive an annual report on its digital alternative learning experience
18 online programs from its staff;

19 (3) Requiring each school district offering or contracting to offer
20 (~~(a digital)~~) an alternative learning experience online program to
21 report annually to the superintendent of public instruction on the
22 types of programs and course offerings, and number of students
23 participating;

24 (4) Requiring completion of a program self-evaluation;

25 (5) Requiring documentation of the district of the student's
26 physical residence;

27 (6) Requiring that supervision, monitoring, assessment, and
28 evaluation of the (~~(digital)~~) alternative learning experience online
29 program be provided by certificated instructional staff;

30 (7) Requiring each school district offering courses or programs to
31 identify the ratio of certificated instructional staff to full-time
32 equivalent students enrolled in such courses or programs, and to
33 include a description of their ratio as part of the reports required
34 under subsections (2) and (3) of this section;

35 (8) Requiring reliable methods to verify a student is doing his or
36 her own work; the methods may include proctored examinations or
37 projects, including the use of web cams or other technologies.

1 "Proctored" means directly monitored by an adult authorized by the
2 school district;

3 (9) Requiring, for each student receiving instruction in ((~~a~~
4 ~~digital~~)) an alternative learning experience online program, a learning
5 plan that includes a description of course objectives and information
6 on the requirements a student must meet to successfully complete the
7 program or courses. The rules shall allow course syllabi and other
8 additional information to be used to meet the requirement for a
9 learning plan;

10 (10) Requiring that the district assess the educational progress of
11 enrolled students at least annually, using, for full-time students, the
12 state assessment for the student's grade level and using any other
13 annual assessments required by the school district. Part-time students
14 shall also be assessed at least annually. However, part-time students
15 who are either receiving home-based instruction under chapter 28A.200
16 RCW or who are enrolled in an approved private school under chapter
17 28A.195 RCW are not required to participate in the assessments required
18 under chapter 28A.655 RCW. The rules shall address how students who
19 reside outside the geographic service area of the school district are
20 to be assessed;

21 (11) Requiring that each student enrolled in the program have
22 direct personal contact with certificated instructional staff at least
23 weekly until the student completes the course objectives or the
24 requirements in the learning plan. Direct personal contact is for the
25 purposes of instruction, review of assignments, testing, evaluation of
26 student progress, or other learning activities. Direct personal
27 contact may include the use of telephone, e-mail, instant messaging,
28 interactive video communication, or other means of digital
29 communication;

30 (12) Requiring state-funded public schools or public school
31 programs whose primary purpose is to provide ((~~digital~~)) alternative
32 learning experience online learning programs to receive accreditation
33 through the state accreditation program or through the regional
34 accreditation program;

35 (13) Requiring state-funded public schools or public school
36 programs whose primary purpose is to provide ((~~digital~~)) alternative
37 learning experience online learning to provide information to students
38 and parents on whether or not the courses or programs: Cover one or

1 more of the school district's learning goals or of the state's
2 essential academic learning requirements or whether they permit the
3 student to meet one or more of the state's or district's graduation
4 requirements; and

5 (14) Requiring that a school district that provides one or more
6 (~~digital~~) alternative learning experience online courses to a student
7 provide the parent or guardian of the student, prior to the student's
8 enrollment, with a description of any difference between home-based
9 education as described in chapter 28A.200 RCW and the enrollment option
10 selected by the student. The parent or guardian shall sign
11 documentation attesting to his or her understanding of the difference
12 and the documentation shall be retained by the district and made
13 available for audit.

14 NEW SECTION. Sec. 9. Sections 1 through 7 of this act constitute
15 a new chapter in Title 28A RCW.

16 NEW SECTION. Sec. 10. If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2009, in the omnibus appropriations act, this act
19 is null and void.

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