

Chapter 392-502 WAC

ONLINE LEARNING—APPROVAL OF MULTIDISTRICT ONLINE PROVIDERS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-502-011	District responsibility. [Statutory Authority: 2009 c 542 and chapter 34.05 RCW. WSR 10-07-142, § 392-502-011, filed 3/23/10, effective 4/23/10.] Repealed by WSR 12-03-067, filed 1/12/12, effective 2/12/12. Statutory Authority: Chapter 28A.250 RCW.
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WAC 392-502-001 Authority. The authority for these rules is RCW 28A.150.290 and 28A.250.020, which authorizes the superintendent to adopt by rule criteria and processes for approving online providers.

[Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-001, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-001, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-001, filed 12/17/09, effective 1/17/10.]

WAC 392-502-005 Purposes. The purpose of this chapter is to develop and implement criteria and processes for approving online providers in order to further online learning opportunities for K-12 students in Washington state.

[Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-005, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-005, filed 12/17/09, effective 1/17/10.]

WAC 392-502-010 Definitions. As used in this chapter, the term:

(1) "Multidistrict online provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from

other districts under the interdistrict student transfer provisions of RCW 28A.225.225.

(ii) "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented through an interdistrict cooperative program between two or more school districts or between one or more school districts and an educational service district, unless the annual average headcount of students who reside outside the geographic boundaries of those school districts and who are enrolled in the regional online program is ten percent or more of the total program enrollment headcount. Any agreement establishing such a program must address, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2) "Online course" means a course, or grade-level course work, in which:

(a) More than half of the course content is delivered electronically using the internet or other computer-based methods; and

(b) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools; and

(c) A certificated teacher has the primary responsibility for the student's instructional interaction pertaining to the online course. Primary responsibility means the teacher is the principal individual who provides instructional interactions that may include, but are not limited to, direct instruction, review of assignments, assessment, testing, progress monitoring, and educational facilitation; and

(d) Students have access to the teacher synchronously, asynchronously, or both.

An online course may be delivered to students at school as part of the regularly scheduled school day. An online course also may be delivered to students, in whole or in part, independently from a regular classroom schedule.

(3) "Online school program" means a school program that offers a sequential set of online courses or grade-level course work that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students.

An online school program may be delivered to students at school as part of the regularly scheduled school day. An online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule.

(4) "Online course provider" is an online provider that offers individual online courses that are not delivered as an online school program.

(5) "Online provider" means any provider of an online course or program, multidistrict online providers, all school district online learning programs, and all regional online learning programs.

(6) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved online provider.

(7) "Affiliate provider" means a school district that:

(a) Provides online courses offered by one or more approved online provider that provides the course content, the technology platform, and the instructional component of the courses; and

(b) Does not modify the content or instruction of the approved provider's offerings. An affiliate provider may not offer to its students any online course or courses that are provided by a nonapproved online provider.

(8) "Single-district provider" means a school district online provider that is not a multidistrict online provider or an affiliate provider.

(9) For the purposes of this section, "primarily" is defined as more than half.

(10) "Course success rate" is the percentage of total online enrollments where the student received a grade for the course that was one of the following: A, A-, B+, B, B-, C+, C, C-, D+, D, P, CR, S. Courses marked as E, F, N, NC, U, or W are not considered successful outcomes.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-010, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-010, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-15-025, § 392-502-010, filed 7/11/12, effective 8/11/12; WSR 12-03-067, § 392-502-010, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-010, filed 12/17/09, effective 1/17/10.]

WAC 392-502-020 Online provider approval process and timeline. (1) This section sets forth the process that online providers must follow to be approved in accordance with RCW 28A.250.020. Beginning with the 2013-14 school year, all online providers must be approved by the superintendent of public instruction for districts to collect state funding, to the extent otherwise allowed by state law, for courses offered by those providers in accordance with WAC 392-502-080.

(2) All online providers seeking initial approval must apply to the superintendent of public instruction for approval as follows:

(a) Multidistrict online providers must submit an application as outlined on the superintendent of public instruction web site which will be reviewed for compliance with the designated approval criteria and must meet or exceed the acceptable defined score. Multidistrict online providers must comply with the superintendent of public instruction's required assurances.

(b) Affiliate providers must submit an affiliate provider application as outlined on the superintendent of public instruction web site. Affiliate providers must also comply with the superintendent of public instruction's required assurances.

(c) Single-district providers must submit a single-district provider application as outlined on the superintendent of public instruction web site. Single-district providers must also comply with the superintendent of public instruction's required assurances.

(3) The superintendent of public instruction makes decisions regarding approval of multidistrict provider applications submitted pursuant to this chapter no later than November 1st of each year. A multidistrict online provider's approval status takes effect the beginning of the school year following the date of the superintendent's approval of the online provider's application. Single-district and affiliate providers may apply at any point, and, subject to the requirements of approval, can be approved immediately by the superintendent of public instruction.

(4) Beginning with the 2012-13 school year, any proposed modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction web site by October 1st of each year. The superintendent will accept feedback on the proposed modifications from any interested parties prior to November 1st of each year. Any final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by January 1st of each year.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-020, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-020, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-15-025, § 392-502-020, filed 7/11/12, effective 8/11/12; WSR 12-03-067, § 392-502-020, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-020, filed 12/17/09, effective 1/17/10.]

WAC 392-502-030 Approval assurances, criteria, and performance targets. (1) This section sets forth the assurances, criteria, and performance targets that online providers must meet to be approved under this chapter.

(a) To be approved, online providers must provide the following assurances to the superintendent of public instruction:

(i) The online provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval period. Online providers may be candidates for accreditation at the time of application for approval provided that the provider earns full accreditation on the standard timeline. Online school programs, single-district providers, and affiliate providers are exempt from (a)(i) of this subsection.

(ii) Each course and program the online provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the online provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. Online providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who:

(A) Are properly endorsed in the subject area taught; and

(B) Are evaluated annually using the revised evaluative criteria and four-level rating system established in RCW 28A.405.100.

(iv) For online providers that offer high school courses, the courses offered by the online provider must be eligible for high school credit pursuant to WAC 180-51-050.

(v) All of the online provider's current and future courses in the applicable areas meet the credit/content requirements in chapter 392-410 WAC.

(vi) All advanced placement courses offered by the online provider have been approved in accordance with the college board advanced placement course audit. For advanced placement courses not yet offered at the time of application, the online provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The online provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act of 1974, as amended.

(viii) The online provider's web systems and content meet accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The online provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The online provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The online provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the online courses or programs.

(xii) The online provider retains responsibility for the quality of courses, web systems, and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the online courses or programs.

(xiii) The online school program complies with the state assessment requirements including, but not limited to, the requirements of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The online provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(xvi) The online school program agrees that all programs delivered as alternative learning experiences comply with the requirements of WAC 392-121-182. The online course provider agrees to disclose to OSPI the manner in which it supports the requirements of WAC 392-121-182 for online courses delivered outside of an online school program.

(xvii) Instructional materials used by online school programs in online courses or course work must be approved pursuant to school board policies adopted in accordance with RCW 28A.320.230.

(b) Multidistrict online providers must meet the following initial approval criteria by a preponderance of evidence submitted with the online provider's application:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the online learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) School-based support incorporating strategies and systems to allow school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and online instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(c) Beginning September 1, 2017, the online school program's course success rate must be greater than seventy percent. Programs with fewer than twenty online enrollments are not subject to this performance target.

(d) Beginning September 1, 2017, online school programs must meet or exceed each of the following annual performance targets:

(i) The online school program's percentage of students taking online math courses who meet standard on the state math assessments must be greater than forty percent. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online math course and taken the state math assessment.

(ii) The online school program's percentage of students taking online English language arts courses who meet standard on the state English language arts assessments must be greater than fifty percent. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online English language arts course and taken the state English language arts assessment.

(iii) The online school program's median math student growth percentile for students taking an online math course must be greater than the thirtieth percentile. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online math course and have a math student growth percentile.

(iv) The online school program's median English language arts student growth percentile for students taking an online English language arts course must be greater than the fortieth percentile. A program is not subject to this performance target if it has fewer than twenty students who have both taken an online English language arts course and have an English language arts student growth percentile.

(e) Beginning September 1, 2017, online course providers' course success rate must be greater than seventy percent. Online providers must supply OSPI with student-level enrollment and performance information. Online course providers must also supply OSPI with a list of each district in the state that they served. An online course provider is not subject to this performance target if they have fewer than twenty online course enrollments.

(2) After review by the online learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site on or before the date the application is made available.

(3) Online provider's application will be reviewed by reviewers selected by the superintendent of public instruction for their experience and expertise. The reviewers will be provided orientations and training to review and score the online provider applications using the approval criteria and scoring protocols.

(4) Single-district provider online programs must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

[Statutory Authority: RCW 28A.250.020. WSR 16-16-076, § 392-502-030, filed 7/29/16, effective 8/29/16. Statutory Authority: RCW 28A.150.290 and 28A.250.020. WSR 15-20-034, § 392-502-030, filed 9/28/15, effective 10/29/15; WSR 15-14-126, § 392-502-030, filed 7/1/15, effective 8/1/15. Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-030, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-030, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-15-025, § 392-502-030, filed 7/11/12, effective 8/11/12; WSR 12-03-067, § 392-502-030, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-030, filed 12/17/09, effective 1/17/10.]

WAC 392-502-040 Appeal of the superintendent's decision. In the event the superintendent of public instruction denies an online provider's initial application for approval, the online provider may appeal the decision as follows:

(1) The online provider may file a revised application with the superintendent of public instruction no later than fifteen days after the online provider received notice of the denial.

(2) The superintendent of public instruction will designate an official to review the online provider's revised application. The designated official will notify the applicant in writing whether the revised application is approved or denied within forty-five business days of the superintendent's receipt of the revised application. This deadline for acting on the request may be extended by the superintendent of public

instruction if additional information is required from the applicant.

(3) Decisions made by the superintendent of public instruction under WAC 392-502-020 and 392-502-060 may be appealed as provided for in RCW 34.05.514.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-040, filed 10/22/14, effective 11/22/14. Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-040, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-040, filed 12/17/09, effective 1/17/10.]

WAC 392-502-050 Conditions for continued approval. (1) Online providers that have been approved must annually provide the superintendent of public instruction information regarding the following:

- (a) Online provider's overall instructional program;
- (b) Content of individual online courses and online school programs;
- (c) Direct link to the online provider's web site;
- (d) Registration information for online learning programs and courses;
- (e) Teacher information and qualifications;
- (f) Other descriptive, evaluative, and comparative information requested by the superintendent of public instruction.

(2) Online providers must carry out the program/courses described in the approval application, abide by the assurances listed in WAC 392-502-030 and certified in the application process, and maintain the approval criteria and performance targets listed in WAC 392-502-030.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-050, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-050, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-050, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-050, filed 12/17/09, effective 1/17/10.]

WAC 392-502-060 Rescinding approvals. (1) Approved online providers that fail to comply with the conditions of approval in WAC 392-502-050, may be subject to rescindment of approval.

(2) Process for rescindment.

(a) The superintendent of public instruction or his or her designee will notify an online provider when there is substantial evidence that the online provider is not meeting one or more of the approval conditions and that the superintendent is considering rescindment. The notification will be in writing and will state the specific areas of concern.

(b) The online provider will be invited to submit a corrective action plan with a timeline to address the specific areas of concern. The corrective action plan must be submitted within fifteen business days of the superintendent's notification. If no corrective action plan is received by the superintendent of public instruction or his or her designee, the provider's approval will be rescinded.

(c) The superintendent of public instruction will consider the corrective action plan and determine whether the plan satisfactorily addresses the specific areas of concern, whether additional actions are necessary, or whether the plan is substantially incomplete and approval must be immediately rescinded. If a corrective action plan is required because of the provider's failure to meet performance targets as specified

in WAC 392-502-030, the corrective action plan must include a rate of growth to achieve the performance targets. The corrective action plan may take into account factors including, but not limited to, the specific performance targets that were not met and the provider's student demographics. Before making this decision, the superintendent or his or her designee will provide an opportunity for the online provider to clarify and adjust its plan.

(d) Recognizing the serious nature of rescindment and its potential impact on students, districts and providers, the superintendent of public instruction or his or her designee will only rescind approvals if he or she finds that the online provider is unwilling to take the necessary corrective actions to bring the courses/programs in compliance with the approval assurances and criteria. If the superintendent of public instruction or his or her designee determines that an online provider's approval must be rescinded, the implementation of the rescindment shall, to the greatest extent possible, be timed to prevent unnecessary disruption to the education of the students.

(e) The superintendent of public instruction reserves the right to immediately rescind approval of any provider where conditions exist that jeopardize academic or fiscal integrity or compromise the health and safety of students or staff.

(3) Rescinded providers are responsible for communicating that change in status to their clients. The superintendent of public instruction or his or her designee will remove rescinded providers from the agency's web site.

(4) Rescinded providers are permitted to submit for reapproval during subsequent approval application periods.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-060, filed 10/22/14, effective 11/22/14. Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-060, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-060, filed 12/17/09, effective 1/17/10.]

WAC 392-502-070 Period of initial approval and renewal process. (1) The initial approval of an online provider will be for a period of four consecutive full school years.

(2) In the final year of the online provider's approval, the superintendent of public instruction will automatically renew the approval for a successive one-year period on October 31st, to be effective at the start of the following school year.

(3) Nothing herein limits the authority of the superintendent of public instruction to rescind an online provider's approval pursuant to WAC 392-502-060.

[Statutory Authority: Chapter 28A.250 RCW and RCW 28A.150.290. WSR 14-21-187, § 392-502-070, filed 10/22/14, effective 11/22/14. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-070, filed 12/17/09, effective 1/17/10.]

WAC 392-502-080 Approval required for state funding. (1) School districts may claim state funding under RCW 28A.232.020, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(2) School districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the

online courses or programs are (a) offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction, or (b) meet specific criteria established by the superintendent of public instruction to allow online courses offered by providers that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no approved provider offers courses and, if it is a high school course, the course meets Washington high school graduation requirements. These criteria will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and April 1st each subsequent year after review by the online learning advisory committee and the state board of education.

[Statutory Authority: RCW 28A.250.020 and 28A.150.290. WSR 13-23-086, § 392-502-080, filed 11/19/13, effective 12/20/13. Statutory Authority: Chapter 28A.250 RCW. WSR 12-03-067, § 392-502-080, filed 1/12/12, effective 2/12/12. Statutory Authority: 2009 c 542. WSR 10-01-099, § 392-502-080, filed 12/17/09, effective 1/17/10.]