

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5410

Chapter 542, Laws of 2009

61st Legislature
2009 Regular Session

ONLINE LEARNING

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 19, 2009
YEAS 37 NAYS 9

BRAD OWEN

President of the Senate

Passed by the House April 16, 2009
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 18, 2009, 3:54 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5410** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 20, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5410

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

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 new sections.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that online
5 learning provides tremendous opportunities for students to access
6 curriculum, courses, and a unique learning environment that might not
7 otherwise be available. The legislature supports and encourages online
8 learning opportunities.

9 (2) However, the legislature also finds that there is a need to
10 assure quality in online learning, both for the programs and the
11 administration of those programs. The legislature is the steward of
12 public funds that support students enrolled in online learning and must
13 ensure an appropriate accountability system at the state level.

14 (3) Therefore, the legislature intends to take a first step in
15 improving oversight and quality assurance of online learning programs,
16 and intends to examine possible additional steps that may need to be
17 taken to improve financial accountability.

18 (4) The first step in improving quality assurance is to:

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

6 (b) Create an approval process for multidistrict online providers;

7 (c) Enhance statewide equity of student access to high quality
8 online learning opportunities; and

9 (d) Require school district boards of directors to develop policies
10 and procedures for student access to online learning opportunities.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1)(a) "Multidistrict online provider" means:

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

17 (ii) A private or nonprofit organization that enters into contracts
18 with multiple school districts to provide online courses or programs to
19 K-12 students from those districts; or

20 (iii) Except as provided in (b) of this subsection, a school
21 district that provides online courses or programs to students who
22 reside outside the geographic boundaries of the school district.

23 (b) "Multidistrict online provider" does not include a school
24 district online learning program in which fewer than ten percent of the
25 students enrolled in the program are from other districts under the
26 interdistrict student transfer provisions of RCW 28A.225.225.

27 "Multidistrict online provider" also does not include regional online
28 learning programs that are jointly developed and implemented by two or
29 more school districts or an educational service district through an
30 interdistrict cooperative program agreement that addresses, at minimum,
31 how the districts share student full-time equivalency for state basic
32 education funding purposes and how categorical education programs,
33 including special education, are provided to eligible students.

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

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

1 (ii) Is taught by a teacher primarily from a remote location.
2 Students enrolled in an online course may have access to the teacher
3 synchronously, asynchronously, or both.

4 (b) "Online school program" means a school program that:

5 (i) Is delivered primarily electronically using the internet or
6 other computer-based methods;

7 (ii) Is taught by a teacher primarily from a remote location.
8 Students enrolled in an online program may have access to the teacher
9 synchronously, asynchronously, or both;

10 (iii) Delivers a part-time or full-time sequential program; and

11 (iv) Has an online component of the program with online lessons and
12 tools for student and data management.

13 (c) An online course or online school program may be delivered to
14 students at school as part of the regularly scheduled school day. An
15 online course or online school program also may be delivered to
16 students, in whole or in part, independently from a regular classroom
17 schedule, but such courses or programs must comply with RCW 28A.150.262
18 to qualify for state basic education funding.

19 NEW SECTION. **Sec. 3.** (1) The superintendent of public
20 instruction, in collaboration with the state board of education, shall
21 develop and implement approval criteria and a process for approving
22 multidistrict online providers; a process for monitoring and if
23 necessary rescinding the approval of courses or programs offered by an
24 online course provider; and an appeals process. The criteria and
25 processes shall be adopted by rule by December 1, 2009.

26 (2) When developing the approval criteria, the superintendent of
27 public instruction shall require that providers offering online courses
28 or programs have accreditation through the Northwest association of
29 accredited schools or another national, regional, or state
30 accreditation program listed by the office of the superintendent of
31 public instruction after consultation with the Washington coalition for
32 online learning. In addition to other criteria, the approval criteria
33 shall include the degree of alignment with state academic standards and
34 require that all teachers be certificated in accordance with Washington
35 state law. When reviewing multidistrict online providers that offer
36 high school courses, the superintendent of public instruction shall

1 assure that the courses offered by the provider are eligible for high
2 school credit. However, final decisions regarding the awarding of high
3 school credit shall remain the responsibility of school districts.

4 (3) Initial approval of multidistrict online providers by the
5 superintendent of public instruction shall be for four years. The
6 superintendent of public instruction shall develop a process for the
7 renewal of approvals and for rescinding approvals based on
8 noncompliance with approval requirements. Any multidistrict online
9 provider that was approved by the digital learning commons or
10 accredited by the Northwest association of accredited schools before
11 the effective date of this section, and that meets the teacher
12 certification requirements of subsection (2) of this section, is exempt
13 from the initial approval process under this section until August 31,
14 2012, but must comply with the process for renewal of approvals and
15 must comply with approval requirements.

16 (4) The superintendent of public instruction shall make the first
17 round of decisions regarding approval of multidistrict online providers
18 by April 1, 2010. Thereafter, the superintendent of public instruction
19 shall make annual approval decisions no later than November 1st of each
20 year.

21 (5) The superintendent of public instruction shall establish an
22 online learning advisory committee within existing resources that shall
23 provide advice to the superintendent regarding the approval criteria,
24 major components of the web site, the model school district policy,
25 model agreements, and other related matters. The committee shall
26 include a representative of each of the following groups: Private and
27 public online providers, parents of online students, accreditation
28 organizations, educational service districts, school principals,
29 teachers, school administrators, school board members, institutions of
30 higher education, and other individuals as determined by the
31 superintendent. Members of the advisory committee shall be selected by
32 the superintendent based on nominations from statewide organizations,
33 shall serve three-year terms, and may be reappointed. The
34 superintendent shall select the chair of the committee.

35 NEW SECTION. **Sec. 4.** The superintendent of public instruction
36 shall create an office of online learning. In the initial
37 establishment of the office, the superintendent shall hire staff who

1 have been employed by the digital learning commons to the extent such
2 hiring is in accordance with state law and to the extent funds are
3 available. The office shall:

4 (1) Develop and maintain a web site that provides objective
5 information for students, parents, and educators regarding online
6 learning opportunities offered by multidistrict online providers that
7 have been approved in accordance with section 3 of this act. The web
8 site shall include information regarding the online course provider's
9 overall instructional program, specific information regarding the
10 content of individual online courses and online school programs, a
11 direct link to each online course provider's web site, how to register
12 for online learning programs and courses, teacher qualifications,
13 student-to-teacher ratios, course completion rates, and other
14 evaluative and comparative information. The web site shall also
15 provide information regarding the process and criteria for approving
16 multidistrict online providers. To the greatest extent possible, the
17 superintendent shall use the framework of the course offering component
18 of the web site developed by the digital learning commons;

19 (2) Develop model agreements with approved multidistrict online
20 providers that address standard contract terms and conditions that may
21 apply to contracts between a school district and the approved provider.
22 The purpose of the agreements is to provide a template to assist
23 individual school districts, at the discretion of the district, in
24 contracting with multidistrict online providers to offer the
25 multidistrict online provider's courses and programs to students in the
26 district. The agreements may address billing, fees, responsibilities
27 of online course providers and school districts, and other issues; and

28 (3) In collaboration with the educational service districts:

29 (a) Provide technical assistance and support to school district
30 personnel through the educational technology centers in the development
31 and implementation of online learning programs in their districts; and

32 (b) To the extent funds are available, provide online learning
33 tools for students, teachers, administrators, and other educators.

34 NEW SECTION. **Sec. 5.** The superintendent of public instruction
35 shall:

36 (1) Develop model policies and procedures, in consultation with the
37 Washington state school directors' association, that may be used by

1 school district boards of directors in the development of the school
2 district policies and procedures required in section 6 of this act.
3 The model policies and procedures shall be disseminated to school
4 districts by February 1, 2010;

5 (2) By December 1, 2009, modify the standards for school districts
6 to report course information to the office of the superintendent of
7 public instruction under RCW 28A.300.500 to designate if the course was
8 an online course. The reporting standards shall be required beginning
9 with the 2010-11 school year; and

10 (3) Beginning January 15, 2011, and annually thereafter, submit a
11 report regarding online learning to the state board of education, the
12 governor, and the legislature. The report shall cover the previous
13 school year and include but not be limited to student demographics,
14 course enrollment data, aggregated student course completion and
15 passing rates, and activities and outcomes of course and provider
16 approval reviews.

17 NEW SECTION. **Sec. 6.** (1) By August 31, 2010, all school district
18 boards of directors shall develop policies and procedures regarding
19 student access to online courses and online learning programs. The
20 policies and procedures shall include but not be limited to: Student
21 eligibility criteria; the types of online courses available to students
22 through the school district; the methods districts will use to support
23 student success, which may include a local advisor; when the school
24 district will and will not pay course fees and other costs; the
25 granting of high school credit; and a process for students and parents
26 or guardians to formally acknowledge any course taken for which no
27 credit is given. The policies and procedures shall take effect
28 beginning with the 2010-11 school year. School districts shall submit
29 their policies to the superintendent of public instruction by September
30 15, 2010. By December 1, 2010, the superintendent of public
31 instruction shall summarize the school district policies regarding
32 student access to online courses and submit a report to the
33 legislature.

34 (2) School districts shall provide students with information
35 regarding online courses that are available through the school
36 district. The information shall include the types of information
37 described in subsection (1) of this section.

1 (3) When developing local or regional online learning programs,
2 school districts shall incorporate into the program design the approval
3 criteria developed by the superintendent of public instruction under
4 section 3 of this act.

5 NEW SECTION. **Sec. 7.** (1) Beginning with the 2011-12 school year,
6 school districts may claim state basic education funding, to the extent
7 otherwise allowed by state law, for students enrolled in online courses
8 or programs only if the online courses or programs are:

9 (a) Offered by a multidistrict online provider approved under
10 section 3 of this act by the superintendent of public instruction;

11 (b) Offered by a school district online learning program if the
12 program serves students who reside within the geographic boundaries of
13 the school district, including school district programs in which fewer
14 than ten percent of the program's students reside outside the school
15 district's geographic boundaries; or

16 (c) Offered by a regional online learning program where courses are
17 jointly developed and offered by two or more school districts or an
18 educational service district through an interdistrict cooperative
19 program agreement.

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

26 NEW SECTION. **Sec. 8.** Nothing in this chapter is intended to
27 diminish the rights of students to attend a nonresident school district
28 in accordance with RCW 28A.225.220 through 28A.225.230 for the purposes
29 of enrolling in online courses or programs.

30 **Sec. 9.** RCW 28A.150.262 and 2005 c 356 s 2 are each amended to
31 read as follows:

32 Under RCW 28A.150.260, the superintendent of public instruction
33 shall revise the definition of a full-time equivalent student to
34 include students who receive instruction through ~~((digital programs.~~
35 ~~"Digital programs" means electronically delivered learning that occurs~~

1 ~~primarily away from the classroom~~) alternative learning experience
2 online programs. As used in this section, an "alternative learning
3 experience online program" is a set of online courses or an online
4 school program as defined in section 2 of this act that is delivered to
5 students in whole or in part independently from a regular classroom
6 schedule. The superintendent of public instruction has the authority
7 to adopt rules to implement the revised definition beginning with the
8 2005-2007 biennium for school districts claiming state funding for the
9 programs. The rules shall include but not be limited to the following:

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

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

25 (3) Requiring each school district offering or contracting to offer
26 (~~a digital~~) an alternative learning experience online program to
27 report annually to the superintendent of public instruction on the
28 types of programs and course offerings, and number of students
29 participating;

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

31 (5) Requiring documentation of the district of the student's
32 physical residence;

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

36 (7) Requiring each school district offering courses or programs to
37 identify the ratio of certificated instructional staff to full-time

1 equivalent students enrolled in such courses or programs, and to
2 include a description of their ratio as part of the reports required
3 under subsections (2) and (3) of this section;

4 (8) Requiring reliable methods to verify a student is doing his or
5 her own work; the methods may include proctored examinations or
6 projects, including the use of web cams or other technologies.
7 "Proctored" means directly monitored by an adult authorized by the
8 school district;

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

16 (10) Requiring that the district assess the educational progress of
17 enrolled students at least annually, using, for full-time students, the
18 state assessment for the student's grade level and using any other
19 annual assessments required by the school district. Part-time students
20 shall also be assessed at least annually. However, part-time students
21 who are either receiving home-based instruction under chapter 28A.200
22 RCW or who are enrolled in an approved private school under chapter
23 28A.195 RCW are not required to participate in the assessments required
24 under chapter 28A.655 RCW. The rules shall address how students who
25 reside outside the geographic service area of the school district are
26 to be assessed;

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

36 (12) Requiring state-funded public schools or public school
37 programs whose primary purpose is to provide ((~~digital~~)) alternative
38 learning experience online learning programs to receive accreditation

1 through the (~~state accreditation program or through the regional~~
2 ~~accreditation program~~) Northwest association of accredited schools or
3 another national, regional, or state accreditation program listed by
4 the office of the superintendent of public instruction after
5 consultation with the Washington coalition for online learning;

6 (13) Requiring state-funded public schools or public school
7 programs whose primary purpose is to provide (~~digital~~) alternative
8 learning experience online learning to provide information to students
9 and parents on whether or not the courses or programs: Cover one or
10 more of the school district's learning goals or of the state's
11 essential academic learning requirements or whether they permit the
12 student to meet one or more of the state's or district's graduation
13 requirements; and

14 (14) Requiring that a school district that provides one or more
15 (~~digital~~) alternative learning experience online courses to a student
16 provide the parent or guardian of the student, prior to the student's
17 enrollment, with a description of any difference between home-based
18 education as described in chapter 28A.200 RCW and the enrollment option
19 selected by the student. The parent or guardian shall sign
20 documentation attesting to his or her understanding of the difference
21 and the documentation shall be retained by the district and made
22 available for audit.

23 NEW SECTION. Sec. 10. (1) The office of the superintendent of
24 public instruction shall conduct a review of online courses and
25 programs offered to students during the 2008-09 school year to create
26 a baseline of information about part-time, full-time, and interdistrict
27 student enrollment; how courses and programs are offered and overseen;
28 contract terms and funding arrangements; the fiscal impact on school
29 district levy bases and levy equalization from interdistrict student
30 enrollment; student-to-teacher ratios; course and program completion
31 and success rates; student retention and dropout rates; and how issues
32 such as student assessment, special education, and teacher
33 certification are addressed.

34 (2) The office of the superintendent of public instruction shall
35 also assess the level of funding provided for online course and program
36 enrollment relative to the basic education general allocation,
37 particularly for alternative learning experience programs. The

1 assessment shall include but not be limited to a comparison of staffing
2 ratios and costs, nonemployee-related costs, and facility requirements;
3 and an analysis of the appropriate share of per-student allocations
4 between resident districts and serving districts given the requirements
5 for monthly progress reviews and direct personal contact.

6 (3) The office of the superintendent of public instruction shall
7 submit a report to the education and fiscal committees of the
8 legislature by December 1, 2009.

9 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
10 a new chapter in Title 28A RCW.

11 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
12 this act, referencing this act by bill or chapter number, is not
13 provided by June 30, 2009, in the omnibus appropriations act, this act
14 is null and void.

Passed by the Senate April 19, 2009.

Passed by the House April 16, 2009.

Approved by the Governor May 18, 2009.

Filed in Office of Secretary of State May 20, 2009.