

**124D.094 ONLINE INSTRUCTION ACT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Blended instruction" means a form of digital instruction that occurs when a student learns part time in a supervised physical setting and part time through online instruction under paragraph (f).

(c) "Digital instruction" means instruction facilitated by technology that offers students an element of control over the time, place, path, or pace of learning and includes blended and online instruction.

(d) "Enrolling district" means the school district or charter school in which a student is enrolled under section 120A.22, subdivision 4.

(e) "Online course syllabus" means a written document that identifies the state academic standards taught and assessed in a supplemental online course under paragraph (j); course content outline; required course assessments; instructional methods; communication procedures with students, guardians, and the enrolling district under paragraph (d); and supports available to the student.

(f) "Online instruction" means a form of digital instruction that occurs when a student learns primarily through digital technology away from a supervised physical setting.

(g) "Online instructional site" means a site that offers courses using online instruction under paragraph (f) and may enroll students receiving online instruction under paragraph (f).

(h) "Online teacher" means an employee of the enrolling district under paragraph (d) or the supplemental online course provider under paragraph (k) who holds the appropriate licensure under Minnesota Rules, chapter 8710, and is trained to provide online instruction under paragraph (f).

(i) "Student" means a Minnesota resident enrolled in a school defined under section 120A.22, subdivision 4, in kindergarten through grade 12 up to the age of 21.

(j) "Supplemental online course" means an online learning course taken in place of a course provided by the student's enrolling district under paragraph (d).

(k) "Supplemental online course provider" means a school district, an intermediate school district, an organization of two or more school districts operating under a joint powers agreement, or a charter school located in Minnesota that is authorized by the Department of Education to provide supplemental online courses under paragraph (j).

Subd. 2. **Digital instruction.** (a) An enrolling district may provide digital instruction, including blended instruction and online instruction, to the district's own enrolled students. Enrolling districts may establish agreements to provide digital instruction, including blended instruction and online instruction, to students enrolled in the cooperating schools.

(b) When online instruction is provided, an online teacher as defined under subdivision 1, paragraph (h), shall perform all duties of teacher of record under Minnesota Rules, part 8710.0310. Unless the commissioner grants a waiver, a teacher providing online instruction shall not instruct more than 40 students in any one online learning course or section.

(c) Students receiving online instruction full time shall be reported as enrolled in an online instructional site under subdivision 1, paragraph (g).

(d) Curriculum used for digital instruction shall be aligned with Minnesota's current academic standards and benchmarks.

(e) Digital instruction shall be accessible to students under section 504 of the federal Rehabilitation Act and Title II of the federal Americans with Disabilities Act.

(f) An enrolling district providing digital instruction and a supplemental online course provider shall assist an enrolled student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software so they may participate in digital instruction. Funds provided to a family to support digital instruction or supplemental online courses may only be used for qualifying expenses as determined by the provider. Nonconsumable materials purchased with public education funds remain the property of the provider. Records for any funds provided must be available for review by the public or the department.

(g) An enrolling district providing digital instruction shall establish and document procedures for determining attendance for membership and keep accurate records of daily attendance under section 120A.21.

**Subd. 3. Supplemental online courses.** (a) Notwithstanding sections 124D.03 and 124D.08 and chapter 124E, procedures for applying to take supplemental online courses other than those offered by the student's enrolling district are as provided in this subdivision.

(b) Any kindergarten through grade 12 student may apply to take a supplemental online course under subdivision 1, paragraph (j). The student, or the student's parent or guardian for a student under age 17, must submit an application for the proposed supplemental online course or courses. A student may:

(1) apply to take an online course from a supplemental online course provider that meets or exceeds the academic standards of the course in the enrolling district they are replacing;

(2) apply to take supplemental online courses for up to 50 percent of the student's scheduled course load; and

(3) apply to take supplemental online courses no later than 15 school days after the student's enrolling district's term has begun. An enrolling district may waive the 50 percent course enrollment limit or the 15-day time limit.

(c) A student taking a supplemental online course must have the same access to the computer hardware and education software available in a school as all other students in the enrolling district.

(d) A supplemental online course provider must have a current, approved application to be listed by the Department of Education as an approved provider. The supplemental online course provider must:

(1) use an application form specified by the Department of Education;

(2) notify the student, the student's guardian if they are age 17 or younger, and enrolling district of the accepted application to take a supplemental online course within ten days of receiving a completed application;

(3) notify the enrolling district of the course title, credits to be awarded, and the start date of the online course. A supplemental online course provider must make the online course syllabus available to the enrolling district;

(4) request applicable academic support information for the student, including a copy of the IEP, EL support plan, or 504 plan; and

(5) track student attendance and monitor academic progress and communicate with the student, the student's guardian if they are age 17 or younger, and the enrolling district's designated online learning liaison.

(e) A supplemental online course provider may limit enrollment if the provider's school board or board of directors adopts by resolution specific standards for accepting and rejecting students' applications. The provisions may not discriminate against any protected class or students with disabilities.

(f) A supplemental online course provider may request that the Department of Education review an enrolling district's written decision to not accept a student's supplemental online course application. The student may participate in the supplemental online course while the application is under review. Decisions shall be final and binding for both the enrolling district and the supplemental online course provider.

(g) A supplemental online course provider must participate in continuous improvement cycles with the Department of Education.

Subd. 4. **Enrolling district.** (a) An enrolling district may not restrict or prevent a student from applying to take supplemental online courses.

(b) An enrolling district may request an online course syllabus as defined under subdivision 1, paragraph (e), to review whether the academic standards in the online course meet or exceed the academic standards in the course it would replace at the enrolling district.

(c) Within 15 days after receiving notice of a student applying to take a supplemental online course, the enrolling district must notify the supplemental online course provider whether the student, the student's guardian, and the enrolling district agree that academic standards in the online course meet or exceed the academic standards in the course it would replace at the enrolling district. If the enrolling district does not agree that the academic standards in the online course meet or exceed the academic standards in the course it would replace at the enrolling district, then:

(1) the enrolling district must provide a written explanation of the district's decision to the student, the student's guardian, and the supplemental online course provider; and

(2) the online provider must provide a response to the enrolling district explaining how the course or program meets the graduation requirements of the enrolling district.

(d) An enrolling district may reduce the course schedule of a student taking supplemental online courses in proportion to the number of supplemental online learning courses the student takes.

(e) An enrolling district must appoint an online learning liaison who:

(1) provides information to students and families about supplemental online courses;

(2) provides academic support information including IEPs, EL support plans, and 504 plans to supplemental online providers; and

(3) monitors attendance and academic progress, and communicates with supplemental online learning providers, students, families, and enrolling district staff.

(f) An enrolling district must continue to provide support services to students taking supplemental online courses as they would for any other enrolled student including support for English learners, case management of an individualized education program, and meal and nutrition services for eligible students.

(g) An online learning student must receive academic credit for completing the requirements of a supplemental online learning course. If a student completes an online learning course that meets or exceeds a graduation standard or the grade progression requirement at the enrolling district, that standard or requirement is met.

(h) Secondary credits granted to a supplemental online learning student count toward the graduation and credit requirements of the enrolling district. The enrolling district must apply the same graduation requirements to all students, including students taking supplemental online courses.

(i) An enrolling district must provide access to extracurricular activities for students taking supplemental online courses on the same basis as any other enrolled student.

**Subd. 5. Reporting.** Courses that include blended instruction and online instruction must be reported in the manner determined by the commissioner of education.

**Subd. 6. Department of Education.** (a) The commissioner must establish quality standards to be used for applications and continuous improvement of supplemental online course providers, and by enrolling districts using digital instruction.

(b) The commissioner must support the enrolling district's development of high-quality digital instruction and monitor implementation. The department must establish and participate in continuous improvement cycles with supplemental online course providers.

(c) Applications from prospective supplemental online course providers must be reviewed using quality standards and approved or denied within 90 calendar days of receiving a complete application.

(d) The department may collect a fee not to exceed \$250 for reviewing applications by supplemental online course providers or \$50 per supplemental course application review request. Funds generated from application review fees shall be used to support high quality digital instruction.

(e) The department must develop, publish, and maintain a list of supplemental online course providers that the department has reviewed and approved.

(f) The department may review a complaint about an enrolling district providing digital instruction, or a complaint about a supplemental online course provider based on the provider's response to notice of a violation. If the department determines that an enrolling district providing digital instruction or a supplemental online course provider violated a law or rule, the department may:

(1) create a compliance plan for the provider; or

(2) withhold funds from the provider under this section and sections 124E.25 and 127A.42. The department must notify an online learning provider in writing about withholding funds and provide detailed calculations.

(g) An online learning program fee administration account is created in the special revenue fund. Funds retained under paragraph (d) must be deposited in the account. Money in the account is annually appropriated to the commissioner for costs associated with administering and monitoring online and digital learning programs.

**Subd. 7. Financial arrangements.** (a) For a student enrolled in an online supplemental course, the department must calculate average daily membership and make payments according to this subdivision.

(b) The initial online supplemental average daily membership equals  $1/12$  for each semester course or a proportionate amount for courses of different lengths. The adjusted online learning average daily membership equals the initial online supplemental average daily membership times .88.

(c) No online supplemental average daily membership shall be generated if the student:

- (1) does not complete the online learning course; or
- (2) is enrolled in an online course provided by the enrolling district.

(d) Online course average daily membership under this subdivision for a student currently enrolled in a Minnesota public school shall be used only for computing average daily membership according to section 126C.05, subdivision 19, paragraph (a), clause (2), and for computing online course aid according to section 124D.096.

**History:** 2023 c 55 art 2 s 49