DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION, CERTIFICATION AND OVERSIGHT OF COLORADO ONLINE PROGRAMS

1 CCR 301-71

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.0 Statement of Basis and Purpose.

The statutory basis for these rules is found in sections 22-30.7-105(3)(b), 22-30.7-106(4), 22-30.7-106(5), and 22-30.7-106(6),C.R.S.

Pursuant to these statutes, the State Board of Education shall promulgate rules to achieve the following purposes, including but not limited to:

(a) Establishing quality standards for online programs;

(b) Promoting Online Program student participation in statewide assessments;

(c) Establishing criteria to be used by the Online Division in certifying Multi-District Online Programs;

(d) Establishing processes and timelines by which a prospective Authorizer may apply to the Online Division for certification of a Multi-District Online Program;

(e) Establishing an expedited procedure for the approval or denial of certification for Multi-District Online Programs that were operating as of January 1, 2007;

(f) Establishing a timeline by which an Authorizer of an online program shall submit a report to the Online Division;

(g) Establishing a process for responding to a corrective action notice resulting from an audit of annual reporting;

(h) Providing a process for notification to the State Board with recommendations for actions the State Board may take to address a situation of non-response to a corrective action notice; and

(i) Establishing a process and timeline for continual review of the Multi-District Online Program after certification.

2.0 Definitions

2.1 "Authorizer" means an entity that authorizes an online program or online school. "Authorizer" shall include a school district, any group of two or more school districts, a board of cooperative services created pursuant to §22-5-104 C.R.S., or the state Charter School Institute established pursuant to §22-30.5-503, C.R.S.

2.2 This definition of "complete educational program" is applicable to all public school educational programs that derive their support, in whole or in part, from moneys raised by a general state, county, or School District tax.

2.2.1 "Complete Educational Program" means for the purposes of §22-32-109(2) C.R.S., only, a sequential k-12 program of instruction, managed and operated by a local school district, for the education of a child that is intended to qualify for per pupil revenues under the Public School Finance Act of 1994 and, for children under seventeen years of age, qualifies the child by his or her attendance to be in compliance with Colorado compulsory school attendance laws.

2.2.2 For purposes of §22-32-109(2) C.R.S., the term "Complete Educational Program" shall exclude an online education program as defined by rule 2.10 and which is not delivered in a Learning Center as defined in rule 2.06.

2.2.3 For purposes of §22-32-109(2) C.R.S., the term "Complete Educational Program" shall also exclude a Learning Center as defined by rule 2.06, which is operating in the district pursuant to an MOU negotiated with the district, or pursuant to an order of the State Board of Education under rule 10.07.

2.3 "Course Completion Requirements," for the purposes of transcript recording and statistical enrollment reporting, means the student completion of a course based on meeting the Authorizer's approved academic content work and testing requirements.

2.3.1 The course may be counted as having been completed when academic content work, as based upon authorizer accreditation curriculum standards, has been completed.

2.3.2 Any student counted as an enrollment for the pupil enrollment count date, as defined in section 22-54-103 (10.5) (a), C.R.S., must be included in the course completion rate data.

2.3.3 For calculation purposes, any student who leaves the course within the first 25% of said course shall not be counted in course completion rates.

2.3.4 Mastery or passing a course is not a requirement of course completion, but mastery levels should be consistent with the Authorizer.

2.4 "Department" means the Department of Education created and existing pursuant to §24-1-115, C.R.S.

2.5 "Learning Center" means a facility in which a consistent group of students meets more often than once per week under the supervision of a Teacher or Mentor for a significant portion of a school day for the purpose of participating in an Online School or Program. A group of Parents and students meeting repeatedly, occasionally, and informally, even if facilitated by a school, shall not constitute a "Learning Center", and a private home shall not be considered a "Learning Center" under any circumstances pursuant to §22-30.7-102 C.R.S.

2.5.1 For purposes of these rules, a "significant portion of the school day for the purpose of participating in an online program" means that students of the Learning Center must be actively participating in the curricula of the certified online program for more than fifty-percent of the school day.

2.5.2 A curriculum that is not part of the certified Online School or Program must be non-religious and non- sectarian and may only be offered for less than fifty-percent of the school day.

2.5.3 In no event shall the parents or guardians of the students enrolled in the Online School or Program be required to pay tuition on behalf of such students for the Online School or Program at such Learning Center.

2.6 "Mentor" means an individual who is responsible for providing supervision at a Learning Center. A "Mentor" shall not be required to be a licensed Teacher but shall, at a minimum, satisfy the requirements specified for a paraprofessional as such requirements are described in the federal law "Every Student Succeeds Act", 20 U.S.C. §6301 et seq.

2.7 "Multi-District Online School" means an Online School that serves a student population drawn from two or more school districts.

2.8 "Online Division" means the division of online learning created in the Department pursuant to §22-30.7-103, C.R.S

2.9 "Online Program" means a full-time education program authorized pursuant to Title 22 of the Colorado Revised Statutes that delivers a sequential program of synchronous or asynchronous instruction directed by a teacher primarily through online digital learning strategies that provide students choice over time, place, and path, and teacher-guided modality of learning. "Online Program" does not include a supplemental program. Accountability for each student in an online program is attributed back to a designated school that houses the online program. An Online Program with one hundred or more students is an Online School and not an Online Program

2.10 "Online School" means a full-time, education school authorized pursuant to Title22 of the Colorado Revised Statutes that delivers a sequential program of synchronous or asynchronous instruction directed by a teacher primarily through online digital learning strategies that provide students choice over time, place, and path, and teacher- guided modality of learning. An Online School has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An Online School is responsible for fulfilling all reporting requirements and is held to state and federally mandated accountability processes.

2.11 "Parent" means a biological parent, adoptive parent, or legal guardian.

2.12 "Single-District Online Program" means an Online Program that serves only students who reside within a single school district.

2.13 "Standard MOU Form" means the standard Memorandum of Understanding Form adopted by the State Board pursuant to section §22-30.7-111 (5) C.R.S.

2.14 "State Board" means the State Board of Education created and existing pursuant to section 1 of Article IX of the Colorado State Constitution.

2.15 "Supplemental Program" means a program that offers one or more online courses to students to augment an educational program provided by a school, school district, charter school, or board of cooperative services.

2.16 "Successor School" means an online school that is a replication, addition, division, or reorganization of an existing or previously authorized online school as determined by the criteria adopted by the Department.

2.17 "Teacher" means any person who holds a Teacher's license issued pursuant to the provisions of article 60.5 of Title 22, CRS and who is employed to instruct, direct, or supervise the instructional program, "Teacher" includes those persons employed by a charter school as a Teacher pursuant to a waiver granted to the charter school by the State Board pursuant to §22-30.5-105(3), C.R.S., or who are employed by a school district as a Teacher pursuant to a waiver granted to a school district pursuant to §22-2-117, C.R.S.

2.18 "Teacher-pupil contact and teacher-pupil instruction" means that time when a pupil is actively engaged in the educational process of a district.

2.18(1) Each local board of education shall define “educational process”.

3.0 Quality Standards for Online Schools and Programs.

3.1 In supporting and, evaluating Online Schools and Programs, and in certifying Multi-District Online Schools, the Online Division will provide guidance related to, and use the following Quality Standards.

3.2 Consistent with its Authorizer or school district, Online Schools and Programs shall meet or exceed the following quality standards in the administration of program and delivery of curriculum:

3.2.1 The Online School or Program involves representatives of the Online School or Program’s community, as well as staff, in a collaborative process to develop and communicate the Online School or Program's vision, mission, goals and results, in a manner appropriate to the online model for that school or program. The Online School or Program provides leadership, governance, and structure to support this vision and these supports are used by all staff to guide the decision-making.

3.2.2 The Online School or Program has, or has a plan and timeline in place to accomplish, the technological infrastructure capable of meeting the needs of students and staff, and of supporting teaching and learning. The Online School or Program uses a variety of technology tools and has a user-friendly interface. The Online School or Program meets industry accepted accessibility standards for interoperability and appropriate access for learners with special needs. Technological support structures and programs are in place to reduce barriers to learning for all students.

3.2.3 The Online School or Program has, and implements, a technology plan that includes (but is not limited to) documentation that all students and Parents know and understand acceptable use of the internet in accordance with all federal and state statutes. When providing direct services (for example, ISP, computer equipment or “at location”) to students, the Online School or Program will use filtering software to prevent access to inappropriate materials.

3.2.4 Online Schools and Programs must comply with all statutory requirements, including the existing budgetary reporting procedures under state law, as well as being consistent with the format required by the authorizing entity. Budgets and accounting records must be transparent, open to the public, and demonstrate support of student academic achievement.

3.2.5 Online School or Program demonstrates levels of attainment of statewide performance indicators that meet expectations established by the Department’s annual performance review as described in §22-11-210, C.R.S.

3.2.6 The Online School’s or Program’s Teachers use ongoing, research based formative and summative assessments to measure student academic performance. Students have varied opportunities to demonstrate mastery of skills, show academic progress, and receive meaningful feedback on their learning.

3.2.7 An Online School or Program has a policy regarding course completion.

3.2.8 An Online School or Program follows policies for tracking enrollment, attendance, participation, and truancy. The policy includes documentation of Teacher / student interaction.

3.2.9 The Online School or Program has a policy, and the infrastructure to store, retrieve, analyze and report, required student, Teacher, financial, and other required data collections.

3.2.10 The Online School or Program has a policy providing guidance counseling services as appropriate to grade level and student need.

3.2.11 The Online School or Program has a policy guiding school/home communication about student and program progress, program governance, and program accountability that is relevant, regular, and available in native language where reasonable.

3.2.12 Instructional strategies, practices, and content address various learning needs and styles of students. The Online School or Program uses a body of evidence to identify advanced, under- performing, economically disadvantaged, or other special needs students. The Online School or Program will work with its Authorizer to ensure that support structures and programs, including but not limited to, Title I, ESL, Special Ed., and Gifted and Talented, are integrated into the school's instructional program to promote and support student learning.

3.2.13 The Online School or Program evaluates the degree to which it achieves the goals and objectives for student learning. There is a systematic process for collecting, disaggregating, managing, and analyzing data that enables the Online School's or Program's leadership, Teachers, Parents, students, community members and other stakeholders to determine areas of strength and challenge. The data collected are analyzed using a systems approach, and the analysis includes the use of the school performance reports required pursuant to §22-11-503, C.R.S

3.2.14 The Online School or Program shall ensure that background checks in accordance with law are performed on all volunteers and paid staff, including but not limited to Mentors, Teachers, Administrators, or any other persons in unsupervised contact with the student, except Parents supervising their children's educational program.

4.0 Multi-District Online School Application Criteria

4.1 The Certification of the Online School does not constitute approval of operations for the Online School. The approval of the Online School is the responsibility of the Authorizer. The Online School may begin student instruction and operations only after approval by the Authorizer and receipt of certification from the Department.

4.2 The Authorizer of the Multi-District Online School must include in its application evidence of adequate resources and capacity to oversee the Online School, or evidence of a plan and timeline demonstrating that adequate resources and capacity for oversight of the Online School will be in place by the beginning of student instruction. Capacity will be determined based upon the following components:

4.2.1 Curriculum and instruction;

4.2.2 Use of software applications and technology;

4.2.3 Data gathering analysis and reporting;

4.2.4 Human resources management;

4.2.5 Financial management, facilities management, and risk management.

4.2.6 Other relevant public education administrative functions as submitted by the Multi-district Online School, to be reviewed as appropriate by the Unit of Online Learning of CDE.

4.3 The Authorizer, in its application, will document and verify an acceptable level of compliance by the Online School to the quality standards as listed in §3.02 of these rules.

4.3.1 For new Online Schools the Authorizer, in its application, will provide evidence of a plan and timeline that the quality standards will be met as listed in §3.02 of these rules.

4.4 The plan for operating and monitoring the Online School must be agreed to by the Authorizer and the principal, director, charter school governing board, or other chief administrator of the Multi-District Online School, and must be included with the application. The plan must include specific information on how the following items are addressed in the delivery of the Online School:

4.4.1 A statement of the Online School's vision, mission and goals;

4.4.2 The organizational structure and governance of the Online School, including governing board and School policies and procedures, including procedures for public access to records;

4.4.3 Equitable access for all students, within the parameters for operating and monitoring the Multi-District Online School;

4.4.4 Guidance counseling services for all students enrolled in the Multi-District Online School in accordance with Authorizer policy;

4.4.5 Student academic credit policies consistent with the Authorizer;

4.4.6 Student achievement and attendance policies, including the monitoring of graduation and dropout rates as well as Course Completion rates pursuant to the policy referenced in §3.02.8 of these rules and the definition as defined in rule 2.04;

4.4.7 Student records policies and procedures consistent with the Authorizer pursuant to SB-07-215;

4.4.8 Student admission and placement policies and procedures;

4.4.9 Staff development plans;

4.4.10 Student services including tutorial support consistent with the Authorizer;

4.4.11 Staff, student, and parent handbooks;

4.4.12 Employment and contractor policies and procedures;

4.4.13 Annual budgeting and finance practices;

4.4.14 Facility plans, including any contemplated physical sites;

4.4.15 Risk management, including school safety, staff policies, and background checks for all employees as required by law;

4.4.16 Data development analysis and reporting; and

4.4.17 Policies and procedures for facilitating communication between the Multi-District Online School, Parents, community, and school districts in which students that are enrolled in the Multi-District Online School reside.

4.5 The Authorizer will include in its application a list of the Learning Centers for which an MOU has been agreed upon by the local school district and the Online School, including the name, address, facility contact, and telephone number for each, and evidence of compliance by the Learning Center with section §2.06 of these rules.

4.6 During the application process for multi-district certification, the Online Division will determine whether the proposed multi-district online school is a new school or a successor school to a previously authorized multi-district online school.

4.7 If the Online Division determines that a proposed multi-district online school is a successor school during the application process or other internal processes, the Authorizer may appeal to the State Board within 30 days of receiving notice from the Online Division.

5.0 Procedure and Timeline for Multi-District Online School Certification by the State Board.

5.1 Authorizers must submit applications for certification of Multi-District Online Schools to the Online Division at the Department.

5.2 For Multi-District Online Schools intending to begin operations on or after the 2009-2010 school year, submissions will be reviewed twice a year, with submissions accepted no later than January 2nd and April 1st (or closest business day thereafter) of each year. A decision will be made based upon rubrics established by the Online Division.

5.3 The response will be given to the Authorizer within sixty days of January 2nd and April 1st (or closest business day thereafter) with detailed reasons for denial if applicable.

5.4 When an Authorizer seeks to authorize a currently operating multi-district online school that has been previously authorized by another Authorizer, the new Authorizer must apply to the Online Division for a new certification of the multi-district online school.

5.5 Online schools that have had grades or programs closed in whole or in part as a result of actions taken pursuant to §22-11-210 (5), C.R.S. and intend to re-open, or a current school that is deemed a successor school, must reapply to the Online Division for certification before continuing or beginning operations.

6.0 Procedure and Timeline for Submitting Annual Financial and Accounting Report

6.1 Pursuant to § 22-30.7-109.5, C.R.S., each Online School that is not a charter school shall submit to its Authorizer an annual financial and accounting report, which the Authorizer shall submit to the Department on or before December 31st of each year, or up to sixty days later, if an extension is requested pursuant to § 29-1-606 (4), C.R.S. Said report shall be submitted in accordance with 1 CCR 301-39, Amended Rules for Administration of Public School Finance, in section 2254-R-7.00.

6.2 Online Schools that are charter schools and already submit the financial information required pursuant to § 22-30.5-112(7), C.R.S., may submit a single financial report to satisfy requirements of § 22-30.7-109.5, C.R.S.

7.0 Timeline and Procedure for the Amendment of a Certification of a Multi-District Online School

7.1 A Multi-District Online School shall notify its authorizer and the Online Division within the Department of any intent to amend the program's application for certification to expand grade levels served by the program or school,

7.2 If the Department concludes that the Online School should not be permitted to amend its application for certification to expand grade levels served by the program or school, based on the Quality Standards for Online Schools and Programs outlined in section 3.02 of these rules, the Department shall notify the Authorizer of the Online School of its decision within thirty (30) days after receiving the notification from the Online School. The Authorizer shall then have thirty (30) days to appeal the Department's decision to the State Board, pursuant to the State Board's administrative policies.

8.0 Process for Documenting Students Enrolled in an Online Program or Online School

8.1 Pursuant to HB14-1382,a student participating in an Online program or Online school is subject to the compulsory attendance requirements as provided in article 33 of the Colorado Revised Statutes and is deemed to comply with the compulsory attendance requirements through participation in an online program or online school. Each online program and online school must document a student's compliance with compulsory attendance requirements during the official count window.

8.01.1 For the 2015-16 school year and thereafter, Authorizers must adopt policies tracking student enrollment, attendance, and participation as set forth in §3.02.8 above and may document students' attendance and participation in educational activities in a manner the Authorizer deems appropriate to support student learning. Acceptable forms of documentation include, but need not be limited to, assessment, orientation, and induction activities, in-person educational instruction; and synchronous and asynchronous internet-based educational activities. On a form provided by the Department, the Authorizer must provide Assurances to the Department of the Authorizer's verification of the students' attendance and participation in the Online Program or Online School. Beginning in the 2015-16 school year, authorizers of online schools or programs need to provide these assurances to the Colorado Department of Education no later than two weeks prior to the first day of the October count window. Once an authorizer has provided these assurances, the department will assume the authorizer plans to continue to use the policies identified in their assurance form. Annual submission is not required, however, resubmission to the department per the above timeline is required if/when the authorizer wishes to change their count policy.

8.2 Thereafter, the determination of full-time or part-time status is based upon the minimum number of hours provided for a student to receive instruction. Minimum hours can be based on the number of hours per day (or week) required to earn an equivalent number of credits in a traditional classroom setting.

8.3 The Online School or Program must have a calendar that reasonably aligns with the beginning date of the school year of the Authorizer that operates it or has been approved for an alternative calendar by the Authorizer and the Department.

8.4 A full time student must have a schedule that provides for a minimum of three hundred and sixty (360) hours of teacher-pupil instruction per semester to receive full-time funding.

8.5 A part time student must have a schedule that provides for a minimum of ninety (90) hours of teacher-pupil instruction per semester to receive part-time funding.

8.6 An Online School or Program must verify and document student residency in the State of Colorado upon enrollment and annually thereafter and retain a copy of the document or written statement offered as verification in the student's mandatory permanent record. Colorado residency is determined by the student and Parent or legal guardian currently residing within the State of Colorado boundaries, except for students of military families pursuant to §8.06.5 of these rules. Reasonable evidence of residency may be established by documentation including, but not limited to, any of the following:

8.6.1 Property tax payment receipts;

8.6.2 Rent payment receipts;

8.6.3 Utility service payment receipts; or

8.6.4 Written Statement of Residency executed by the student's parent/guardian. The written statement of residency should follow §1-2-102(a) and (b) C.R.S. and may be satisfied by a statement such as: "I_____, swear and affirm under penalty of perjury that I am a resident of the State of Colorado."

8.6.5 A member or dependent of a member of the United States Armed Services shall be eligible to participate in an Online Program, notwithstanding the length of his or her residency, upon moving to Colorado on a change of station basis.

8.6.6 A member or dependent of a member of the United States Armed Services shall be eligible to participate in an Online Program, upon moving out of Colorado on a change of station basis as long as the member of the United States Armed Services qualifies for Colorado residency.

8.6.7 In order to meet residency requirements, a member or dependent of a member of the United States Armed Services must maintain Colorado as their state of legal residence for tax purposes, and voters must maintain Colorado voter registration.

9.0 (Reserved)

10.0 Notice and Right of Appeal for Refusal to Enter into an MOU agreement.

10.1 A school board may refuse to enter into a memorandum of understanding with a Multi-District School only on the following grounds:

10.1.1 If the Standard MOU Form provided by the Multi-District School failed to satisfy the requirements of §22-30.7-111(1)(b), C.R.S.; or

10.1.2 If the school board reasonably determines that the Multi-District School is contrary to the best interests of the pupils, parents, community, or school district.

10.2 The school district shall be required to state its reasons for determining that the Multi- District School is contrary to the best interests of the pupils, parents, community or school district.

10.3 If a school board refuses to enter into a memorandum of understanding for the operation of a Learning Center, it must provide the applicant with a detailed statement of refusal. The applicant may appeal the decision of the school board to the State Board by submitting a notice of appeal to the State Board within fourteen days after receipt of notice of the school board's decision. The applicant shall include a brief statement in the notice of appeal of the reason(s) it contends the school board's denial was in error. The appeal will proceed in accordance with the scheduling order to be issued by the Department on behalf of the State Board.

10.4 Pursuant to the timeline set forth by the State Board order,

1. The applicant shall submit a brief in support of the appeal to the State Board and the school board shall submit a brief in opposition to the appeal.

2. The applicant may submit a reply brief to the State Board after the school board submits its brief in opposition to the appeal.

3. The State Board, in its sole discretion, may request an oral presentation on the matter.

10.5 Within forty-five days after receipt of the notice of appeal by the State Board, and after reasonable public notice, the State Board shall review the decision of the local board of education and make its findings. The State Board's review of the decision shall be without a hearing; except that the State Board may, in its discretion, choose to request oral presentations from the parties.

10.6 If the State Board finds that the local board's decision was contrary to the best interests of the pupils, parents, community, or school district, the State Board shall issue an order directing the school district to enter into a final memorandum of understanding with the Multi-District Online School regarding the placement of one or more Learning Centers within the school district and to use the Standard MOU Form provided pursuant to §22-30.7-111 C.R.S.

10.7 The Memorandum of Understanding must be entered into by the District within thirty days after receipt of the State Board's order.

10.8 If the State Board finds that the local board's decision was in the best interest of the pupils, parents, community, or school district, the State Board will issue a notice to uphold the decision of the local board.

10.9 The decision of the State Board shall be final and not subject to further agency appeal.

10.10 For each new Learning Center operated by the Multi-District Online School, within thirty days of acceptance, the Authorizer or Online School will submit to the Online Division the name, address, facility contact, and telephone number and evidence of compliance by the Learning Center with 2.05of these rules.

Editor's Notes

History

Entire rule emer. rule eff. 03/06/2008.

Entire rule eff. 04/30/2008.

Entire rule eff. 03/01/2012.

Rules 1.0, 2.03.2, 2.09-2.16, 8.01 eff. 12/30/2012.

Rules 1.0, 2.09, 2.10, 3.02.9, 6.01, 8.0-9.0 emer. rules eff. 08/13/2014; expired 12/11/2014.

Entire rule eff. 01/15/2015.

Rules 1.0, 2.01, 7.01, 7.02 eff. 01/30/2017.

Rules 1.0, 2.06, 2.16-2.18, 3.02.2-3.02.14, 4.06, 4.07, 5.04, 5.05, 8.01.1, 10.02-10.10 eff. 01/15/2020.

Entire rule eff. 06/30/2024.

Annotations

Rule 3.02.2 (adopted 06/03/2010) was not extended by Senate Bill 11-078 and therefore expired 05/15/2011.