

## **FAQ: Blended learning guidance**

*Disclaimer: This publication is for informational purposes only and is not intended as a substitute for specific legal or other professional advice. If you have specific questions about your legal or contractual rights, contact your Education Minnesota field representative. This guidance will be updated periodically based on new information and guidance, so please refer back to this link for the most current information.*

On July 16, 2021, the Minnesota Department of Education released [guidance](#) for districts and charter schools regarding options for student learning modalities in the 2021-22 school year. Since the start of the distance learning period in March 2020, and in order to provide options for students seeking different learning environments, Minnesota school districts and charter schools have contemplated whether and how to offer online learning options for students in what we hope will be a post-pandemic year. MDE issued this guidance to help districts and charter schools understand what they can and cannot do. At this time, Education Minnesota recommends that its members and local leaders begin to touch base with their districts to learn more about their plans, and prepare to bargain if necessary.

### **1. What learning formats may districts and charter schools offer?**

Districts and charter schools have a number of choices. They may work with an approved online learning provider, or they may provide their own online programming. As of right now, a number of districts and charter schools have applied for and received approval to provide online learning options, and many others are completing the application process.

In addition to offering online courses, districts and charter schools may also offer individual courses that combine in-person and online components. MDE is referring to these as “blended learning” courses.

Another option that districts and charter schools have is not to offer any of these options. MDE has stressed that adding online or blended learning is optional for districts – and it is optional for families if their districts do offer these options.

### **2. What must districts do in order to be eligible to offer on alternative learning options?**

Districts and charter schools that are or are already partnering with state approved online learning providers do not need to seek approval to offer expanded or modified online learning options. Similarly, districts and charter schools that are providing online options totaling no greater than 20 percent of a student's learning time are not required to notify MDE of their

programming. Finally, districts and charter schools do not need to seek approval from or notify MDE about offering courses that have both online and in-person components, and where the in-person periods occur at least once per week.

Districts and charter schools will need to at least notify MDE if they intend to have a blended learning program in which the online component of students' learning is between 21 and 50 percent of their weekly school schedule.

Districts and charter schools will need to apply and receive approval as an online provider in any program in which the students are getting online instruction for more than 50 percent of their schedule OR when any single course a student enrolls in is fully online. MDE is expediting the process of approving these applications.

### **3. May districts subcontract teaching services in order to provide blended learning?**

First, subcontracting may be impermissible in your school district under any circumstances. Subcontracting can violate collective bargaining agreements or past practices in your district, and we strongly urge locals to contact their field staff for further information if there are discussions of subcontracting.

Second, MDE has told districts and charter schools that they are not permitted to subcontract teaching services for blended and online options:

"[Districts may not] contract for teachers employed by a non-public entity (except for short-term substitutes). Public school teachers must be public employees of the district or charter school."

MDE's application forms for online provider approval and blended learning notification requires districts to attest to the fact that they will not subcontract teaching services.

### **4. Do districts and charter schools need to bargain over workload and teaching considerations?**

MDE's guidance does not squarely address this issue. It includes the following passage:

"We recommend districts and charter schools use best practice when determining teacher schedules, assignments and workloads. This includes schedules that do not require concurrent online and in-person teaching, adding additional teacher preparation time, and recognizing that online instruction requires significant time and resources."

The question of question districts and charter schools can require teachers to teach distance

learning and in-person students during the same class period is a critical one. In addition to following best practices, districts and charter schools must also comply with existing collective bargaining agreements and PELRA. A number of collective bargaining agreements prohibit or require compensation for additional courses that teachers are asked to assume when they exceed a normal teaching load.

All Minnesota districts have entered a bargaining year, with all teacher collective bargaining agreements expiring on June 30, 2021. Under Minnesota law, the provisions of the 2019-21 collective bargaining agreements – including applicable past practices – remain in effect until the parties negotiate a successor agreement or alternative statutory requirements are met. If districts make significant changes to teaching requirements such that it constitutes a change in terms and conditions of employment, districts must bargain with local unions first or risk committing an unfair labor practice.

Education Minnesota has previously issued [guidance](#) regarding bargaining over workload and teaching modalities. Please contact your field staff as soon as possible when you become aware that your district or charter school may be considering blended or online learning options. In all cases, locals should negotiate for the provisions that meet the needs of their individual locals, including things like additional prep time, limits on simultaneous instruction, or clustering of on-line teaching assignments.

#### **5. Must districts and charter schools continue to provide food and transportation services?**

Yes, districts and charter schools must commit to “ensuring that all students continue to receive transportation, nutrition services and other critical components of education,” regardless of which learning model a student selects.

#### **6. Who is NOT affected by this guidance?**

State-approved online learning providers and the districts who contract with them can continue business as usual; they will not have to obtain approval from MDE to continue their programming.