

Student Attendance Requirements at Internet- or Computer-Based Community Schools

OVERVIEW OF CHANGES IN HOUSE BILL 409

House Bill 409, which became effective April 12, 2021, created new requirements for internet- or computer- based community schools (e-schools) that are not implementing a Dropout Prevention and Recovery program. [Ohio law](#) provides the following guidance:

- The law applies only to internet- or computer-based community schools **not** implementing Dropout Prevention and Recovery programs;
- It includes a definition for “instructional activities” to be used for attendance purposes in an internet- or computer-based community school that is subject to this section;
- The law provides required updates to schools’ attendance policies that outline when students will be considered in attendance based on the definition of “instructional activities”;
- It includes the requirement for schools to develop policies regarding failure to participate in instructional activities; and
- It prohibits students unenrolled from an internet- or computer-based community school subject to this section of code from re-enrolling in the school for the remainder of the school year (see update below).

Instructional Activities

Instructional Activities are defined in statute as classroom-based or non-classroom-based activities that a student is expected to complete, participate in or attend during any given school day. They include:

1. Online logins to curriculum or programs;
2. Offline activities;
3. Completed assignments within a particular program, curriculum or class;
4. Testing;
5. Face-to-face communications or meetings with school staff or service providers;
6. Telephone or video conferences with school staff or service providers;
7. Other documented communication with school staff or service providers related to school or programs.

Attendance Requirements

Each internet- or computer-based community school subject to HB 409 must specify that a student is considered in attendance at the school when the student either:

- a. Participates in at least 90% of the hours of instructional activities offered by the school in that school year; or
- b. Is on pace for on-time completion of any course in which the student is enrolled. The school’s attendance policy must define “on pace for on-time completion.”

When considering participation of the student under (a.) above, it is important to realize the number of instructional hours offered to the student for the year. If the student enrolled in the school during the school year, the student would not have the opportunity to participate in all the instructional hours *offered by the school* in that year.

Therefore, determinations of participation should be made on the number of instructional hours possible for that student depending on the student's period of enrollment.

In determining on pace for on-time completion, schools should consider the specific requirements for each course and would want to provide as much flexibility within the definition as possible. There may not be a one-size-fits-all approach in defining on pace for on-time completion and schools should carefully consider what factors determine if a student is on pace for completion.

If a student has **30 or more hours of unexcused absences in any semester**, the school must provide the student's parent, guardian or custodian written notification of that fact. This requirement is in addition to provisions outlined in [Ohio's attendance laws](#).

Changes to Policy for Failure to Participate in Instructional Activities

Most community schools already have engagement policies and absence intervention policies aligned to the expectations outlined in Ohio's attendance laws¹ applicable to community schools. The new law outlines requirements for internet- or computer-based community schools to include that a student is subject to certain consequences, including disenrollment from the school, if both of the following conditions are satisfied:

1. After the student's parent, guardian or custodian receives written notification of the student's absences, the student fails to comply with the policy within a reasonable period of time specified by the school;
2. Other intervention strategies contained in the policy fail to cause the student's attendance to comply with the policy.

At a minimum, the policy must indicate notification will be provided for any student with 30 or more hours of unexcused absences in any semester, outline the consequences that can lead to unenrollment from the school and establish the intervention strategies the school will implement for students in danger of being unenrolled. We encourage schools to use the processes outlined in the Department's [Ohio's Attendance Laws guidance](#). [Ohio's Whole Child Framework](#) provides interventions that may be used to address barriers to regular student attendance.

Update: Prohibition on Re-Enrollment in the Same Internet- or Computer-Based Community School

House Bill 110 modified this requirement from the version passed in House Bill 409. Previously, if a student was disenrolled from an internet- or computer-based community school pursuant to the adopted policy, a student was prohibited from enrolling in another internet- or computer-based community school (unless the internet- or computer-based community school was a Dropout Prevention and Recovery school) for a period of one year.

House Bill 110 limited the prohibition to only preventing a student from re-enrolling in the same internet- or computer-based community school for the remainder of the school year.

Frequently Asked Questions

Q: How does this new requirement impact habitual truancy as defined in [ORC 3321.191](#)?

A: Habitual truancy will look at the accumulation of hours (both excused and unexcused) and trigger an absence intervention plan. An outcome of the absence intervention plan could be disenrollment as part of other intervention strategies listed above. Schools should carefully consider both requirements when revising their policies.

Q: [ORC 3314.261\(C\)](#) has the language “Notwithstanding section 3321.191 of the Revised Code, each internet- or computer-based community school shall develop and adopt a policy regarding failure to participate in instructional activities.” Does this mean the school must create a new policy or can the school modify an existing policy?

A: The board must adopt a policy regarding failure to participate in instructional activities. Modifying an existing policy to meet the requirement and ultimately adopting the policy by the governing authority would satisfy the expectations for that part of the law.

Q: Does this new requirement apply to an internet-based community school opening for the first time and/or seeking the designation as a Dropout Prevention and Recovery program? What happens if my internet-based school currently has the designation, however does not meet the requirements under ORC 3314.17 for the current school year? Do the requirements under ORC 3314.261 apply?

A: The Department provides preliminary designations in early August and confirms the status in January. A newly opening internet-based community school and/or a school seeking the designation as a Dropout Prevention Program would be expected to meet the expectations in ORC 3314.261 until the designation is confirmed in January. At that time, the school can update its attendance policy to align to the expectations of ORC 3321.191. If an internet-based community school no longer meets the requirements and does not have the designation as a Dropout Prevention and Recovery Program, the school would be subject to the requirements under ORC 3314.261 upon notice it will no longer receive the alternative report card under ORC 3314.17.

¹ Sections [3321.01](#), [3321.041](#), [3321.13](#), [3321.14](#), [3321.141](#), [3321.17](#), [3321.18](#), [3321.19](#), [3321.191](#)