



# STATE OF CONNECTICUT DEPARTMENT OF EDUCATION



September 27, 2022

## Guidance on Remote Learning and Dual Instruction

In Public Act 21-46, the General Assembly enacted what is now codified as Section 10-4w of the Connecticut General Statutes, entitled: “Standards re: remote learning. Authorization of remote learning for grades nine to twelve.” As reflected in that title, Section 10-4w(c) invested in local and regional school boards the discretion as of July 1, 2022, to “authorize remote learning to students in grades nine to twelve, inclusive.” These boards could do so, however, only if that instructional model satisfied various conditions, primary among them compliance with the standards for remote learning that the legislature directed the Commissioner of Education to develop pursuant to Section 10-4w(b). In accordance with Section 10-4w(b) -- and after substantial discussion and consideration of stakeholder input, including the Remote Learning Commission’s -- the Commissioner disseminated the statutorily mandated *Standards for Remote Learning Grades 9-12* [“SRL”] in February 2022. The SRL delineated in extensive detail the standards which local and regional boards were required to implement in order to create a legally compliant remote learning model.

Prior to the July 1, 2022, date on which local and regional boards were authorized to implement SRL-compliant remote learning models, the General Assembly passed Public Act 22-80, Section 25 of which embedded new language prohibiting “dual instruction as part of remote learning” within Section 10-4w(c)’s iteration of the required components of such remote learning models. The legislature also included this same language in the newly added Section 10-4w(d), which expands the implementation of remote learning to *all* grades, kindergarten through twelfth grade, as of July 1, 2024. “Dual instruction” was defined as “the simultaneous instruction by a teacher to students in-person in the classroom and students engaged in remote learning.” In turn, “remote learning” was defined as “instruction by means of one or more Internet-based software platforms as part of a remote learning model.” Conn. Gen. Stat. §§10-4w(a)(1) & (2).

Section 10-4w’s use of the word “model” – and its inclusion of the dual-instruction proscription squarely within the context of that model – is informative. “Model” is a term that has been defined as a “system,” a “pattern,” a “process,” or an “archetype.” *Merriam-Webster Dictionary; Oxford Languages; Collins Dictionary*. As such, the phrase “remote learning model” connotes a systemic, virtual instructional program such as what the legislature authorized in Section 10-4w. It also underscores the fact that such programs must be in concert with the systematic, highly structured, and detailed SRL model required by Section 10-4w(b). In other words, the *only* remote learning models which are legally recognized under Section 10-4w(c) are those that comply with the detailed criteria contained in the SRL. Conversely, such models that do not comport with the SRL do not qualify as remote learning under Section 10-4w(c).

There are certain fundamental components that are iterated and reiterated in the SRL, perhaps none more foundational than the emphasis on interactive engagement of students by teachers. The SRL stresses that students should be able to “[a]ctively participate in the teaching and learning process” and emphasizes

that the online course must be designed to provide “opportunities for learner-instructor interaction” and to “support active engagement.” In short, the hallmark and defining characteristic of remote learning models authorized under Section 10-4w is robust interaction between teachers and their online students, the key word here being “online,” for under Section 10-4w(c), dual instruction is expressly prohibited. Thus, the SRL-compliant remote learning models that districts may implement pursuant to Section 10-4w must be limited to online students and cannot include a blend of online and in-person students.

#### **EXCEPTIONS UNDER THE IDEA AND SECTION 504**

Although students with disabilities would generally be subject to the same proscription against dual instruction, there are situations in which dual instruction remains permissible for these students. For example, a Planning and Placement Team could determine that remote, interactive engagement with teachers and classmates would help transition a student whose acute anxiety has resulted in school avoidance back to in-school participation and thus constitutes the least restrictive environment in which the student could receive a free appropriate public education as required by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §§1400, *et seq.* Similarly, a Section 504 Team may determine that a student with disabilities – for example, one who was medically fragile or undergoing prolonged medical interventions such as chemotherapy -- requires remote, interactive learning as an accommodation to access the child’s education in the least restrictive setting under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§701, *et seq.* Under the United States Constitution’s Supremacy Clause, these federal laws would supersede conflicting state laws.

#### **INTER-DISTRICT AND INTRA-DISTRICT COURSES**

Shared programming between or within districts is a tool that addresses many goals, including reducing racial isolation and enhancing learning opportunities, particularly for students in underserved districts or those in systems with limited advanced-course opportunities. Providing such access is a matter of fundamental equity, for no students should be precluded from pursuing their educational goals due to a lack of opportunity. Consequently, school districts have entered into agreements which enable students who would otherwise not have access to certain curriculum in their home districts to participate in another district’s course offerings. Similarly, some districts have established intra-district course sharing to ensure that students within the same district have the ability and the flexibility to engage in course offerings that would otherwise not be available in their respective schools.

Such agreements comport with the legislature’s directive in Section 10-220(a) that local and regional boards of education shall provide students with “educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district in accordance with provisions of the general statutes and shall give all the children of the school district . . . as nearly equal advantages as may be practicable.” Similarly, such agreements have long been authorized within the context of special education programming under Section 10-76d(d) of the Connecticut General Statutes.

Importantly, course sharing predates the pandemic and the enactment of Section 10-4w. For example, over the course of several years, the Bridgeport Public Schools partnered with the New London Public Schools to offer New London students by way of what was then called “distance learning” the opportunity to participate in Bridgeport’s popular African American History course. The Bridgeport teacher taught

the course in-person to Bridgeport students while it was streamed to the New London students. Similarly, Area Cooperative Educational Services ran hybrid and distance learning programs across the state that included teachers from dozens of districts that connected for instruction and broke down geographic and demographic barriers that exist across the state as part of the state's inter-district grant program.

Such arrangements were, and are, dissimilar from the SRL-compliant remote learning model. In setting forth the role of parents, guardians, and families, the SRL iterates the importance of them establishing “routines *in the home* that are like an in-person school day” and identifying “workspaces *in the home* for students to engage in learning” (emphasis added). This underscores a guiding principle of SRL-compliant remote learning models, which is to provide an opportunity for students to interactively engage in their coursework from home or other locations outside of a school building, untethered from in-person school educational staff. In contrast, shared inter-district or intra-district programming is characterized by students who are in their respective schools, in classrooms that are supervised by instructional or support staff. Students who are sharing in the course have their own school staff present and available to them. Course sharing is, therefore, much more akin to co-taught classes than they are to the remote learning models authorized by Section 10-4w and delineated by the SRL, and as such, to maximize learning, districts must ensure that students are actively supervised by instructional staff or by support staff working in conjunction with instructional staff.

The inapplicability of Section 10-4w(c)'s dual-instruction prohibition to course-sharing arrangements comports with the fact that such inter-district and intra-district agreements serve key legislative priorities. For example, inter-district collaboration is an important initiative for reducing racial isolation, and it constitutes a critical tool for implementing the Sheff v. O'Neill settlement agreement. It not only provides underserved students with greater access to advanced courses they would otherwise not have, but it also provides both urban and suburban students with the opportunity to learn alongside students from different social, economic, racial, and ethnic backgrounds. Intra-district course sharing similarly provides expanded opportunities for students in different schools to access courses that might otherwise not be available. For example, while low enrollment in one school may preclude the provision of a Black and Latino Studies course, combining student enrollment through course sharing between two or more schools could ensure that students are able to take it, thus effectuating the intent of Section 10-66uu(b).

## **OTHER CONSIDERATIONS**

Data gathered in the wake of the pandemic unequivocally demonstrate that students perform better academically and emotionally when learning in-person, in school. Unfortunately, the COVID-19 pandemic continues to adversely affect individuals of all ages, including students who are currently enrolled in kindergarten through twelfth grade, as well as their families. In order to protect against the spread of COVID-19 – and in accordance with guidelines issued by the Connecticut Department of Public Health [“DPH”] and the Centers for Disease Control and Prevention [“CDC”] -- children who are infected with the disease are not permitted to attend school during the contagious phase of such infection. Similarly, students who contract other respiratory diseases, including but not limited to the flu, pose a risk to the health of other students and to staff. Districts are therefore required to balance the need to limit the spread of such infectious diseases with the critical imperative of avoiding academic regression and enabling students to experience the social and emotional benefit of maintaining a link to their school, their instructors, and their classmates.

To accomplish this, local and regional boards should avail themselves of pedagogical tools that will enable the student to remain engaged to the greatest extent possible and thereby progress along with the student's classmates in accessing instruction and learning. These resources can include asynchronous instruction, tutoring, or class materials being made available online or by other means. An additional approach is permitting students who are required to stay home due to documented illness to virtually monitor their classes by way of an online platform. Such a resource does not constitute dual instruction, for as noted, a foundational characteristic of SRL-compliant remote learning models is engaged, synergistic instructional interactions between teachers and their online students. Unlike such remote learning models, virtual monitoring is a one-way process in which a student can essentially audit what is happening in the classroom but cannot interact by way of asking or answering questions or otherwise requiring classroom teachers to interrupt their instruction of in-person, in-classroom students.

Rather than completely cut off students who are isolating at home from what is occurring in their classrooms, virtual monitoring would enable such students to follow lectures and classroom discussions, take notes, listen to classmates' questions and the teacher's answers, and otherwise access – although not directly participate in or even be deemed in attendance in – their classes.

The Connecticut State Department of Education ["CSDE"] stresses that virtual monitoring is *not* a substitute for in-person learning. To the contrary, the CSDE reiterates its long-held position that in-person learning is the optimal educational model for maximizing students' academic achievement and social/emotional/behavioral health. Furthermore, the CSDE notes that districts are not required to provide students with the virtual monitoring option; it is instead an available alternative to the pedagogical tools districts already employ in such situations -- one which is intended to enhance the continuity of instruction. Consequently, students are *not entitled* to a virtual monitoring option, and it would not be appropriate to provide it in situations other than when a student was unable to attend school due to illness.

Local and regional boards of education should keep in mind that Section 10-16 of the Connecticut General Statutes – which mandates that school districts provide no fewer than 180 school days in any one year -- was amended to include the following language: "Remote learning shall be considered an actual school session for purposes of this section, provided such remote learning is conducted in compliance with the standards developed pursuant to subsection (b) of section 10-4w." In other words, this provision applies *only* to the SRL-compliant remote learning models under Section 10-4w. Furthermore, students who were out of school due to illness would be deemed absent, regardless of whether they availed themselves of the virtual monitoring, just as they would have been pre-pandemic when ill.

If you have any questions regarding this guidance, please contact the CSDE's Director of Legal and Governmental Affairs, Michael P. McKeon, at [mike.mckeon@ct.gov](mailto:mike.mckeon@ct.gov).