

House Bill 1376 Virtual Instruction Q & A

The 68th Legislative Assembly passed, and the Governor signed into law [HB 1376](#). HB 1376 provides more opportunities for students and families to meet their educational requirements through approved North Dakota virtual schools and North Dakota's Center for Distance Education (NDCDE).

The following Q & A document have been developed to assist districts and families through the new expectations of the law and to answer any questions.

Enrolling in an ND-Approved Virtual School and ND Center for Distance Education

There are two ways to enroll in ND-approved virtual schools:

1. Follow the current open enrollment procedures outlined in North Dakota Century Code ([NDCC 15.1-31](#)) and enroll students in an approved North Dakota Virtual school; or
2. If a school district of residence operates an approved virtual school, a student of residence may attend the resident district virtual school or another approved virtual school by following open enrollment processes and deadlines.

To enroll in the ND Center for Distance Education:

1. Student enrolls with the district of residence and registers to take a course or multiple courses from NDCDE.

Open Enrollment Q & A

The ND [open enrollment law](#) establishes an application period whereby parents can apply to enroll their children in a district other than the district of residence.

If a school board decides to accept students under the provisions of open enrollment, it must establish policies for the acceptance or rejection of applications based on the capacity of a program, class, grade level, or school building. The North Dakota School Boards Association will assist in establishing and revising these policies.

Q. How does a student open-enroll in an approved virtual school outside the district of residence boundaries?

A. The student must open enroll in a district with an approved virtual school by filing the appropriate paperwork by March 1 of each year. The open enrollment application can be found [here](#).

Q. Can an admitting district deny open enrollment?

A. Yes, but only based on the district's ability to reasonably accommodate that student. (e.g., classroom space, teacher-to-student ratio, etc.).

Q. Can the district of residence deny an open enrollment request?

A. No, if the required paperwork is submitted in time, the district of residence cannot deny the request for open enrollment.



Q. Does the admitting district take on the responsibility of IDEA and the provision of FAPE for students with disabilities?

A. Yes, the admitting district takes on all responsibilities for educating the student, including providing special education and related services; however, the open enrollment policy in 15.1-31-04 requires the school district of residence to reimburse the admitting school district excess costs for providing these services.

Q. Do the open-enrollment laws and procedures take effect when enrolling students in the Center for Distance Education?

A. No, see the section below for the ND Center for Distance Education and Special Education.

Q. If a student open enrolls in a virtual academy that uses NDCDE as their curriculum provider, does the district of residence have to pay for those courses?

A. No, since the approved virtual academy already uses the NDCDE for its curriculum, the educating district will incur those costs.

Q. If a student open-enrolls in a virtual academy that uses an online curriculum, can the student still choose to take a course from NDCDE? And if so, does the district of residence still have to pay for it?

A. Yes, the student can take a course from NDCDE. However, the educating district is responsible for the cost, and it is recommended that the district communicates with the parent that the student would take the NDCDE course at a location that the district chooses.

ND Center for Distance Education Q & A

Important information regarding this option:

- The district ***must pay*** for the fees and tuition of students who wish to enroll at the NDCDE. Please see [NDCC 15-19-01 \(3\)](#) for reference.
- Students can enroll in NDCDE at ***any time***.
- For Special Education, the district is still responsible for complying with all Individuals with Disabilities Education Act (IDEA) expectations and providing all IDEA protections.

Q. How does NDCDE ensure quality instruction?

A:

- *Curricular reform: All NDCDE curricula are aligned to standards; we are in the initial phase of aligning to state priority standards to identify gaps, fill them, and/or identify new curricular vendors where needed.*
- *Establishment of high expectations for our teachers: standards related to student outreach, feedback response times, and quality of feedback; all teachers undergo extensive orientation in online education; a new full-time instructional coach was hired to respond to school-wide and targeted teacher training needs to further enhance instructional quality.*



Q. How is NDCDE held accountable for quality instruction and outcomes?

A:

- *Cognia accreditation continuous improvement process.*
- *NDDPI Annual Approval.*
- *Provide frequent interim outcome reports to the state superintendent and annual outcome results to the state board (formerly the CTE board and now the Board of Public Education) and is in the process of also creating an advisory board.*
- *Continuous monitoring of metrics related to student performance at the course level: drops, withdrawals, engagement with teachers, pacing expectations, grades, student satisfaction surveys at the end of each course, and we're in the beginning phases of implementing competency-based education to provide local schools with pre- and post-data on student proficiency.*

Q. Why has NDCDE increased its price structure this year?

A:

- *The ND legislature identified that NDCDE courses were being offered below market value.*
- *Need to increase our adjunct pay to continue to recruit high-quality adjunct teachers.*
- *Growing enrollments over a sustained post-pandemic period with no increase in our state-appropriated operational budget.*
- *Market research was conducted to ensure our courses are priced at a competitive rate.*

Q. How are districts to enroll students into NDCDE?

A. *You can find information on how to enroll students into NDCDE [here](#).*

Q: May parents of district-enrolled students still choose to pay for a CDE course out-of-pocket?

A. *Yes. Why would parents of a public-school student self-pay for a CDE course instead of having the school pay? Parents wanting their child to take a CDE course on a schedule of their choosing outside of the school day and with a learning coach of their choice typically opt to continue to self-pay for CDE courses.*

Q. Must a district accept a student's transcripts from NDCDE to fulfill their local district graduation requirements?

A. *Yes. The school must accept courses taken through NDCDE for graduation requirements and include them on students' transcripts for graduation. The school must input course information into 'historical grades' in PowerSchool. The transcript for the course will then flow through to eTranscript. Learning coaches, school administrators, and students can access the official completion certificate once the student receives a grade through NDCDE's student information system. NDCDE recommends that districts adopt a policy on whether they will accept the letter grade or percentage from the NDCDE completion certificate, which contains both pieces of information.*



Q. Can a student choose where to graduate from? NDCDE or the district of residence?

A. No. If a student chooses to graduate from NDCDE, they are no longer a student enrolled in their district of residence and essentially become a “home school student.” Tuition and course fees for home school students are not covered by HB 1376.

Q. Can a student take their full course load through NDCDE?

A. Yes, there are two ways for students to take their full course load through CDE. They must take the courses either through the school’s approved virtual academy or in the brick-and-mortar school. The district can set the policy to determine where the student receives the instruction and utilize the district’s attendance policies to support student success.

Q. What is considered the school’s primary school?

A. The students’ primary school is the plant in which the student spends the majority of their time. There are scenarios where this can be 50/50. The school will then make the determination on the student’s “primary” school.

Note: If the student’s primary plant is the virtual academy, the district school board will have to approve this decision and contact NDDPI to create and approve a virtual academy. If it is too late in the school year to create a virtual academy, the district will have to create space for the students to take the courses in the brick-and-mortar building or exercise the options of tuition agreements, or forgoing the open enrollment deadlines with another district with a virtual academy.

Q. If the school already offers the course, does the district still have to allow the student to take the same course from NDCDE?

A. Yes.

Q. Is there a limit on how many courses the student can take at the NDCDE?

A. Typically, no. However, NDCDE may cap if a student is struggling. In addition, NDCDE may impose caps for students attempting an excessive workload. (Please review NDCDE’s policy regarding student overload.)

Q. Can a school still require a student to take a minimum number of courses to graduate?

A. Yes, however, they do not have to be courses provided by the school. They can be a combination of NDCDE courses and courses provided by the school or all NDCDE courses.

Q. Can a school/district require a student to adhere to the district’s attendance policy?

A. Yes, e.g., each student must attend at least five courses per day.

Q. Is the school required to pay for NDCDE long-term course extensions? (Note short-term extensions are free.)



A. Yes. However, students can ask for only long-term extensions per course. NDCDE guidance on extensions can be found [here](#).

Q. Do districts receive additional state funds for students that enroll in NDCDE?

A. No. Districts must use their allocated per pupil payment to pay NDCDE tuition costs.

Q. Is the school required to pay for credit recovery courses from NDCDE?

A. Yes.

Q. If a student is taking courses at NDCDE, is NDCDE responsible for the student's special education services?

A. No. Resident districts are to enroll the student in the local school, and then course enroll the student in NDCDE.

Q. Does the NDCDE provide IEP/504 Plan accommodations?

A. NDCDE offers limited accommodations for students on district-developed IEPs/504 Plans. A list of possible accommodations can be found at [IEP/504 Plans](#). NDCDE works closely with the local school district to implement aspects of IEP and 504 plans developed by local school districts that apply when taking online courses.

Q. Who is responsible for developing and carrying out a student's IEP/504 Plan?

A. Federal law requires school districts to develop and carry out Individualized Education Programs (IEPs) and 504 Plans for students who reside in their districts.

Summer School

Q. Are school districts obligated to pay for NDCDE summer school costs?

A. Yes.

Q. Do school districts receive additional per pupil payment from the state for summer school?

A. Yes.

Dual Credit

Q. Who pays for dual credit courses?

A. The parent pays for dual education costs regardless of the setting: district of residence, NDCDE, open-enrolled student, or home-educated student.

Accountability and Assessments

Q. Are schools held accountable for students who take NDCDE courses?

A. Yes, when a student enrolled in a school district of residence takes one or all their courses at NDCDE, the school district of residence is still held accountable for the student's success and assessing students as appropriate.

Q. Will a school district receive full per-pupil payment from the state for a student who takes all their courses through NDCDE?

A. Yes and No. HB 1376 dictates that if a student is taking all of their courses through CDE the district will receive the base foundation aid payment, but the district will not receive the small school weighting factor for that student. The students taking all of their courses via CDE must be enrolled in the school's virtual academy and not the brick-and-mortar school. This is required to satisfy HB 1376 reporting requirements of student academic outcome comparisons and to accurately deliver and report student foundation aid payments.

Q. Are students who are fully enrolled, or open-enrolled, in a virtual school part of the brick-and-mortar schools' assessment results and accountability formula?

A. No. Students cannot be enrolled in a virtual school and a brick-and-mortar school simultaneously. The virtual school is its own school and is held to the same accountability requirements of a brick-and-mortar school. Per House Bill 1376, the superintendent of public instruction shall provide an annual report to either the legislative management or the legislative assembly. In odd-numbered years, the report must be made to the legislative assembly. In even-numbered years, the report must be made to the legislative management. The annual report must:

a. Contain a comparison of the academic performance of students participating in virtual instruction against students not participating in virtual instruction under this section; and

b. Use the statewide prekindergarten through grade twelve strategic vision framework goals.

Q. If the virtual school enrollment is below 10, does the legislature still need a report on the academic performance of those students?

A. Per House Bill 1376, if the superintendent of public instruction does not have access to academic performance reports of a school district's virtual instruction subgroup because of the low group size, the district shall provide the annual report required under this section for the district's comparison data.



Home Educated Students

Q. Can home education students take courses through NDCDE?

A. A home education student can take courses from NDCDE; however, the parent is responsible for paying for the course. Only students fully enrolled in an ND public school district can have the course paid for by the school.

Nonpublic School Students

Q. Can a student enrolled in a nonpublic school take a course from CDE and have their school district of residence pay for the course?

A. No. The school district will not pay for tuition costs for nonpublic school students. Only students fully enrolled in a North Dakota public school district can have the course paid by the district because the district is receiving the per-pupil payment for the student. The nonpublic school may pay for these costs but does not have to do so. A parent may also pay for a supplemental course offered by NDCDE.

Contact Information

If you have any questions regarding the changes to North Dakota Virtual Instruction law, please contact [Joe Kolosky](#) at (701) 328-2755.

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