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Testimony to the Senate Education Committee Regarding Senate Interim Charge #3 October 8, 2012

Thank you for the opportunity today to share our thoughts on Senate Interim Charge #3. TCTA believes that distance learning can be appropriate and has repeatedly testified that virtual courses, when effectively monitored and vetted, should be encouraged for students in districts that are too small to offer a sufficiently broad curriculum, for students needing credit recovery, for students unable to attend school for an extended period due to illness and for students who are not in the regular classroom due to disciplinary issues. TCTA was active in the drafting of the original bill creating the Texas Virtual School Network (TxVSN) and continues to support the use of the TxVSN.

Raise Your Hand Texas (RYHT) recently published a report, "Virtual Schools in Texas: Good for Kids or Merely Good for Profit" that looks at options, cost effectiveness, and performance outcomes for virtual education in Texas along with results from across the country. The report states that performance for virtual schools is unsatisfactory and that there is a lack of evidence that virtual education is an "adequate replacement for traditional face-to-face teaching and learning."

Prior to RYHT's research there had been a lack of data on virtual schools' success or even an update on performance of virtual learning since the report done by the Texas Education Agency in December of 2002 on the online learning pilot program created by the 77th Legislature. That report cited numerous problems with expanding electronic courses and virtual learning programs, such as the need for further study with more detailed information, the need to establish a funding mechanism, and a viable method to track student time online. These issues still need to be addressed. TCTA is hesitant to see a scaling up of virtual learning until there is a better gauge as to how effective these courses are as an alternative and for what types of students.

It has been mentioned that virtual education can potentially assist with the state's budgetary issues, however, RYHT report found that costs to the state for buying online courses from private, for-profit companies are equivalent to the costs of those classes in brick-and-mortar classrooms, and per-student costs to the district are difficult to discern from public records. TCTA urges that compensation to providers bear a reasonable relationship to actual costs, without an excessive profit to the vendor. Further, arguably, course materials that are developed with state funding should belong to the state and be available at significantly reduced costs.

In short, it does not seem reasonable for coursework delivered online to be eligible for anything approaching full ADA funding, or a proportional share thereof, since so many costs of traditional classroom education will not be relevant. We are also not supportive of essentially providing state funding for the education of students who are home-schooled; as with students whose parents choose to opt for private rather than public schools, the cost of the decision to decline enrollment at a public school should be borne by those making the choice.

Education Week blogger **Justin Reich** had a truly worthy idea he relayed in his four-part series on the intersection of virtual school policy and open education policy. His idea includes providing preferential treatment to online providers that agree to primarily use openly licensed online materials, thus saving money, and share the resources, curriculum, and platforms that they create under the same Creative Commons licenses, which helps teachers and students.

We suggest that the state continue with online electronic courses within the controlled environment of the TxVSN and the currently existing virtual charter schools. This approach should permit the development of standards, further study of the effectiveness of this delivery model with regard to various student populations and coursework, and the opportunity to address issues such as content learned. Thank you for your consideration of our views.

Education Week's blogs > EdTech Researcher

How to Open Virtual Schools

By Justin Reich on September 27, 2012 1:31 PM | No comments

*We come now, to part IV in my series on the intersection of virtual school policy and open education policy. We've discussed the **yoking of virtual schooling and market-based reforms**, how contemporary **virtual school legislation favors large, for-profit virtual school vendors**, and why linking **virtual school legislation to open education policy** can help ensure that new virtual schools benefit not just the kids they enroll, but students everywhere.*

How to Open Virtual Schools

By now loyal readers, you are probably thinking: "Enough of this big picture stuff, Justin; nothing drives blog readership like the line-editing of state legislation to make policy changes." Well, my friends, I've heard you loud and clear, and now we get into the nuts and bolts of advocacy: reading the bill and finding some words to try to change how it works. In this post, I'll explain exactly how I think we should change the Massachusetts virtual school authorization bill.

The **full text of the Commonwealth Virtual Schools bill is here**. You may want to open it in another tab and refer back to it as this goes on. Seriously, this post is like homework.

The story in Massachusetts is that our virtual school legislation is very, very, very specific. Most of what the legislation does is give the executive branch (our Department of Elementary and Secondary Education or **DESE**) authority to develop a process for approving virtual schools and set some boundaries of that process. But the legislature wants things to happen in very, very particular ways. For instance, it requires the DESE to have an application. Then it delineates 37 specific criteria that must be in the application. Thirty-seven isn't a joke-y exaggeration: look at sections 94(b)(1-37). In addition to these application criteria, the bill specifies when to open the applications, who can apply, what's on the application, who will review the application, who will advise the process, how many students will be let in the schools, and so on.

So I've had a two-pronged advocacy approach. First, I approached a legislator I know on the education committee and suggested some changes. Second, I opened a conversation with the regulator in the DESE who will be in charge of the process.

I'll give you the end of the story now: the legislator advised that it was probably too late in the process to make big changes to the legislation. The bill will probably pass as is for now, but it may get revised in the next few years and there may be an opening then. Moreover, once the bill passes, there will be opportunities to engage with the DESE to help shape the application and approval process. Thus, I'm in a bit of limbo now, too late for the legislation but too early for the regulation or the revised legislation. But I'll outline my strategy below, which is basically the same for legislation and regulation since the bill looks like a regulatory document with all those specifics.

A Brief Aside on Contemporary Policy versus the Future of Education

(As a quick aside, a brief retort to Will Richardson. Will **says in a comment on the last post**: "I'm thinking there is another piece to this that has to come before [open policy advocacy] and that is (no surprise) the purpose of the entire enterprise." I think we should engage in conversations about the purposes of education, but the train is moving, the ship is sailing. It matters right now, in these next few years, how the foundational infrastructure of virtual schools develop. These conversations on vision and policy have to happen simultaneously; we can't wait for a national kumbaya on the purpose of schooling to address what's happening to kids right now. By all means, don't let open advocates off the hook for their vision of the purpose of education, but we need to engage in contemporary policy discussions even if people haven't agreed to rethink education. Regardless, go read Will's new essay on **Why School?**.)

OK, here's been my advocacy plan: I'm acting as my own little mini-ALEC here, trying to share models of what might make for better virtual schools.

Explain Open Policy

So step one in my communications with decisionmakers is a little homily to Open Policy. Loyal readers will recognize this, skip ahead if you are really excited now to get to that juicy legislative language.

Open Policy

The goal of the legislation should be for the Commonwealth to have virtual schools that are national exemplars. The best virtual schools in the Commonwealth should have a mission to support high quality learning not just for their own students, but for all students through the sharing and exchange of materials and practices.

One of the best ways to ensure that school founders have the civic mission of schooling as their core focus is to show a legislative and regulatory preference for "Open Policy," a commitment to using Open License and Open Access educational materials and to sharing any materials created by the school under a Creative Commons or other Open license. The national exemplar of this right now is the Open High School of Utah, which has a commitment to using Open Educational Resources and shares its resources under an open license.

My preference would be for the legislature to express a clear preference for Open Policy in the law. Open Policy is defensible from both the right and the left (saves money! treats education as a public good!), and it can be a powerful tool for regulators in DESE and their proposal reviewer partners (and I've reviewed charter proposals in the past) to use in justifying decisions that show preference to proposals in the public interest over those in the service of boosting shareholder value. Schools that have a commitment to Open Policy don't just serve their students, they improve education across the Commonwealth and across the world.

Then I propose three specific changes (this is specific to the legislation, but would be easily adapted to regulation).

(1) Express a clear legislative preference for Open Policy

In section 94c, the law gives preference to a variety of specific kinds of proposals, such as schools that serve "students with physical or other

126 challenges that make it difficult for them to physically attend a school; students with medical needs requiring a home or hospital setting; students with unusual needs requiring a flexible schedule; students who are overage for their grade; students who have been expelled; students who have dropped out; students at risk of dropping out; students who are pregnant or have a child; students with social and emotional challenges that make it difficult for them to physically attend a school; students who feel bullied or want to be out of school due to other safety concerns; gifted and talented students; students who seek academic work not available in their school; students in rural communities; and students in institutionalized settings." [I told you it was specific].

Add to that section this statement:

"The board will give preference to proposals from schools that commit to making new curriculum and instructional materials available under Open Licenses for broad dissemination, use, and modification."

(2) Require applicants to describe their commitment to Open Policy in their application

In section 94 b, the law specifies 37 components of the application (to which the DESE can add more). Add the following as the 38th:

"(38) a description of how the school intends to use Open Educational Resources in its curriculum, and a description of whether and how the school will share any new curriculum or instructional materials developed by the school and its faculty and staff under an Open License."

(3) Require Commonwealth Virtual Schools to annually report on the materials they share under Open Licenses

Section 94(m) details 12 specific components of the annual reporting required of each virtual school. Add this as the thirteenth:

"(13) a discussion of new curriculum or instructional materials developed by the school and its faculty and staff that were shared under an Open License."

Preference versus Mandated Reporting

Ideally, the legislature would have adopted point (1) above declaring a legislative preference for Open Education policy. However, I think policy aims can be advanced without such specific preferences declared. It might simply be enough, as (2) and (3) stipulate, to require applicants to explain their position on Open Education and to require schools to report on their contributions to Open Education. These reporting requirements would give regulators and proposal reviewers tools for evaluating virtual schools through the lens of open policy. It would distinguish between applicants who treat education as a commodity and those who treat education as the public infrastructure of our culture. And it would signal to the DESE the power to show preference towards the latter.

So, that's what I think Massachusetts should do to have a national-exemplar virtual school. Again, if you want to know why I think open policy is critical to virtual school legislation, check out **Parts I, II, and III** of this series. If anyone has actually read the whole thing, then hats off to you.

Let me end with a nod to **Chris Dede**, who taught me that if you care about the impact of technology in classrooms, then you have to care about policy and management as well. Even if it means reading legislation drafts, when you'd rather be dreaming up cool ways to work with teachers and kids.

*For regular updates, follow me on Twitter at **@bjfr** and for my papers, presentations and so forth, visit **EdTechResearcher**.*

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