

Pre-Hearing Statement
of Sue Collins
to the
Federal Trade Commission
on
“Possible Anticompetitive Efforts to Restrict Competition on the Internet”
October 1, 2002

I. Introduction

Imagine a student sitting down in front of a computer in the school library. Now, imagine him stepping through the computer to join classmates and teachers from around the country. The class is AP Calculus B, a subject that isn't offered at his high school. His online instructor has 13 years of classroom teaching experience and teaches the same sized classes that she would at school. Her students spend a similar amount of time on their course as they would on a regular class, learn from standards-based content, and receive credit from their high school.

By the year 2006, a majority of American high school students will have participated in an online course before graduating.¹ Most will take online courses through their school, when teacher shortages and scheduling conflicts prevent them from taking particular subjects in a traditional classroom.

Other students will step away from brick and mortar schooling entirely and take all of their courses from one of 30 cyber-charter schools nation-wide. Many of these students are home-schoolers and will present a challenge to traditional public funding for schools.

Both the high school and the cyber-school students will face significant state and local barriers to their online educational goals. Policies once designed to ensure the best possible education now prevent student access. A new form of national policy is needed to regulate best practices in e-learning curriculum design and instruction, superceding state requirements and ensuring that every student has equal access to an effective education.

II. State and Local Barriers to E-Learning

Historically, education has been provided—and regulated—at the local level. Fifty states and 15,000 school districts have enacted as many different policies for teacher certification, standards, textbook adoption, and funding to ensure that their students receive consistently high-quality instruction and materials.

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The best educational decisions are normally made closest to the child. At the same time, parochial/local policy should not interfere with education benefits to students.

Some states don't allow students to use an accredited online course to meet graduation requirements because it doesn't map to a specific state curriculum outline or textbook, or because the online course instructor isn't certified to teach in that state.

Many barriers to e-learning are enacted to protect teaching jobs and guard per-pupil funding, and they persist even in the face of high-quality alternatives. Nationally-based standards have been created for most subjects, and the National Board for Professional Teacher Certification offers national certification.

The restrictions are tightest in California, where on September 22nd Governor Gray Davis signed Assembly Bill No. 885, limiting the number of schoolsites that may offer online courses and mandating that those courses be developed by local school districts and taught by local teachers in order to be ADA compliant.² Online courses taken through post-secondary institutions are allowed, but do not qualify for credit. All other courses must be granted waivers from the State Board of Education.

A. Summary of Issues Facing E-Learning

- **State teacher certification**
In some states, if a district doesn't use a state-certified teacher, the state won't provide funding.
- **State approved textbook adoption**
Some states require that districts use only state-adopted textbooks, or the state will withhold basic education funding.
- **State curriculum-specific standards**
In many regions, courses must match exact state or local standards or basic education funding will be withheld.
- **Per-pupil funding**
The amount of funding a school receives for a student depends on the amount of time that student spends in class. In states where online course hours don't qualify as regular class hours, funding is withheld.
- **Credit-granting rights**
Regulations in some states prevent schools from granting credit for online courses.
- **Charter school regulations**
Some charter schools are restricted to specific geographic locations, preventing students from taking online courses.

III. State and Local Barriers to Cyber-Charter Schools

Cyber-charter schools face many of the same e-learning issues, but with additional conflicts over state and local funding and accountability. Cyber-charter schools are typically hosted by a district, yet they accept students from across the state, as well as home-schoolers who may be un-accounted for within the regular public school system.³ By enrolling students across district lines, these schools compete for districts' per-pupil funding.

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In June 2002, Pennsylvania became the first state to define, fund, and regulate cyber-charter education programs at the state level. Cyber-charter schools are now legal entities with designated funding, to be overseen by the State Department of Education instead of districts.⁴ Yet, at least three of the state's eight cyber-charter schools continue to face lawsuits from districts and state education organizations, seeking to block transfer of per-pupil funds to cyber-charter schools often located in other districts.

In California, Governor Davis signed Assembly Bill 1994 on September 30, 2002 requiring charter schools—and their students—to stay inside the boundaries and the oversight of their host county or school district.⁵ For cyber-charter schools whose current host isn't local, they'll have to either find a new sponsor or relocate by 2007.

The Ohio Federation of Teachers is suing the state superintendent of instruction, claiming that online charter schools violate the state constitution. Despite the ongoing conflict, more than 100 Ohio school districts have expressed interest in developing online schools.⁶

And to fulfill Minnesota state requirements for online students, home-schoolers attending K12's Minnesota Virtual Academy must work inside a public school building for at least five hours a week.⁷

IV. Conclusion

Federal government leaders need to establish a national research and development agenda that evaluates the ways that technology improves teaching and learning, creating a policy and funding environment that facilitates the use of technology for education in our country.

State government leaders and departments of public instruction must evaluate their regulations and change those that impede student access to expanded educational opportunities.

President Bush recently said, "We must never lose sight of this mission, that's to make sure that every single child receives a first-class education." Key to achieving that goal is ensuring that state politics don't get in the way of access to the outstanding educational opportunities that our technology investments have made available to today's students.

While it may be important for students to know where state lines are when they take a geography class, when it comes to educational opportunities, those lines must be transparent. Together we must work to update policies to ensure that all U.S. students have access to a first-class education —without barriers.

Endnotes

Sue Collins is Chief Education Officer for Apex Learning, a provider of online instruction and resources. In her 30-year career, she has worked as a front-line educator, as director of instructional service and technology for a state department of education, as a member-leader in education associations, and in the education division at corporations such as Apple Computer and Compaq. In 2000, then-President Clinton appointed her to the Commission on Web-based Education.

1. Rose, Ray. Director, Concord Consortium. Presentation to "Linking Leadership to Learning: Putting PT3 Results to Work," Vanderbilt University, October 20-22, 2001.

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2. California Assembly Bill No. 885 Chapter 801, Legislative Counsel's Digest:
"AB 885, Daucher. Average daily attendance: Internet classroom.
Existing law prescribes the method for computing average daily attendance of pupils under the direct supervision, as defined, of school district personnel for the purpose of determining school district apportionments.
This bill would, notwithstanding any other provision of law, for the purposes of an online classroom program conducted over the Internet, as defined, in a secondary school, include as 'immediate supervision,' pupil participation in an online asynchronous interactive curriculum, as defined, provided by certificated school personnel. The bill would require schools that provide an online asynchronous interactive curriculum to meet certain requirements including, applying to the State Department of Education for participation in the program. The bill would limit total participation in the program to 40 schoolsites, and would restrict any one school district under the program to no more than 5 schoolsites. The bill would permit courses other than high school courses to be eligible for online classroom programs pursuant only to a waiver from the State Board of Education.
This bill would repeal these provisions on January 1, 2006.
This bill would require the Controller to provide for a financial audit of online classroom programs conducted over the Internet that are subject to the provisions of the bill."
3. "Cyber Charter Schools," *NASBE Policy Update*, Vol. 10, No. 5, April 2002.
4. Thomas, William R. "Virtual Learning and Charter Schools: Issues and Potential impact," *Southern Regional Education Board*, August 2002.
5. May, Meredith and Asimov, Nanette. "Davis signs tougher law covering charter schools/Districts required to improve oversight," *San Francisco Chronicle*, September 30, 2002.
6. Gartner, John. "Online schools won't get an easy 'A'," *Wired*, September 2, 2002.
7. Welsh, John. "Minnesota Education: Bennett pitches his firm's virtual school," *Pioneer Press*, September 27, 2002.