



The Alternative Learning Department,  
Office of Superintendent of Public Instruction

# Alternative Learning Experience Guide to Serving Students with Disabilities

## 2017-18

**Authorizing legislation:** RCW 28A.232

(<http://app.leg.wa.gov/rcw/default.aspx?cite=28A.232&full=true>)

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# SUMMARY

The following guidelines provide an overview of school district responsibilities to ensure that students with disabilities have an equal opportunity to participate in Alternative Learning Experience (ALE) courses and that those students enrolled in ALE courses continue to receive a free appropriate public education (FAPE), as required under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act (Title II), the Individuals with Disabilities Education Act (IDEA), and chapters 28A.642 RCW and 392-190 WAC.

State and federal laws prohibit discrimination in Washington public schools on the basis of disability, including in Alternative Learning Experience (ALE) courses (WAC 392-121-182(6)(a), chapter 28A.642 RCW, chapter 392-190 WAC, Section 504, 34 CFR Part 104). School districts that offer ALE courses must ensure that they are accessible to all students, including students with disabilities. (WAC 392-121-182(6)(a)).

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# Recruitment

When announcing the availability of school or program offering Alternative Learning Experience (ALE) courses or conducting public outreach and recruitment, a public school district must act to ensure that all students, including students with disabilities, are notified of the opportunity to participate in the ALE course. Recruitment materials used on the internet, in newspapers, and in other online or written communications, should include the district's nondiscrimination statement, making clear that the ALE course does not discriminate against students on the basis of sex, creed, religion, color, national origin, sexual orientation, gender expression or identity, veteran or military status, disability, or the use of a trained dog guide or service animal by a person with a disability in admission or treatment in the course. Recruitment materials should include the contact information for the person(s) responsible for coordinating the ALE course's efforts to comply with the Individuals with Disabilities Education Act (IDEA), Section 504, and Title II. The recruitment materials should also make clear that if the student does not reside in the district that is offering the ALE course and wants to participate, Washington's nonresident transfer procedures must be followed, unless the student can be served through an Interdistrict Agreement with the resident school district (both options are described in more detail in the next section about Admission.)

## Admission

### Communication with Parents

The parents of students with disabilities must be provided the same access to Alternative Learning Experience (ALE) courses as parents of students without disabilities. A school or program offering ALE courses may not reject an application solely because of the student's eligibility for special education and related services, or eligibility under Section 504. Districts must make sure that the application process for admission into the school or program offering the ALE course(s) is clear and understandable to all parents and does not discriminate against students based on disability. In particular, the process for admission into the district should inform parents that a student must remain in their district of residence until (1) the nonresident district that offers the ALE course(s) accepts the student, and (2) the resident district releases the student. Additional information on nonresident choice transfer procedures is included below.

### Eligibility Criteria

When considering the admission of a student into any school or program offering Alternative Learning Experience (ALE) courses, the district must provide students with disabilities an equal opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the mission of the school or program offering the ALE course(s) and in compliance with the Individuals with Disabilities Education Act (IDEA), Section 504,

and Title II. Districts may not condition enrollment of a student with a disability on forgoing rights she or he has under these laws and programs. A district, for example, may not ask a parent to revoke consent for continued special education services as a condition of admission. Moreover, online ALE courses should not use classroom size as a basis for denying admission if the online course does not have the same capacity limited as a physical bricks-and-mortar classroom. A district, school, or program that offers ALE courses may, however, develop eligibility criteria for admission as long as the criteria are:

1. Neutral with respect to disability;
2. Educationally justified;
3. Applied equally to both students with and without disabilities alike; and
4. Subject to modification when necessary to avoid discriminating against a student on the basis of disability, unless the district can demonstrate that making the modification to the criteria would fundamentally alter the nature of its ALE course(s).

A district school or program offering online Alternative Learning Experience (ALE) courses, for example, may establish specific reading, writing, and math achievement criteria for admission to its online school as long as the criteria are justified by the nature of its online ALE courses and applied equally to all applicants. Such criteria must also be subject to modification when necessary to avoid discriminating against a student on the basis of disability, unless the district can demonstrate that making the modification would fundamentally alter the nature of its online ALE course(s).

Overall, chapter [392-121-182 \(6\)\(a\) WAC](#) requires school districts that offer any Alternative Learning Experience courses to ensure that the programs are accessible to all students, including students with disabilities, and requires the district to provide the ALE for students eligible for special education in accordance with chapter [392-172A WAC](#).

### **Nonresident Choice Transfer Procedures**

When parents apply for their student's admission into an Alternative Learning Experience (ALE) course offered by a school district and the student is not a resident of that district, a parent needs to submit a Choice Transfer request. A Choice Transfer request is a request to have the student released by their resident district and accepted by the nonresident district under Washington's nonresident transfer rules, also known as Choice Transfer procedures (see chapter [392-137 WAC](#)).

Parents enrolling a student will start the process by making the Choice Transfer request to the resident school district. The resident school district will then use the Standard Choice Transfer System to submit the request to the nonresident school district. It is advisable for parents to contact the school or program offering the ALE courses in which they hope to enroll before starting the transfer process to verify that the ALE courses are accepting new students and to receive instructions on how to make the transfer request.

In all cases, until a student is accepted by the nonresident district offering the Alternative Learning Experience (ALE) courses, the student remains a resident of her or his district, even if that district has allowed for the student's release. Once the nonresident district offering the ALE course(s) has accepted the student and the student's resident district has released the student, the student is ready to begin the ALE courses in the new school district on the specified begin date. If either the resident or nonresident district does not act on a parent's request for release or for acceptance within 45 days, it is deemed to be denied. State law provides an appeal process if the transfer is denied. Additional information on appeals is included below.

Nonresident districts reviewing applications for admission to a school or program offering Alternative Learning Experience courses do so based on the acceptance and rejection standards stated in district policy that apply equally to all students. Once a Choice Transfer request is initiated, the nonresident district may access student information in the Student Records Exchange (SRX) system to determine if the student meets the acceptance standards. Though a student's special education or 504 status will be included in the SRX information, this information should not be the basis of a decision to accept or deny the transfer request. Moreover, once a student is enrolled within the nonresident district, the district may not threaten to rescind approval of the student's Choice Transfer as a means of discouraging or avoiding a referral to evaluate a student for possible Section 504 or special education eligibility.

The primary alternative to the Choice Transfer process, an Interdistrict Agreement, is discussed at the end of this section.

## **Appeals**

Parents may appeal any denial of acceptance or transfer rescindment by a nonresident district. Parents may likewise appeal the denial of release by a resident district. Each district may have procedures for processing such denials. If the parent is dissatisfied with the district's decision regarding their appeal, the parent may submit an appeal request to OSPI to conduct a formal adjudicative hearing to resolve the dispute. The student should attend school in their resident district while any appeal is pending.

## **Interdistrict Agreements**

A district operating a school or program offering Alternative Learning Experience (ALE) courses also has the option of entering into an Interdistrict Agreement with the student's resident district. The Interdistrict Agreement will outline which courses and services will be provided by the resident district, and which courses and services will be provided by the nonresident district's school or program. If a resident district agrees to this type of arrangement, it remains the student's district of residence. Districts are not required to enter into an Interdistrict Agreement; it is a wholly voluntary process. Parents do not have the right to appeal a district's refusal to enter into an Interdistrict Agreement.

The Standard Choice Transfer System is available for districts to use to process Interdistrict Agreements. The parent will make a request to the student's resident district to start the Interdistrict Agreement process with the nonresident district. Once an Interdistrict Agreement is requested, the nonresident district may access student information in the Student Records Exchange (SRX) system to determine if the student meets the acceptance standards. Though a student's special education or 504 status will be included in the SRX information, this information should not be the basis of a decision to accept or deny the transfer request.

Unless otherwise stated in the terms of the Interdistrict Agreement, the student's resident district retains responsibility for the design, supervision, and monitoring of special education services and related services under the Individuals with Disabilities Education Act (IDEA) and Section 504, including those services or accommodations to be provided by the nonresident district's school or program offering Alternative Learning Experience (ALE) courses. If the student's needs require additional or different services, the Interdistrict Agreement must be amended or a new agreement put in place. An amendment or new agreement both require a parent request and the approval of both school districts.

## **Free Appropriate Public Education (FAPE)**

School districts must follow all requirements related to identification, evaluation, placement, and the provision of a "free appropriate public education" (FAPE) under the Individuals with Disabilities Education Act (IDEA) and Section 504 for eligible students in their ALE courses. Under Section 504, a district's school or program offering Alternative Learning Experience (ALE) courses is required to provide a FAPE to qualified students in the course(s) who have a disability. This requirement consists of any accommodation, related aids, or services that are necessary for the student to receive a FAPE through the ALE course. The purpose of a Section 504 plan is to allow the student with a disability to equally benefit from the ALE course. The aids, accommodation, and/or services must be provided at public expense and under public supervision.

A school district must also make a Free Appropriate Public Education (FAPE) available to every student between the ages of three and 21 who has been determined eligible for special education services under the Individuals with Disabilities Education Act (IDEA). For a student who is eligible for special education, a FAPE consists of instruction that is specifically designed to meet the needs of a student with a disability, along with whatever support services are necessary to permit the student to benefit from that instruction. The instruction and support services must be provided at public expense and under public supervision. If the needs of a student eligible for special education can be met in the ALE course with special education, related services, and additional aids and supports, then the district must provide a FAPE to the student in the ALE course in accordance with chapter 392-172A WAC.

## **Individualized Education Plan (IEP)**

Special education is provided in conformance with an individualized education plan (IEP) designed to meet the student's unique needs. A student's IEP should be taken into consideration when developing a Written Student Learning Plan (WSLP) for the student's Alternative Learning Experience (ALE) course(s). The learning requirements outlined within the student's WSLP should be aligned with the student's needs and annual goals identified in the IEP. The district must take steps to ensure that the obligations contained within each of these documents are being met. Meeting such obligations may require the district school or program offering the ALE course(s) to provide accommodations, related aids, services, and additional progress monitoring and reporting.

For students accepted into a district school or program offering Alternative Learning Experience (ALE) courses through the nonresident transfer process, the nonresident district is legally responsible for providing special education and related aids and services to the student. The nonresident district should review the student's educational records, including evaluations and IEPs, to determine how services will be provided. Given the unique nature of schools and programs offering ALE courses, the IEP may need to be revised. In some cases, the previous IEP may have lapsed and the nonresident district providing the ALE courses will need to develop a current IEP in accordance with chapter 392-172A WAC.

Students who are determined eligible for special education and have an individualized education plan (IEP) do not need to have a separate Section 504 plan. Any accommodations, related aids, or services that would be necessary for the student under Section 504 should be considered by the IEP team and included in the student's IEP.

## **Related Services**

"Related services" means those developmental, corrective, and other supportive services required to assist a student in benefitting from special education. There is no exhaustive list of related services. If the student needs related services under Section 504, then they will be determined by the Section 504 team and listed in the student's Section 504 plan. Likewise, if the student needs related services under the Individuals with Disabilities Education Act (IDEA), then they will be determined by the IEP team and listed in the student's IEP. In both instances, the district program or school offering the Alternative Learning Experience (ALE) course(s) must determine how related services will be delivered.

For nonresident transfer students, some methods for delivering related services may include:

1. Contracting with the student's resident district;
2. Contracting with another district that is located close to the student's physical location; or

3. Contracting with private providers, or determining whether some services can be provided using teletherapy.

School district administrators and school boards should be aware of these requirements when making decisions about offering Alternative Learning Experience (ALE) courses, particularly online ALE courses.

### **Staff Training and Qualifications**

A district must ensure that the provision of special education within a school or program offering Alternative Learning Experience (ALE) course(s) is designed, supervised, monitored, and evaluated by the appropriate school district personnel in accordance with chapter [392-172A-02090 WAC](#). For schools and programs offering online ALE courses specifically, any online course teachers and/or school-based support staff involved in the provision of special education must be supervised by a special education teacher and possess the skills and knowledge necessary to meet the student's needs.

### **Procedural Safeguards**

All parents/guardians of students enrolled in any Alternative Learning Experience course must be notified of the procedural safeguards provided by Section 504 and the Individuals with Disabilities Education Act (IDEA) concerning the district's obligation to identify and evaluate eligible students and to provide a Free Appropriate Public Education.

OSPI has the authority to monitor school district compliance with nondiscrimination laws, including Section 504 and chapters [28A.642 RCW](#) and [392-190 WAC](#). Complaints alleging discrimination by a program or school offering Alternative Learning Experience courses must be addressed using the procedures set forth in chapter [392-190 WAC](#).

Parents/guardians also have the right to file a complaint of discrimination with the U.S. Department of Education's Office for Civil Rights (OCR), or to file a complaint in federal court. This information should be included in the school district's nondiscrimination procedure.

There are also three dispute resolution options available under the Individuals with Disabilities Education Act (IDEA) administered by the Office of Superintendent of Public Instruction (OSPI); mediation, citizen complaints, and impartial due process hearings. These three options can address concerns about the identification, evaluation, educational placement, and provision of a Free Appropriate Public Education (FAPE) to a student eligible for special education. The IDEA requires schools to provide the parents/guardians of a student who is eligible for or referred for special education with a notice containing a full explanation of the rights available to them, including these dispute resolution options.



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