

Creating Inclusive Alternative Learning Environments

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Equity Statement

Each student, family, and community possesses strengths and cultural knowledge that benefits their peers, educators, and schools.

Ensuring educational equity:

- Goes beyond equality; it **requires education leaders to examine the ways current policies and practices result in disparate outcomes for our students** of color, students living in poverty, students receiving special education and English Learner services, students who identify as LGBTQ+, and highly mobile student populations.
- Requires education leaders to develop an understanding of historical contexts; engage students, families, and community representatives as partners in decision-making; and **actively dismantle systemic barriers**, replacing them with policies and practices that ensure all students have access to the instruction and support they need to succeed in our schools.



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Vision

All students prepared for post-secondary pathways, careers, and civic engagement.

Mission

Transform K–12 education to a system that is centered on closing opportunity gaps and is **characterized by high expectations for all students and educators**. We achieve this by developing equity-based policies and supports that empower educators, families, and communities.

Values

- Ensuring Equity
- **Collaboration and Service**
- Achieving Excellence through Continuous Improvement
- Focus on the Whole Child



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Tribal Land Acknowledgement

We show gratitude to the land,
river, and peoples who have
been fishing, hunting, harvesting,
and gathering here for
generations.

May we learn from one another's
stories, so that we may nurture
the relationship of the People of
the Mimiipuu (Nez Perce) Tribe,
the Palus people and to all those
who share this land.





- ☐ Housekeeping

- ☐ Introductions

- ☐ Presenters

- ☐ Participants

- ☐ Why are you here?

- ☐ Why are we here?

Key Objectives

Participants will leave with:

- High level overview of ALE and Online learning regulations
- Dispute Resolution Case Examples
- Inclusive special education in ALE and online learning programs
- Implementation Tools
 - Equity and Access Program Profile
 - FAPE & LRE Self-Assessment Tool
 - Programmatic Considerations for Special Education in ALE/Online Programs



Inclusionary Practices

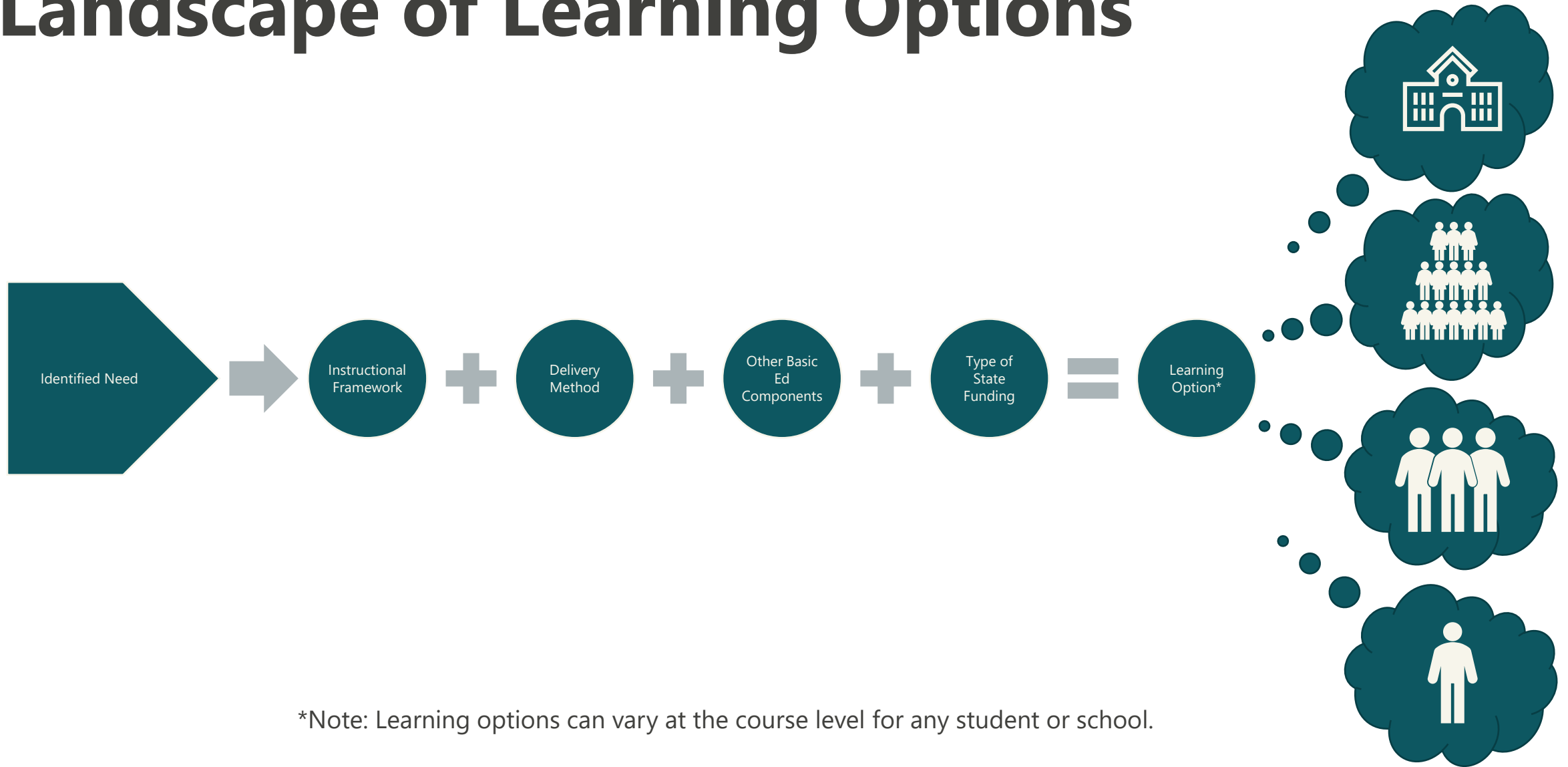


- Students with disabilities have a federally-protected civil right to access the general education curriculum in their least restrictive environment (LRE).
- The IPTN is leading a [systems-level transformation](#) to eliminate exclusionary practices for all students in Washington state.

[Learn more about how the network works](#) and [download the network at-a-glance](#).



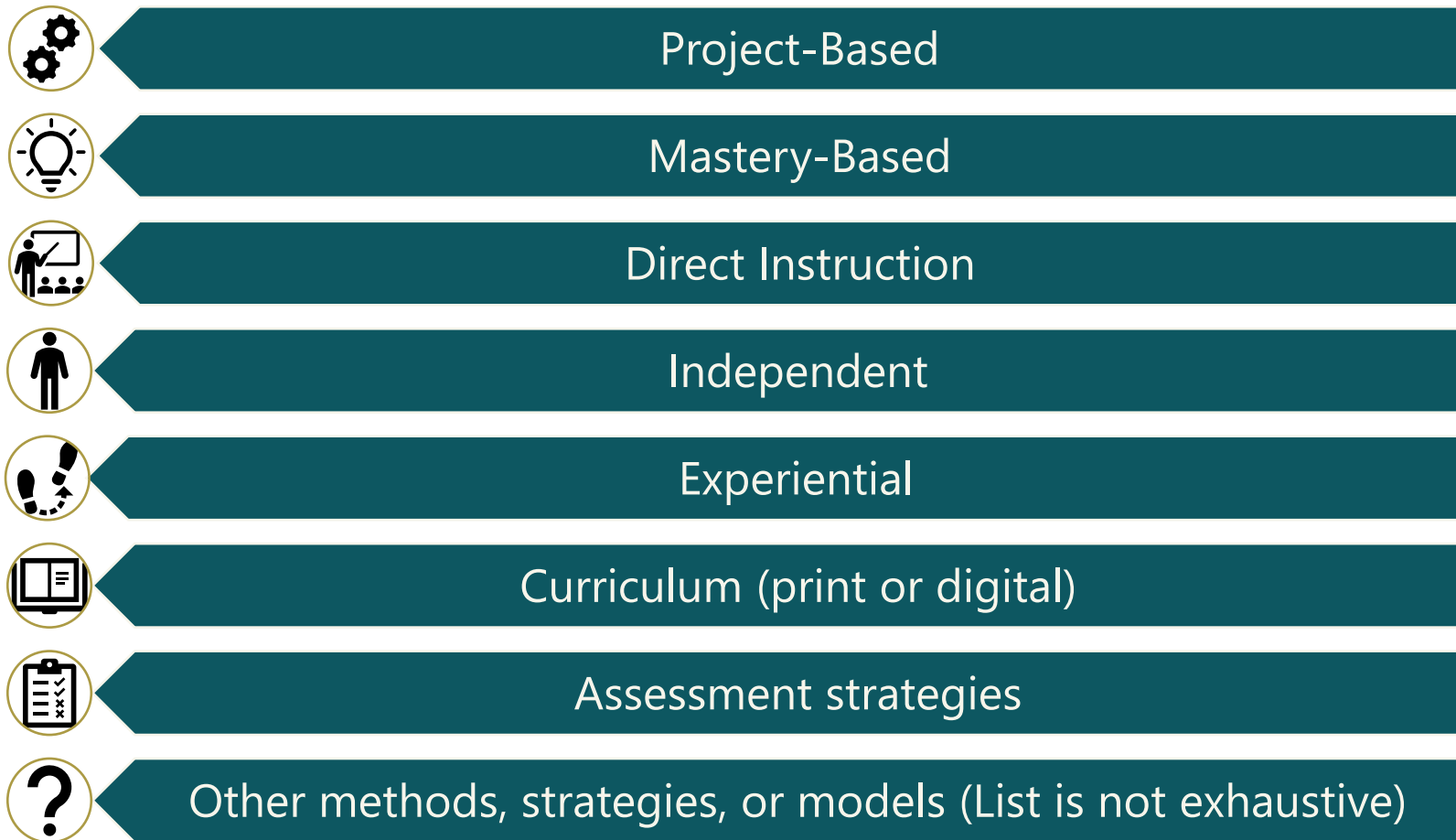
Landscape of Learning Options



*Note: Learning options can vary at the course level for any student or school.



Instructional Framework



Delivery Method



In-Person and On-site



Remote



Synchronous Online



Asynchronous Online



Blend of any and/or all methods



Examples of K-12 Public Education Learning Options*



*Note: Examples can vary at the course level for any student or school.



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Alternative Learning Experience

[RCW 28A.232](#) & [Chapter 392-550 WAC](#)

ALE: What Does It Mean To You?



ALE: Fast Facts

ALE is a course level designation not a school or student designation

ALEs often require significant in-person learning time

Authorization for ALE is local, OSPI does not approve ALE programs

ALE is not always online and online is not always ALE

Any public school can offer any ALE course for any student.

ALE courses must be accessible to students with disabilities.

ALE is a delivery method for basic education.



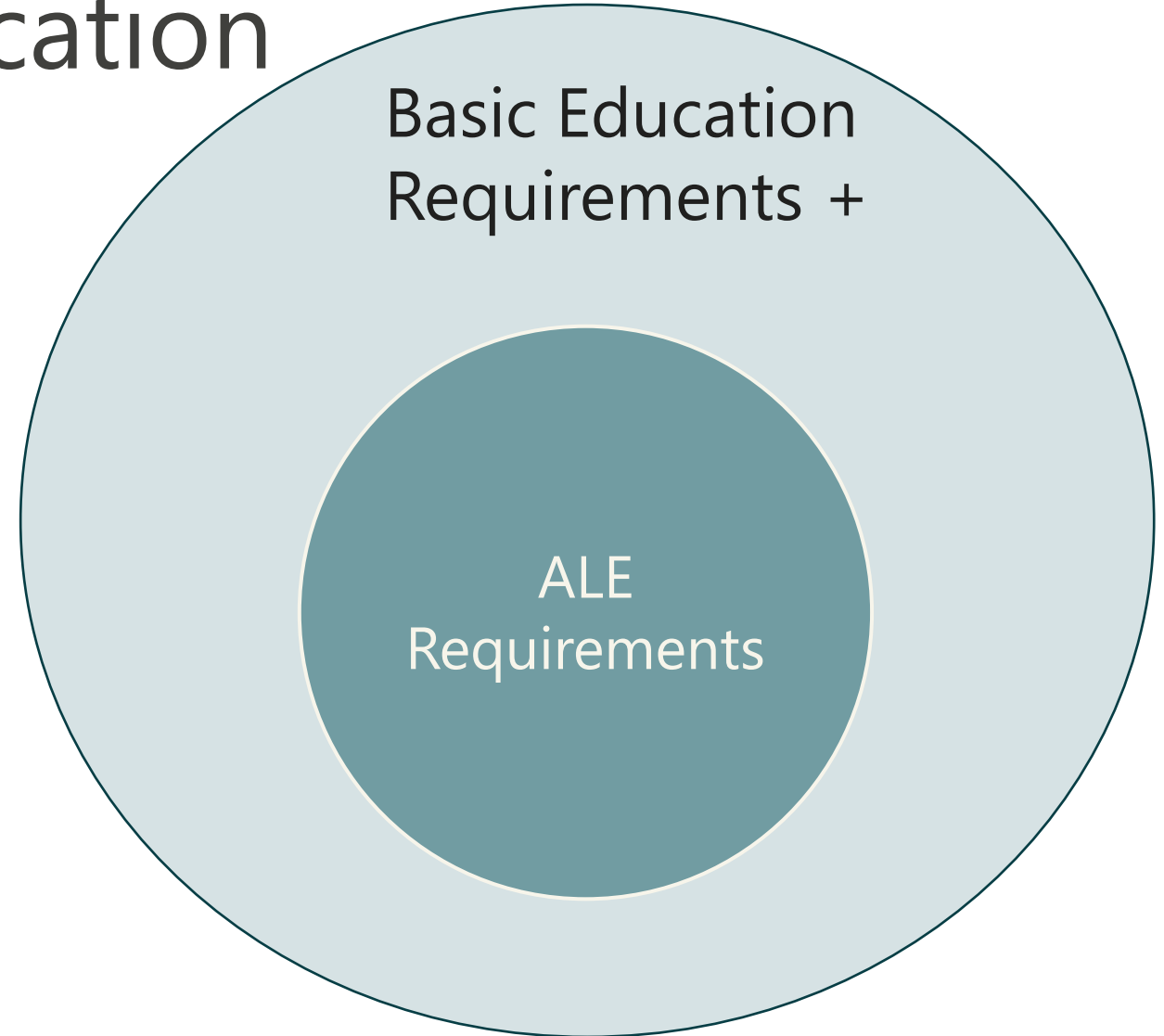
ALE: What Is it?

- Method of claiming basic education dollars for instruction that takes place in whole or in part away from the regular school setting.
- All expectations of a basic education apply.
 - Certificated teachers
 - Assessment requirements
 - Approved curriculum
 - SPED, TBIP, Highly Capable
 - Counseling and other support services
- Specific requirements to claim enrollment replace a bell schedule and daily attendance

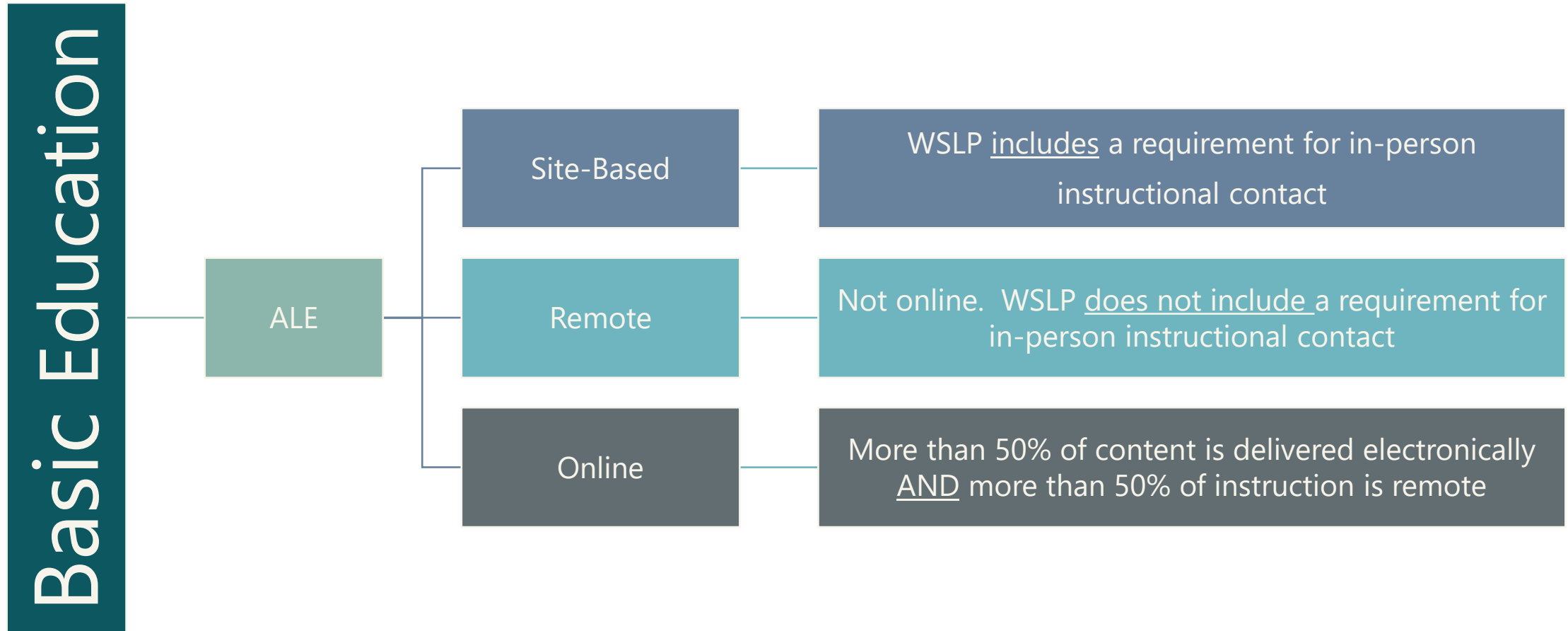


ALE: It's Basic Education

- ALE must meet:
 - all basic education regulations, plus
 - additional accountability to ensure the student is supported for off-site instructional time
 - Detailed learning plan
 - Weekly contact
 - Progress reviews
 - Intervention plans



ALE: Course Designations



ALE: Overlap with Additional Regulations

ALE – Chapter 392-550 WAC

- A course is ALE because some or all of the instruction is located away from the physical classroom.



Online Learning—Chapter 392-402 WAC

- Instruction is delivered more than 50% digitally & 50% remote from teacher.

Instruction provided under contract—WAC 392-121-188

- The district is contracting with an outside entity for instruction. Includes OSPI approved online course providers.

Nonresident enrollment regulations—WAC 392-137

- The program is drawing nonresident students who may not have something similar locally.

Part-time student regulations— WAC 392-134

- Due to its personalized approach, ALE more easily serves part-time students





Online Learning

[RCW 28A.250](#) & [Chapter 392-502 WAC](#)

Online Learning: Fast Facts

An online course is
not always 100%
online

Online learning is
not always ALE

Can be
synchronous/
asynchronous or
both

OSPI approval may
be required



Online Course Provider Course

- CP is responsible for all the content.
- CP employs and evaluates the teacher.
- CP is responsible for complying with online learning assurances.
- District is responsible for contracting for course.
- District is responsible for any program approval.

District Taught Online Course

- District is responsible for the content including curriculum adoption.
- District is responsible for teacher assignment, oversight, and evaluation.
- District is responsible for any program approval.



Online Learning Assurances

- Accreditation
- Federal/State Laws, Rules & Regulations
- Teacher Requirements
- High School Credit
- Standards Alignment
- Credit/Content Requirement
- Advanced Placement
- Program Changes
- CTE
- FERPA
- Accessibility
- Curriculum Adoption
- Responsibility
- Assessment
- ALEs
- Reporting
- Authorization



Contracted Instruction

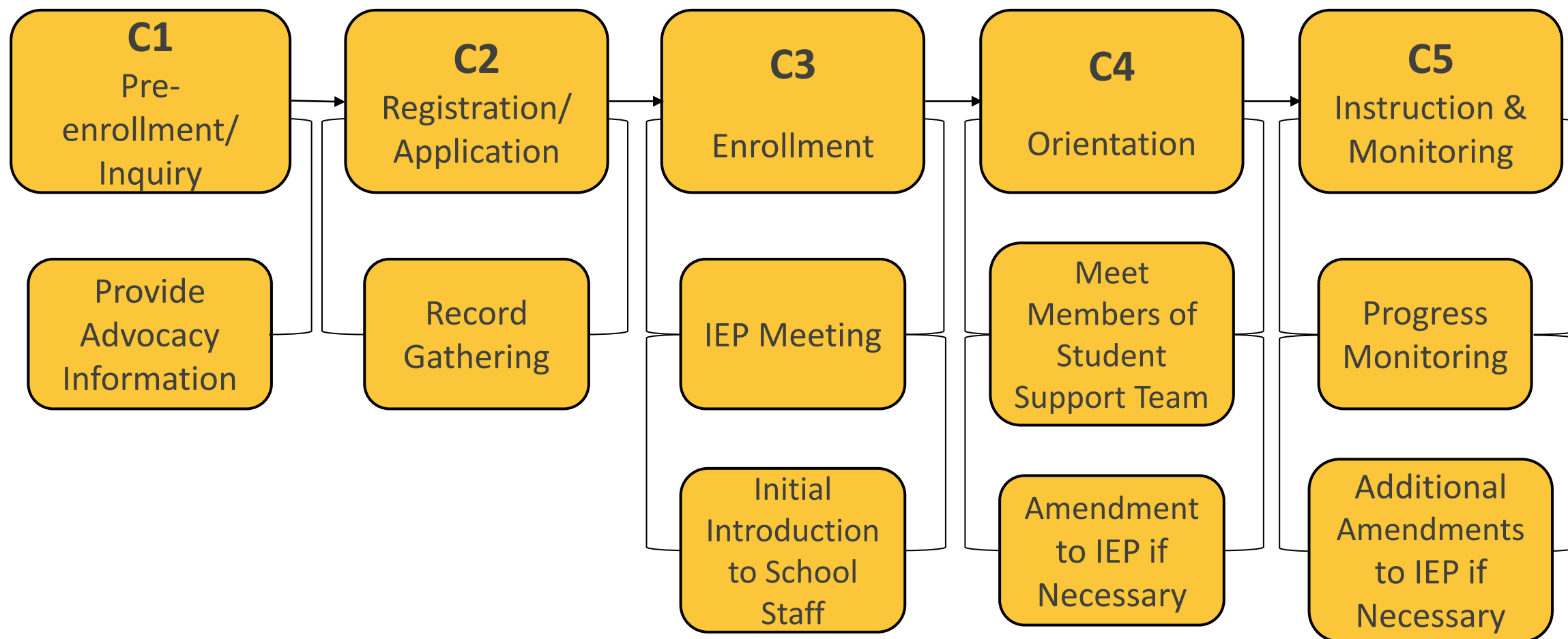
- [WAC 392-121-188](#)
- You are contracting with another organization for them to provide instruction or other services.
- **School district retains full responsibility to state and federal law, including IDEA and Section 504.**





Inclusive Special Education in ALE/Online

5 Cs to Equitable Enrollment in ALE Programs



C1 Scenario

Pre-enrollment/
Inquiry

Provide
Advocacy
Information

- Parent reaches out to an ALE program to inquire about the model and enrollment process. In the discussion with school staff the parent mentions that the student has an IEP. The school staff ask the parent about the student's disability and behavior. The school staff shares with the parent that they do not have special education services at their site and the student might not be a good fit.
 - Can you identify any red flags?
 - What would a promising practice be in this scenario?
 - What would you have the school staff person discuss with the parent?
 - What questions do you have?



C2 Scenario

Registration/
Application

Record
Gathering

- A family is provided with an application to attend an ALE program. The application asks if the student has an IEP or 504 plan. The family provides a copy of the IEP with the application. The principal of the ALE program reviews the IEP and application and places the student on a waitlist until special education teacher caseload capacity is available.
 - Can you identify any red flags?
 - What would a promising practice be in this scenario?
 - What should the application process look like?
 - What questions do you have?



C3 Scenario

Enrollment

IEP
Meeting

Initial
Introduction
to School
Staff

- A student has been accepted into an ALE program. The family is provided a copy of the district enrollment forms. The enrollment form asks if the student has previously had an IEP. The family provides a copy of the IEP with their enrollment paperwork. The family is informed that the service minutes will be provided at the neighborhood school.
- Can you identify any red flags?
- Would you implement any revisions to this enrollment process, if so, what would they be and why?
- What questions do you have?



C4 Scenario

Orientation

Meet Members
of Student
Support Team

Amendment to
IEP if Necessary

- Wanda's parents enrolled her in a district second grade ALE. She has an IEP with services in reading, math and social emotional. She struggled with task initiation, focus, and emotion control in a large classroom setting and her parents feel she may be successful with online instruction. The ALE enrollment staff explained the student's educational technology will be provided and parents serve as learning coaches.
 - Can you identify any red flags?
 - What role should Wanda's parents play in supporting the IEP?
 - How might the school staff support the family?
 - What questions do you have?



C5 Scenario

Instruction &
Monitoring

Progress
Monitoring

Additional
Amendments to
IEP if Necessary

- An eighth-grade student named Alex is enrolled in an online school program. Alex's IEP from the brick-and-mortar school required SDI for the development of social skills, organizational skills, and mathematics as a result of a specific learning disability and serious emotional disturbance. Alex received primary instruction through software programs, live lectures, lecture notes, and access to the virtual schoolteacher as needed. Alex is falling behind in classes.
 - Can you identify any red flags?
 - What would your next steps be in this scenario?
 - What questions do you have?



IEP Team Considerations for ALE/Online Learning

- What is known about the new learning environment?
Roles: teachers, students, parents
- The effects of a shift in location, setting, or instructional modality of services if any, have been identified (placement, services)
- Parent/family participation

IEP Team Considerations for ALE/Online Learning

- Identify appropriate supplementary aids and services for the ALE/Online setting.
 - Related services
- Parent Counseling and Training (provision of FAPE)
 - Intended to benefit the child because important learning will be provided
 - Assist parents in acquiring skills to support implementation of the IEP
 - May be added to the IEP as related services or supplementary aid or services



Child Find in ALE/Online

Timely identify locate and evaluate

- LEA responsibility for policies and procedures
- Virtual instruction may limit or prevent teacher interactions and contact with students
- Should not rely solely on referrals from parents
- Empower staff
- Additional strategies
- [Letter on Online / Virtual and the IDEA](#)
- [Child Find](#)



Keys for Success



- Leadership and Vision
- Comprehensive Planning
- Effective Communication
- Continuous Monitoring and Assessment
- Engaging and Interactive Curriculum
- Collaboration and Teamwork
- Parent and Family Engagement





Tension Points: Disputes related to ALEs

Questions being raised in legal disputes

“What is the impact of school or program choice on a district’s ability to deliver FAPE to the student in the chosen school or program?”

“What happens when students exercise choice, but FAPE isn’t possible where they choose to go?”



Department of Educ., State of Hawaii, 112 LRP 31884 (SEA HI 2012)

- Student with an IEP enrolled in the Hawaii Technology Academy (HTA) - two days a week in-person, three days a week online
- Student lived on the opposite side of Oahu from HTA
- Student produced virtually no work in online program and frequently absent or tardy for the in-person days
- IEP team recommended that the Student return to a full-time, in-person classroom after various attempts made to modify the HTA program and provide additional support in the online school component
 - Staff believed the Student's needs required the structure of a brick-and-mortar classroom environment and were concerned about the lack of progress
- Hearing officer agreed hybrid program was not working for the student and not appropriate to meet the Student's needs
- **Example of a situation where what the student's needs do not fit the choice: Here, the IEP team determined it could not provide FAPE in light of the student's unique needs in the chosen program**



Complaint Case Study: 18-116

- Student eligible for special education
- Resident of district A
- Enrolled in District B through choice transfer process
- Student transferred specifically to attend a particular remote-course ALE program in the District
- ALE program does not provide special education services – only general education curriculum

Nonresident
"Choice"
Transfer
(RCW
28A.225.225)

Cannot deny
based on
student being
eligible for
special
education

SECC 18-116

- **District:** Position in complaint is that students in ALE program receive special education services at their District neighborhood school
- For this Student that means the District **only** offered special education services at District brick-and-mortar middle school
- **Parent:** Student's unique disability related needs indicate he needs to receive specially designed instruction through some version of video conferencing

Consider...

- Districts are required to offer a "continuum of placement options"
WAC 392-172A-02055
- "Even with regard to LEA programs, the IDEA does not require that LEAs make all services needed by all students with disabilities available at all locations." *Letter to Anonymous*, 40 IDELR 236 (OSEP 2003)





What would you do in the District's position?



SECC 18-116: Conclusions

- Failed to follow portion of transfer procedures that requires “consultation with parents” (WAC 392-172A-03105(5))
- Neither the District’s policy that students in the program only receive special education at their neighborhood school nor the statement that the middle school cannot provide remote instruction, are individualized reasons based on the Student’s unique disability related needs.
- The District failed to make an individualized decision and failed to sufficiently consider a continuum of placements.

Thinking About Placement Based on Disability Related Need

- District: Instruction via a video conferencing would be to create a program specially for the Student
- But the IDEA requires an *individualized education program* for students eligible for special education services
- While the District may not provide instruction in this method for any other students currently, that does not preclude consideration of this as an option based on *this* Student's unique disability-based needs.
- District argued that creating a program for the Student would be a financial hardship – using the choice transfer language
- ALE is an alternative approach to traditional school. The District must respect the parent choice, especially if the model allowed enrollment via choice transfer.
- At minimum, must consider how the Student would participate in a remote-course ALE.
- District treated “resident enrolled” differently than “nonresident enrolled.”



Complaint Case Study: 24-19

- Student attended a District middle school, had an IEP with services in reading, math, and behavior
- In December 2023, the Student started the transition to enrollment in the District's alternative learning experience (ALE) or "academy", which offered a hybrid of online and on-campus instruction.
- Allegations:
 - The District failed to hold an IEP meeting to "discuss [the Parent's] concerns and her placement decision."
 - However, Complainant stated the "absolute final decision" about attending the academy was the Parent's and that the District should have informed the Parent "if the placement she desires is not correct for her son."
 - The Complainant and Parent also questioned whether the academy "has the capability to fully meet his needs given the information in his evaluation and IEP."



Initial conflation of location with special education placement...

- The Student's IEP indicated he would spend approximately 74% of his time in the general education setting. In December 2023, the Student was enrolled part time at the academy for general education and 59% at the middle school to receive SDI.
- While the location of general education instruction changed, the Student's special education services, setting for services, and least restrictive environment (LRE) did not change.

Tension between parent choice and FAPE...

- The Student's enrollment in the academy was due to Parent choice (the Parent applied for the Student's enrollment).
- When the Student began part time at the ALE, the Student's IEP team could have met. However, because the Student's special education services were not changing at this point, it is not a violation that the IEP team did not meet.



The District's ALE model is that most students continue to receive special education services at their neighborhood/"home" school and are accessing general education through the ALE. However, the District provided information that the academy has special education staff that provides some special education services at/through the academy, depending on the individualized needs of the specific student. The academy special education staff person becomes part of the IEP team that works between the academy and neighborhood school to coordinate services.



Eventually, the Student transitioned fully to the ALE and the IEP team did need to meet.

Remember: One of the procedural requirements of the IDEA is that a reevaluation must be completed before a significant change of placement is made.

- Given that full time enrollment at the academy could change the Student's special education placement, the Student's IEP team should have and did meet.
- On February 21, 2024, the IEP team met, and the Student's IEP was amended, including the setting for services and some of the service amounts.
- The IEP team should have at least considered whether a significant change in placement had occurred for this Student and whether any reevaluation was needed.
- However, OSPI found no violation because the IEP team met and addressed the Student's needs and services. OSPI did recommend the team consider whether a reevaluation would be beneficial.
 - Notably, the Parent stated the Student "has NEVER been more confident in his learning and education since we've moved him to [academy]."
 - District staff also stated the Student was doing well.

Important Take-Aways:



- The District had an **individualized process** for students with IEPs learning at its ALE
- While most students continue to receive special education services at their neighborhood/"home" school and are accessing general education through the ALE...



- The District provided information that the academy has special education staff that provides some special education services at/through the academy, depending on the individualized needs of the specific student.



- The academy special education staff person becomes part of the IEP team that works between the academy and neighborhood school to coordinate services.
- The District stated when students eligible for special education start at the academy, it **might** represent a change of placement, depending on the student and that the District has done reevaluations as needed.



Learning from disputes – individualization is key!

See *In re: Student with a Disability*, 105 LRP 13107 (SEA VA 09/22/04): Parent preferred placement in a magnet elementary where the student gained entry through a lottery. Hearing Office found "Even though 'Student "won" the lottery for the magnet school and would be accepted there, his IEP requires a collaborative kindergarten program that the magnet school does not provide."

"IEP teams should review when the student's unique socialization needs can't be met in the choice high school...[Hearing Officer] 'For a student working on social skills, a regular high school was the appropriate placement'" *Washoe County Sch. Dist.*, 36 IDELR 80 (SEA NV 2002).

Consider: Whether the ALE program structure, teaching method, school environment, etc. required consideration to ensure the student's FAPE needs can be met?

IEP team needs to protect FAPE



Learning from disputes - placement

IEP teams should consider:

- IEP team must make an individualized determination based on student need
- OCR has upheld LEA placement decisions and denial of the choice school or program when the decision is individualized and based on student need that the provision of special education/FAPE cannot be provided to a particular student in a particular choice school or program.

Remember:

- The Dept. of Education and federal courts recognize that “the IDEA does not require that LEAs make all services needed by all students with disabilities available at all locations” and that some services to address low incidence disabilities can be provided in centralized locations
- **But** the lack of **common special education services** in a choice school or program will likely not support a finding that IDEA FAPE cannot be provided in that program



Learning from disputes - nondiscrimination

Nondiscriminatory Prerequisites and entrance criteria (e.g., *Rosemount-Apple Valley-Eagan ISD #196*, 112 LRP 56386 (OCT 03/22/11) – Section 504 and Title II require that qualified students with disabilities be given the same opportunities to compete for and benefit from accelerated programs and classes, but no requirement to admit a student with a disability who would not otherwise be qualified for these classes or programs

OCR finds problematic: districts refusing to allow students with disabilities to participate in a program they are otherwise qualified for; or, as a condition of participation in the program students with disabilities have to give up services (OCR Dear Colleague Letter December 26, 2007)



Dispute Resolution Resources

- [24-19 Decision](#)
- Case Law Citation List
- PNW Sped Law Conference:
<https://www.pnwi.uw.edu/>



Choose Your Adventure



Equity and Access Profile - Alternative Learning Environments (ALE)/Online Programs



The purpose of the Equity and Access Profile is for ALE and Online programs to reflect on ALE/online programmatic **policies and procedures** that support access and equity for inclusion of students with disabilities.



This tool can also be helpful for collaboration between districts, ALE, and online programs to ensure access and equity for students receiving special education services.



<https://ospi.k12.wa.us/sites/default/files/2023-10/ale-online-program-profile.pdf>



FAPE & LRE Self-Assessment Tool



The purpose of the Free Appropriate Public Education (FAPE) and Least Restrictive Environment (LRE) self-assessment is to reflect on current **district policies and practices** that support the access and provision of special education services in ALE and online environments.



This tool includes FAPE and LRE components, ALE/Online access considerations, and a self-rating scale. District teams can use this tool to develop action plans to improve access and participation for students receiving special education.



<https://ospi.k12.wa.us/sites/default/files/2023-10/fape-lre-district-self-assessment.pdf>



Programmatic Considerations for Special Education in ALE/Online Programs



The purpose of the Programmatic Considerations for Special Education in ALE/Online Programs is to establish a comprehensive framework that ensures equitable access to high-quality education for students with disabilities within the context of Alternative Learning Experience (ALE) and online learning environments. This document outlines essential strategies, best practices, and supports necessary for planning, implementing, and sustaining effective special education services in these settings.



FAPE & LRE Self-Assessment Activity

Invite a Partner(s)

Complete
Chosen Protocol

Share Reflections



Resources

- [OSPI Alternative Learning Experience Website](#)
- [OSPI Online Assurances for Online Programs](#)
- [Washington ALE Guide to Service Students with Disabilities](#)
- [ALE/Online District Spec Ed Self-Assessment](#)
- [Equity and Access Profile ALE/Online](#)
- [OSPI Approved Online Schools](#)
- [CR Diversity and Inclusion Fact Sheet](#)
- [Special Education Technology Center \(SETC\)](#)
- [Inclusionary Practices Technical Assistance Network \(IPTN\)](#)



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