

HOUSE BILL REPORT

SHB 1423

As Passed House:
March 4, 2013

Title: An act relating to online learning.

Brief Description: Providing for a single set of laws and procedures governing online learning.

Sponsors: House Committee on Education (originally sponsored by Representatives Haigh, Fagan, Seaquist, Magendanz and Hargrove).

Brief History:

Committee Activity:

Education: 2/14/13, 2/22/13 [DPS].

Floor Activity:

Passed House: 3/4/13, 95-2.

Brief Summary of Substitute Bill

- Removes online learning programs from the definition of an Alternative Learning Experience (ALE) program.
- Makes laws currently applicable to ALE programs continue to apply to online learning programs, but codifies them under an online learning chapter.
- Modifies procedures for online learning programs to monitor student progress.
- Changes requirements for districts to release students to another school district, and for nonresident districts to accept students, when the purpose of the interdistrict transfer is to enroll in online learning programs.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist, Fagan, Haigh, Hargrove, Hawkins, Hayes, Hunt, Klippert, Maxwell, McCoy, Orwall, Parker, Pike, Pollet, Seaquist and Warnick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative Lytton.

Staff: Barbara McLain (786-7383).

Background:

Alternative Learning Experience Programs.

Alternative Learning Experience (ALE) programs provide a way for students to be enrolled in public education without being required to meet the in-class seat-time requirements for regular instruction. There are three primary types of ALE programs identified in statute: online learning programs; parent partnership programs that include significant participation by parents in the design and implementation of the student's learning; and contract-based learning.

Educational progress of students enrolled in ALE programs is monitored through an individualized student learning plan (SLP). Rules adopted by the Office of the Superintendent of Public Instruction (OSPI) specify the content of an SLP, which must include direct personal contact with a teacher at least once a week; estimated hours per week of learning activities by the student; and monthly progress evaluations to assure that students are making satisfactory progress.

Certain practices are prohibited for ALE programs, such as providing compensation or stipends directly to parents, providing an incentive for district staff to enroll nonresident students, and purchasing curricular activities for ALE students unless substantially similar activities are available for regularly enrolled students.

Online Learning Programs.

Most of the requirements regarding ALE programs are in administrative rules adopted by the OSPI. However, online learning programs were first authorized in 2005 through legislation, so some of the requirements as they pertain to online programs appear in statute. In addition, legislation enacted in 2009 requires online learning programs offered to students from multiple school districts, either directly by a school district or under contract, to be approved by the OSPI. Beginning in the 2013-14 school year, all online learning programs must be approved by the OSPI.

School Choice.

State law "strongly encourages" school districts to honor requests by students to enroll in another school district. Nonresident school districts may reject a transfer application based on student disciplinary history or financial hardship on the district.

According to the OSPI, 10,275 students, representing 8,433 full-time equivalent (FTE) enrollments, enrolled in online ALE programs in the 2011-12 school year. Nearly 74 percent of the FTE enrollments in online ALE programs are nonresident students enrolling in another district.

In recent years, laws pertaining to minimum staff to student ratios and school district eligibility for federal forest funds or state matching funds for school construction have been

amended to exclude nonresident students enrolled in ALE programs because those students usually do not have a physical presence in the district.

Summary of Substitute Bill:

Alternative Learning Experience Programs.

Online courses and online school programs are removed from the statutory definition of an ALE program. Laws that prohibit certain practices for ALE programs continue to apply to online courses and online school programs, but the laws are copied into the RCW chapter dealing with online learning. A law that contains additional requirements only for online learning programs is also moved to the online learning chapter. Laws that exclude nonresident students enrolled in ALE programs for certain purposes also continue to apply to online learning programs.

Parent partnership and contract-based learning ALE programs may include online courses that are delivered by an approved provider. However, inclusion of online courses does not by itself make one of these programs an online school program.

Online Learning Courses and Programs.

The definition of an online course includes that a certificated teacher is responsible for providing direct instruction, reviewing assignments, monitoring of progress, and facilitating other interaction for the student's educational program. The definition of an online school program includes courses that are "facilitated" rather than "taught" by a teacher. The OSPI may not specify a minimum duration for the weekly personal contact in an online learning program.

Monthly progress evaluations for students are conducted as follows:

- For students making satisfactory progress, the evaluation is based only on the student's performance on the learning plan.
- For students not making satisfactory progress, evaluation must also include a documented conference based on personal contact about what action or performance by the student is needed, plus at least one additional specified action in an intervention plan. Course content may be adapted as long as it remains aligned to state learning standards.

Online learning programs may seek a waiver from the OSPI to administer the state assessments for grades three through eight on alternate days or an alternate schedule within the established testing period. The request may be denied if the proposal does not maintain adequate test security or would reduce the reliability of results by providing an inequitable advantage for some students.

References to the Washington Coalition for Online Learning are changed to the Online Learning Advisory Committee.

School Choice.

A resident district must release a student wishing to enroll in another school district if the purpose is to enroll in an online learning program. The OSPI must develop a standard form to be used by all districts when releasing students to enroll in online learning programs. The

OSPI must adopt rules establishing procedures for how the counting of students must be coordinated by resident and nonresident districts so that no student counts for more than one FTE.

A nonresident district may deny the transfer of a student who has repeatedly failed to comply with requirements for participation in an online learning program.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Online learning is here to stay. To call it the same thing as the ALE is not accurate. It is not the same as contract-based high schools or parent partnerships. Policymakers have tried hard to find adequate funding and accountability for these models of education, which has been difficult. This is a step in the right direction, and there is hope that the differences can be worked out so that students are not cut off from the education that serves them best.

Currently, there is a lot of confusion. There have been laws enacted on this topic in 2005, 2009, and 2011. There are definitions of online learning in the law, as well as an approval process. Separating from the ALE would help online learning become a delivery model that can work for students. The rate of change in technology is staggering. The development of learning management systems and the capacity to deliver content and monitor student progress is vastly different now compared to even three or four years ago. This indicates a need to deal with online learning separately.

Providers have watched policymakers struggle with online learning to make sure there is accountability. A number of components have been put in place. This has been a process of building a house that stands the test of time and can adapt to student learning needs. There have been great successes and some difficulties.

It is very appropriate to have a unique section in law addressing online learning. However, in the section that deals with adapting course content for struggling students, it should be clear that the content still has to align with state standards. There should be caution about requiring a district to release a student to enroll in an online program. There is flux in these programs, and annual review is appropriate.

(In support with concerns) The many rules that cover all of the ALE programs have had negative consequences on programs. The hope is that this legislation will clear up some confusion. There is a need for clarity around how school districts count an enrolled student. Choice releases should continue to occur annually.

(With concerns) The interests and concepts are supported. However, in the section dealing with part-time enrollment there is concern. This would require a district to allow a student to enroll part-time in an online program while still being enrolled full-time in their resident district. Other laws permit counting a student as only one full-time enrollment. This raises the question of which program takes precedence. The resident district should be able to require the student to reduce his or her enrollment so as not to exceed one FTE.

(Opposed) As currently written, this bill is opposed. Even the Digital Learning Department does not currently support this bill. There will be a lot of confusion for districts that would now face separate rules for online learning and other ALE programs. There is concern about mandating transfers to nonresident districts and removing the requirement for annual choice forms. Districts should be able to refuse a release if the online program is not meeting student progress goals.

Persons Testifying: (In support) Representative Haigh, prime sponsor; Caroline Logue, K12, Inc.; Mark Christiano, Washington Virtual Academy; Jeff Bush, Insight School of Washington; and Lucinda Young, Washington Education Association.

(In support with concerns) Ron Mayberry, Federal Way Public Schools; and Rick Jansons, Washington State School Directors' Association.

(With concerns) Jaque Coe, Bellevue School District.

(Opposed) Brad Sprague, Washington Association of Learning Alternatives.

Persons Signed In To Testify But Not Testifying: None.