

HOUSE BILL REPORT

2SHB 1680

As Reported by House Committee On:
Education

Title: An act relating to implementing strategies to close the educational opportunity gap, based on the recommendations of the educational opportunity gap oversight and accountability committee.

Brief Description: Implementing strategies to close the educational opportunity gap, based on the recommendations of the educational opportunity gap oversight and accountability committee.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Santos, Upthegrove, Maxwell, Ryu and Bergquist).

Brief History:

Committee Activity:

Education: 2/19/13, 2/22/13 [DPS], 1/27/14, 2/5/14 [DP3S].

Appropriations: 2/28/13, 3/1/13 [DP2S(w/o sub ED)].

Brief Summary of Third Substitute Bill

- Prohibits long-term suspension or expulsion as a form of discretionary discipline, which is defined as behavior that violates school district rules of student conduct, but does not constitute certain specified violations or offenses defined in the criminal code.
- Requires the Superintendent of Public Instruction to develop standards for educational services provided to suspended or expelled students.
- Requires school districts to provide an opportunity for suspended or expelled students to receive educational services that meet state standards.
- Requires development of a content outline for cultural competence training for all school staff.
- Expands a conditional teacher scholarship program to include teachers seeking endorsements in Bilingual Education or English Language Learner (ELL).
- Requires development of a performance-based accountability system for the Transitional Bilingual Instructional Program (TBIP).

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.

- Requires that teachers assigned to the TBIP be endorsed in Bilingual Education or the ELL beginning in 2017-18.
- Requires collection of student data disaggregated by sub-racial and sub-ethnic categories, to be phased in beginning in 2015-16.
- Directs design of an articulated pathway for teacher preparation, from paraeducator certificates through teacher certification.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 11 members: Representatives Santos, Chair; Stonier, Vice Chair; Bergquist, Fey, Haigh, S. Hunt, Lytton, Orwall, Parker, Pollet and Seaquist.

Minority Report: Do not pass. Signed by 5 members: Representatives Dahlquist, Ranking Minority Member; Hargrove, Hawkins, Hayes and Klippert.

Staff: Barbara McLain (786-7383).

Background:

Educational Opportunity Gap Oversight and Accountability Committee.

In 2009 the Educational Opportunity Gap Oversight and Accountability Committee (Committee) was established to recommend policies and strategies to close the achievement gap. The Committee has six legislative members, representatives of the Office of Education Ombuds and the Office of the Superintendent of Public Instruction (OSPI), and five members representing the state ethnic commissions and federally recognized tribes.

In its annual reports for 2013 and 2014, the Committee made the following recommendations:

- decrease the disproportionate representation of students of color in disciplinary actions in schools;
- enhance the cultural competence of current and future educators;
- provide English Language Learner (ELL) and second language acquisition endorsements for all educators;
- create new ELL accountability benchmarks;
- provide tools for deeper data analysis and disaggregation of student demographic data to inform instructional strategies to close the opportunity gap; and
- invest in the recruitment and retention of educators of color.

Student Discipline.

Each school district board of directors is required to adopt written policies regarding student conduct and discipline. The Superintendent of Public Instruction (SPI) must adopt rules for providing due process rights to students who are subject to disciplinary actions. There is one law that requires expulsion for no less than one year for possession of a firearm on school premises. Other disciplinary actions are made at the discretion of the school district in

compliance with district policies and state laws and rules. Long-term suspension is defined as more than 10 days.

Legislation enacted in 2013 made the following changes to the laws regarding student discipline:

- requiring collection of disaggregated data through the student data system on nine categories of student behavior, seven categories of interventions, and the number of days of suspension or expulsion;
- requiring a discipline task force to be convened by the OSPI to develop standard definitions for the data collection;
- prohibiting indefinite suspensions or expulsions and requiring an end date of no more than one year, with a petition process to exceed the one-year limitation for reasons of public health or safety; and
- requiring districts to create an individualized reengagement plan for students returning to their school program.

Cultural Competence.

Legislation enacted in 2009 directed the Professional Educator Standards Board (PESB) to incorporate standards for cultural competence into each level of teacher certification. Cultural competence is defined as: (1) knowledge of student cultural histories and contexts; (2) knowledge and skills in accessing community resources and community and parent outreach; and (3) skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

Application of knowledge about students' cultural development and a commitment to closing the achievement gap are among the criteria for evaluating teacher and principal performance under revised evaluation systems. The OSPI must design a professional development program to support implementation of the revised evaluation systems.

ELL Instruction.

The state allocates additional funding for the Transitional Bilingual Instructional Program (TBIP) to provide additional support for ELL students to gain English language proficiency. The OSPI reports that 1,409 teachers and 1,398 instructional aides were assigned to the TBIP in 2012-13.

In 2007 the Retooling to Teach Mathematics and Science (Retooling) program was established to provide a conditional scholarship to encourage current teachers to obtain an additional endorsement in middle or secondary mathematics or science.

ELL Accountability.

Under federal accountability rules, states, and school districts must report the following data for ELL instructional programs:

- students making progress in learning English;
- students attaining language proficiency and exiting the TBIP; and
- student performance on state academic assessments.

In 2010 a technical working group convened by the Quality Education Council recommended development and implementation of a statewide accountability system for the TBIP.

Disaggregated Data.

The OSPI collects student data on race and ethnicity through the statewide student data system. The K-12 Data Governance Group oversees data collection protocols and standards and provides guidance for school districts. Federal race and ethnicity reporting guidelines require, at a minimum, reporting of student race as White, African American/Black, Asian, American Indian/Alaskan Native, Native Hawaiian/Pacific Islander, and then a separate reporting of ethnicity as Hispanic or not Hispanic. The data system also contains 57 different racial subcategories and nine ethnic subcategories, but school districts are not required to report at this level of disaggregation.

Educator Recruitment.

The Recruiting Washington Teachers program (RWT) recruits and provides training and support for diverse high school students to enter the teaching profession. The RWT courses are typically Career and Technical Education (CTE) courses under a Careers in Education career cluster.

Paraeducators employed using federal Title I funds must meet one of three minimum qualifications:

1. at least two years of postsecondary education;
2. an associate degree or higher; or
3. completion of a formal academic assessment of knowledge and skills.

There are a number of pathway options for paraeducators to meet the qualifications, including an apprenticeship program offered through the Public School Employees of Washington. Some community and technical colleges also offer certificate programs for paraeducators.

Summary of Third Substitute Bill:

Student Discipline.

It is the Legislature's intent to minimize the use of out-of-school suspension and expulsion. It is also the Legislature's intent that student behavior should not result in the loss of educational opportunity.

School districts may not impose long-term suspension or expulsion as a form of discretionary discipline. Discretionary discipline is defined as a disciplinary action for student behavior that violates district-adopted rules of student conduct, but does not constitute any of the following:

- a violation of the ban of firearms on school property;
- one of the following offenses defined in the criminal code: violent offense (which includes various specified felonies), sex offense, inhaling toxic fumes, controlled substance violation, liquor violation, unlawful firearm possession, assault, kidnapping, criminal harassment, arson, malicious mischief; or
- two or more violations in a three-year period of criminal gang intimidation or gang activity on school grounds.

School districts are not required to impose long-term suspension or expulsion for these behaviors, and should first consider alternative actions. A long-term suspension or expulsion must end no later than the end of the academic term, rather than after one calendar year, except for violations of firearms on school property.

A school district may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom, but the district must provide an opportunity for the student to receive educational services that, at a minimum, meet state standards. The SPI must develop standards for educational services provided to suspended or expelled students. The standards must require students to be provided an opportunity to make academic progress, make up missed assignments or assessments, and earn credits missed. The SPI must monitor the educational services provided by school districts through regularly scheduled consolidated program reviews and the activities of the Office of Equity and Civil Rights within the OSPI.

School districts are required to meet with the parents or guardians of a long-term suspended or expelled student within a specified time period and must collaborate with them in developing a reengagement plan for the student to return to an educational setting. The OSPI must develop a clearinghouse of systemic best practices for providing support to students who are subject to disciplinary action and provide technical assistance to school districts. School boards must use the disaggregated data on discipline incidents collected under current law to monitor the impact of discipline policies and periodically review and update their policies in consultation with staff, families, and the community.

The Education Data Center in the Office of Financial Management must develop data sharing agreements with the Administrative Office of the Courts to access juvenile justice data for research purposes and prepare a regular report on education and workforce outcomes of such youth. The Department of Social and Health Services must enter data sharing agreements with the Education Data Center.

Cultural Competence.

Professional development for administrators regarding revised evaluation systems and the training program for teachers developed by the OSPI must include foundational elements of cultural competence, focusing on multicultural education, principles of English language acquisition, and best practices in implementing tribal history and culture curricula and providing language access to limited English proficient families.

The OSPI, in collaboration with others, must develop a content outline for professional development in cultural competence for school staff. The content must be aligned with cultural competence standards adopted by the PESB and contain components that could be delivered by individuals from the community. The Legislature encourages Educational Service Districts (ESDs) and school districts to use this training, and encourages partnerships among community organizations, schools, families, and institutions of higher education in the delivery of this training. Schools that are identified under the state accountability system as needing improvement must provide the cultural competence training for their staff.

ELL Instruction.

The Retooling program is renamed the Educator Retooling program and expanded to include scholarships for teachers seeking endorsements in Bilingual Education, ELL, or Special Education. In awarding scholarships for Bilingual Education or ELL, the PESB must give a preference to teachers seeking endorsements in order to be assigned to the TBIP after 2017-18, as well as teachers assigned to certain high-needs schools.

The Washington Student Achievement Council (WSAC) must provide regular reports to the PESB on the status of teacher conditional scholarship recipients. Funds received by the PESB for scholarships may be transferred to the WSAC for deposit into the Conditional Scholarship Account.

Beginning in the 2017-18 school year, classroom teachers assigned to the TBIP must hold Bilingual Education or ELL endorsements.

The PESB must review its principles of language acquisition to ensure that they include instructional practices for students who speak non-standard English.

ELL Accountability.

The OSPI must convene an ELL Accountability Task Force to design a performance-based accountability system for the TBIP. The accountability system must include establishing and monitoring performance benchmarks; tiered levels of support, technical assistance, and intervention; and a focus on program outcomes.

An interim report on the proposed system design is due January 15, 2015, with a final report due September 30, 2015.

The OSPI must provide school districts with research-based technical assistance and information about best practices for the TBIP. The information must include research about the differences between conversational language proficiency, academic language proficiency, and subject-specific language proficiency and the implications of this research on instructional practice and program effectiveness.

Schools with a significant increase in the enrollment of ELL students during the previous two school years must provide cultural competence professional development for their staff.

Disaggregated Data.

The OSPI must collect and school districts must submit student data using federal race and ethnicity guidelines, including sub-racial and sub-ethnic categories, with the following additions:

- further disaggregation of the Black/African American category and Asian category;
- further disaggregation of the white category to include Eastern European nationalities with significant populations in Washington; and
- reporting of students by their discrete racial categories if they report as multi-racial.

This data must be collected beginning in the 2015-16 school year for students who newly enroll, transfer, or change schools within a district. The K-12 Data Governance Group must develop protocols and guidance for this data collection, and the OSPI must incorporate

training on best practices for collecting data on racial and ethnic categories into other data-related training.

Educator Recruitment.

The PESB and the OSPI must convene a work group to revise CTE courses related to Careers in Education to incorporate the cultural competence standards adopted by the PESB, reflect new research on educator preparation and development, and incorporate RWT curriculum and activities.

The PESB must convene a work group to design an articulated pathway for teacher preparation that includes:

- paraeducator certificate and apprenticeship programs that offer course credits that apply to transferrable associate degrees and are aligned with the PESB certification standards;
- associate degree programs that add to certificate programs, incorporate field experiences, and are fully transferrable to bachelor's degree programs; and
- bachelor's degree programs that lead to teacher certification without duplicating the associate degrees.

Standards for cultural competence must be incorporated throughout the pathway.

The PESB must submit a report comparing current pathways to teaching with the articulated pathway, along with recommended strategies to address gaps, by January 10, 2015. The PESB and the State Board for Community and Technical Colleges may exercise their authorities for program approval to implement the articulated pathway.

Beginning in 2015-16, paraeducator certificate and apprenticeship programs offered by community and technical colleges must provide candidates the opportunity to earn transferrable course credits and incorporate the PESB standards for cultural competence.

Third Substitute Bill Compared to Second Substitute Bill:

Except for the Education Data Center report on students in the juvenile justice system, all other provisions in the second substitute bill pertaining to student discipline are replaced. Legislative intent is added regarding minimizing out-of-school suspension and expulsion. Long-term suspension or expulsion is prohibited as a form of discretionary discipline, which is defined. A long-term suspension or expulsion must end no later than the end of the academic term, rather than after one calendar year. A school district may not suspend the provision of educational services to a student as a disciplinary action and must provide an opportunity for the student to receive educational services that meet state standards. The SPI must develop standards for educational services provided to suspended or expelled students. School districts are required to meet with the parents or guardians of a long-term suspended or expelled student within a specified time period and must collaborate with them in developing a reengagement plan. The OSPI must develop a clearinghouse of systemic best practices for providing support to students subject to disciplinary action, and provide technical assistance to school districts. School boards must use the disaggregated data on discipline incidents to monitor the impact of discipline policies and periodically review and update their policies.

Cultural competence training must include best practices in implementing tribal history and culture curricula and providing language access to limited English-proficient families.

Schools that are identified under the state accountability system as needing improvement must provide the cultural competence training for their staff. The PESB must review its principles of language acquisition to ensure that they include instructional practices for students who speak non-standard English. The OSPI must provide school districts with research-based technical assistance and information about best practices for the TBIP. School districts are required to collect and submit student data using federal race and ethnicity guidelines, including sub-racial and sub-ethnic categories, with some additions. The data collection is phased-in starting in 2015-16 with students who newly enroll, transfer, or change schools. Due dates for reports are moved forward by one year. Null and void clauses are removed from sections that include cultural competence in revised evaluation system training for administrators and require cultural competence training for schools with significant recent increases in TBIP enrollment.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support of third substitute bill) This is a bill that the prime sponsor is honored to introduce on behalf of the Educational Opportunity Gap Oversight and Accountability Committee. The proposed third substitute represents an evolution of thinking and builds on steps already taken in 2013. It is very important to make the educational system in the State of Washington support the success of every student. Educator cultural competence is very important. One student of color felt punished more harshly in comparison to her peers. The only reason the student was successful was because she was more active in pursuing support from an outreach recruiter. There is still a cultural disconnect between educators and students.

The success of students is measured by reports and data. Only 41.2 percent of Pacific Islander students graduate on time, but the data includes these students with other Asian students. It becomes difficult for Pacific Islander students to be noticed. If they are unnoticed, they will continue to struggle without help. One student had excellent test scores every year and asked why she was not recommended for advanced courses. The teacher told her that because of her ethnicity, the test scores could not possibly be right. If there were more culturally competent teachers, students would not be stereotyped.

The educational opportunity gap is a multi-faceted issue that needs a multi-faceted approach. All aspects of this bill are needed. One particular issue is discipline and providing

educational services for students excluded from school. This is a very complex issue. In an examination of practices across the country, some states do this well and others are struggling. There is some concern and fear around creating a second-class education system for students who have been excluded from school.

Building transparent, non-duplicative career pathways for paraeducators is important, but there is concern about the timeframe in the bill. Colleges would only have six months to reconfigure their courses and programs. The recommendations in the bill represent the voices of Washington's students, families, and communities of color on how the public education system can be improved to close the opportunity gap that still holds back so many children. The recommendations and accountability measures are clear, based on research and data, and definitely achievable. The recommendations build on the many assets that families and communities of color already possess and will add to the richness that is Washington. They value the differences in language, culture, and aspirations among communities. Passing this bill is a beginning step to closing the opportunity gap and ensuring a strong citizenry.

Increasing the number of teachers with ELL and Bilingual Education endorsements will help address major concerns from communities of color. It is imperative to take systemic, comprehensive steps to close the opportunity gap. There is support for all components of this bill. This is a holistic approach that is strongly supported. It is time to wake up and support paraeducators.

(In support with concerns on third substitute) The six recommendations are supported, along with the holistic approach of tying together the issues. There were concerns that the provisions related to school discipline were too narrow and provided educational services only for students who were suspended for discretionary reasons, but the third substitute bill appears to have gone a significant way toward solving that problem. One remaining concern is that although discretionary discipline has been defined more narrowly, there does not seem to be a reason not to deny any or all forms of alternative education to those students who are excluded for non-discretionary discipline.

(Opposed to third substitute) None.

Persons Testifying: (In support of third substitute) Representative Santos, prime sponsor; Toka Valu, Pulemau Savusa, Lorna Sailiai, and Maile Kaneko, Our Future Matters; Elizabeth Richer, League of Education Voters; Kathy Goebel, State Board for Community and Technical Colleges; Frieda Takamura, Educational Opportunity Gap Oversight and Accountability Committee; Alex Hur, Equity in Education Coalition; Emily Murphy, One America; Julia Suleman, State Board of Education; and Doug Nelson, Public School Employees of Washington.

(In support with concerns on third substitute) Chris Kaasa, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying: None.