

# HOUSE BILL REPORT

## E2SHB 1541

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**As Passed House:**  
June 29, 2015

**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, Ortiz-Self, Tharinger, Moscoso, Orwall and Gregerson).

**Brief History:**

**Committee Activity:**

Education: 2/10/15, 2/17/15 [DPS];

Appropriations: 2/24/15, 2/27/15 [DP2S(w/o sub ED)].

**Floor Activity:**

Passed House: 3/5/15, 53-45.

**Second Special Session**

**Floor Activity:**

Passed House: 6/25/15, 53-43.

**Third Special Session**

**Floor Activity:**

Passed House: 6/29/15, 54-44.

**Brief Summary of Engrossed Second Substitute Bill**

- Prohibits long-term suspension or expulsion as a form of discretionary discipline, limits all suspension or expulsion to the length of an academic term, and requires a reengagement meeting that includes the student's family.
- Prohibits districts from suspending the provision of educational services as a form of discretionary action.
- Requires districts to review, adopt, and disseminate discipline policies and procedures and encourages districts to train staff on the policies and procedures.

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*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 a report on the outcomes of youth in the juvenile justice system.
- Requires development of cultural competence training for all school staff and encourages this training for certain schools.
- Expands a conditional teacher scholarship program to include teachers seeking endorsements in Special Education, Bilingual Education, or English Language Learner (ELL).
- Requires teachers assigned to the Transitional Bilingual Instructional Program (TBIP) to be endorsed in Bilingual Education or ELL beginning in 2019-20.
- Requires collection of student data disaggregated by sub-racial and sub-ethnic categories, to be phased in beginning in 2017-18.
- Requires posting and disaggregation of racial and ethnic data related to teachers and their average length of service.
- Requires the Department of Early Learning to create a community information and involvement plan to inform early learning providers of the Early Achievers program.
- Establishes the Washington Integrated Student Supports Protocol (WISSP) to promote the success of students by coordinating academic and non-academic supports.
- Creates a work group to determine how to implement the WISSP.
- Makes changes to the Learning Assistance Program and the Center for the Improvement of Student Learning statutes.

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Santos, Chair; Ortiz-Self, Vice Chair; Reykdal, Vice Chair; Magendanz, Ranking Minority Member; Bergquist, Caldier, Gregory, Griffey, S. Hunt, Kilduff, Lytton, Orwall, Pollet, Springer and Fagan.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Hargrove, Hayes, Klippert and McCaslin.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Muri, Assistant Ranking Minority Member; Stambaugh, Assistant Ranking Minority Member.

**Staff:** Megan Wargacki (786-7194).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody,

Dunshee, Hansen, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Pettigrew, Sawyer, Senn, Springer, Sullivan, Tharinger and Walkinshaw.

**Minority Report:** Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Condotta, Dent, Haler, G. Hunt, MacEwen, Magendanz, Schmick, Stokesbary, Taylor and Van Werven.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Fagan.

**Staff:** Jessica Harrell (786-7349).

### **Background:**

#### Educational Opportunity Gap Oversight and Accountability Committee.

In 2009 the Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC) was established to recommend policies and strategies to close the achievement gap. The EOGOAC 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 2015 report to the Legislature, the EOGOAC made the following recommendations:

- reduce the length of time students of color are excluded from school due to suspension and expulsion and provide students support for reengagement plans;
- enhance the cultural competence of current and future educators and classified staff;
- endorse all educators in English Language Learner (ELL) and second language acquisition;
- account for the Transitional Bilingual Instruction Program (TBIP) instructional services provided to ELL students;
- analyze the opportunity gap through deeper disaggregation of student demographic data;
- invest in the recruitment, hiring, and retention of educators of color;
- incorporate integrated student services and family engagement; and
- strengthen student transitions.

#### Student Discipline.

Each school district board of directors is required to adopt written policies regarding student conduct and discipline. The OSPI must adopt rules for providing due-process rights to students who are subject to disciplinary actions. Disciplinary actions made at the discretion of the school district must be 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:

- required 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;

- required a Student Discipline Task Force to be convened by the OSPI to develop standard definitions for the data collected at the discretion of the school districts;
- prohibited 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
- required 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 students' 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 TBIP to provide additional support for ELL students to gain English language proficiency.

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.

### 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 non-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.

During the 2010-11 school year, the OSPI reduced the number of students that must be in a subgroup before data on the subgroup may be publically displayed from 30 to 20. The

United States Department of Education (ED) reported in 2012, that some states are reporting data for subgroups as small as five students.

#### Recruitment and Retention.

About 5 percent of teachers leave the workforce each year. The Recruiting Washington Teachers program was established in 2007 to recruit and provide training and support for high school students to enter the teaching profession, especially in teacher shortage areas and among underrepresented groups and multilingual, multicultural students.

The demographics of the student population in Washington public schools has changed over the past decade to include more students of color. The demographics of educators has not changed at the same rate as that of students.

#### Transitions.

In 2007 the quality rating and improvement system for the early care and education system in Washington, called the Early Achievers (EA) program, was created. The EA program establishes a common set of expectations and standards that define, measure, and improve the quality of early learning and care settings. The Department of Early Learning (DEL) completed statewide implementation of the EA program in July 2013. As of December 2014, 2,266 licensed providers are participating in the EA program.

#### Integrated Student Services and Family Engagement.

Integrated student supports (ISS) is an educational reform that is being implemented across the country. The ISS model is a school-based approach that promotes the academic success of at-risk students by coordinating academic and nonacademic supports to reduce barriers to success. These academic and nonacademic resources include: tutoring and mentoring; physical and mental health care; and connecting families to parent education, family counseling, food banks, and employment assistance. Reports suggest that providing ISS can impact students' academic achievement and their behavior.

#### Center for the Improvement of Student Learning.

The mission of the Center for the Improvement of Student Learning (CISL) is to serve as a clearinghouse for information, promising practices, and research that promotes and supports effective learning environments for all students, especially those in underserved communities. The CISL is housed in the OSPI. The duties of the CISL are contingent on funds appropriated for the purpose.

#### Learning Assistance Program.

The Learning Assistance Program (LAP) provides instructional support for students who are performing below grade level in reading, writing, and mathematics. School districts must submit an annual plan that identifies the activities to be conducted and the expenditure of funds under the LAP. The plan is required to have a number of specified elements and must be approved by the OSPI.

### **Summary of Engrossed Second Substitute Bill:**

#### Student Discipline.

Districts must not use long-term suspension or expulsion as a form of discretionary discipline. "Discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates the rules of student conduct, except for:

- a violation of the prohibition against firearms on school premises, transportation, or facilities;
- certain violent offenses; sex offenses; offenses related to liquor, controlled substances, and toxic inhalants; and certain crimes related to firearms, assault, kidnapping, harassment, and arson; or
- two or more violations within a three-year period of criminal gang intimidation or other gang activity on school grounds, possessing dangerous weapons on school facilities, willfully disobeying school administrators or refusing to leave public property, or defacing or injuring school property.

Except for violation of the prohibition against firearms on school premises, districts should consider alternative actions before use of long-term suspension or expulsion for any of the violations listed above. In addition, districts must not suspending the provision of educational services to a student as a disciplinary action, and requires districts to provide an opportunity for a student to receive educational service during a period of suspension or expulsion.

Possession of a telecommunication device and violation of dress and grooming codes are removed from the list of discretionary violations that, if performed two or more times within a three-year period may result in long-term suspension or expulsion.

Where disciplinary action involves a suspension or expulsion for more than 10 days, the end date must be no more than length of an academic term, as defined by the school district, from the time of the disciplinary action.

After a student is suspended or expelled, the district must, rather than should, convene a reengagement meeting with the student and family. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.

The Washington State School Directors' Association (WSSDA) must create and publically post model school district discipline policies and procedures. Districts must use disaggregated student-level data to monitor the impact of the school district's discipline policies and procedures. Districts must, in consultation with school district staff, students, families, and the community, periodically review and update their discipline rules, policies, and procedures. The districts must adopt policies and procedures consistent with the model policy, and disseminate these policies to the community. Districts are strongly encouraged to train school and district staff on the discipline policies and procedures.

The Education Data and Research Center (ERDC) must prepare a regular report on the educational and workforce outcomes of youth in the juvenile justice system. To enable this data collection, a provision in the Administrative Office of the Courts statute is modified to allow research data to be shared with the ERDC. The Department of Social and Health Services is added to the list of agencies that must work with the ERDC.

Cultural Competence.

Professional development programs to support evaluation systems must be aligned to cultural competence standards, focus on multicultural education and principals of English language acquisition, and include best practices to implement the tribal history and culture curriculum. Required Action Districts, districts with schools that receive the federal School Improvement Grant, and districts with schools identified by the Superintendent of Public Instruction as priority or focus are strongly encouraged to provide cultural competence professional development and training.

Training on the foundational elements of cultural competence must be developed by the OSPI for administrators and school staff, and by the WSSDA for school board directors and superintendents.

#### ELL Instruction.

The types of endorsements teachers and certain certificated elementary educators may pursue to qualify for the Retooling program must include special education, bilingual education, or ELL, in addition to math and science. Preference must be given to teachers assigned to a school implementing a plan for improvement and teachers assigned to schools with growing populations of ELL, when awarding scholarships in bilingual education or ELL endorsements.

All teachers in the TBIP must hold an endorsement in bilingual education or ELL by the 2019-20 school year.

#### ELL Accountability.

The Legislature is no longer required to approve and fund the TBIP evaluations before the program can be implemented. The OSPI must provide districts with assistance and support related to the TBIP. The OSPI must identify the top 5 percent of schools with the highest percent growth in ELL students during the previous two years and strongly encourage districts with identified schools to provide cultural competence training.

#### 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 African American/Black 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 2017-18 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.

The OSPI must convene a task force to review the ED guidelines to clarify why collection of race and ethnicity data is important and how students and families can help administrators properly identify them. The OSPI must adopt a rule that the only student data that should not

be reported for public reporting and accountability is data where the school or district has fewer than 10 students in a grade level or student subgroup.

#### Recruitment and Retention.

The PESB and the OSPI must convene a work group to: revise the career and technical education 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 the Recruiting Washington Teachers Program curriculum and activities.

The OSPI must, to the extent data is available, post on the Internet the percentage of classroom teachers per school district and per school, and the average length of service of these teachers, disaggregated by race and ethnicity as described for student-level data.

#### Transitions.

The DEL must collaborate with the OSPI to create a community information and involvement plan to inform home-based, tribal, and family early learning providers of the EA program.

#### Integrated Student Services and Family Engagement.

The Washington ISS Protocol (WISSP) at the Center for Improvement of Student Learning within the OSPI is established. The purposes of the program include:

- supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;
- fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;
- encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;
- increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and
- supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

A framework is provided for the program, including needs assessments, integration and coordination, community partnerships, and a requirement that the program be data driven. The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including: out-of-school providers, social workers, mental health counselors; physicians; dentists; speech therapists; and audiologists. The OSPI must create a work group, with certain membership requirements, to determine how to best implement the framework and report to the Legislature by October 1, 2015 and 2016.

The WISSP is added to the list of services and activities that may be supported by the LAP. The requirement that expenditure of funds from the LAP be consistent with certain academic



achievement and accountability provisions is removed. The school board, rather than the OSPI, must approve community-based organization or local agency before LAP funds may be expended in an open meeting. The provision allowing the panel of experts to develop a menu of best practices and strategies to reduce disruptive behaviors in the LAP is removed.

The limitation that the CISL be established and perform certain functions only to the extent funds are appropriated for the purpose is removed.

**Appropriation:** None.

**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 (Education):**

(In support) This bill mirrors the annual recommendations of the EOGOAC. Closing the opportunity gap is a moral imperative and a civil rights obligation. It is the right thing to do for each child that enters our schools. These measures must be adopted. The bill addresses a variety of issues in a holistic way. The status quo for discipline in Washington is in violation of the civil rights laws. Statistics show illegal discrimination against students of color. Prohibiting schools from excluding students for discretionary discipline is critical to helping students. The OSPI must do trainings on discipline to tell schools what they can do and about best practices that work.

Asian Americans are 8 percent of the public school population, but this includes 46 ethnicities. There are large concentration of Southeast Asian Americans, but racial data on these groups is lumped with data for other Asians. This means that these students essentially do not count. Many Southeast Asian American groups have lower success rates than other Asians, so it is important to separate them out in the data to understand their unique needs. Around 49 percent of Asian Americans have a bachelor's degree, but many subgroups of Asians do not feel that this statistic reflects their experience. The dropout rate for Filipino students is higher than for other students. The state needs to look at all the components so that our students do not face barriers and have equitable access.

Many students drop out of high school because they do not think it is possible to go on to higher education. If teachers better understand their students and give them support, this will help students stay in school and be successful in college. This bill will recruit and retain educators of color and educate them in cultural competence. Many teachers today do not have a cultural understanding and are not of color. It is important for students to see themselves in their teachers and be able to identify with teachers. The bill will close the educational opportunity gap. The transition for ELL students is difficult. The regular teachers are not as culturally equipped, which prevents students from expressing themselves as freely as they would otherwise. Many immigrants students come to kindergarten unprepared and often get left behind their peers.

(In support with concerns) In section 103 of the original bill, the Washington State School Directors' Association must create model policy. The school districts should also be required to adopt this model. There are some other technical problems with the bill. In section 203 of the bill, there is not enough time for the community and technical colleges to make this happen. Additional time needs to be provided.

(With concerns) All students need to be included in the bill, including students with disabilities. If these students are not included, this bill would continue to promulgate inequitable practices.

(Opposed) Trying to do this kind of overreach does not usually work very well. The state needs a bill on student data privacy before it adds additional data collection requirements. There are a list of educational agencies in the bill that must share data, but the Charter School Commission is left out.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Closing the opportunity gap and providing better outcomes for students is an important part of meeting the state's McCleary obligation, in that all learners must be supported in achieving their best educational outcomes.

(Opposed) None.

**Persons Testifying (Education):** (In support) Sally Brownfield, Educational Opportunity Gap Oversight and Accountability Committee; Linda Mangel, American Civil Liberties Union; Ay Saechao, and Tony Vo, South East Asian Education Coalition; Velma Veloria, Coalition of Immigrants and Refugees of Communities of Color; Frank Duong; Dain Yoshizumi; Annie Yoshizumi; and Pat Montgomery.

(In support with concerns) Kathy Gabel, State Board of Community and Technical Colleges; and Jerry Bender, Association of Washington School Principals.

(With concerns) Lynn Tucker, Parent Teacher Association.

(Opposed) Melissa Westbrook, Seattle Schools Community Forum.

**Persons Testifying (Appropriations):** Kristi Shafer, Washington State Parent Teachers Association.

**Persons Signed In To Testify But Not Testifying (Education):** None

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.