

HOUSE BILL REPORT

4SHB 1541

As Passed Legislature

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], 1/12/16, 1/14/16 [DP3S];

Appropriations: 2/24/15, 2/27/15 [DP2S(w/o sub ED)], 1/18/16, 1/21/16 [DP4S(w/o sub ED)].

Floor Activity:

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

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

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

Passed House: 2/4/16, 50-47.

Senate Amended.

Passed Senate: 3/4/16, 38-10.

House Concurred.

Passed House: 3/10/16, 59-38.

Passed Legislature.

Brief Summary of Fourth Substitute Bill

- Prohibits districts from suspending the provision of educational services as a form of disciplinary action.
- 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.

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 districts to adopt, enforce, and disseminate discipline policies and procedures and encourages districts to train staff on the policies and procedures.
- 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.
- Requires teachers assigned to the Transitional Bilingual Instruction Program to be endorsed in Bilingual Education or English Language Learner beginning in 2019-20.
- Requires collection of student data disaggregated by subracial and subethnic categories, to be phased in beginning in 2017-18, and requires reporting of data when 10 or more students are in a grade level or student subgroup.
- Requires posting and disaggregation of racial and ethnic data related to teachers and posting of 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.

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; Ortiz-Self, Vice Chair; Reykdal, Vice Chair; Bergquist, S. Hunt, Kilduff, Kuderer, Orwall, Pollet, Rossetti and Springer.

Minority Report: Do not pass. Signed by 7 members: Representatives Magendanz, Ranking Minority Member; Caldier, Griffey, Hargrove, Hayes, Klippert and McCaslin.

Minority Report: Without recommendation. Signed by 3 members: Representatives Muri, Assistant Ranking Minority Member; Stambaugh, Assistant Ranking Minority Member; Harris.

Staff: Megan Wargacki (786-7194).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The fourth substitute bill be substituted therefor and the fourth substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 18 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Cody, Fitzgibbon, Hansen,

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

Minority Report: Do not pass. Signed by 8 members: Representatives Wilcox, Assistant Ranking Minority Member; Buys, Haler, MacEwen, Magendanz, Schmick, Stokesbary and Taylor.

Minority Report: Without recommendation. Signed by 6 members: Representatives Chandler, Ranking Minority Member; Condotta, Dent, Harris, G. Hunt and Van Werven.

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 (OEO) 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 student 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) for 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 (ISS) and family engagement; and
- strengthen student transitions.

Student Discipline.

Each school district board of directors must adopt and make available 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 required 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.

English Language Learner Instruction and Accountability.

The state allocates additional funding for the TBIP to provide additional support for ELL students to gain English language proficiency.

Under federal accountability rules, states, and school districts must report the following data on ELL instruction 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 data system contains 57 different racial subcategories and nine ethnic subcategories, but school districts are not required to report at this level of disaggregation. 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 2015 Legislature required that, starting no later than the 2016-17 school year, data on students from military families must be collected according to these federal guidelines, 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.

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. Legislation adopted in 2015 expanded the EA program to require all licensed or certified child care facilities and early learning programs serving nonschool-age children and receiving state funds to participate by the deadlines provided. As of August 2015, 2,746 licensed providers are participating in the EA program.

Integrated Student Supports and Family Engagement.

Integrated student supports 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. Studies suggest that providing ISS can impact students' academic achievement and behavior.

Center for the Improvement of Student Learning.

The Center for the Improvement of Student Learning (CISL), housed at the OSPI, serves 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 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 Fourth Substitute Bill:

Student Discipline.

Opportunity to Receive Educational Services. School districts may not suspend the provision of educational services to a student as a disciplinary action, whether discretionary or nondiscretionary. Student may be excluded from classrooms or instructional or activity areas for the period of suspension or expulsion, but districts must provide students with an opportunity to receive educational services during that time.

If educational services are provided in an alternate setting, the alternate setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline.

Statutory Limits. School districts must not use long-term suspension or expulsion as a form of discretionary discipline. "Discretionary discipline" means a disciplinary action taken by a district for student behavior that violates the rules of student conduct, except for actions taken in response to:

- 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;
- 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; or
- behavior that adversely impacts the health or safety of other students or educational staff.

Except for violation of the prohibition against firearms on school premises, districts should consider alternative actions before using long-term suspension or expulsion for any of the violations listed above.

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 the length of an academic term, as defined by the school district, rather than one year, from the time of the disciplinary action.

Reengagement. 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.

Discipline Policies and Procedures. The Washington State School Directors' Association (WSSDA) must create and publically post model school district discipline policies and procedures by December 1, 2016, and update the policies as necessary. The districts must adopt and enforce discipline policies and procedures consistent with the WSSDA model policy by the beginning of the 2017-18 school year, and annually disseminate these policies to the community. 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 OSPI must develop a training program to support the implementation of discipline policies and procedures, as specified. Districts are strongly encouraged to train school and district staff on the discipline policies and procedures.

Civil Liability. Neither the requirement that school districts provide students with the opportunity to received education services nor the limitation on imposing long-term suspension or expulsion as a form of disciplinary action create any civil liability for districts, or create a new cause of action or theory of negligence against a school board, district, or the state.

Other provisions. Tribal representatives are added to the membership of the Student Discipline Task Force.

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 teacher and principal 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.

Cultural competency training must be developed by the OSPI for administrators and school staff, and by the WSSDA for school board directors and superintendents.

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.

English Language Learner Instruction and Accountability.

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

At the beginning of each school year, the OSPI must identify schools in 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 professional development and training.

The Legislature is no longer required to approve and fund the TBIP evaluations before the program can be implemented. Subject to funding, the OSPI must provide districts with assistance and support related to the TBIP.

Disaggregated Data.

The OSPI must collect, and school districts must submit, student data using federal race and ethnicity reporting guidelines, including subracial and subethnic 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.

Subject to funding, the OSPI must convene a task force, with certain membership requirements, to review the federal race and ethnicity reporting guidelines and develop race and ethnicity guidance for the state. The content of the guidance is specified.

By August 1, 2016, and in cooperation with certain state entities, 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. This section expires August 1, 2017.

Recruitment and Retention.

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.

Subject to funding, the Washington ISS Protocol (WISSP) is established at the CISL within the OSPI. The purposes of the WISSP 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 WISSP, including needs assessments, integration and coordination, community partnerships, and a requirement that the WISSP 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.

Subject to funding, 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, 2016 and 2017.

Learning Assistance Program.

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.

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 has been before the Legislature for the last four sessions, effectively in the same form. This version passed off the floor last year. The bill is important to communities of color, and many other communities, across the state. These communities feel that their students are not being given the opportunity to access their basic constitutional right to an education. The people who have worked to bring this bill before the Legislature have been working since 2007. The legislation creating the EOGOAC deliberately included members of the state ethnic commissions, representatives of the federally recognized tribes

within the state, and a representative of the OEO. This is a bill that belongs to the people of the state of Washington and the Legislature should listen to their voices.

The EOGOAC has considered whether the bill should be divided into discrete topics or kept as an omnibus bill. The committee decided that the pieces of the bill should not be separated because they are interdependent and mutually reinforcing. The integrity of the separate strands and the strength of the proposal, just like a braid, comes when you weave the policies and practices together. For example, there is a disproportionality in student discipline that cannot be corrected through implementing policies and practices of discipline reform alone. This is because many of the reasons for the disproportionality have their roots in the lack of cultural competence in many of the adults in the system. So the importance of having cultural competence training in the omnibus bill is that it provides districts with the tools to reduce disproportionality in discipline.

The recommendations to support students of color and underserved students across the state through meaningful, mutually responsive, and targeted, proposals will dramatically close the opportunity gap. The proposals of the Washington Student Achievement Counsel's 10 Year Plan to Increase Educational Attainment are aligned with the recommendations of the EOGOAC, and highlight the need to focus on improving high school completion and postsecondary access for historically underserved and underrepresented students. Washington lags behind other states in high school graduation in the magnitude of our racial and ethnic opportunity gaps in the percentage of our population enrolled in postsecondary education. There are daunting challenges, yet we have an adept educational system and strong leadership. This comprehensive approach to the challenges will allow our state to successfully close the opportunity gap and meet our educational attainment goals.

Reducing the length of time that students are out of school due to suspensions and expulsions is important. The disproportionality of our state's discipline statistics is staggering. Some students are suspended in school or just during lunch and have support from educators. Other students are suspended out of school, even for nonviolent behaviors, and are not able to go to class, so do not develop the time management and self-discipline that is required to succeed in postsecondary careers and education. Excluding someone from school is not just hindering their education, students who are not in school are missing out on friends, building relationships with mentors, learning teamwork, participating in extracurricular activities, and developing an identity. However, there needs to be a safe school environment, which might mean removing students who are violent. But disciplinary actions should have the goals of remediating students and educating them.

Many children are not reaching their full potential because they are not being provided access to educational resources. Many people around the state are not satisfied with the state's dropout rate and graduation rate, or with the fact that many children are transferred to alternative programs. This is viewed by some groups as segregation. This bill makes closing the opportunity gap a statewide priority. To close the gaps in our schools, we need to develop an effective leadership team that includes parents, provides additional resources, identifies achievement gaps, provides additional instructional support, uses an effective strategy to instruct diverse learners, provides a safe and orderly learning environment, decreases class size, helps teachers work effectively with communities and families, recruits and develops, and retains diverse and highly qualified teachers and paraeducators.

One area that is not addressed in the bill is a way to fix at the state level the inequities that exist within current remediation funding at the federal level. There are two formulas for distributing Title I money. There is a systematic bias in the weighting system that favors the larger school districts, leaving some districts with more per student dollars for each Title I student. To fix this, the LAP dollars should be split into two pools: one pool to close the gap in student remediation funding created by Title I, and the other is distributed as it is currently. This would give every student an equal opportunity to close the gap. However, this policy might involve a request to the ED for waiver.

The WSSDA is aware and concerned with the impacts that the bill may have on staffing capacity around the state, especially in the smallest districts. The WSSDA and other state partners have already been moving forward with some of the intent in the bill. The WSSDA has been supporting districts as they implement equity based policies and practices. The WSSDA has a suite of policies and procedures available to districts that are grounded in state and federal statute. Some districts adopt these word for word, some with modifications, and some develop their own. As a result of SB 5946 (2014), the WSSDA developed a model policy and procedure for classroom management, discipline, and corrective action. In addition, the WSSDA has a process to update its policies and procedures. In terms of cultural competency training and support for staff, in addition to the equity access meetings convened this past year, the WSSDA plans to partner with the EOGOAC and districts that are embedding cultural competency into their work. Last year and this, the WSSDA has partnered with others to host racial equity convenings.

Teachers need to be trained and participate in discussions related to working with various types of students. It is important to disaggregate data by every language that is spoken. It is also important to allow community members who speak a language other than English to translate by hand what is on district or school flyers and other information, then submit it to districts for review and public posting.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is overly complex, but a comprehensive solution for students of color is needed, and this bill is the best that can be done to come up with a comprehensive plan. As more public resources are infused into public education, the Legislature must also address the problems that this bill addresses. This legislation will help the 40 percent of students that are of color or mixed race. These are students who are not represented by the lobbying effort that some adults enjoy. The parts of this bill related to discipline are particularly helpful.

(Opposed) None.

(Other) The Washington State School Directors' Association supports this comprehensive policy action. Some of the directives in the bill, such as the model policy specified in Senate Bill 5946 from 2013, already exist and are not needed. Component parts of the bill are important, but the costs are concerning.

Persons Testifying (Education): Representative Santos, prime sponsor; Rachelle Sharpe, Washington Student Achievement Council; Sam Le; Jimmy Matta, Latino Civic Alliance; Neal Kirby, Centralia School District; Jessica Vavrus, Washington State School Directors Association; and Don Bunger.

Persons Testifying (Appropriations): (In support) Rosalund Jenkins, Black Alliance of Thurston County.

(Other) Jessica Vavrus, Washington State School Directors' Association.

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

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