

# FINAL BILL REPORT

## E2SHB 1295

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Synopsis as Enacted

**Brief Description:** Providing public education to youth in or released from institutional education facilities.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Callan, Eslick, Ramel, Leavitt, Simmons, Springer, Fitzgibbon, Dolan, Bateman, Shewmake, Johnson, J., Senn, Sutherland, Walen, Peterson, Davis, Goodman, Hackney, Kloba, Fey, Ramos, Frame, Ryu, Macri, Bergquist, Pollet and Stonier).

**House Committee on Education**

**House Committee on Appropriations**

**Senate Committee on Early Learning & K-12 Education**

**Senate Committee on Ways & Means**

### **Background:**

#### Institutional Education—Overview.

Washington's program of basic education mandates that instruction and associated state funding be provided for school-aged students in institutional facilities. The institutional facilities are managed and operated by the Department of Children, Youth, and Families (DCYF), the Department of Social and Health Services, the Department of Corrections (DOC), counties, and cities, but the basic education services are generally provided by local school districts and regionally based educational service districts (ESDs).

The Office of the Superintendent of Public Instruction (OSPI) oversees school districts and ESDs that provide institutional education services. The OSPI also allocates funding to school districts and ESDs for institutional education services.

*Basic Education.* As defined in statute, the program of basic education is that which is necessary to provide students with the opportunity to develop the knowledge and skills necessary to meet state-established high school graduation requirements. Those requirements are intended to allow students to have the opportunity to graduate with a

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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 part of the legislation nor does it constitute a statement of legislative intent.*

meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship.

*Funding.* State institutional education funding is not calculated using the prototypical school funding model that is used for common schools. Instead, other factors generate the funding amount for institutional education purposes, including student enrollment, variable staffing ratios, a 220-day school year, and the materials, supplies, and operating costs to support the program.

Six types of institutions receive institutional education funding:

- residential habilitation centers;
- state long-term juvenile institutions;
- state operated community facilities (also referred to as group homes);
- county juvenile detention centers;
- Washington State Department of Corrections; and
- county and city adult jails.

Institutional education allocations are distributed to school districts and ESDs to hire staff and to develop and deliver a program of education in institutional facilities.

#### Task Force on Improving Institutional Education Programs and Outcomes.

An 11-member Task Force on Improving Institutional Education Programs and Outcomes (Task Force) was established in 2020 and charged with examining various issues, including:

- goals and strategies for improving the coordination and delivery of education services to youth involved with the juvenile justice system;
- the transmission of student records for students in institutional facilities;
- goals and strategies for increasing the graduation rate of youth in institutional facilities;
- an assessment of the level and adequacy of basic and special education funding for institutional facilities; and
- special skills and services of faculty and staff, including associated professional development and nonacademic supports for addressing social-emotional and behavioral health needs.

Between July and November of 2020, the Task Force convened five meetings during which members were presented with information about the legal and fiscal frameworks governing the state's institutional education system, and perspectives from a range of experts, stakeholders, and students involved with the juvenile justice system. A final report from the Task Force was provided to the Governor and the Legislature in December 2020.

#### On-Time Grade Level Progression Requirements for Qualifying Students.

School districts must take specific actions to promote the on-time grade level progression and graduation of students experiencing homelessness, students in foster care, and persons who are designated as an at-risk youth or a child in need of services.

Among other requirements, school districts, for the qualifying students, must:

- waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or provide a reasonable justification for the denial;
- consolidate partial credit, unresolved, or incomplete coursework and provide opportunities for credit accrual in a manner that eliminates academic and nonacademic barriers for the student;
- grant partial credit for coursework completed before the date of the student's withdrawal or transfer to the student's current school; and
- grant diplomas to students who have enrolled in three or more school districts as a high school student if state, but not local, graduation requirements have been met.

#### Education Data Center.

The Education Data Center (commonly known as the Education Research and Data Center or ERDC) in the Office of Financial Management conducts collaborative analyses of programs and education issues across the preschool through higher education system. Among other duties, the ERDC is required to prepare a regular report on the educational and workforce outcomes of youth in the juvenile justice system.

#### Dropout Reengagement Programs.

School districts, subject to statutory directives and requirements of the OSPI, may establish dropout reengagement programs to provide educational opportunities and access to services for eligible students. Among other requirements, eligible students must:

- be between the ages of 16 and 21 at the beginning of the school year; and
- not be accumulating sufficient credits at a rate that will allow them to reasonably complete a high school diploma before the age of 21, or be recommended for the program by a case manager of the DSHS or the juvenile justice system.

Dropout reengagement programs must offer specified services to students, including academic instruction, case management, and academic and career counseling. The OSPI is required to develop model agreements and contracts for dropout reengagement programs and to determine uniform financial reimbursement rates, per full-time equivalent student, for the participating students.

#### **Summary:**

Numerous new and modified duties are established for the Office of the Superintendent of Public Instruction (OSPI), the Department of Children, Youth, and Families (DCYF), and the State Board of Education (SBE) related to the provision of public education to youth in or released from secure facilities.

Related definitions are also established for key terms used throughout the act, including definitions for: institutional education facility; institutional education program; and

institutional education provider.

Additionally, "youth" is defined as a person who is under the age of 21 who is a *resident* of an institutional education facility. A youth may be a public school student or a person who is eligible to be a public school student but who is not enrolled in a school or otherwise receiving basic education services.

"Postresident youth" is defined as a person who is under the age of 21 and a *former resident* of an institutional education facility. As with the definition of "youth," a postresident youth may be a public school student or a non-enrolled person who is eligible to be a public school student.

#### I. Extension of On-Time Grade Level and Graduation Progression Requirements.

Actions that school districts must take to promote the on-time grade level progression and graduation of students experiencing homelessness, students in foster care, and others are extended to students who are in or have been released from an institutional education facility.

School districts must provide students in or released from an institutional education facility with access to world language proficiency tests, American sign language (ASL) proficiency tests, and general education development (GED) tests. Access to the tests may not be conditioned or otherwise dependent upon a student's request.

School districts must award at least one high school credit to students in or released from an institutional education facility upon meeting the standard established by the SBE on a world language or ASL proficiency test or a GED test. Additional credits may be awarded if a student has completed a course or courses of study to prepare for the test. If the school district has a policy for awarding mastery-based credit on state or local assessments, the school district must apply this policy for students in or released from an institutional education facility.

In identifying the scores students must achieve in order to meet the standard on world language or ASL proficiency tests and GED tests, the SBE must consult with the OSPI.

#### II. Dropout Reengagement Requirements.

The OSPI is directed to examine an existing dropout prevention, intervention, and retrieval system and its associated rules for the purpose of recommending new or modified requirements and practices that will promote credit earning and high school completion by youth and postresident youth. Findings and recommendations resulting from the examination must be submitted by November 1, 2021, to the Governor and the Legislature.

Institutional education students are made expressly eligible for enrollment in dropout reengagement programs and the OSPI is directed to develop procedures for school districts to report student enrollment in institutional education facilities and dropout reengagement

programs.

Beginning in the 2021-22 school year, enrollments for students in residential schools, juveniles in detention facilities, and individuals under the age of 18 in adult correctional facilities may be funded above one full-time equivalent (FTE) if the enrollments above one FTE allow for participation in dropout reengagement programs. The state funding for enrollments in dropout reengagement programs is in addition to institutional education facility enrollments and must be allocated by the OSPI in accordance with applicable requirements.

### III. Professional Development for Institutional Education Staff.

Institutional education providers must annually deliver to all staff providing an institutional education program, one day of professional development that builds pedagogical strategies to navigate the intersectionality of factors impacting student learning, including trauma, and physical, mental, and behavioral health in order to achieve academic milestone progression.

The professional development must include training on delineated topics, for example:

- the cognitive, psychosocial, and emotional development of adolescents;
- mental and behavioral health literacy;
- the complex needs of students involved in the juvenile justice system, including the trauma associated with incarceration or voluntary or involuntary commitment in a long-term psychiatric inpatient program; and
- racial literacy and cultural competency.

The required professional development must be funded by the state and must be in addition to other professional learning requirements previously established in statute.

### IV. Service Improvement and Delivery Duties for the Department of Children, Youth, and Families.

The DCYF is directed to meet new requirements for the institutional education students in facilities it operates. The DCYF, with the input of institutional education providers, must:

- identify data needed by the DCYF and institutional education facilities to evaluate the facilities' administrative and operational role in providing education to students and supporting their educational outcomes. This data must include attendance, discipline rates, course and certificate completion rates, and other educational metrics;
- analyze, and make a plan to resolve, policies and practices of the DCYF and institutional education facilities that suspend the provision of educational services to students as a disciplinary action so that students are never denied the opportunity to engage in educational activities; and
- review and resolve the DCYF and institutional education facility policies and practices that create barriers to students participating in meaningful learning opportunities in whatever location and format those opportunities are provided.

### V. Every Student Succeeds Act/Consolidated Plan—Reporting Duties for the Office of the

### Superintendent of Public Instruction.

New reporting requirements pertaining to the state's consolidated plan mandated by the federal Every Student Succeeds Act are established. Beginning July 1, 2022, and every three years thereafter, the OSPI must report to the Legislature on the funding and services provided in support of youth pursuant to consolidated plan provisions addressing prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk. The two-fold purpose of the report is to inform the Legislature of progress toward the goals in the consolidated plan and provide the Legislature with the opportunity to determine whether legislation should be enacted to ensure the education needs of youth and postresident youth. The report must also include information about the education outcomes resulting from the funding and provided services, and a delineation of the recipients of certain federal funds and how they are being used to support the education needs of youth and postresident youth.

### VI. Additional Requirements and Supports for the Provision of Institutional Education—Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to modify or establish requirements and supports for the provision of public education to youth and postresident youth. In meeting these requirements, the OSPI must complete the following duties:

- adopt rules requiring institutional education providers at state long-term juvenile institutions and state-operated community facilities to conduct an individualized education program (IEP) review for each newly admitted youth who does not have an IEP or an IEP that has been reviewed in the previous 12 months;
- adopt rules requiring most institutional education providers to, upon admission of a youth to an institutional education facility, conduct a review and assessment of needed services for each facility transition the youth experiences within the juvenile justice system; and
- adopt, for youth in state long-term juvenile institutions and state-operated community facilities, rules to implement accountability measures for special education services delivered by institutional education providers, including the establishment of mediation and appeals options related to special education services that recognize the unique situation of youth and postresident youth.

A summary of any adopted or pending rules developed in accordance with the recommendations must be submitted to the Legislature by November 1, 2021.

### VII. Data Collection, Website Posting, and Other Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to annually collect and post on its website data related to institutional education programs. Examples of the posted data, which must be disaggregated by gender, race, ethnicity, and age, includes data on:

- IEPs;
- access to relevant instruction;
- student attendance;

- metrics of student education status upon the beginning of residency in an institutional education facility;
- student education progress during residency in an institutional education facility;
- student education attainment during residency in an institutional education facility; and
- long-term education and workforce outcomes of youth in and released from institutional education facilities as provided annually by the Education Research and Data Center (ERDC).

The OSPI must provide a copy of the disaggregated data to the board of directors of each school district that provides education services to youth and postresident youth. The purpose of providing the data is to give each board of directors the opportunity to: review the performance of the institutional education provider; and make changes to annual school improvement plans required by rule, or other policies and procedures as necessary to improve youth and postresident youth outcomes.

Provisions governing the ERDC's regular report on the education and workforce outcomes of youth in the juvenile justice system are modified to require an annual report on the education and workforce outcomes of youth in and released from institutional education facilities. The report must be provided to the OSPI in a manner that is suitable for collection and website posting obligations of the OSPI.

The OSPI is also directed, with input from institutional education providers and the DCYF, to annually recommend modifications to the SBE for changes to annual school improvement plan requirements that would allow plans for state long-term juvenile institutions to be formatted for the specific needs and circumstances of institutional settings.

VIII. Jointly Developed Institutional Education Policies of the Office of the Superintendent of Public Instruction and the Department of Children, Youth, and Families.

*Recommendations.* The OSPI and the DCYF must jointly develop recommendations for the establishment, implementation, and funding of a reformed institutional education system that successfully meets the education and support needs of persons in and released from secure settings. With limited exceptions, the recommendations should be directed toward meeting the education needs of persons in or released from institutional education facilities that are not operated by or under the jurisdiction of the Department of Social and Health Services.

The recommendations must be based on the foundational concept that every student can succeed if given the necessary supports, and must address:

- the establishment of an organizational and accountability structure that is focused on meeting complex student needs and improving student outcomes;
- the establishment of an equitable, long-term funding model that sustainably supports the organizational and accountability structure; and

- the development of a regular and ongoing review of system performance and education outcomes.

The developed recommendations must also include provisions addressing 13 delineated issues, for example:

- the content and structure of common education, information, and support systems that would include a common, culturally competent curriculum, improve system efficacy, and minimize the negative academic impacts of transitions;
- a coordinated staffing model for institutional education facility and institutional education provider operations and effectiveness in meeting student needs, and a mechanism for developing subsequent recommendations for improvements to the model;
- practices to ensure that there is a robust program of education advocates for youth in all institutional education facilities;
- maximizing youth and postresident youth access to: career and technical education and postsecondary education pathways at institutional education facilities and at off-site locations; and mastery-based learning that leads to credit accrual and graduation pathways;
- establishing new or modified requirements and procedures for the successful release of youth from institutional education facilities by recommending an effective team-based transition process with identified transition services and supports that include basic needs, social-emotional support, and academic support; and
- establishing and supporting youth advisory, leadership, and mentoring programs to ensure pathways for youth and postresident youth involvement and development.

*Advisory Group.* The Institutional Education Structure and Accountability Advisory Group (Advisory Group) is established for the purpose of providing advice, assistance, and information to the OSPI and the DCYF in developing the recommendations.

The Advisory Group must consist of representatives from the following entities, but other members may be added by request of the Superintendent of Public Instruction (SPI) or the Secretary of the DCYF: the SBE; the Department of Social and Health Services; a statewide organization representing counties; the Administrative Office of the Courts; the Office of the Education Ombuds; the Educational Opportunity Gap Oversight and Accountability Committee; a statewide organization representing teachers; a statewide organization representing classified education staff; nonprofit organizations representing the interest of youth and families involved in the juvenile justice system; persons who are or have been involved in the juvenile justice system and their families; and a statewide organization representing state employees.

*Third-Party Facilitator.* The SPI and the Secretary of the DCYF must, by August 15, 2021, jointly designate an entity to facilitate the development of the required recommendations and the Advisory Group. Staff support for the Advisory Group must be provided by the designated entity.



The designated entity must: be a nonprofit and nonpartisan organization with content expertise in improving education for incarcerated young people, including education program delivery, system structure, accountability, and school finance; and have experience with complex cross-agency facilitation.

*Reporting Requirements.* The OSPI and the DCYF must provide an interim report to the Governor and the Legislature by December 15, 2021. The required recommendations must be provided to the same recipients by November 1, 2022. The recommendations should include a plan and a phased timeline for their implementation in different types of institutional education facilities.

**Votes on Final Passage:**

House	97	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 25, 2021