

SENATE BILL REPORT

E2SHB 1295

As Reported by Senate Committee On:
Early Learning & K-12 Education, March 12, 2021
Ways & Means, March 25, 2021

Title: An act relating to the provision of public education to youth in or released from institutional education facilities.

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).

Brief History: Passed House: 2/26/21, 97-0.

Committee Activity: Early Learning & K-12 Education: 3/10/21, 3/12/21 [DPA-WM].
Ways & Means: 3/22/21, 3/25/21 [DPA (EDU)].

Brief Summary of Amended Bill

- Establishes new and modified duties for the Office of the Superintendent of Public Instruction (OSPI), the Department of Children, Youth, and Families (DCYF), and the State Board of Education related to the provision of public education to youth in or released from secure facilities, including duties related to education access and delivery, student supports, data collection and reporting, and facility policies.
- Directs OSPI and DCYF to jointly develop recommendations by November 1, 2022, for establishment, implementation, and funding of a reformed institutional education system.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

Staff: Alexandra Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Early Learning & K-12 Education.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Kayla Hammer (786-7305)

Background: Institutional Education. Washington's program of basic education mandates 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, counties, and cities, but basic education services are generally provided by local school districts and educational service districts (ESDs).

Institutional education funding is not calculated using the prototypical school funding model defined in statute and 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.

Institutional education allocations are distributed to school districts and ESDs to hire staff and to develop and deliver a program of education in the following six types of institutions: 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.

Task Force on Improving Institutional Education Programs and Outcomes. In 2020, the Legislature adopted ESHB 2116 establishing an 11-member task force on Improving Institutional Education Programs and Outcomes (task force). The task force was charged with examining a number of issues, including goals and strategies for improving coordination and delivery of education services to youth involved with the juvenile justice system and the level and adequacy of basic and special education funding for institutional

facilities, among other topics.

The task force met five times between July and November 2020, and provided a final report to the Governor and 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 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 must provide 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.

Summary of Amended Bill: Numerous new and modified duties are established for the Office of the Superintendent of Public Instruction (OSPI), the 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 established for institutional education facility, institutional education program, and institutional education provider. "Youth" is defined as a person under the age of 21 who is a resident of an institutional education facility and "postresident youth" is defined as a person under the age of 21 who is a former resident of an institutional education facility. A youth or a postresident 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.

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

For students in or released from an institutional education facility, school districts must provide them 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 by the district if a student has completed a course or courses of study to prepare for the test. If the school district has a local 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.

When 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 OSPI.

Dropout Reengagement Duties for the Office of the Superintendent of Public Instruction.

OSPI is directed to examine an existing dropout prevention, intervention, and retrieval system and its associated rules for recommending new or modified dropout reengagement 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 appropriate committees of the Legislature.

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, at a minimum, include training on the following topics:

- 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;
- racial literacy and cultural competency; and
- working with adolescents with many adverse childhood experiences.

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

Service Improvement and Delivery Duties for the Department of Children, Youth, and Families. DCYF is directed to meet new requirements for the institutional education students in facilities it operates. DCYF, with the input of institutional education providers, must:

- identify data needed by DCYF and institutional education facilities to evaluate the

facilities' administrative and operational role in providing education to students and supporting students' educational outcomes.

1. This data must include attendance, discipline rates, course and certificate completion rates, and other educational metrics;
- analyze, and make a plan to resolve, DCYF and institutional education facilities policies and practices that suspend the provision of educational services to a student as a disciplinary action, so students are never denied the opportunity to engage in educational activities; and
 - review and resolve 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.

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, OSPI must report on the funding and services provided in support of youth with respect to provisions of the consolidated plan addressing prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk. The purpose of the report is to provide the Legislature with the opportunity to determine whether subsequent legislation should be enacted to ensure the education needs of youth and postresident youth. The report, which must be submitted to the appropriate committees of the Legislature, 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.

Additional Requirements Established by the Office of the Superintendent of Public Instruction. 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, 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 either does not have an IEP or does not have 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 appropriate committees of the Legislature by November 1, 2021.

Data Collection Duties for the Office of the Superintendent of Public Instruction. OSPI is directed to annually collect and post on its website data related to institutional education programs, disaggregated by gender, race, ethnicity, and age, including 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).

Provisions governing 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 OSPI in a manner suitable for collection and website posting obligations of OSPI.

OSPI is also directed, with input from institutional education providers and 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.

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 necessary to improve youth and postresident youth outcomes.

Jointly Developed Institutional Education Policies of the Office of the Superintendent of Public Instruction and the Department of Children, Youth, and Families. *Recommendations.* OSPI and DCYF are directed to jointly develop recommendations for 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 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 for institutional education, focused on meeting complex student needs and improving student outcomes;
- the establishment of an equitable, long-term funding model for institutional education 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, examples of which include:

- 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 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 preresident and postresident 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 providing advice, assistance, and information to OSPI and DCYF in developing the recommendations. When developing the recommendations, OSPI and DCYF are required to consult with the advisory group.

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 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 DCYF must, by August 15, 2021, jointly designate an entity to facilitate development of the required recommendations and the advisory group. Staff support for the advisory group must be provided by the designated entity.

Criteria for selection of the designated entity are established, and the 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 facilitating complex cross-agency facilitation.

Reporting Requirements. OSPI and DCYF must provide an interim report to the Governor and the education and fiscal committees of 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, including state long-term juvenile institutions, state-operated community facilities, residential habilitation centers, and county juvenile detention centers.

Dropout Reengagement Program. Beginning in the 2021-22 school year, students enrolled in institutional education programs may be funded above one full-time equivalent (FTE) provided that the enrollment above one FTE allows for participation in the statewide dropout reengagement program. State funding for enrollments in dropout reengagement programs that is provided in addition to institutional education facility enrollments must be allocated in the same manner as dropout reengagement FTE reimbursements. The term "eligible student" for purposes of the dropout reengagement program is modified to include students enrolled in institutional education programs.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Authorizes institutional education students to count above one FTE student for enrollment purposes, with amounts above one FTE to be used for participation in the dropout reengagement program.
- Revises the definition of eligible student for purposes of the dropout reengagement program to include students enrolled in an institutional education program.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available. New fiscal note requested on March 8, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: The McCleary lawsuit brought changes to general education, but it did not make changes to institutional education. These are the most vulnerable youth, with graduation rates below 20 percent. These students will be released back into society, and if they are further behind and further traumatized than when they entered we can not expect anything more than to see them back in jail. The task force heard from students and the desire to have a future was there. We have to do better. This bill takes immediate action on some issues, like addressing credits and professional development. It also lays out long term system changes and provides direction to both educators and facilities that need to work together to put the education of students first. A true evaluation needs to take place regarding how the state is providing consistent, quality education across all facilities. Education access is foundational to a rehabilitative model of care, and this bill provides an education first approach. It addresses flexibility in grade-level progression, reentry and re-engagement, and accountability. The institutional education funding formula also needs to be increased, and some of those changes should take place this year.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Lisa Callan, Prime Sponsor; Rebecca Stillings, Washington State School Directors' Association; Allison Krutsinger, Department of Children, Youth, and Families; Melissa Gombosky, Association of Educational Service Districts; Lorrell Noahr, Washington Education Association; Martin Mueller, Office of Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): No one.

Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means): PRO: This bill is a meaningful step forward in meeting the

needs of institutional education youth. In the short-term it lays out a road map which is a step in the right direction. Students in the institutional education setting need competent teachers that can serve the unique needs of the individuals. Investments in professional development will help provide this to students. Investing in the appropriate data reporting and analysis will provide a better understanding of the youth, what additional support may be needed, and how to fix the current system. Strongly support increasing funds to this program and would propose some investments be made this year, but overall support future investments that will result from this bill.

Persons Testifying (Ways & Means): PRO: Melissa Gombosky, Association of Educational Service Districts, Evergreen and Vancouver Public Schools; Lorrell Noahr, Washington Education Association; Katherine Mahoney, Office of Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.