

HOUSE BILL REPORT

ESHB 2331

As Amended by the Senate

Title: An act relating to modifying requirements for public school instructional materials and supplemental instructional materials by prohibiting improper exclusions of certain materials, establishing complaint procedures, and promoting culturally and experientially representative materials.

Brief Description: Modifying requirements for public school instructional and supplemental instructional materials.

Sponsors: House Committee on Education (originally sponsored by Representatives Stonier, Macri, Davis, Pollet, Reed and Ramel).

Brief History:

Committee Activity:

Education: 1/23/24, 1/29/24 [DPS].

Floor Activity:

Passed House: 2/10/24, 58-39.

Senate Amended.

Passed Senate: 2/22/24, 29-20.

Brief Summary of Engrossed Substitute Bill

- Bars school district boards of directors (school boards) from refusing to approve or prohibiting the use of an educational material on the basis that it relates to or includes the study of the role and contributions of individuals or groups that are part of a protected class as established in public school nondiscrimination provisions.
- Requires school district instructional materials committees (IMCs) to include at least one parent member.
- Requires recommendations of IMCs to include recommendations for culturally and experientially representative materials.

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.

- Establishes new requirements for written complaints about instructional materials.
- Directs school boards to adopt or revise policies and procedures for reviews and removals of supplemental instructional materials and establishes related requirements.
- Directs the Superintendent of Public Instruction to develop rules and guidelines related to the instructional materials and supplemental instructional materials provisions.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Santos, Chair; Shavers, Vice Chair; Bergquist, Nance, Ortiz-Self, Pollet, Stonier and Timmons.

Minority Report: Do not pass. Signed by 6 members: Representatives Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Couture, Eslick, McClintock and Steele.

Minority Report: Without recommendation. Signed by 1 member: Representative Harris.

Staff: Ethan Moreno (786-7386).

Background:

Public School Governance.

The governance of Washington's public school system is a shared responsibility between the state and 295 school districts. The Legislature and state agencies, including the Office of the Superintendent of Public Instruction (OSPI) and the State Board of Education, establish requirements for school districts, but the operation of school districts, including curricular determinations and policies for district and school operations, is the responsibility of locally elected school district boards of directors (school boards), often through adopted policies and procedures.

Washington's public school system also includes charter schools and state-tribal education compact schools. Charter schools and state-tribal education compact schools have separate laws for their governance and operation but are subject to requirements adopted by the Legislature and state agencies.

Discrimination Prohibited.

Discrimination in Washington public schools on the basis of sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation including

gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability is prohibited. The Superintendent of Public Instruction (SPI) is charged with developing rules and guidelines to eliminate discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

The OSPI is required to monitor local compliance with nondiscrimination provisions, and the SPI has the power to enforce and obtain compliance with state laws and guidelines prohibiting discrimination by instituting corrective action, terminating the offending program, placing the school district on probation, or withholding state funds.

Any person aggrieved by a violation of nondiscrimination provisions, or aggrieved by the violation of any rule or guideline adopted in accordance with the nondiscrimination provisions, has a right of action in superior court for civil damages and such equitable relief as the court determines.

Instructional Materials.

School boards must have policies for the selection and deletion of instructional materials.

The policies must comply with specified requirements, including:

- stating the school district's goals and principles relative to instructional materials;
- delegating responsibility for the preparation and recommendation of teachers' reading lists and specifying the procedures to be followed in the selection of all instructional materials;
- establishing an instructional materials committee (IMC) to be appointed, with the approval of the school board, by the school district's chief administrative officer. Each IMC must consist of members of the school district's professional staff and may include parents at the school board's discretion; and
- providing a system for receiving, considering, and acting upon written complaints regarding instructional materials used by the school district.

Recommendation of instructional materials are to be made by the IMC in accordance with school district policy, but final approval or disapproval decisions must be made by the school board.

Summary of Engrossed Substitute Bill:

Educational Materials: Barring Certain Inactions and Prohibitions.

A school district board of directors (school board) may not refuse to approve, or prohibit the use of, any textbook, instructional material, supplemental instructional material, or other curriculum for student instruction on the basis that it relates to or includes the study of the role and contributions of any individual or group that is part of a protected class as established in public school nondiscrimination provisions. Provisions barring certain inactions and prohibitions by school district boards of directors do not apply if the

educational material content associated with the action or inaction violates nondiscrimination requirements for public schools, including if the materials contain bias against any individual or group who is part of a protected class.

Anyone alleging a violation of requirements barring the specified inactions and prohibitions may bring a complaint under provisions prohibiting discrimination in public schools. Any school board found to be in violation of the requirements is considered to have violated public school nondiscrimination provisions and is subject to the applicable actions.

Supplemental Instructional Materials—Policies and Procedures for Requested Reviews.

By the beginning of the 2025-26 school year, each school board must adopt or revise as necessary policies and procedures governing requested reviews and removals of supplemental instructional materials. The policies and procedures must:

- include a summary of provisions barring the specified inactions and prohibitions for supplemental instructional materials, a defined term;
- require that requests for the review and potential removal of the materials be in writing from a parent and submitted to the applicable certificated teacher or teacher-librarian and school principal;
- seek to resolve requests for reviews and potential removals of the materials at the school building level through, if requested by the parent, a meeting with the parent, the applicable certificated teacher or teacher-librarian, and school principal;
- require, if a resolution cannot be agreed upon with the parent and the school principal, and following a review of the materials by the principal, in consultation with a teacher-librarian of the school district if one is available, the principal to provide a written decision on whether to remove the materials within specified timeframes; and
- provide a process for appealing decisions of principals, either by the parent or the applicable certificated teacher or teacher-librarian, to the superintendent of the school district or a designee of the superintendent. Appeal requests must be made in writing and decisions by the superintendent or designee may be appealed to the school district board of directors. Appeal decisions may not be reconsidered for a minimum of three years unless there is a substantive change of circumstances as determined by the superintendent.

Decisions about requested reviews and removals of supplemental instructional materials must be in conformity provisions barring the specified inactions and prohibitions for supplemental instructional materials. The decisions may also be limited in application to only the student or students of the parent who submitted the complaint.

Instructional Materials.

Composition of Instructional Materials Committees. Instructional materials committees (IMCs) must include one or more parents of enrolled students. Additionally, school districts must develop and implement comprehensive outreach programs to parents of enrolled students in the district for the purpose of recruiting parent members for IMCs.

If an IMC is unable to recruit at least one parent member, the IMC, while it is without a parent member, must report quarterly to the school board and the public on its efforts to recruit one or more parent to serve on the IMC.

Recommendations of Instructional Materials Committees. Provisions governing the duties of IMCs are modified to specify that their recommendations must include recommendations for culturally and experientially representative instructional materials, including materials on the study of the role and contributions of individuals or groups that are part of a protected class as established in public school nondiscrimination provisions.

Complaint Systems. Provisions governing mandatory systems for written complaints about instructional materials used by school districts are modified. The complaint systems must:

- require that complaints be in writing from a parent or legal guardian of a student who is enrolled in the district and submitted to a principal from a school where the materials that are the subject of the complaint are used;
- seek to resolve complaints through, if requested by the parent or guardian, a meeting with the parent or guardian, a certificated teacher who uses the materials that are the subject of the complaint, and the principal to whom the complaint was submitted; and
- require, if a resolution cannot be agreed upon with the parent or guardian and the school principal, the instructional materials committee to provide a written decision on the matter within a specified timeframe. Decisions made by the IMC must be in conformity with provisions barring the specified inactions and prohibitions for instructional materials and may be limited in application to only the student or students of the parent or guardian who submitted the complaint.

The complaint systems must also provide a process for appealing decisions of the IMC, by the parent or guardian, a certificated teacher who uses the materials that are the subject of the complaint, or a principal from a school where the materials that are the subject of the complaint are used, to the superintendent of the school district or a designee of the superintendent. These appeal requests must be made in writing and decisions by the superintendent or designee are final and may be appealed to the school district board of directors. Appeal decision may not be reconsidered for a minimum of three years unless there is a substantive change of circumstances as determined by the superintendent.

Rules and Guidelines of the Superintendent of Public Instruction.

Rules and guidelines developed by the Superintendent of Public Instruction to eliminate discrimination in the public school system must include provisions for the barred inactions and prohibitions related to instructional and supplemental instructional materials.

Applicability to Charter Schools and State-Tribal Education Compact Schools.

Requirements in the bill for school districts also apply to charter schools and state-tribal education compact schools.

EFFECT OF SENATE AMENDMENT(S):

In comparison to the engrossed substitute bill, the Senate amendments:

- remove provisions allowing decisions on supplemental instructional materials and instructional materials by school district superintendents or their designees to be appealed to school district boards of directors;
- modify provisions establishing a three-year waiting period on reconsiderations of decisions on supplemental instructional materials and instructional materials by providing that final decisions made at any point in the review process may not be considered for a minimum of three years unless, as provided in the underlying bill, there is a substantive change in circumstances as determined by the school district superintendent;
- require that school district outreach programs to parents for members of instructional materials committees seek to recruit a diverse pool of parent members that reflect the demographics and learning needs in the districts to the greatest extent possible; and
- remove a provision specifying that school district policies for evaluating teaching materials in response to a complaint must require a public hearing on the matter, and instead requires the policies to provide that evaluations of teaching materials that are subject to a complaint be conducted accordance with provisions established in the underlying bill.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 2024.

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

Staff Summary of Public Testimony:

(In support) This bill underscores the requirement to comply with antidiscrimination provisions. This bill seeks to create a process that does not result in removing a text that is subject to a complaint from all students. There is an organized and politicized effort to remove texts. The purpose of removing texts is to eliminate historical facts. Students must see themselves in their texts. The value and contributions of LGBTQ authors are under attack, but lawmakers see them.

School board members are not teacher-librarians. Librarians select age-appropriate materials, using data for curation. Establishing a complaint process for materials and requiring collections to be diverse will be beneficial. It is essential that students see themselves and can relate to the materials. Librarians have been under attack and they need policies and procedures that are best practices for everyone.

It is essential that all students have access to accurate materials that reflect the diverse world they live in. Discussing books with students is beneficial. Not every book is for every student and students can return them. Removing books from libraries because of the author

or characters in the book is improper. This bill protects vulnerable students and gives them more opportunities to get engaged in their learning.

It has been disturbing to see book bans reemerging across the country and they seem to be led by small groups of people. They can decide what their own children read, but they do not have the right to do so for others. Professional educators should decide what books kids can read in libraries. Kids should read the good and bad of history so that they do not repeat the mistakes of history. Teachers are well equipped to make decisions for choosing supplemental instructional materials.

(Opposed) The idea of defunding schools up to 100 percent for unclear violations is objectionable. This bill may lead to family conflict and further erosion of public school enrollment.

The only way to ensure that the needs of students and communities are met is through locally determined decisions. School directors should focus on making sure that students can read rather than teaching ideologies.

Some books that have been widely pushed contained inappropriate content, including content of a sexual nature. Parents are not trying to ban books, they are trying to keep them away from minors. This bill will be used to push certain books.

Schools censor information that is before students in classrooms and on computers. This same concept applies to school libraries. Students are vulnerable and developing, and some materials will be damaging to students. Local control should be preserved and antidiscrimination laws already exist. This bill will take away religious liberty.

Forty thousand families have left failing Washington schools. If policymakers keep up this politicalized agenda, every school levy will fail. This bill is government overreach. No one person, even a school librarian, has the right to expose students to pornography. Efforts to insert pornography into school libraries are wrong. Children should be protected from inappropriate materials.

(Other) Stakeholders have local control and students' rights objectives. Schools are already prohibited from discrimination. What will we be different if this legislation is enacted? The use of "anyone" in section 1 of the bill should be limited to residents of the district.

Persons Testifying: (In support) Representative Monica Jurado Stonier, prime sponsor; Justin McKaughan; Carolyn Logue, Washington Library Association; Carolyn Solitaire, MomsRising; Sarah Logan, Washington Library Association; and Nasue Nishida, Washington Education Association.

(Opposed) Andy Cilley; Joy Gjersvold, Conservative Ladies of Washington; Sharon Damoff; Jennifer Heine-Withee; and Sarah Garriott.

(Other) Marissa Rathbone, Washington State School Directors' Association.

Persons Signed In To Testify But Not Testifying: Liv Finne, Washington Policy Center.