

# SENATE BILL REPORT

## SB 6244

As of February 10, 2016

**Title:** An act relating to implementing strategies to close the educational opportunity gap.

**Brief Description:** Implementing strategies to close the educational opportunity gap.

**Sponsors:** Senators Litzow, Fain, Dammeier, Rivers, Becker, Hill and Bailey.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/19/16, 2/04/16 [DPS-WM, w/oRec].

Ways & Means: 2/08/16.

### Brief Summary of Bill

- Requires phased-in collection and reporting of student data disaggregated by sub-racial and sub-ethnic categories.
- Provides start-up grants to schools with large populations of low-income students that want to offer nutrition during the school day.
- Makes a number of changes to student discipline law, including prohibiting certain types of suspensions and expulsions and requiring policies and procedures.
- Requires posting of racial and ethnic data related to teachers and their average length of service.
- Requires development of cultural competence training for all school staff and encourages this training for certain schools.
- Mandates teachers assigned to the Transitional Bilingual Instructional Program to have a bilingual education or English language learner endorsement.
- Directs the Office of Superintendent of Public Instruction to assist school districts in developing language proficiency instructional practices and evaluation.

### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 6244 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

*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.*

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; Fain, Hill and Rivers.

**Minority Report:** That it be referred without recommendation.

Signed by Senators McAuliffe, Ranking Member; Billig, Mullet and Rolfes.

**Staff:** Ailey Kato (786-7434) and Alia Kennedy (786-7405)

---

## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Lorrell Noahr (786-7708)

**Background:** Student Data. The K-12 Data Governance Group within the Office of Superintendent of Public Instruction (OSPI) oversees the development and implementation of the data system for financial, student, and educator data. The education data center, commonly referred to as the Education Research and Data Center (ERDC), resides in the Office of Financial Management and conducts collaborative analyses of early learning, K-12, and higher education programs and education issues.

OSPI collects student data on race and ethnicity through the statewide student data system in accordance with federal guidelines. The federal guidelines for K–12 student data require reporting of student race as White, African American/Black, Asian, American Indian/Alaskan Native, and Native Hawaiian/Pacific Islander. The guidelines also require separate reporting of ethnicity as Hispanic or non-Hispanic. According to the 2015 report by Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC), OSPI developed standards that allow one or more selections from 57 sub-racial categories and nine ethnic subcategories, but school districts are not required to report data at this level of disaggregation.

Under current law, the results of schools and districts that test fewer than 10 students in a grade level must not be reported to protect the privacy of students.

A Certificate of Academic Achievement (CAA) or a Certificate of Individual Achievement (CIA) is one of the requirements for graduation from a Washington public high school. To obtain a CAA, a student must meet state standards on required assessments. Students requiring special education who are not appropriately assessed by the state assessment system, even with accommodations, may earn a CIA through a variety of ways to demonstrate skills and abilities commensurate with their individual education programs.

Expanding Nutrition Opportunities. School breakfast and lunch programs are subsidized by the U.S. Department of Agriculture, the state, and student co-pays based on family income. In order for students to qualify for free meals, their families' income must be at or below 130 percent of the federal poverty level. Students whose families have income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals.

Provision 2 of the National School Lunch Act reduces administrative burdens for free and reduced-price meals. This provision requires schools to serve meals to participating children at no charge and reduces application burdens to once every four years. It simplifies meal

counting and claiming procedures by allowing a school to receive meal reimbursement based on claiming percentages.

The Healthy, Hunger-Free Kids Act of 2010 includes a universal meal program called community eligibility. Community eligibility allows schools with high numbers of low-income children to serve free breakfast and lunch to all students without collecting school meal applications. This program is available to public, private, and tribal schools.

OSPI reports that in October 2014 483,750 or 45.7 percent of public school students were eligible for free and reduced meals in Washington.

Under the program of basic education, school districts must provide a specified minimum number of instructional hours per year, which are defined as those hours during which students are provided the opportunity to engage in educational activity planned by, and under the direction of, school district staff. Time actually spent on meals does not count under the definition.

Student Discipline. Under current law, each school district board of directors must adopt and make available written policies regarding pupil conduct, discipline, and rights. OSPI must adopt rules providing for due process rights for pupils.

Long-term suspensions are defined as any suspension longer than 10 consecutive school days and principals must consider imposing long-term suspensions or expulsions for certain violations. Legislation enacted in 2013 prohibited indefinite suspensions or expulsions and required that suspensions or expulsions of more than 10 days be limited to no longer than one year with a petition process to exceed this limit. Districts should meet with the student and their parents or guardians to discuss a plan to reengage the student in a school program.

OSPI must collect and report data on student suspensions and expulsions disaggregated by race and other characteristics and categories. The Legislature directed OSPI to establish the Discipline Task Force in 2013 to develop standard definitions and data collection standards for disciplinary actions taken at the discretion of school districts. OSPI and the K-12 Data Governance Group revised the statewide student data system to incorporate the standards recommended by the Discipline Task Force beginning in the 2015-16 school year.

Recruitment and Retention of Teachers. 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.

Educator Cultural Competence. In 2009, the Legislation 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 opportunity gap are among the criteria for evaluating teacher and principal performance

under revised evaluation systems. OSPI must design a professional development program to support implementation of the revised evaluation systems.

ELL Instruction and Accountability. The state allocates funding through the Transitional Bilingual Instruction Program (TBIP) to provide additional support for English language learner (ELL) students to develop English language proficiency. In the 2013-14 school year there were 110,579 ELL students identified for service statewide, which is an increase of more than 32 percent since the 2005-06 school year. ELL student enrollment has increased by more than 5 percent per year in each of the past three years in more than 130 schools across the state.

OSPI has developed the Washington English Language Proficiency Assessment (WELPA) to determine student eligibility for services and assess annual growth in English language development. In 2014 the Legislature directed OSPI to convene a task force to design a performance-based assistance and accountability system for the TBIP. The task force was directed to submit a report to the Legislature by January 15, 2016. The report is currently in the agency review process.

**Summary of Bill (Recommended Substitute):** Student Data. Beginning in the 2018-19 school year, districts must submit - and OSPI must collect - student data using the federal race and ethnicity guidelines, including sub-racial and sub-ethnic categories, with the following modifications:

- further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;
- further disaggregation of the Asian category by countries of origin;
- further disaggregation of the White category to include sub-ethnic categories for eastern European nationalities that have significant populations in Washington; and
- collection of the racial and ethnic combination of categories for students who report as multiracial.

The data must be collected for all newly enrolled students, including transfer students. When students enroll in a different school within the district, school districts must resurvey the newly enrolled students from whom sub-racial and sub-ethnic categories were not previously collected and may resurvey other students. The K-12 Data Governance Group must develop protocols and guidance for the data collection, and OSPI must incorporate training on best practices.

By July 1, 2017, OSPI must work with the K-12 Data Governance Group, the ERDC, and the State Board of Education to 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.

Starting no later than the 2017-18 school year, OSPI must develop a reporting format and instructions for school districts to collect and submit data on the CAA and the CIA. This data must be disaggregated by race and ethnicity and by disability categories in the smallest units allowable by law that do not identify an individual student.

The K-12 Data Governance Group must analyze the ability of data to move between school districts when a student with an individualized education program or a plan developed under section 504 of the rehabilitation act of 1973 moves between districts and consider ways to improve the movement of this data. A report must be submitted to the education committees of the Legislature by September 1, 2017.

Expanding Nutrition Opportunities. No more than \$500,000 may be appropriated to OSPI to administer one-time start-up allocation grants of up to \$6,000 to each high-needs school that want to expand nutrition opportunities on a first-come, first-served basis. The grant must be used for the costs associated with launching a program that provides nutrition during the school day, including, but not limited to, equipment purchases, training, additional staff costs, and janitorial services.

Beginning in the school year that the high-needs school receives the grant, the school must offer nutrition during the school day to each student and provide adequate time for students to eat. High-needs school means any public school that:

- has enrollment of 70 percent or more students eligible for free or reduced-price meals in the prior school year; or
- is providing universal meals under federal law and that has a claiming percentage for free or reduced-price meals of 70 percent or more.

Each high-needs school receiving a grant may determine the nutrition service model that best suits its students. Service models include, but are not limited to, the following:

- grab and go, where easy-to-eat foods are available for students to take at the start of the school day or in between morning classes;
- second chance nutrition, where foods are available during recess, a nutrition break, or later in the morning, for students who are not hungry first thing in the morning, or who arrive late to school; and
- nutrition in the classroom, where food is served in the classroom, often during homeroom or first period.

All public schools are encouraged to expand nutrition opportunities. If all students in a high-needs school are provided the opportunity to engage in educational activity planned by and under the direction of school district staff concurrently with the consumption of food, the period of time designated for the consumption of food may be provided during instructional hours. Any rules adopted by the State Board of Education must permit student participation in nutrition opportunities during instructional hours.

All programs with nutrition during the school day must comply with federal meal patterns and nutrition standards under federal law and regulations.

The Legislature does not intend to include the funding for programs under this section within the state's obligation for basic education funding under Article IX of the state Constitution.

Before January 2, 2017, OSPI must develop and distribute procedures and guidelines for the implementation of programs providing nutrition during the school day. These guidelines

must include ways schools and districts can solicit and consider the input of families regarding implementation and continued operation of these programs.

OSPI must dedicate staff within the office to offer training and technical and marketing assistance to all public schools and school districts related to providing nutrition during the school day, including assistance with various funding options available to high-needs schools such as the community eligibility provision, programs under provision 2 of the National School Lunch Act, and claims for reimbursement.

In fulfilling its responsibilities, OSPI must collaborate with nonprofit organizations knowledgeable about equity, the opportunity gap, hunger and food security issues, and best practices for improving student access to nutrition during the school day. OSPI must maintain a list of opportunities for philanthropic support of school meal programs and make the list available to schools interested in expanding nutrition opportunities. OSPI must incorporate the annual collection of information about nutrition delivery models into existing data systems and make the information publicly available.

Student Discipline. The Washington State School Directors' Association (WSSDA) must create, with technical assistance and guidance from OSPI's Equity and Civil Rights Office and the Washington State Human Rights Commission, model school district discipline policies and procedures by December 1, 2016. Districts must adopt policies and procedures consistent with the model by April 1, 2017. Districts must disseminate the discipline policies and procedures; use disaggregated data to monitor the impact of the policies; and periodically review and update the policies in consultation with district staff, students, families, and the community.

Districts are prohibited from imposing long-term suspension or expulsion as a form of discretionary discipline. Discretionary discipline is defined as a disciplinary action taken by a school district for student behavior that violates rules of student conduct, but it does not include action taken in response to any of the following:

- possessing or carrying a firearm 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, arson, and malicious mischief; or
- two or more violations within a three-year period of criminal gang intimidation or other gang activity on school ground, possessing dangerous weapons on school facilities, willfully disobeying school administrators or refusing to leave public property, or defacing or injuring school property.

Districts are not required to impose long-term suspension or expulsion for the offenses listed above and should first consider alternative actions, with the exception of a violation of the prohibition against possessing firearms on school premises. Possession of a telecommunication device, violation of dress and grooming codes, disruption of the educational process, and violation of classroom discipline policies are removed from the list of violations for which a principal must consider long-term suspension or expulsion if performed two or more times within a three-year period.

Districts may not suspend the provision of educational services to students as a disciplinary action. Students may be excluded from a particular classroom or instructional activity area during a period of suspension or expulsion, but districts must provide an opportunity for a student to receive educational services during that period. Where a suspended or expelled student is provided educational services in an alternative setting, the alternative setting should be comparable and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring and online learning.

The Discipline Task Force must include tribal representatives.

Recruitment and Retention of Teachers. OSPI must post online 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.

Educator Cultural Competence. Professional development programs to support evaluation systems must align with cultural competence standards, focus on multicultural education and principals of English language acquisition, and include best practices to implement the tribal history and culture curriculum.

Required Action Districts, districts with schools that receive the federal School Improvement Grant, and districts with schools identified by OSPI as priority or focus are strongly encouraged to provide cultural competence professional development and training.

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

ELL Instruction and Accountability. Beginning in the 2020-21 school year, all teachers in the TBIP must hold a bilingual education or English language learner endorsement or both.

OSPI must provide districts with technical assistance and support in selecting research-based program models, instructional materials, and professional development, including research about different types of language proficiency. Obsolete language is removed.

OSPI must identify the top 5 percent of schools with the highest percent growth in ELL students during the previous two years and strongly encourage districts with identified schools to provide cultural competence training.

**EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Substitute):** The one-time start-up allocation grants for high-needs schools to expand nutrition opportunities are available on a first-come, first-served basis and limited to \$500,000. Language relating to the phase-in schedule of the start-up grants and referencing an exemption to any requirement is removed. The student discipline task force must include tribal representatives. Disruption of the educational process, and violation of classroom discipline policies are removed from the list of violations for which a principal must consider long-term suspension or expulsion if performed two or more times within a three-year period. The provision that a suspension or expulsion must

have an end date of an academic term is restored back to one calendar year. The sections relating to teacher loan repayments, teacher bonuses, and the creation of a career and technical education workgroup are moved. OSPI must collect and make available online racial and ethnic data relating to teachers and their average length of service. OSPI and WSSDA must:

- develop cultural competence training for school staff that aligns with cultural competence standards;
- focus on multicultural education and principals of English language acquisition; and
- include best practices to implement the tribal history and culture curriculum.

Required Action Districts, districts with schools that receive the federal School Improvement Grant, and districts with schools identified by OSPI as priority or focus are strongly encouraged to provide cultural competence professional development and training. OSPI must provide districts with assistance and support related to the Transitional Bilingual Instruction Program. Schools with a high percent of ELL students are strongly encouraged to provide cultural competence professional development and training.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** PRO: The focus of this bill is teacher recruitment, as demonstrated by the teacher loan forgiveness and bonus programs. There are funding issues, but the bill still moves the education system in a positive direction. Every child should have an education and those at risk of expulsion are in particular need of support. The ELL endorsement is important but expensive and some teachers may not be able to afford it. Expanding nutritional opportunities gives schools flexibility but there needs to be some clarity in the language as to whether this is a mandate. The teacher loan repayment provisions will help with recruitment and retention, but the bonuses may not necessarily increase teachers in high-needs schools. Expanding bonuses to include educational staff associates and paraeducators would be of benefit because they are critical in shortage areas. The opportunity gap must be closed in order to improve our citizens and our workforce. Washington lags in graduation rates, and there is an opportunity gap for those who enroll in college. One in five kids struggle with hunger, and students of color are disproportionately at risk. Hungry students struggle to learn. Expanding access to nutrition after the start of the school day increases educational and health outcomes, and addresses inequities. Research shows that meals served early in the day but after the start of the school day increase educational outcomes.

OTHER: The bill does not address crucial components in professional learning, cultural competence, or racial equity. Nutritional grants and loans have the potential to negatively impact smaller school districts. New disciplinary rules have been in effect for a year and a half. The outcomes of these new rules need to be seen before they can be analyzed. The discipline sections of the bill could have unintended financial consequences and could affect

the health and safety of other students and educators. Depending on the size of the district and the programs in place, the discipline provisions could require new space, facilities, and staffing. The discipline sections would result in a loss of flexibility and autonomy at the local level. Under this bill, if administrators wanted a suspension or expulsion to exceed an academic term, they would have to submit a petition, which would be administratively burdensome.

**Persons Testifying on Original Bil (Early Learning & K-12 Education):** PRO: Senator Litzow, prime sponsor; Lucinda Young, Washington Education Association; Lauren McGowan, United Way of King County; Rachelle Sharpe, Washington Student Achievement Council.

OTHER: Jessica Vavrus, Washington State School Directors' Association; Brynn Brady, Issaquah School District.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: This bill requires cultural competence to the TPEP training. This addition is supported as long as funding remains in budget for this training. This bill also requires this training for all school staff to include paraeducators and administrators being trained together. This type of training is typically funded by local school districts. State funding provided for this training would help all districts meet this goal.

OTHER: This bill has unstated costs to implement the bill, specifically related to the training requirements. The student discipline section of this bill is premature, since school districts are still working to implement the student discipline changes required by the legislature in 2014. These changes should be evaluated before adding new ones. The fiscal note does not address the costs for expelled students or the needed capital costs to find alternative settings for these students.

**Persons Testifying on First Substitute (Ways & Means):** PRO: Lucinda Young, Washington Education Association.

OTHER: Brynn Brady, Issaquah School District; Jessica Vavrus, Wa State School Directors' Association.

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