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**HOUSE BILL 1404**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Vick, Stonier, Lekanoff, Steele, Pollet, Dolan, and Young

AN ACT Relating to facilitating equity in programs for highly capable students; amending RCW 28A.185.020, 28A.185.030, 28A.185.050, 28A.160.160, 28A.300.042, 28A.300.770, and 28B.10.032; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.300 RCW; and adding a new section to chapter 28A.415 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each amended to read as follows:

((~~(1)~~)) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to ((~~allocate funding based on 5.0 percent of each school district's population and~~)) authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. ((~~District practices for identifying the most highly capable students must prioritize equitable identification of low-income students. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.~~

~~(2) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 28A.185 RCW to read as follows:

(1) The legislature intends to allocate state funding for basic education programs for highly capable students based on five percent of each school district's student population.

(2) Funds provided by the state for the state basic education program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030. However, school districts must use a portion of the funds provided under this subsection to deliver professional development in accordance with section 9(2) of this act.

(3) Funds provided by the state for student transportation to and from school includes transportation to and from programs for highly capable students as defined in RCW 28A.160.160, and must be expended in accordance with chapter 28A.160 RCW.

(4) Subject to the availability of amounts appropriated for this specific purpose, each school district must conduct universal screenings in accordance with RCW 28A.185.030 to find students who need further assessment for potential gifted program placement.

**Sec.**  RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

((~~Local~~)) (1) School districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. ((~~Local~~))

(2) School districts ((~~which~~)) that establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

((~~(1)~~)) (a) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for ((~~nomination~~)) referral, screening, assessment ((~~and~~)), selection, and placement of their most highly capable students. ((~~Nominations shall~~))

(i) Referrals must be based upon data from teachers, other staff, parents, students, and members of the community.

(ii) Subject to the availability of amounts appropriated for this specific purpose, each school district must conduct universal screenings for each student at least once, in or before second and sixth grade, to find students who need further assessment to determine whether the student is eligible for potential placement in a program for highly capable students. The district must use a portion of the funds appropriated to provide the screenings within the school day and at the school the student attends.

(iii) Assessments ((~~shall~~)) for highly capable program services must be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Assessments must be conducted within the school day and at the school the student attends.

(iv) Selection and placements shall be made by a ((~~broadly based committee of professionals,~~)) multidisciplinary selection committee after consideration of the results of the multiple criteria assessment. The committee members must have at least five hours of course work or professional development addressing the needs and characteristics of highly capable students. Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity that takes into account each student's unique needs and capabilities, and the limits of the resources and program options available to the district, including those options that can be developed or provided using funds allocated by the superintendent of public instruction for that specific purpose.

(b) In addition to the criteria listed in (a) of this subsection, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

((~~(2)~~)) (3) When a student, including a student who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

((~~(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.~~))

(4) Access to accelerated learning and enhanced instruction through a program for highly capable students does not constitute an individual entitlement for any particular student.

(5) For a student who is a child of a military family in transition, the definitions in Article II of RCW 28A.705.010 apply to subsection ((~~(2)~~)) (3) of this section.

**Sec.**  RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data and other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

**Sec.**  RCW 28A.160.160 and 2009 c 548 s 305 are each amended to read as follows:

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is outside the walk area for a student's school, except if the student to be transported is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies.

(2) "Superintendent" means the superintendent of public instruction.

(3)(a) "To and from school" means the transportation of students for the following purposes:

((~~(a)~~)) (i) Transportation to and from route stops and schools;

((~~(b)~~)) (ii) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

((~~(c)~~)) (iii) Transportation of students between schools and learning centers for instruction specifically required by statute; ((~~and~~

~~(d)~~)) (iv) Transportation to and from programs for students enrolled in programs for highly capable students. School districts may not require parents to provide transportation of highly capable students to and from programs for highly capable students; and

(v) Transportation of students with disabilities to and from schools and agencies for special education services.

(b) Academic extended day transportation for the instructional program of basic education under RCW 28A.150.220 shall be considered part of transportation of students "to and from school" for the purposes of this section. Transportation for field trips may not be considered part of transportation of students "to and from school" under this section.

(4) "Transportation services" for students living within the walk area includes the coordination of walk-to-school programs, the funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

(5) As used in this section, "walk area" means that area around a school with an adequate roadway configuration to provide students access to school with a walking distance of less than one mile. Mileage must be measured along the shortest roadway or maintained public walkway where hazardous conditions do not exist. The hazardous conditions must be documented by a process established in rule by the superintendent of public instruction and must include roadway, environmental, and social conditions. Each elementary school shall identify walk routes within the walk area.

**Sec.**  RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) ((~~Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section,~~)) The superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, highly capable, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency expulsion;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, highly capable, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data ((~~on student race and ethnicity~~)) under this section in other training or professional development related to data provided by the office.

**Sec.**  RCW 28A.300.770 and 2018 c 266 s 105 are each amended to read as follows:

(1) The superintendent of public instruction must disseminate guidance on referral, screening, assessment, selection, and placement best practices for programs for highly capable students. The guidance must be regularly updated and aligned with evidence-based practices.

(2) The superintendent of public instruction must require school districts to have identification procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are ((~~among~~)) the most highly capable. Multiple pathways for qualifications must be available and no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must ((~~be based on consideration of criteria benchmarked on~~)) consider the use of local norms, but local norms may not be used as a more restrictive criteria than national norms at the same percentile;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a nonverbal screening and assessment must be used.

((~~(2) The superintendent of public instruction must disseminate guidance on referral, screening, assessment, selection, and placement best practices for highly capable programs. The guidance must be regularly updated and aligned with evidence-based practices.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall designate at least two full-time equivalent professional staff and at least one 0.5 support staff for the following purposes:

(1) Providing technical assistance and guidance to school districts regarding school district programs for highly capable students; and

(2) Collecting and analyzing data related to school district programs for highly capable students used in the report required under RCW 28A.185.050.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.415 RCW to read as follows:

(1) School districts must use a portion of the funds provided under section 2 of this act to provide a minimum of two hours of annual professional development for principals and counselors regarding recognition of students who may qualify for programs for highly capable students, why highly capable students need special services, and the best practices for providing these services. School districts must ensure that the principals and counselors attend this mandated training.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, each school district must provide additional professional development.

(b) The professional development must include all certificated and classified instructional staff, principals, and counselors, and may include other school and school district staff.

(c) For teachers teaching students in a general education classroom who are also admitted to a program for highly capable students, the professional development must be job-embedded as defined in RCW 28A.415.434.

**Sec.**  RCW 28B.10.032 and 1987 c 525 s 233 are each amended to read as follows:

(1) The state's public and private institutions of higher education offering teacher preparation programs and school districts are encouraged to explore ways to facilitate faculty exchanges, and other cooperative arrangements, to generate increased awareness and understanding by higher education faculty of the common school teaching experience and increased awareness and understanding by common school faculty of the teacher preparation programs.

(2) Teacher preparation programs must include information on recognizing students who may qualify for programs for highly capable students, why highly capable students need special services, and the best practices for providing these services.

**--- END ---**