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**SENATE BILL 5735**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Dhingra, Kuderer, Lovick, Nobles, Wellman, and C. Wilson

AN ACT Relating to counting asynchronous instructional hours towards those required by the instructional program of basic education; and amending RCW 28A.150.205, 28A.150.220, and 28A.195.010.

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

**Sec.**  RCW 28A.150.205 and 2018 c 8 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definition in this section applies throughout RCW 28A.150.200 through 28A.150.295.

(1)(a) "Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Asynchronous instructional hours" means instructional hours that include time during the school day that students are provided the opportunity to engage in an educational activity planned by and under the direction of school district certificated staff but where the educational activity does not include two-way interactive communication contact with school district staff. These instructional hours may include educational activities that are delivered through alternative modalities of instruction including, but not limited to, distance learning, and are subject to the limitations under RCW 28A.150.220. Asynchronous instructional hours shall not constitute an alternative learning experience course unless the course is approved under chapter 28A.232 RCW.

(2)(a) If students are provided the opportunity to engage in educational activity that is part of the regular instructional program concurrently with the consumption of breakfast, the period of time designated for student participation in breakfast after the bell, as defined in RCW 28A.235.200, must be considered instructional hours.

(b) Breakfast after the bell programs, as defined in RCW 28A.235.200, including the provision of breakfast, are not considered part of the definition or funding of the program of basic education under Article IX of the state Constitution.

**Sec.**  RCW 28A.150.220 and 2017 3rd sp.s. c 13 s 506 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of ((~~one thousand~~)) 1,000 hours, which shall be increased beginning in the 2015-16 school year to at least ((~~one thousand eighty~~)) 1,080 instructional hours for students enrolled in grades nine through twelve and at least ((~~one thousand~~)) 1,000 instructional hours for students in grades one through eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through twelve; ((~~and~~))

(b) For students enrolled in kindergarten, at least ((~~four hundred fifty~~)) 450 instructional hours, which shall be increased to at least ((~~one thousand~~)) 1,000 instructional hours according to the implementation schedule under RCW 28A.150.315; and

(c)(i) Up to 20 percent of the instructional hours per week required to meet the instructional program of basic education under this section may be provided using asynchronous instructional hours as defined in RCW 28A.150.205.

(ii) In order for a school district to count asynchronous instructional hours towards the amount required under the instructional program of basic education, the district must document the methods used to determine student interaction with or student participation in the planned asynchronous activities provided by the school district.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the ((~~essential academic learning requirements~~)) state learning standards under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete ((~~twenty-four~~)) 24 credits for high school graduation, beginning with the graduating class of 2019 or as otherwise provided in RCW 28A.230.090. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the ((~~essential academic learning requirements~~)) state learning standards include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5)(a) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than ((~~twenty-one~~)) 21 years of age and shall consist of a minimum of ((~~one hundred eighty~~)) 180 school days per school year in such grades as are conducted by a school district, and ((~~one hundred eighty~~)) 180 half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of ((~~one hundred eighty~~)) 180 school days per school year according to the implementation schedule under RCW 28A.150.315.

(b) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory.

(c) In the case of students who are graduating from high school, a school district may schedule the last five school days of the ((~~one hundred eighty~~)) 180-day school year for noninstructional purposes including, but not limited to, the observance of graduation and early release from school upon the request of a student. All such students may be claimed as a full‑time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)((~~(a)~~)) of this section.

(d) For purposes of calculating school days under this section, asynchronous instructional hours, as defined under RCW 28A.150.205, shall be considered in the same manner as other instructional hours, subject to the limitations in subsection (2)(c) of this section.

(6) Subject to RCW 28A.150.276, nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7)(i) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

(ii) The office of the superintendent of public instruction may adopt rules to implement and monitor compliance with subsection (2)(c) of this section.

**Sec.**  RCW 28A.195.010 and 2021 c 8 s 2 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

The administrative or executive authority of private schools or private school districts shall file each year with the state board of education a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. The state board of education may request clarification or additional information. After review of the statement, the state board of education will notify schools or school districts of any concerns, deficiencies, and deviations which must be corrected. If there are any unresolved concerns, deficiencies, or deviations, the school or school district may request or the state board of education on its own initiative may grant provisional status for one year in order that the school or school district may take action to meet the requirements. The state board of education shall not require private school students to meet the student learning goals, to learn the state learning standards, or to be assessed pursuant to RCW 28A.655.070. However, private schools may choose, on a voluntary basis, to have their students learn these state learning standards or take the assessments. Minimum requirements shall be as follows:

(1)(a) Except as provided in RCW 28A.195.040, the minimum school year for instructional purposes shall consist of no less than ((~~one hundred eighty~~)) 180 school days or the equivalent in annual minimum instructional hour offerings, with a school-wide annual average total instructional hour offering of ((~~one thousand~~)) 1,000 hours for students enrolled in grades one through twelve, and at least ((~~four hundred fifty~~)) 450 hours for students enrolled in kindergarten.

(b) Instructional hour offerings may also include asynchronous instructional hours as defined in RCW 28A.150.205.

(c) For purposes of calculating school days under this section, asynchronous instructional hours, as defined under RCW 28A.150.205, shall be considered in the same manner as other instructional hours.

(2) The school day shall be the same as defined in RCW 28A.150.203.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the state board of education reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certificated under chapter 28A.410 RCW;

(b) The planning by the certificated person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certificated person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certificated person; and

(e) The certificated employee shall not supervise more than ((~~thirty~~)) 30 students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) of this section provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

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