

# SENATE BILL REPORT

## ESHB 2331

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As Reported by Senate Committee On:  
Early Learning & K-12 Education, February 19, 2024

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

**Committee Activity:** Early Learning & K-12 Education: 2/19/24 [DPA, DNP, w/oRec].

### Brief Summary of Amended Bill

- Requires school district Instructional Materials Committees to include at least one parent member.
- Directs the Instructional Materials Committee to include recommendations for culturally and experientially representative instructional materials.
- Prohibits school districts, charter schools, and state-tribal education compact schools from refusing to approve or prohibit the use of any instructional or supplemental instructional material on the basis that it relates to or includes the study of the role and contributions of any individual or group who is part of a protected class unless the content contains discriminatory bias.
- Requires policies and procedures governing requested reviews and removals of instructional and supplemental instructional materials.

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*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.*

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

**Majority Report:** Do pass as amended.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hunt and Pedersen.

**Minority Report:** Do not pass.

Signed by Senators Hawkins, Ranking Member; Dozier and McCune.

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

Signed by Senator Mullet.

**Staff:** Ailey Kato (786-7434)

**Background:** School Board Responsibilities. State law identifies certain responsibilities of school district boards of directors including:

- establishing final curriculum standards consistent with law and the Office of the Superintendent of Public Instruction (OSPI) rules, relevant to the particular needs or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and
- evaluating teaching materials, including text books, teaching aids, handouts, or other printed materials, in public hearing upon complaint by parents, guardians, or custodians of students who consider dissemination of such material to students objectionable.

Instructional Materials Policy. State law requires school boards to adopt a policy related to the selection or deletion of instructional materials, which includes:

- the school district's goals and principles related to instructional materials;
- the procedures to be followed in the selection of all instructional materials;
- the establishment of an Instructional Materials Committee (Committee) to make recommendations on instructional materials; and
- the complaint procedures regarding instructional materials.

The Committee makes a recommendation about the materials in accordance with district policy, and the school board approves or disapproves the recommendations.

Instructional Materials Committee Membership. The school district's chief administrative officer must establish the members of the Committee, and the school board must approve the appointments. The Committee must consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary schools only, the educational service district superintendent, one of whose responsibilities must be to assure the correlation of those elementary district adoptions with those of the high school district which serve their children.

The Committee may include parents at the school board's discretion so long as parent members make up less than one-half of the total membership of the committee.

Prohibited Discrimination and Complaints. State law prohibits 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 dog guide or service animal by a person with a disability. These groups are referred to as protected classes.

Each school district must designate one person as the primary contact to ensure complaints of discrimination are promptly investigated and resolved. OSPI rule also requires them to publish, at least annually, notice that is reasonably calculated to inform all students, parents and guardians, and employees of complaint procedures.

Any person aggrieved by a violation of nondiscrimination law or rule has a right of action in superior court for civil damages and such equitable relief as the court determines.

Textbooks and Instructional Materials. OSPI must develop rules and guidelines to eliminate prohibited discrimination as it applies to certain topics including textbooks and instructional materials used by students. OSPI rule requires school districts and charter schools to adopt an instructional materials policy that includes selection criteria designed to eliminate bias based on protected class status in textbooks and instructional materials.

If instructional materials that contain bias cannot be replaced immediately, supplemental instructional materials or aids must be used concurrently with existing materials to counter the bias content. Nothing is intended to prohibit the use of supplemental instructional materials, such as classic and contemporary literary works, periodicals, and technical journals, that are educationally necessary or advisable even though they contain bias.

**Summary of Amended Bill:** Instructional Materials Committee Membership. The Committee must include one or more parents of enrolled students, with the parent members equaling less than one-half of the total membership of the committee. School districts must develop and implement comprehensive outreach programs to parents of enrolled students for the purpose of recruiting a diverse pool of parent members that reflects the demographics and learning needs in the district to the greatest extent possible. Committees that are unable to recruit at least one parent of an enrolled student must, while they are without a parent member, report quarterly to the school board and the public on their efforts to recruit one or more parents.

Representative Instructional Materials. The recommendations of the Instructional Materials Committee 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. The authority to approve or disapprove recommendations remains with the school board.

Prohibition Related to Textbooks, Instructional Materials, and Supplemental Instructional Materials. School districts, charter schools, and state-tribal education compact schools 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 who is part of a protected class.

This prohibition does not apply if the content of material violates the discrimination prohibitions in state law including materials containing bias against any individual or group who is part of a protected class.

Anyone alleging a violation of these requirements may bring a complaint under nondiscrimination laws.

OSPI must develop rules and guidelines related to these requirements.

Supplemental Instructional Materials Policies and Procedures. By the beginning of the 2025-26 school year, school boards, charter schools, and state-tribal education compact schools must adopt or revise as necessary policies and procedure governing requested reviews and removals of supplemental instructional materials. The policies and procedures must:

- include a summary of the requirements governing supplemental instructional materials;
- require that requests for the review and potential removal of supplemental instructional materials be in writing from a parent and submitted to the applicable certificated teacher or teacher-librarian and school principal;
- seek to resolve requests at the school building level through a meeting if requested by the parent or guardian;
- require, if a resolution cannot be agreed upon, the principal, in consultation with a teacher-librarian if available, to provide a written decision on whether to remove the materials within 30 days of the meeting or within 60 days if no meeting; and
- provide a process for appealing these decisions to the school district superintendent or designee.

School district superintendents' decisions are not subject to appeal. Final decisions at any point in the process may not be reconsidered for a minimum of three years unless there is a substantive change of circumstances as determined by the superintendent.

Supplemental instructional materials means materials in school libraries and educational materials that are not expressly required by the school or district and are instead selected at the discretion of a certificated teacher or teacher-librarian for materials in school libraries.

Parent means a parent or legal guardian of a student who is enrolled in the school or school district.

Instructional Materials Policies and Procedures. The system for receiving, considering, and acting upon written complaints regarding instructional materials must include similar requirements as the policies and procedures regarding supplemental instructional materials.

Complaints must be submitted to the principal, and the Instructional Materials Committee must provide a written decision on the matter within 60 days of a meeting with a parent or guardian or within 90 days after the complaint was received, whichever is later.

School district policies to evaluate teaching materials must be in accordance with these new requirements.

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

- Removes the ability to appeal the superintendent or the designee's decisions about supplemental instructional materials and instructional materials to the school district board of directors.
- Specifies that final decisions at any point in the process may not be reconsidered for a minimum of three years unless there is substantive change of circumstances as determined by the superintendent.
- Adds that school districts must recruit a diverse pool of parent members for instructional materials committees that reflects the demographics and learning needs in the district to the greatest extent possible.
- Adds that school district policies to evaluate teaching materials be in accordance with the policies and procedures created by this act.

**Appropriation:** None.

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

**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 Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* No public hearing was held.

**Persons Testifying:** N/A

**Persons Signed In To Testify But Not Testifying: N/A**