

SENATE BILL REPORT

SB 6208

As of January 24, 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: Senators Nobles, Trudeau, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Keiser, Lias, Lovelett, Randall, Saldaña, Valdez and Wilson, C..

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/24/24.

Brief Summary of Bill

- 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.
- Directs the Instructional Materials Committee to include recommendations for culturally and experientially representative instructional materials.
- Requires policies and procedures governing requested reviews and removals of instructional and supplemental instructional materials.
- Defines supplemental instructional materials as those in school libraries and educational materials not expressly required by the school or district and are selected at the discretion of a certificated teacher.

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.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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 and Committee. 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 to make recommendations on instructional materials, which may include parents; and
- the complaint procedures regarding instructional materials.

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

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 Bill: 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 believing a school board has not complied with 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 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.

The school district superintendent's decision is final and not subject to appeal.

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.

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.

Representative Instructional Materials. The recommendations of the Instructional Materials Committee must include recommendations for culturally and experientially representative instructional materials.

Appropriation: None.

Fiscal Note: Available.

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: PRO: Students should see themselves reflected in the books they have at school. There have been efforts to ban affirming, inclusive, diverse, and truthful books in this state, which is an affront to the safety and well-being of students. The bans are regarding books focused on marginalized communities. Teachers and librarians are experts in determining what is age- and grade-level appropriate and providing access to books that create an inclusive environment and a sense of belonging. This bill would make sure that books are not banned because they involve a protected class. The bill creates a formal and consistent process to review complaints of instructional materials. This bill will help schools and families, so everyone understands the process. Censorship has no place in this state.

CON: Different families have very different definitions for what is appropriate to read in books. Not exposing children to inappropriate materials such as pedophilia, sexual abuse, and sexually explicit and graphic content is not censorship. This type of content can traumatize students. If families want their children to have access to this content, they can

get these books from public libraries or purchase them. This bill is governmental overreach; decisions about books should be made at the local level. Elected school board members should have the power to decide what is appropriate for students based on the unique needs of their communities. Any taxpayer should be able to file complaints. Teachers should focus on academics not teaching political ideologies or exposing them to radical agendas.

OTHER: The process addressed in this bill is a challenging one and has impacted a number of schools. Schools are already prohibited from discrimination, so it is unclear what changes operationally under this bill. The detailed process in this bill could potentially gum up the system. Complaints should be limited to anyone who is within the school district.

Persons Testifying: PRO: Senator T'wina Nobles, Prime Sponsor; Kristen Marsh, MomsRising; Gavin Downing, High School Librarian and WLA Intellectual Freedom Chair; Carolyn Logue, Washington Library Association; Nasue Nishida, Washington Education Association; Kyrian MacMichael, Olympia Education Association; Maggie Humphreys, MomsRising.

CON: Andy Cilley; Leslie Maxwell; Joy Gjersvold, Conservative Ladies of Washington; Jennifer Heine-Withee, Self; Kyle Yancey, Kinwell Health; Nicole Carpenter; Sarah Garriott.

OTHER: Marissa Rathbone, Washington State School Directors' Association.

Persons Signed In To Testify But Not Testifying: No one.