

---

**SUBSTITUTE HOUSE BILL 1452**

---

**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Education (originally sponsored by Representatives Dahlquist, Magendanz, Angel, Buys, Fagan, Pike, and Smith)

READ FIRST TIME 02/22/13.

1       AN ACT Relating to establishing accountability for student  
2 performance in third grade; adding new sections to chapter 28A.655 RCW;  
3 and creating new sections.

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

5       NEW SECTION.   **Sec. 1.** (1) The legislature finds that significant  
6 state investments have been and will be made to support a continuum of  
7 learning from prekindergarten through third grade, including through  
8 early learning programs, statewide implementation of full-day  
9 kindergarten, and reduced class sizes in grades kindergarten through  
10 three. These investments reflect the importance of providing young  
11 children with the best possible opportunities to develop foundational  
12 knowledge and skills, particularly in the critical area of English  
13 language arts. The investments also reflect the legislature's  
14 recognition that early intervention represents the best hope of  
15 eliminating the educational opportunity gap among groups of students.

16       (2) The legislature also finds that such investments and the  
17 state's commitment to prekindergarten through third grade learning  
18 warrant an accountability mechanism to ensure positive student  
19 outcomes. School districts should be required to notify parents or

1 guardians about the availability of educational options to provide  
2 intensive instructional supports and services if student performance in  
3 English language arts continues to fall below grade level after  
4 completion of third grade. Furthermore, statewide implementation of  
5 aligned curriculum, instruction, and assessments associated with the  
6 common core state standards, along with expanded use of the state  
7 kindergarten readiness assessment for early identification of students  
8 needing assistance, provide a timely opportunity to initiate this  
9 accountability mechanism.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.655  
11 RCW to read as follows:

12 (1) The definitions in this subsection apply throughout this  
13 section and sections 3 through 6 of this act unless the context clearly  
14 requires otherwise.

15 (a) "Basic" means a score on the statewide student assessment at a  
16 level two in a four-level scoring system.

17 (b) "Below basic" means a score on the statewide student assessment  
18 at a level one in a four-level scoring system.

19 (c) "Not meet the state standard" means a score on the statewide  
20 student assessment at either a level one or a level two in a four-level  
21 scoring system.

22 (d) "Section 504 plan" means a plan for providing accommodations to  
23 enable students with disabilities to access educational services as  
24 required under section 504 of the federal rehabilitation act of 1973,  
25 as amended (29 U.S.C. Sec. 794).

26 (2) When the policy in this subsection takes effect as provided in  
27 section 7 of this act, a student who receives a score of below basic on  
28 the third grade statewide student assessment in English language arts  
29 may not be promoted to fourth grade unless the student meets one of the  
30 good cause exemptions under section 3 of this act, or unless the  
31 student's parent or guardian does not concur with the retention of the  
32 student in third grade.

33 (3) Beginning in the 2013-14 school year, a school district must  
34 provide intensive instructional supports and services as required under  
35 section 4 of this act for any student who did not meet the state  
36 standard on the third grade statewide student assessment in English  
37 language arts in the previous school year.

1 (4) If a student does not have a score in English language arts on  
2 the third grade statewide student assessment, the policies regarding  
3 promotion and instructional support under this section and section 4 of  
4 this act are required if the district determines, using district or  
5 classroom-based diagnostic assessments or another standardized  
6 assessment, that the student's performance is equivalent to basic or  
7 below basic in English language arts.

8 (5) A school district must provide written notification to the  
9 parent or guardian of a student who does not meet the state standard on  
10 the third grade statewide student assessment in English language arts.  
11 The notification must provide information about the promotion policies  
12 under this section and the options for intensive instructional supports  
13 and services described under section 4 of this act. The district must  
14 consult with the student's parent or guardian about the forms of  
15 instructional supports and services the parent or guardian prefers and  
16 the forms recommended by the student's teachers and principal. If the  
17 student is subject to the promotion policies under this section, the  
18 district must seek the concurrence of the parent or guardian to retain  
19 the student in third grade and have complied with each of the  
20 provisions in section 5 of this act.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.655  
22 RCW to read as follows:

23 (1) A school district may exempt the following students from the  
24 performance standard for promotion to fourth grade required under  
25 section 2 of this act:

26 (a) Students who participate in the statewide student assessment  
27 system through an alternate assessment designed for students with  
28 significant cognitive disabilities;

29 (b) Students with disabilities whose individualized education  
30 program includes specially designed instruction in English language  
31 arts, and whose individualized education program team determines that  
32 retention in third grade is not an appropriate educational placement;

33 (c) Students who are English language learners who have been  
34 enrolled in the transitional bilingual instructional program under  
35 chapter 28A.180 RCW for two or fewer years; and

36 (d) Students who have previously been retained in the same grade

1 and who have received supplemental instruction and remediation for at  
2 least two years.

3 (2) School districts must exempt a student from the performance  
4 standard for promotion to fourth grade required under section 2 of this  
5 act if the student's parent or guardian does not concur with the  
6 retention of the student in third grade.

7 (3) School districts must adopt a policy for the mid-year promotion  
8 to fourth grade of a student who is retained in third grade under  
9 section 2 of this act if the district determines the student is  
10 demonstrating sufficient progress to be likely to achieve at least a  
11 score of basic on the fourth grade statewide student assessment in  
12 English language arts.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.655  
14 RCW to read as follows:

15 (1) Beginning in the 2013-14 school year, a school district must,  
16 at a minimum, provide one or more of the following educational options  
17 for any student who did not meet the state standard on the third grade  
18 statewide assessment in English language arts in the previous school  
19 year:

20 (a) The opportunity to assign the student to a different classroom  
21 or school within the district;

22 (b) An evaluation of the student to determine if an individualized  
23 education program or a section 504 plan should be developed or revised,  
24 and then implementation of that program or plan;

25 (c) Provision of intensive, research-based supplemental instruction  
26 in English language arts, which may include supplemental tutoring,  
27 small group instruction, reduced teacher-to-student ratios, extended  
28 learning opportunities through an extended school day or school year,  
29 or other research-based strategies intended to assist the student in  
30 reaching the state standard in English language arts;

31 (d) Use of diagnostic assessments to identify specific skills where  
32 the student needs assistance and other formative assessments to monitor  
33 student progress during the school year; or

34 (e) Retention of the student in third grade as provided under  
35 section 2 of this act.

36 (2) To implement the instructional supports and services required  
37 under this section and section 5 of this act, school districts may use

1 state funds provided for basic education through general apportionment  
2 or the learning assistance program, state and federal funds for the  
3 transitional bilingual instructional program for students eligible for  
4 and enrolled in the program, state and federal funds for special  
5 education for students with disabilities, federal funds from Title I of  
6 the elementary and secondary education act, or any other state,  
7 federal, local, or private funds available generally or specifically to  
8 support student learning in English language arts.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.655  
10 RCW to read as follows:

11 Before seeking the concurrence of a parent or guardian to retain a  
12 student in third grade as provided under section 2 of this act, a  
13 school district must have complied with the following provisions:

14 (1)(a) The school district must assess whether a student:

15 (i) Has a disability, even if the disability is not at a level of  
16 severity that requires development of a section 504 plan or an  
17 individualized education program;

18 (ii) Has a form of dyslexia or other learning disability; or

19 (iii) Is an English language learner whose language proficiency is  
20 impeding the student's reading, even if the student does not qualify  
21 for the transitional bilingual instruction program.

22 (b) The results of the assessments under this subsection (1) must  
23 be communicated in writing and in person with the parent or guardian of  
24 the student. The district must also make recommendations regarding  
25 appropriate intensive instructional supports and services that could be  
26 provided for the student.

27 (2) The school district must provide appropriate intensive  
28 instructional supports and services for the student that are specific  
29 to that student's learning needs for at least five months.

30 (3) The school district must inform the parent or guardian in  
31 writing and in person that research indicates that retention may  
32 increase the likelihood of a student dropping out of school, may result  
33 in permanent emotional harm to the student, and often does not improve  
34 student performance. The school district must also inform the parent  
35 or guardian that the student is eligible to receive the other intensive  
36 instructional supports and services outlined in section 4 of this act  
37 as an alternative to retention.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 28A.655  
2    RCW to read as follows:

3        (1) The requirement under section 2(2) of this act that school  
4    districts may not promote certain students to fourth grade based on  
5    their performance on the third grade statewide student assessment in  
6    English language arts, subject to the other provisions of sections 2  
7    through 5 of this act, takes effect in the school year when the first  
8    cohort of third grade students has had an opportunity to enroll in  
9    statewide, state-funded all-day kindergarten as provided under RCW  
10   28A.150.315 and to enroll in kindergarten through third grade classes  
11   where the state allocations for class size have been as provided under  
12   RCW 28A.150.260(4)(b).

13        (2) The office of the superintendent of public instruction must  
14    provide notice of the effective date of the requirement under section  
15    2(2) of this act to school districts, the chief clerk of the house of  
16    representatives, the secretary of the senate, the office of the code  
17    reviser, and others as deemed appropriate by the office of the  
18    superintendent of public instruction.

19        NEW SECTION.    **Sec. 7.**    (1) The office of the superintendent of  
20    public instruction must identify a range of research-based, intensive  
21    instructional supports and services designed to enable a student who is  
22    not reading at grade level by the end of second grade to reach grade-  
23    level reading proficiency by the end of third grade, including meeting  
24    the state standard on the statewide student assessment in English  
25    language arts. The instructional supports and services must address  
26    such contributing factors as dyslexia, language impediments,  
27    environmental and social emotional factors, and any form of learning  
28    disability regardless of whether the disability is at a level of  
29    severity that requires development of a section 504 plan or an  
30    individualized education program.

31        (2) The office of the superintendent of public instruction must  
32    submit a report to the education committees of the legislature by  
33    December 31, 2013, outlining the range of research-based, intensive  
34    instructional supports and services identified under this section,  
35    along with an estimate of the number of students in grades kindergarten

1 through third grade who would benefit from these services and the  
2 estimated cost to provide them.

--- END ---