
SENATE BILL 5735

State of Washington

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

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1 AN ACT Relating to counting asynchronous instructional hours
2 towards those required by the instructional program of basic
3 education; and amending RCW 28A.150.205, 28A.150.220, and
4 28A.195.010.

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

6 **Sec. 1.** RCW 28A.150.205 and 2018 c 8 s 5 are each amended to
7 read as follows:

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

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

18 (b) "Asynchronous instructional hours" means instructional hours
19 that include time during the school day that students are provided
20 the opportunity to engage in an educational activity planned by and
21 under the direction of school district certificated staff but where

1 the educational activity does not include two-way interactive
2 communication contact with school district staff. These instructional
3 hours may include educational activities that are delivered through
4 alternative modalities of instruction including, but not limited to,
5 distance learning, and are subject to the limitations under RCW
6 28A.150.220. Asynchronous instructional hours shall not constitute an
7 alternative learning experience course unless the course is approved
8 under chapter 28A.232 RCW.

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

15 (b) Breakfast after the bell programs, as defined in RCW
16 28A.235.200, including the provision of breakfast, are not considered
17 part of the definition or funding of the program of basic education
18 under Article IX of the state Constitution.

19 **Sec. 2.** RCW 28A.150.220 and 2017 3rd sp.s. c 13 s 506 are each
20 amended to read as follows:

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

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

31 (a) For students enrolled in grades one through twelve, at least
32 a district-wide annual average of (~~one thousand~~) 1,000 hours, which
33 shall be increased beginning in the 2015-16 school year to at least
34 (~~one thousand eighty~~) 1,080 instructional hours for students
35 enrolled in grades nine through twelve and at least (~~one thousand~~)
36 1,000 instructional hours for students in grades one through eight,
37 all of which may be calculated by a school district using a district-
38 wide annual average of instructional hours over grades one through
39 twelve; (~~and~~)

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

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

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

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

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

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

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

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

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

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

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

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

4 (5) (a) Each school district's kindergarten through twelfth grade
5 basic educational program shall be accessible to all students who are
6 five years of age, as provided by RCW 28A.225.160, and less than
7 (~~twenty-one~~) 21 years of age and shall consist of a minimum of
8 (~~one hundred eighty~~) 180 school days per school year in such grades
9 as are conducted by a school district, and (~~one hundred eighty~~) 180
10 half-days of instruction, or equivalent, in kindergarten, to be
11 increased to a minimum of (~~one hundred eighty~~) 180 school days per
12 school year according to the implementation schedule under RCW
13 28A.150.315.

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

18 (c) In the case of students who are graduating from high school,
19 a school district may schedule the last five school days of the (~~one~~
20 ~~hundred eighty~~) 180-day school year for noninstructional purposes
21 including, but not limited to, the observance of graduation and early
22 release from school upon the request of a student. All such students
23 may be claimed as a full-time equivalent student to the extent they
24 could otherwise have been so claimed for the purposes of RCW
25 28A.150.250 and 28A.150.260. Any hours scheduled by a school district
26 for noninstructional purposes during the last five school days for
27 such students shall count toward the instructional hours requirement
28 in subsection (2) (~~(a)~~) of this section.

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

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

39 (7) (i) The state board of education shall adopt rules to
40 implement and ensure compliance with the program requirements imposed

1 by this section, RCW 28A.150.250 and 28A.150.260, and such related
2 supplemental program approval requirements as the state board may
3 establish.

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

7 **Sec. 3.** RCW 28A.195.010 and 2021 c 8 s 2 are each amended to
8 read as follows:

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

16 The administrative or executive authority of private schools or
17 private school districts shall file each year with the state board of
18 education a statement certifying that the minimum requirements
19 hereinafter set forth are being met, noting any deviations. The state
20 board of education may request clarification or additional
21 information. After review of the statement, the state board of
22 education will notify schools or school districts of any concerns,
23 deficiencies, and deviations which must be corrected. If there are
24 any unresolved concerns, deficiencies, or deviations, the school or
25 school district may request or the state board of education on its
26 own initiative may grant provisional status for one year in order
27 that the school or school district may take action to meet the
28 requirements. The state board of education shall not require private
29 school students to meet the student learning goals, to learn the
30 state learning standards, or to be assessed pursuant to RCW
31 28A.655.070. However, private schools may choose, on a voluntary
32 basis, to have their students learn these state learning standards or
33 take the assessments. Minimum requirements shall be as follows:

34 (1) (a) Except as provided in RCW 28A.195.040, the minimum school
35 year for instructional purposes shall consist of no less than (~~one~~
36 ~~hundred eighty~~) 180 school days or the equivalent in annual minimum
37 instructional hour offerings, with a school-wide annual average total
38 instructional hour offering of (~~one thousand~~) 1,000 hours for

1 students enrolled in grades one through twelve, and at least (~~four~~
2 ~~hundred fifty~~) 450 hours for students enrolled in kindergarten.

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

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

8 (2) The school day shall be the same as defined in RCW
9 28A.150.203.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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