
Education Committee

ESSB 5181

Brief Description: Amending the parents rights initiative to bring it into alignment with existing law.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Wilson, C., Pedersen, Dhingra, Frame, Liias, Lovick, Nobles, Stanford, Trudeau and Wellman).

Brief Summary of Engrossed Substitute Bill

- Makes changes to the delineated rights of parents and legal guardians of public school children, including specifying additional rights and removing rights related to notification requirements for medical services and treatments.
- Specifies that the delineated rights do not create a private right of action.

Hearing Date: 3/24/25

Staff: Ethan Moreno (786-7386).

Background:

Legislation enacted in 2024 (Initiative Measure No. 2081) declared parents and guardians of public school children younger than 18 years old to have 15 specified rights. The delineated rights related to: receiving or being notified of academic, medical, campus removal, and law enforcement matters; examining and inspecting certain materials and records; and opting their children out of certain activities.

Examining and Inspecting Instructional Materials and Student Records.

In accordance with the 2024 legislation, parents and legal guardians of public school children

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younger than age 18 have the right to examine the textbooks, curriculum, and supplemental material used in their child's classroom. Parents and legal guardians also have the right to inspect their child's public school records, and to receive a copy of their child's records within 10 business days of submitting a written request, either electronically or on paper.

For purposes of the inspection and copying right, public school records include the following eight classifications of records:

- academic records including, but not limited to, test and assessment scores;
- medical or health records;
- records of any mental health counseling;
- records of any vocational counseling;
- records of discipline, including expulsions and suspensions;
- records of attendance, including unexcused absences;
- records associated with a child's screening for learning challenges, exceptionalities, plans for an individualized education program, or plan adopted under section 504 of the federal Rehabilitation Act of 1973; and
- any other student-specific files, documents, or other materials maintained by the public school.

Parental and Guardian Notification.

State laws establish numerous requirements for notifying the parents and legal guardians of children enrolled in public schools related to academic, medical, campus removal, and law enforcement matters, and opting their children out of certain activities. Some notification requirements are expressly established in statute as parental and guardian rights. Examples of those, by classification type, include:

Academic.

- To be informed of their child's academic performance, including whether the performance is such that it could threaten the child's ability to be promoted to the next grade level, and to be offered an in-person meeting with the child's classroom teacher and principal to discuss any resources or strategies available to support and encourage the child's academic improvement.

Medical.

- To receive prior notification when medical services are being offered to their child, except where emergency medical treatment is required. In cases where emergency medical treatment is required, the parent and legal guardian must be notified as soon as practicable after the treatment is rendered.
- To receive notification when any medical service or medications have been provided to their child that could result in any financial impact to the parent's or legal guardian's health insurance payments or copays.
- To receive notification when the school has arranged directly or indirectly for medical treatment that results in follow-up care beyond normal school hours. Follow-up care includes monitoring the child for aches and pains, medications, medical devices such as

crutches, and emotional care needed for the healing process.

Removal from School Campus.

- To receive immediate notification if their child is taken or removed from the public school campus without parental permission, including to stay at a youth shelter or host home.

Law Enforcement.

- To receive immediate notification if a criminal action is deemed to have been committed against or by their child.
- To receive immediate notification if law enforcement personnel question their child, except in cases where the parent or legal guardian has been accused of abusing or neglecting the child.

Nondiscrimination.

- To receive assurance their child's public school will not discriminate against their child based upon the sincerely held religious beliefs of the child's family in accordance with nondiscrimination laws applying to public schools in the state.

Opt-Out.

- To receive written notice and have the option to opt their child out of instruction on topics associated with sexual activity in accordance with provisions governing comprehensive sexual health education.
- To receive written notice and the option to opt their child out of any surveys, assignments, questionnaires, role-playing activities, recordings of their child, or other student engagements that include questions about any of the following:
 - the child's sexual experiences or attractions;
 - the child's family beliefs, morality, religion, or political affiliations;
 - any mental health or psychological problems of the child or a family member; and
 - all surveys, analyses, and evaluations subject to areas covered by the federal Protection of Pupil Rights Amendment.

Student Education Records—Privacy and Parental Access Rights.

Federal laws protect the privacy of children's education records in public schools and provide parental access to those records. State laws either follow or are more protective of children's privacy than federal laws.

The federal Family Educational Rights and Privacy Act (FERPA) gives parents the right to inspect and review the public school education records of their minor children within 45 days of requesting access to the records, unless a court order, state statute, or other legally binding document specifically revokes this right. If circumstances effectively prevent a parent from exercising this right, the school must either provide the parent with a copy of the requested records or make other arrangements for the parent to access the records.

Under state law, the parent or guardian of a student has the right to review all education records

of the student, which are academic, attendance, and disciplinary records. Additionally, school district boards of directors must establish a procedure in conformity with FERPA for granting a request by a parent or guardian for access to the education records of his or her child, and prohibiting the release of student information without the written consent of the student's parent or guardian.

Protection of Pupil Rights Amendment.

The federal Protection of Pupil Rights Amendment (PPRA) requires public schools to notify parents and offer the option to opt their children out of administration of surveys, analyses, and evaluations that may reveal certain information of the child or parent, such as: political or religious beliefs, psychological problems, or sex attitudes. The PPRA also requires that certain instructional materials used in connection with the surveys, analysis, and evaluations be available for inspection by parents.

Student Records: Nondisclosure in Certain Child Abuse and Neglect Investigations.

Notwithstanding anything to the contrary, unless the parent has obtained a court order, a public school may not be required to release any records or information regarding a student's medical or health records or mental health counseling to a parent during the pendency of an investigation of child abuse or neglect. This non-release requirement applies if the investigation is of the parent and is being conducted by a law enforcement agency or the Department of Children, Youth, and Families.

Right of Action.

A private right of action is the right of a person to bring a civil legal claim in court to obtain a remedy for a specific harm to that person. Private rights of action can be created and recognized by the courts or through legislation. Examples of statutory private rights of action include the right to obtain legal relief for violations of the Washington Consumer Protection Act and the Washington Law Against Discrimination.

Summary of Bill:

Parental and Guardian Rights—Changes and No Right of Private Action.

Additions, modifications, and deletions are made to the list of declared rights for parents and guardians of children enrolled public schools. The list of declared rights does not create a private right of action.

Added Rights. Examples of added declared rights, all of which include cross references to existing state law, include the right to:

- have their child receive a public education in a setting in which discrimination on the basis of protected class is prohibited;
- file a complaint on behalf of their child relating to harassment, intimidation, and bullying;
- have their child qualify for enrollment in a school district if they are transferred to, or pending transfer to, a military installation within the state in accordance with specified

- requirements;
- have their child qualify without a legal residence for enrollment in a school district;
- receive annual notice of the public school's language access policies and services, the parents' rights to free language access services under federal law, and the contact information for any language access services; and
- request information about special education programs and assistance for their child if their child is eligible for, but not receiving, special education services, including due to illness.

Modified Rights. Examples of modified rights include the right to:

- access their child's classroom and school sponsored activities to observe class procedure, teaching materials, and class conduct, and to examine curriculum, textbooks, instructional materials, and supplemental instructional materials in accordance with policies and procedures (rather than examining textbooks, curriculum, and supplemental materials used in their child's classroom);
- inspect and review the education records of their child within a reasonable period of time, but not more than 45 days of submitting a request under the federal Family Educational Rights and Privacy Act as in effect on January 1, 2025, and as provided in requirements governing student education records (rather than to inspect their child's public school records and receive a copy within 10 days);
- not have their child removed from school grounds or buildings during school hours without authorization of a parent or legal guardian according to statutory provisions governing permitted school campus removals (rather than receive immediate notification if their child is taken or removed from the public school campus without parental permission, including to stay at a youth shelter or host home);
- receive immediate notification that a criminal action has been committed against their child on school property during the school day, including immediate notification if there has been a shooting on school property, or that their child has been detained based on probable cause of involvement in a criminal activity on school property during the school day (rather than receive immediate notification if a criminal action is deemed to have been committed against or by their child); and
- in accordance with the federal Protection of Pupil Rights Amendment (PPRA), receive written notice and opt their child out of any survey, analysis, or evaluation that reveals information concerning certain personal or family information (rather than to receive written notice and the option to opt their child out of any surveys, assignments, questionnaires, role-playing activities, recordings of their child, or other student engagements that include questions about specified personal or family information, and surveys, analyses, and evaluations subject to areas covered by the PPRA).

"Education records" is defined as those official records, files, and data directly related to a student and maintained by the public school including, but not limited to, records encompassing all the material kept in the child's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, disciplinary status, test protocols, and individualized education programs.

"Education records" do not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

Removed Rights. Removed rights from list of declared rights are as follows:

- to receive prior notification when medical services are being offered to their child, except where emergency medical treatment is required;
- to receive notification when any medical service or medications have been provided to their child that could result in any financial impact to the parent's or legal guardian's health insurance payments or copays; and
- to receive notification when the school has arranged directly or indirectly for medical treatment that results in follow-up care beyond normal school hours.

Student Records: Nondisclosure in Certain Child Abuse, Neglect, and Criminal Investigations.

Student record disclosure limitations for parents that are related to certain child abuse and neglect investigations of law enforcement or the Department of Children, Youth, and Families are extended to health care, social work, counseling, and disciplinary records (rather than records and information regarding medical or health records or mental health counseling). The disclosure limitations are also extended to apply in criminal proceedings of parents and legal guardians where the student is the named victim.

Nonapplication.

Nothing in the bill changes access and disclosure provisions established in specified state laws related to health care information, or affects specified provisions in state law related to host homes, youth shelters, and children being taken into custody in relation to abuse or neglect allegations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.