

SENATE BILL REPORT

ESHB 1296

As of March 18, 2025

Title: An act relating to promoting a safe and supportive public education system through student rights, parental and guardian rights, employee protections, and requirements for state and local education entities.

Brief Description: Promoting a safe and supportive public education system.

Sponsors: House Committee on Education (originally sponsored by Representatives Stonier, Macri, Lekanoff, Doglio, Berry, Salahuddin, Davis, Ramel, Obras, Reed, Ormsby, Scott, Nance, Bergquist, Fitzgibbon, Parshley, Alvarado, Kloba, Pollet, Peterson, Fey, Simmons, Hill and Fosse).

Brief History: Passed House: 3/12/25, 56-37.

Committee Activity: Early Learning & K-12 Education: 3/20/25.

Brief Summary of Bill

- Provides that it is a state policy that school district, charter school, and state-tribal education compact school policies and procedures prioritize the protection of students' safety, access to a free public education, and privacy, and directs the Office of the Superintendent of Public Instruction (OSPI) to enforce and obtain compliance with this policy.
- Directs OSPI to adopt rules to ensure compliance with requirements related to gender inclusive schools by December 31, 2025, and requires school districts to adopt or amend if necessary policies and procure that meet certain requirements by January 31, 2026.
- Makes changes to reporting and notification requirements related to alleged physical abuse, sexual abuse, sexual misconduct, and assault of students.
- Requires a statement of student rights to be incorporated into educational and promotional materials including civics education.

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.

- Modifies, removes, and adds certain rights of parents and legal guardians of children enrolled in public school.
- Prohibits adverse employment action for employees supporting students' exercise of rights and performing work in a manner consistent with certain state laws.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Ailey Kato (786-7434)

Background: Nondiscrimination Laws and Employee Protections. 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.

The Office of the Superintendent of Public Instruction (OSPI) must develop rules and guidelines to eliminate prohibited discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks, instructional materials, and supplemental instructional materials, and student access to those materials.

A teacher's evaluation may not be negatively impacted if a teacher chooses to use curriculum or instructional materials that address subject matter related to sexual orientation including gender expression or identity so long as the subject matter is age-appropriate and connected to the teacher's content area.

Transgender Student Policy and Procedures. In 2020, school districts were required to adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedures developed by the Washington State School Directors' Association (WSSDA) in collaboration with OSPI.

The elements of the model policy and procedure must, at a minimum:

- incorporate OSPI's rules and guidelines to eliminate discrimination in Washington public schools on the basis of gender expression and gender identity;
- address the unique challenges and needs faced by transgender students in public schools; and
- describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying to transgender students.

Reporting and Notification of Abuse, Misconduct, and Assault. State law requires a certificated or classified school employee, who has knowledge or reasonable cause to

believe that a student has been a victim of physical abuse or sexual misconduct by another school employee, to report such abuse or misconduct to the appropriate school administrator. The school administrator must report to the proper law enforcement agency if the administrator has reasonable cause to believe that the misconduct or abuse has occurred. During the process of making a reasonable cause determination, the school administrator must contact all parties involved in the complaint.

School districts must, at the first opportunity but in all cases within 48 hours of receiving a report alleging sexual misconduct by a school employee, notify the parents of a student alleged to be the victim, target, or recipient of the misconduct. School districts must provide parents with information regarding their rights under the Public Records Act to request the public records regarding school employee discipline. This information must be provided to all parents on an annual basis.

Civics Education. Beginning with or before the 2020-21 school year, each school district that operates a high school must provide a mandatory one-half credit stand-alone course in civics, which must include rights and responsibilities of citizens addressed in the Washington State and United States Constitutions.

State law requires Temperance and Good Citizenship Day to be observed in public schools on January 16th or the preceding Friday. On this day, social studies teachers must, as resources allow, coordinate a voter registration event for high school seniors.

Parent and Legal Guardian Rights. In 2024, an initiative to the Legislature was enacted that declared 15 rights of parents and legal guardians (parents) of children enrolled in public school. These rights include rights to receive or be notified of academic, medical, safety, and law enforcement matters, rights to access certain materials and records, and rights to opt their children out of certain activities.

Records. 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.

Under state law, the parent of a student has the right to review all education records of the student, which are academic, attendance, and disciplinary records.

Medical Services and Treatment. Parents have the following rights related to medical services and treatment:

- 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 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 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. 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 Campus. Parents have a right 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.

Under state law, there is a general requirement that licensed overnight youth shelters, homeless service providers, and host homes notify parents within 72 hours of a child's entry. If there are compelling reasons not to notify the parent, the shelter or organization must notify the Department of Children, Youth, and Families instead of the parent.

State law allows law enforcement and child protective services to take a child into custody without a court order during child abuse or neglect investigations, but must leave a written statement with a parent or in the residence of the parent.

Notice of Opt Out. Parents have a right to receive written notice and the choice to opt their child out of any surveys, assignments, questionnaires, role-play 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 Protection of Pupil Rights Amendment (PPRA).

The federal PPRA requires public schools to notify parents and offer the option to opt their children out of administration of survey, analysis, or evaluation that reveals information concerning:

- political affiliations;
- mental and psychological problems potentially embarrassing to the student or the student's family;
- sex behavior and attitudes;
- illegal, anti-social, self-incriminating, and demeaning behavior;
- critical appraisals of other individuals with whom the student has close family relationships;
- legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or
- income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

Summary of Bill: Policy to Protect Student Safety, Access to a Free Education, and Privacy. It is the policy of the state that school district, charter school, and state tribal education compact school policies and procedures prioritize the protection of every student's safety, access to a free public education, and privacy, to the fullest extent possible, except as required by state or federal law. This policy serves as a supplement to local policies and procedures and must be considered an integral part of those policies and procedures.

OSPI must develop technical assistance and related materials to assist with the implementation of this policy including a summary of:

- the privacy rights of minors; and
- the licensure or other professional requirements for school district employment classifications, if any, relating to protecting student privacy.

OSPI must provide assistance and recommendations for supporting compliance with the policy, and enforce and obtain compliance with certain types of notice under adopted rules. The following example sanctions are listed:

- termination or withholding of all or part of state apportionment or categorical moneys to the offending school district;
- termination of specified programs in which violations may be flagrant within the offending school district;
- institution of corrective action; and
- the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

Gender Inclusive Schools. References to the transgender student policy and procedure are changed to the policy and procedures relating to gender inclusive schools.

The required elements for the WSSDA model policy and procedures are moved to the section requiring school districts to adopt or amend if necessary their policies and procedures by January 31, 2026.

OSPI must periodically revise the rules and guidelines to eliminate prohibited discrimination, and adopt rules to ensure compliance with the requirements related to gender inclusive schools by December 31, 2025.

Reporting and Notification of Abuse, Misconduct, and Assault. Changes are made to reporting and notification requirements related to alleged abuse, misconduct, and assault, and the requirements are applied to charter schools and state-tribal education compact schools.

School districts must immediately, rather than at the first opportunity but within 48 hours, notify the parents or legal guardians of a student alleged to be the victim, target, or recipient of an allegation of sexual misconduct by a school employee.

If an employee or contractor of a school district has knowledge or reasonable cause to believe that a student has been a victim, target, or recipient of physical abuse, sexual abuse, sexual misconduct, or assault occurring on school property during the school day by a student, school district employee or contractor, volunteer, or any other individual, the school district must immediately notify the parents or legal guardians of the student.

Student Rights. Each school district, charter school, and state-tribal education compact school must develop student-focused educational and promotional materials that incorporate a statement of student rights, which must be available on school websites, social media platforms, and other communication channels used by students.

These materials must be incorporated into civics education curricula, and it is encouraged for the statement of student rights to be provided in materials on Temperance and Good Citizenship Day.

The statement of student rights are privileges and protections from:

- the Declaration of Independence and the United States Constitution—lists eight rights such as free exercise of religion, freedom of speech, and so on;
- federal statutes—lists three rights such as the right to be free from discrimination, the right to receive special education, and so on;
- the Washington State Constitution—lists nine rights such as the right of petition and peaceable assemblage, freedom of conscience, and so on; and
- state statutes—lists four rights such as the right to a basic education, due process, and so on.

The listed rights are not intended to be a comprehensive delineation of student rights, the manner in which they are derived, or the associated legal limits, nor is it intended to have any application to rights established in other provisions of state and federal law.

Parent and Legal Guardian Rights. Modifications are made to the rights of parents and legal guardians of children enrolled in public school.

Records. The term public school record is changed to education record. Parents have a right to inspect and review, and request and receive their child's education records within a reasonable period of time but not more than 45 days, instead of ten days, in accordance with FERPA.

Parents choosing to inspect and review their child's education records may not be required to appear in person to make the request, provided that the public school can ascertain the identity of the requestor.

No charge may be imposed to inspect or review education records or for the costs of searching for or retrieving the education records. Any charges for copies must be reasonable

and not prevent a parent, legal guardian, or eligible child from exercising the right to inspect and review the education records. References to electronic records are removed.

Education records are 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. Nothing changes the access and disclosure provisions established in state law related to health care information.

The types of documents not required to be released when a parent is being investigated for child abuse or neglect is expanded to include social work and disciplinary records. This provision is also expanded to include when a parent or legal guardian is the defendant in a criminal proceeding where the student is the named victim.

Medical Services and Treatment. The rights related to notification of medical services and treatment are removed.

Criminal Action and Law Enforcement. The right to receive immediate notification if a criminal action is deemed to have been committed against their child or by their child is revised. It specifies that there must be immediate notification if criminal action is deemed to have been committed against their child, including immediate notification if their child is alleged to be the victim, target, or recipient of an allegation of sexual misconduct by a school employee.

There is a right to immediate notification that their child is the alleged victim, target, or recipient of physical abuse, sexual abuse, sexual misconduct, or assault occurring on school property during the school day by another student, a school employee or contractor, or any other individual; 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, or threat of a shooting, on school property; or that their child has been detained based on probable cause of involvement in criminal activity on school property during the school day.

The right to receive immediate notification that law enforcement personnel questions their child is revised to apply when the questioning is during a custodial interrogation at the school during the school day.

Removal from Campus. The right related to notification if their child is taken or removed

from the public school campus is revised. Parents have the right to not have their child removed from school grounds or buildings during school hours without authorization of the parent according to state law. Nothing affects the provisions in state law related to host homes, youth shelters, and children being taken into custody related to abuse or neglect allegations.

Notice of Opt Out. The types of activities that prompt the right to receive notice and the option to opt out are revised and align with the PPRA. A reference to comprehensive sexual health education is added.

Other Rights. The following rights are modified:

- access to materials—revises the right to access materials to cross-reference existing state law and adds language aligning with state law;
- nondiscrimination—provides that parents have the right to have their children receive a public education in a setting in which discrimination on the basis of any of the protected classes under state law is prohibited;
- school calendar—specifies that the right related to the annual school calendar must include any known events that require parent or student attendance outside of normal school days or hours;
- required fees—specifies that the right to receive in writing a comprehensive listing of any required fee must include a description of how economic hardships may be considered in the administration of fees; and
- academic performance—revises the right to be informed of their child's academic performance to add cross references to existing state law.

Additional Rights. Eleven rights are added and include cross references to existing state law for each. These rights address various topics including complaint procedures, school enrollment, language access, notification of absences, and special education.

Liability. These rights do not create a private right of action.

Employee Protections. School district, charter school, and state-tribal education compact school employees and directors are prohibited from taking adverse employment action for:

- supporting students in the exercise of their legal rights including their right to a learning environment with historically and scientifically accurate information;
- performing work in a manner consistent with certain state laws including nondiscrimination provisions, parental rights, and student rights;
- instructing in a manner consistent with state learning standards; and
- using approved instructional materials that are culturally and experientially representative.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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