

SENATE BILL REPORT

SB 5181

As of January 20, 2025

Title: An act relating to amending the parents rights initiative to bring it into alignment with existing law.

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

Sponsors: Senators Wilson, C., Pedersen, Dhingra, Frame, Lias, Lovick, Nobles, Stanford, Trudeau and Wellman.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/21/25.

Brief Summary of Bill

- Modifies certain rights of parents and guardians of children enrolled in public school.
- Removes rights related to notification requirements regarding medical services and treatment.
- Adds that these rights do not create a private right of action.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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Background: In 2024, an initiative to the Legislature was enacted that declared 15 rights of parents and guardians 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. Parents have a right to inspect their child's public school records and to receive a

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copy of their child's records within ten business days of submitting a written request, either electronically or on paper. Parents must not be required to appear in person to request or validate a request for their child's public school records. Public school records is a defined term that includes records related to academics, medical or health, mental health counseling, vocational counseling, discipline, attendance, screenings, and any other student-specific files, documents, or other materials maintained by the public school.

A public school must not be required to release any records or information regarding a student's medical, health, or mental health counseling records to a parent during the pendency of an investigation of child abuse or neglect when the parent is the target of the investigation, unless the parent has obtained a court order.

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 requested 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. 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 their child, and prohibiting the release of student information without the written consent of the student's parent or guardian.

Medical Services and Treatment. Parents have a right 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.

Parents have a right 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.

Parents have a right 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.

Nondiscrimination. Parents have a right 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.

State law prohibits discrimination in Washington public schools on the basis of 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.

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.

Guidance and Technical Assistance. The 2024 supplemental operating budget directed the Office of the Superintendent of Public Instruction (OSPI) to develop guidance and provide technical assistance to school districts to implement the parental rights initiative and to develop a tool and identify a process for community members to send questions and concerns. OSPI must submit monthly reports to the Legislature that include status updates on implementation. According to OSPI, this guidance may change due to ongoing litigation related to records.

Summary of Bill: Access to Materials. The right to access materials is revised to cross-reference existing state law and adds language aligning with state law.

Records. The term public school record is changed to education record. Parents have a right to inspect and request and receive their child's education records within a reasonable period of time, instead of ten days, in accordance with FERPA.

No charge may be imposed to inspect 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 or legal guardian 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 rights related to notification of criminal action and law enforcement specify that notification must be within a reasonable amount of time, but no later than 72 hours, instead of immediate notification.

The right to receive notification that a criminal action has been committed against their child specifies that the action is on school property during the school day or their child has been detained based on probable cause of involvement in criminal activity.

The right to receive notification that law enforcement personnel questions their child specifies that 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 to cross-reference existing state law and specifies that notification must be within a reasonable amount of time, but no later than 72 hours, instead of immediate notification.

This notification requirement does not apply to certain existing state law that provides different notice provisions.

Nondiscrimination. The right to receive assurance that their child's public school will not discriminate against their child based on sincerely held religious beliefs is expanded to include all of the protected classes under state law.

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

Academic Performance. The right to be informed of their child's academic performance is revised to add cross references to existing state law.

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

Appropriation: None.

Fiscal Note: Requested on January 11, 2025.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.