
HOUSE BILL 1611

State of Washington

67th Legislature

2022 Regular Session

By Representatives Dolan, Steele, and Duerr

Prefiled 12/07/21.

1 AN ACT Relating to advancing equity in programs for highly
2 capable students; amending RCW 28A.185.020, 28A.185.030, 28A.185.050,
3 28A.160.160, and 28A.300.042; adding a new section to chapter 28A.185
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that, for highly
7 capable students, access to accelerated learning and enhanced
8 instruction is access to a basic education. The legislature has
9 directed school districts to prioritize equitable identification of
10 low-income students for participation in highly capable programs and
11 services. The research literature strongly supports using universal
12 screening and multiple criteria to equitably identify students for
13 highly capable programs. There are multiple approaches to
14 implementing universal screening and the use of multiple criteria.
15 The legislature intends all school districts to use best practices
16 and does not intend to prescribe a single method.

17 **Sec. 2.** RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each
18 amended to read as follows:

19 ~~((1) The legislature finds that, for highly capable students,~~
20 ~~access to accelerated learning and enhanced instruction is access to~~

1 ~~a basic education. There are multiple definitions of highly capable,~~
2 ~~from intellectual to academic to artistic. The research literature~~
3 ~~strongly supports using multiple criteria to identify highly capable~~
4 ~~students, and therefore, the legislature does not intend to prescribe~~
5 ~~a single method. Instead, the legislature intends to allocate funding~~
6 ~~based on 5.0 percent of each school district's population and~~
7 ~~authorize school districts to identify through the use of multiple,~~
8 ~~objective criteria those students most highly capable and eligible to~~
9 ~~receive accelerated learning and enhanced instruction in the program~~
10 ~~offered by the district.)) District practices for identifying ((the~~
11 ~~most)) highly capable students must prioritize equitable~~
12 ~~identification of low-income students. Access to accelerated learning~~
13 ~~and enhanced instruction through the program for highly capable~~
14 ~~students does not constitute an individual entitlement for any~~
15 ~~particular student.~~

16 ~~((2) Supplementary funds provided by the state for the program~~
17 ~~for highly capable students under RCW 28A.150.260 shall be~~
18 ~~categorical funding to provide services to highly capable students as~~
19 ~~determined by a school district under RCW 28A.185.030.))~~

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.185
21 RCW to read as follows:

22 (1) The legislature intends to allocate state funding for the
23 highly capable program based on five percent of each school
24 district's student population. The legislature does not intend to
25 limit highly capable services to five percent of the student
26 population. Districts may identify and serve more than five percent
27 of their students for highly capable programs and services.

28 (2) Supplemental funds provided by the state for the state basic
29 education program for highly capable students under RCW 28A.150.260
30 are categorical funding to identify and provide services to highly
31 capable students as determined by a school district under RCW
32 28A.185.030. Basic education funding and categorical funding must be
33 used to identify students and provide programs and services for
34 highly capable students.

35 (3) Each school district must conduct universal screenings in
36 accordance with RCW 28A.185.030 to find students who need further
37 assessment for potential highly capable program placement.

1 **Sec. 4.** RCW 28A.185.030 and 2009 c 380 s 4 are each amended to
2 read as follows:

3 (~~Local school~~) (1) School districts may establish and operate,
4 either separately or jointly, programs for highly capable students.
5 Such authority shall include the right to employ and pay special
6 instructors and to operate such programs jointly with a public
7 institution of higher education. (~~Local school~~)

8 (2) School districts (~~which~~) that establish and operate
9 programs for highly capable students shall adopt identification
10 procedures and provide educational opportunities as follows:

11 (~~(1)~~) (a) In accordance with rules adopted by the
12 superintendent of public instruction, school districts shall
13 implement procedures for (~~nomination~~) referral, screening,
14 assessment (~~and selection~~), identification, and placement of
15 (~~their most~~) highly capable students. (~~Nominations shall be based~~
16 ~~upon data from~~)

17 (i) Referrals must be available for all grade levels not being
18 universally screened, and may be submitted by teachers, other staff,
19 parents, students, and members of the community.

20 (ii) Each school district must select a grade level to implement
21 universal screening procedures for each student. Universal screening
22 must occur once in or before second grade, and again in or before
23 sixth grade. The purpose of universal screening is to include
24 students who traditionally are not referred for highly capable
25 programs and services. Students discovered during universal screening
26 may need further assessment to determine whether the student is
27 eligible for placement in a program for highly capable students.
28 Districts must consider at least two student data points during
29 universal screening, which may include previously administered
30 standardized, classroom-based, performance, cognitive, or achievement
31 assessments, or research-based behavior ratings scales. There is no
32 requirement to administer a new assessment for the purpose of
33 universal screening, however districts may do so if they desire.

34 (iii) Assessments (~~shall~~) for highly capable program services
35 must be based upon a review of each student's capability as shown by
36 multiple criteria intended to reveal, from a wide variety of sources
37 and data, each student's unique needs and capabilities. Any
38 screenings or additional assessments must be conducted within the
39 school day and at the school the student attends.

1 ~~((Selection))~~ (iv) Identification and placement decisions shall
2 be made by a ~~((broadly based committee of professionals,))~~
3 multidisciplinary selection committee after consideration of the
4 results of the ~~((multiple criteria assessment))~~ universal screening,
5 any further assessment, and any available district data. Students
6 identified pursuant to procedures outlined in this section must be
7 provided, to the extent feasible, an educational opportunity that
8 takes into account each student's unique needs and capabilities, and
9 the limits of the resources and program options available to the
10 district, including those options that can be developed or provided
11 using funds allocated by the superintendent of public instruction for
12 this specific purpose.

13 (b) In addition to the criteria listed in (a) of this subsection,
14 district practices for identifying highly capable students must seek
15 to expand access to accelerated learning and enhanced instruction at
16 elementary and secondary schools and advance equitable enrollment
17 practices so that all students, especially students from historically
18 underrepresented and low-income groups, who are ready to engage in
19 more rigorous coursework can benefit from accelerated learning and
20 enhanced instruction.

21 ~~((+2))~~ (3) When a student, who is a child of a military family
22 in transition, has been assessed or enrolled as highly capable by a
23 sending school, the receiving school shall initially honor placement
24 of the student into a like program.

25 (a) The receiving school shall determine whether the district's
26 program is a like program when compared to the sending school's
27 program; and

28 (b) The receiving school may conduct subsequent assessments to
29 determine appropriate placement and continued enrollment in the
30 program.

31 ~~((3) Students selected pursuant to procedures outlined in this~~
32 ~~section shall be provided, to the extent feasible, an educational~~
33 ~~opportunity which takes into account each student's unique needs and~~
34 ~~capabilities and the limits of the resources and program options~~
35 ~~available to the district, including those options which can be~~
36 ~~developed or provided by using funds allocated by the superintendent~~
37 ~~of public instruction for that purpose.))~~

38 (4) ~~((The))~~ For a student who is a child of a military family in
39 transition, the definitions in Article II of RCW 28A.705.010 apply to
40 subsection ~~((+2))~~ (3) of this section.

1 **Sec. 5.** RCW 28A.185.050 and 2002 c 234 s 1 are each amended to
2 read as follows:

3 (1) In order to ensure that school districts are meeting the
4 requirements of an approved program for highly capable students, the
5 superintendent of public instruction shall monitor highly capable
6 programs at least once every five years. Monitoring shall begin
7 during the 2002-03 school year.

8 (2) Any program review and monitoring under this section may be
9 conducted concurrently with other program reviews and monitoring
10 conducted by the office of the superintendent of public instruction.
11 In its review, the office shall monitor program components that
12 include but need not be limited to the process used by the district
13 to identify and reach out to highly capable students with diverse
14 talents and from diverse backgrounds, assessment data (~~and~~), other
15 indicators to determine how well the district is meeting the academic
16 needs of highly capable students, and district expenditures used to
17 enrich or expand opportunities for these students.

18 (3) Beginning June 30, 2003, and every five years thereafter, the
19 office of the superintendent of public instruction shall submit a
20 report to the education committees of the house of representatives
21 and the senate that provides the following:

22 (a) A brief description of the various instructional programs
23 offered to highly capable students; and

24 (b) Relevant data to the programs for highly capable students
25 collected under RCW 28A.300.042.

26 (4) Beginning November 1, 2022, and annually thereafter, the
27 superintendent of public instruction must make data publicly
28 available that includes a comparison of the race, ethnicity, and low-
29 income status of highly capable students compared to the same
30 demographic groups in the general student population of each school
31 district. Reporting must also include comparisons for students who
32 are English language learners, have an individualized education
33 program, have a 504 plan, are covered by provisions of the McKinney-
34 Vento homeless assistance act, or are highly mobile.

35 (5) The superintendent of public instruction may adopt rules
36 under chapter 34.05 RCW to implement this section.

37 **Sec. 6.** RCW 28A.160.160 and 2009 c 548 s 305 are each amended to
38 read as follows:

1 For purposes of RCW 28A.160.150 through 28A.160.190, except where
2 the context shall clearly indicate otherwise, the following
3 definitions apply:

4 (1) "Eligible student" means any student served by the
5 transportation program of a school district or compensated for
6 individual transportation arrangements authorized by RCW 28A.160.030
7 whose route stop is outside the walk area for a student's school,
8 except if the student to be transported is disabled under RCW
9 28A.155.020 and is either not ambulatory or not capable of protecting
10 his or her own welfare while traveling to or from the school or
11 agency where special education services are provided, in which case
12 no mileage distance restriction applies.

13 (2) "Superintendent" means the superintendent of public
14 instruction.

15 (3) (a) "To and from school" means the transportation of students
16 for the following purposes:

17 ~~((a))~~ (i) Transportation to and from route stops and schools;

18 ~~((b))~~ (ii) Transportation to and from schools pursuant to an
19 interdistrict agreement pursuant to RCW 28A.335.160;

20 ~~((c))~~ (iii) Transportation of students between schools and
21 learning centers for instruction specifically required by statute;
22 and

23 ~~((d))~~ (iv) Transportation of students with disabilities to and
24 from schools and agencies for special education services.

25 (b) Academic extended day transportation for the instructional
26 program of basic education under RCW 28A.150.220 shall be considered
27 part of transportation of students "to and from school" for the
28 purposes of this section. Transportation for field trips may not be
29 considered part of transportation of students "to and from school"
30 under this section.

31 (4) "Transportation services" for students living within the walk
32 area includes the coordination of walk-to-school programs, the
33 funding of crossing guards, and matching funds for local and state
34 transportation projects intended to mitigate hazardous walking
35 conditions. Priority for transportation services shall be given to
36 students in grades kindergarten through five.

37 (5) As used in this section, "walk area" means that area around a
38 school with an adequate roadway configuration to provide students
39 access to school with a walking distance of less than one mile.
40 Mileage must be measured along the shortest roadway or maintained

1 public walkway where hazardous conditions do not exist. The hazardous
2 conditions must be documented by a process established in rule by the
3 superintendent of public instruction and must include roadway,
4 environmental, and social conditions. Each elementary school shall
5 identify walk routes within the walk area.

6 **Sec. 7.** RCW 28A.300.042 and 2016 c 72 s 501 are each amended to
7 read as follows:

8 (1) (~~Beginning with the 2017-18 school year, and using the~~
9 ~~phase-in provided in subsection (2) of this section, the~~) The
10 superintendent of public instruction must collect and school
11 districts must submit all student-level data using the United States
12 department of education 2007 race and ethnicity reporting guidelines,
13 including the subracial and subethnic categories within those
14 guidelines, with the following modifications:

15 (a) Further disaggregation of the Black category to differentiate
16 students of African origin and students native to the United States
17 with African ancestors;

18 (b) Further disaggregation of countries of origin for Asian
19 students;

20 (c) Further disaggregation of the White category to include
21 subethnic categories for Eastern European nationalities that have
22 significant populations in Washington; and

23 (d) For students who report as multiracial, collection of their
24 racial and ethnic combination of categories.

25 (2) Beginning with the 2017-18 school year, school districts
26 shall collect student-level data as provided in subsection (1) of
27 this section for all newly enrolled students, including transfer
28 students. When the students enroll in a different school within the
29 district, school districts shall resurvey the newly enrolled students
30 for whom subracial and subethnic categories were not previously
31 collected. School districts may resurvey other students.

32 (3) All student data-related reports required of the
33 superintendent of public instruction in this title must be
34 disaggregated by at least the following subgroups of students: White,
35 Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific
36 Islander/Hawaiian Native, low income, highly capable, transitional
37 bilingual, migrant, special education, and students covered by
38 section 504 of the federal rehabilitation act of 1973, as amended (29
39 U.S.C. Sec. 794).

1 (4) All student data-related reports prepared by the
2 superintendent of public instruction regarding student suspensions
3 and expulsions as required under this title are subject to
4 disaggregation by subgroups including:

- 5 (a) Gender;
- 6 (b) Foster care;
- 7 (c) Homeless, if known;
- 8 (d) School district;
- 9 (e) School;
- 10 (f) Grade level;
- 11 (g) Behavior infraction code, including:
 - 12 (i) Bullying;
 - 13 (ii) Tobacco;
 - 14 (iii) Alcohol;
 - 15 (iv) Illicit drug;
 - 16 (v) Fighting without major injury;
 - 17 (vi) Violence without major injury;
 - 18 (vii) Violence with major injury;
 - 19 (viii) Possession of a weapon; and
 - 20 (ix) Other behavior resulting from a short-term or long-term
21 suspension, expulsion, or interim alternative education setting
22 intervention;

- 23 (h) Intervention applied, including:
 - 24 (i) Short-term suspension;
 - 25 (ii) Long-term suspension;
 - 26 (iii) Emergency expulsion;
 - 27 (iv) Expulsion;
 - 28 (v) Interim alternative education settings;
 - 29 (vi) No intervention applied; and
 - 30 (vii) Other intervention applied that is not described in this
31 subsection (4) (h);

32 (i) Number of days a student is suspended or expelled, to be
33 counted in half or full days; and

34 (j) Any other categories added at a future date by the data
35 governance group.

36 (5) All student data-related reports required of the
37 superintendent of public instruction regarding student suspensions
38 and expulsions as required in RCW 28A.300.046 are subject to cross-
39 tabulation at a minimum by the following:

- 40 (a) School and district;

1 (b) Race, low income, highly capable, special education,
2 transitional bilingual, migrant, foster care, homeless, students
3 covered by section 504 of the federal rehabilitation act of 1973, as
4 amended (29 U.S.C. Sec. 794), and categories to be added in the
5 future;

6 (c) Behavior infraction code; and

7 (d) Intervention applied.

8 (6) The K-12 data governance group shall develop the data
9 protocols and guidance for school districts in the collection of data
10 as required under this section, and the office of the superintendent
11 of public instruction shall modify the statewide student data system
12 as needed. The office of the superintendent of public instruction
13 shall also incorporate training for school staff on best practices
14 for collection of data (~~on student race and ethnicity~~) under this
15 section in other training or professional development related to data
16 provided by the office.

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