
SENATE BILL 5072

State of Washington

68th Legislature

2023 Regular Session

By Senators Nobles and Wellman

Prefiled 12/20/22.

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 and 28A.300.042; adding a new section to chapter 28A.185 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** (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 (2) The legislature further intends to allocate state funding for
18 the highly capable program based on five percent of each school
19 district's student population. The legislature does not intend to
20 limit highly capable services to five percent of the student

1 population. School districts may identify and serve more than five
2 percent of their students for highly capable programs and services.

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

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

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

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

28 (1) Other basic education funding can be used alongside
29 categorical funding to identify students and provide programs and
30 services for highly capable students.

31 (2) Each school district must conduct universal screenings in
32 accordance with RCW 28A.185.030 to find students who may qualify for
33 potential highly capable program placement.

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

36 ~~((Local school))~~ (1) School districts may establish and operate,
37 either separately or jointly, programs for highly capable students.

1 Such authority shall include the right to employ and pay special
2 instructors and to operate such programs jointly with a public
3 institution of higher education. (~~Local school~~)

4 (2) Except as provided under subsection (3) of this section,
5 school districts ((which)) that establish and operate programs for
6 highly capable students shall adopt identification procedures and
7 provide educational opportunities as follows:

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

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

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

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

37 (~~(Selection)~~) (iv) Identification and placement decisions shall
38 be made by a ((broadly based committee of professionals,))
39 multidisciplinary selection committee after consideration of the
40 results of the ((multiple criteria assessment)) universal screening,

1 any further assessment, and any available district data. Students
2 identified pursuant to procedures outlined in this section must be
3 provided, to the extent feasible, an educational opportunity that
4 takes into account each student's unique needs and capabilities, and
5 the limits of the resources and program options available to the
6 district, including those options that can be developed or provided
7 using funds allocated by the superintendent of public instruction for
8 this specific purpose.

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

17 ((+2)) (3) School districts are not required to implement the
18 identification procedures under subsection (2)(a)(i) through (iv) of
19 this section for students that participate in established, full-time
20 mastery-based learning programs. For purposes of this section,
21 "mastery-based learning program" means an educational program where:

22 (a) Students advance upon demonstrated mastery of content;

23 (b) Competencies include explicit, measurable, transferable
24 learning objectives that empower students;

25 (c) Assessments are meaningful and a positive learning experience
26 for students;

27 (d) Students receive rapid, differentiated support based on their
28 individual learning needs; and

29 (e) Learning outcomes emphasize competencies that include
30 application and creation of knowledge along with the development of
31 important skills and dispositions.

32 (4) When a student, who is a child of a military family in
33 transition, has been assessed or enrolled as highly capable by a
34 sending school, the receiving school shall initially honor placement
35 of the student into a like program.

36 (a) The receiving school shall determine whether the district's
37 program is a like program when compared to the sending school's
38 program; and

1 (b) The receiving school may conduct subsequent assessments to
2 determine appropriate placement and continued enrollment in the
3 program.

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

11 ~~(4) The~~) (5) For a student who is a child of a military family
12 in transition, the definitions in Article II of RCW 28A.705.010 apply
13 to subsection ~~((2))~~ (4) of this section.

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

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

21 (2) Any program review and monitoring under this section may be
22 conducted concurrently with other program reviews and monitoring
23 conducted by the office of the superintendent of public instruction.
24 In its review, the office shall monitor program components that
25 include but need not be limited to the process used by the district
26 to identify and reach out to highly capable students with diverse
27 talents and from diverse backgrounds, assessment data ~~((and))~~, other
28 indicators to determine how well the district is meeting the academic
29 needs of highly capable students, and district expenditures used to
30 enrich or expand opportunities for these students.

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

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

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

1 (4) Beginning November 1, 2023, and annually thereafter, the
2 superintendent of public instruction must make data publicly
3 available that includes a comparison of the race, ethnicity, and low-
4 income status of highly capable students compared to the same
5 demographic groups in the general student population of each school
6 district. Reporting must also include comparisons for students who
7 are English language learners, have an individualized education
8 program, have a 504 plan, are covered by provisions of the McKinney-
9 Vento homeless assistance act, or are highly mobile.

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

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

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

21 (a) Further disaggregation of the Black category to differentiate
22 students of African origin and students native to the United States
23 with African ancestors;

24 (b) Further disaggregation of countries of origin for Asian
25 students;

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

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

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

38 (3) All student data-related reports required of the
39 superintendent of public instruction in this title must be

1 disaggregated by at least the following subgroups of students: White,
2 Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific
3 Islander/Hawaiian Native, low income, highly capable, transitional
4 bilingual, migrant, special education, and students covered by
5 section 504 of the federal rehabilitation act of 1973, as amended (29
6 U.S.C. Sec. 794).

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

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

- 29 (h) Intervention applied, including:
 - 30 (i) Short-term suspension;
 - 31 (ii) Long-term suspension;
 - 32 (iii) Emergency expulsion;
 - 33 (iv) Expulsion;
 - 34 (v) Interim alternative education settings;
 - 35 (vi) No intervention applied; and
 - 36 (vii) Other intervention applied that is not described in this
37 subsection (4) (h);

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

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

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

7 (a) School and district;

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

13 (c) Behavior infraction code; and

14 (d) Intervention applied.

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

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