

E2SSB 5315 - H COMM AMD
By Committee on Education

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that the
4 federal individuals with disabilities education act, Title 20 U.S.C.
5 Sec. 1400 et seq. establishes duties for the state education agency,
6 which is the office of the superintendent of public instruction in
7 Washington, with respect to students with disabilities who are placed
8 in a private school or facility by a school district or other public
9 agency as a means of providing special education and related
10 services.

11 (b) Since 2006, the federal implementing regulations of the
12 federal individuals with disabilities education act have required
13 that the office of the superintendent of public instruction ensure
14 that a student with a disability who is placed in a private school or
15 facility by a school district or other public agency:

16 (i) Is provided special education and related services in
17 conformance with an individualized education program that meets the
18 requirements of federal law and at no cost to the student's parents;

19 (ii) Is provided an education that meets the standards that apply
20 to education provided by a school district or other public agency;
21 and

22 (iii) Has all of the rights of a student with a disability who is
23 served by a school district or other public agency.

24 (c) Since 2006, the federal implementing regulations of the
25 federal individuals with disabilities education act have required
26 that the office of the superintendent of public instruction, in
27 implementing the requirements described in (b) of this subsection
28 (1):

29 (i) Monitor compliance through procedures such as written
30 reports, on-site visits, and parent questionnaires;

1 (ii) Disseminate copies of applicable standards to each private
2 school and facility to which a school district or other public agency
3 placed a student with a disability; and

4 (iii) Provide an opportunity for those private schools and
5 facilities to participate in the development and revision of state
6 standards that apply to them.

7 (2) The legislature acknowledges that it has not codified the
8 requirements described in subsection (1) of this section into state
9 statute. Therefore, the legislature intends to codify the duty and
10 authority of the superintendent of public instruction to establish
11 standards for approving, monitoring, and investigating education
12 centers, which are private schools and facilities that contract with
13 school districts to provide special education and related services to
14 students with disabilities placed in the education center by a school
15 district. The legislature also intends to codify the requirement that
16 these standards must ensure that any students with disabilities
17 placed in an education center by a school district have the same
18 rights, protections, and access to special education and related
19 services that they would have if served by a school district.

20 **Sec. 2.** RCW 28A.155.090 and 2007 c 115 s 11 are each amended to
21 read as follows:

22 The superintendent of public instruction shall have the duty and
23 authority, through the administrative section or unit for the
24 education of children with disabling conditions, to:

25 (1) Assist school districts in the formation of programs to meet
26 the needs of children with disabilities;

27 (2) Develop interdistrict cooperation programs for children with
28 disabilities as authorized in RCW 28A.225.250;

29 (3) Provide, upon request, to parents or guardians of children
30 with disabilities, information as to the special education programs
31 for students with disabilities offered within the state;

32 (4) Assist, upon request, the parent or guardian of any child
33 with disabilities in the placement of any child with disabilities who
34 is eligible for but not receiving special educational services for
35 children with disabilities;

36 (5) Approve school district and agency programs as being eligible
37 for special excess cost financial aid to students with disabilities;

38 (6) Establish standards for approving, monitoring, and
39 investigating education centers, as defined in RCW 28A.205.010, that

1 contract with school districts under RCW 28A.155.060 to provide
2 special education and related services to children with disabilities
3 placed in the education center by a school district. The standards
4 must ensure that any children with disabilities placed in the
5 education center by a school district have the same rights,
6 protections, and access to special education and related services
7 that they would have if served by a school district;

8 (7) Consistent with the provisions of RCW 28A.150.390,
9 28A.160.030, and 28A.155.010 through 28A.155.160, and part B of the
10 federal individuals with disabilities education improvement act,
11 administer administrative hearings and other procedures to ensure
12 procedural safeguards of children with disabilities; and

13 ~~((7))~~ (8) Promulgate such rules as are necessary to implement
14 part B of the federal individuals with disabilities education
15 improvement act or other federal law providing for special education
16 services for children with disabilities and the several provisions of
17 RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160 and
18 to ensure appropriate access to and participation in the general
19 education curriculum and participation in statewide assessments for
20 all students with disabilities.

21 **Sec. 3.** RCW 28A.205.010 and 2006 c 263 s 408 are each amended to
22 read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) ~~((As used in this chapter, unless the context thereof shall~~
26 ~~clearly indicate to the contrary:))~~

27 "Education center" means ~~((any private school operated on a~~
28 ~~profit or nonprofit basis which))~~ a private in-state school or
29 facility operated on a profit or nonprofit basis, or any out-of-state
30 school or facility, that contracts with a school district to provide
31 special education and related services to students with disabilities
32 placed in the education center by the school district and that does
33 the following:

34 (a) Is devoted to the teaching of basic academic skills,
35 including specific attention to improvement of student motivation for
36 achieving, and employment orientation~~((→))~~;

37 (b) Operates on a clinical, client centered basis. This shall
38 include, but not be limited to, performing diagnosis of individual
39 educational abilities, determination and setting of individual goals,

1 prescribing and providing individual courses of instruction therefor,
2 and evaluation of each individual client's progress in his or her
3 educational program(~~(-)~~); and

4 (c) Conducts courses of instruction by (~~professionally trained~~
5 ~~personnel certificated by the Washington professional educator~~
6 ~~standards board according to rules adopted for the purposes of this~~
7 ~~chapter and providing, for certification purposes, that a year's~~
8 ~~teaching experience in an education center shall be deemed equal to a~~
9 ~~year's teaching experience in a common or private school)) licensed
10 teachers.~~

11 (2) (~~For purposes of this chapter, basic academic skills shall~~)
12 "Basic academic skills" must include the study of mathematics,
13 speech, language, reading and composition, science, history,
14 literature, and political science or civics(~~it shall not include~~
15 ~~courses of a vocational training nature and shall not include courses~~
16 ~~deemed nonessential to the accrediting or the approval of private~~
17 ~~schools under RCW 28A.305.130.~~

18 ~~(3) The superintendent of public instruction shall certify an~~
19 ~~education center only upon application and (a) determination that~~
20 ~~such school comes within the definition thereof as set forth in~~
21 ~~subsection (1) of this section and (b) demonstration on the basis of~~
22 ~~actual educational performance of such applicants' students which~~
23 ~~shows after consideration of their students' backgrounds, educational~~
24 ~~gains that are a direct result of the applicants' educational~~
25 ~~program. Such certification may be withdrawn if the superintendent~~
26 ~~finds that a center fails to provide adequate instruction in basic~~
27 ~~academic skills. No education center certified by the superintendent~~
28 ~~of public instruction pursuant to this section shall be deemed a~~
29 ~~common school under RCW 28A.150.020 or a private school for the~~
30 ~~purposes of RCW 28A.195.010 through 28A.195.050)).~~

31 NEW SECTION. Sec. 4. A new section is added to chapter 28A.205
32 RCW to read as follows:

33 (1) The office of the superintendent of public instruction may
34 approve an applicant as an education center only after a
35 determination that:

36 (a) The applicant meets the definition of an education center
37 under RCW 28A.205.010; and

38 (b) The students of the applicant have made educational gains
39 that are a direct result of the applicant's educational program,

1 where the determination is based on the actual educational
2 performance of the students, after considering each student's
3 background.

4 (2) The office of the superintendent of public instruction may
5 suspend, revoke, or refuse to renew approval of an education center
6 if the education center fails to provide adequate instruction in
7 basic academic skills, fails to adhere to federal laws, especially
8 civil rights laws, fails to comply with health and safety
9 requirements, or fails to comply with provisions of its contract with
10 a school district.

11 (3) The office of the superintendent of public instruction must
12 prohibit approved education centers from charging tuition or fees to
13 students placed in the education center by a school district.

14 (4) The office of the superintendent of public instruction must
15 encourage school districts to cooperate with education centers.

16 (5) An education center approved by the office of the
17 superintendent of public instruction under this section is not a
18 common school under RCW 28A.150.020.

19 (6) The approval of an education center that is a private school
20 in Washington approved by the state board of education under chapter
21 28A.195 RCW is limited to the program of special education and
22 related services provided to students with disabilities placed in the
23 education center by the school district.

24 **Sec. 5.** RCW 28A.155.060 and 2007 c 115 s 6 are each amended to
25 read as follows:

26 (1) For the purpose of carrying out the provisions of RCW
27 28A.155.020 through 28A.155.050, the board of directors of every
28 school district shall be authorized to contract with ((agencies
29 approved by the superintendent of public instruction for operating
30 special education programs for students with disabilities. Approval
31 standards for such agencies shall conform substantially with those of
32 special education programs in the common schools)) education centers
33 approved under subsection (2) of this section to provide special
34 education and related services to students with disabilities placed
35 in the education center by the school district.

36 (2)(a) The office of the superintendent of public instruction
37 must create an application process to approve education centers to
38 contract with school districts to provide special education and
39 related services to students with disabilities placed in the

1 education center by a school district. Education centers may be
2 approved for a period of up to three years.

3 (b) To qualify for approval, an education center must, at a
4 minimum, meet the following requirements:

5 (i) Acknowledge that it can meet all contract elements
6 established in subsection (3)(a) of this section;

7 (ii)(A) For an education center operating as a school, either
8 obtain approval by the state board of education under chapter 28A.195
9 RCW to operate as a private school in Washington or obtain approval
10 by the state education agency of the state in which the education
11 center is located; and (B) for education centers that operate a
12 program of education within a nonschool facility, comply with
13 facility licensing requirements of the state in which the education
14 center is located;

15 (iii) Employ or contract with: At least one licensed teacher with
16 a special education endorsement; other licensed teachers; and related
17 services staff who meet the licensing requirements for their
18 profession;

19 (iv) Meet applicable fire codes of the local or state fire
20 marshal and applicable health and safety standards;

21 (v) Demonstrate through audits that it is financially stable and
22 has accounting systems that allow for separation of school district
23 funds, including financial safeguards in place to track revenues and
24 expenditures associated with contracted placements to ensure that
25 funds are used to provide special education services to students;

26 (vi) Demonstrate that it has procedures in place that address
27 staff hiring and contracting, including checking personal and
28 professional references for employees, conducting criminal background
29 checks in accordance with RCW 28A.400.303, and scheduling regular
30 staff evaluations that address staff competencies;

31 (vii) Demonstrate that staff of the education center are
32 regularly trained on the following topics:

33 (A) Constitutional and civil rights of children in schools;

34 (B) Child and adolescent development;

35 (C) Trauma-informed approaches to working with youth;

36 (D) Recognizing and responding to youth mental health issues;

37 (E) Educational rights of students with disabilities, the
38 relationship of disability to behavior, and best practices for
39 interacting with students with disabilities;

1 (F) Cultural competency, diversity, equity, and inclusion,
2 including best practices for interacting with students from
3 particular backgrounds, including English learner, LGBTQ, immigrant,
4 female, and nonbinary students. The terms "cultural competency,"
5 "diversity," "equity," and "inclusion" have the same meanings as in
6 RCW 28A.415.443;

7 (G) De-escalation techniques when working with youth or groups of
8 youth;

9 (H) Student isolation and restraint requirements under RCW
10 28A.600.485;

11 (I) The federal family educational rights and privacy act (Title
12 20 U.S.C. Sec. 1232g) requirements including limits on access to and
13 dissemination of student records for noneducational purposes; and

14 (J) Restorative justice principles and practices; and
15 (viii) Maintain a policy of nondiscrimination and provide
16 procedural safeguards for students eligible for special education
17 services and their families.

18 (c) Before approving an application under this subsection, the
19 office of the superintendent of public instruction must conduct an
20 on-site visit to ensure that an education center's facilities,
21 staffing levels, and procedural safeguards are sufficient to provide
22 a safe and appropriate learning environment for students with
23 disabilities placed in the education center by a school district.

24 (d) The office of the superintendent of public instruction may
25 suspend, revoke, or refuse to renew its approval of an education
26 center if the education center:

27 (i) Fails to maintain approval standards or fails to comply with
28 all school district contract elements established in subsection
29 (3)(a) of this section;

30 (ii) Violates the rights of students with disabilities placed in
31 the education center by a school district; or

32 (iii) Refuses to implement any corrective actions ordered by the
33 office of the superintendent of public instruction.

34 (e) The office of the superintendent of public instruction must
35 use the data collected to produce the report required under section 7
36 of this act to identify issues of noncompliance with approval
37 standards and contract elements established in subsection (3)(a) of
38 this section.

39 (f) The office of the superintendent of public instruction must
40 notify the state board of education if any education center that is

1 also a private school approved by the state board of education under
2 chapter 28A.195 RCW is investigated for noncompliance, is directed to
3 complete corrective action, or fails to maintain approval under this
4 subsection. The state board of education must notify the office of
5 the superintendent of public instruction of any unresolved concerns,
6 deficiencies, or deviations related to an education center that is
7 also a private school approved by the state board of education under
8 chapter 28A.195 RCW.

9 (g) (i) The office of the superintendent of public instruction
10 must develop and publish on its website a complaint process for
11 individuals to report noncompliance or violations of student rights
12 at education centers.

13 (ii) The office of the superintendent of public instruction must
14 use the complaint process to identify and address patterns of
15 misconduct at education centers, including issuing corrective action
16 or revoking approval under this subsection.

17 (3) (a) A school district that chooses to contract with an
18 education center as authorized under subsection (1) of this section
19 must enter into a written contract with the education center to
20 establish the responsibilities of the school district and the
21 education center and set forth the rights of students with
22 disabilities placed in the education center by the school district as
23 a means of providing special education and related services. The
24 contract must include, at a minimum, the following elements:

25 (i) The names of the parties involved and the name of the student
26 or students with disabilities placed in the education center by the
27 school district;

28 (ii) The locations and settings of the services to be provided;

29 (iii) A description of the services to be provided, including
30 access to state learning standards adopted under RCW 28A.655.070;

31 (iv) The total contract cost and applicable charge and
32 reimbursement systems, including billing and payment procedures;

33 (v) Acknowledgment that the education center has a list of each
34 qualified staff member providing special education and related
35 services and a copy of the license or credential that qualifies each
36 staff member to provide those services;

37 (vi) Acknowledgment that the school district and education center
38 have clearly established their respective responsibilities and
39 processes for data collection and reporting for students;

1 (vii) Acknowledgment that the education center must comply with
2 student isolation and restraint requirements under RCW 28A.600.485;

3 (viii) Acknowledgment that the education center must notify the
4 school district and the office of the superintendent of public
5 instruction of any program, staffing, or facility changes that may
6 affect the agency's ability to provide contracted services;

7 (ix) Acknowledgment that the education center must comply with
8 all relevant Washington state and federal laws that are applicable to
9 the school district; and

10 (x) Acknowledgment that the school district must provide the
11 office of the superintendent of public instruction with the
12 opportunity to review the contract and related documentation upon
13 request.

14 (b) A school district contracting with an education center must
15 conduct an annual on-site visit to ensure that an education center's
16 facilities, staffing levels, and procedural safeguards are sufficient
17 to provide a safe and appropriate learning environment and meet the
18 unique needs of the students with disabilities placed in the
19 education center by the school district.

20 (c) A school district contracting with an education center must
21 remain responsible for ensuring that the students with disabilities
22 placed in the education center by the school district are:

23 (i) Provided a free appropriate public education in accordance
24 with the federal individuals with disabilities education act, Title
25 20 U.S.C. Sec. 1400 et seq. and this chapter;

26 (ii) Provided with special education and related services at no
27 cost to the student's parents and in conformance with an
28 individualized education program as required by law, including
29 evaluations and individualized education program team meetings that
30 meet all applicable requirements;

31 (iii) Provided with an opportunity to participate in Washington
32 state and school district assessments and an opportunity to fulfill
33 the requirements to receive a Washington state diploma; and

34 (iv) Provided at least the minimum instructional hours and days
35 required under RCW 28A.150.220.

36 (d) A school district must provide the following documents to the
37 parents or guardians of the student being served by an education
38 center:

1 (i) A summary of the school district and education center's
2 responsibilities and processes for reporting incidents of student
3 isolation and restraint under RCW 28A.600.485; and

4 (ii) A copy of the complaint process published under subsection
5 (2)(g) of this section.

6 (4) For the purpose of this section, "education center" means an
7 education center, as defined in RCW 28A.205.010, approved by the
8 office of the superintendent of public instruction under subsection
9 (2) of this section.

10 **Sec. 6.** RCW 28A.155.210 and 2013 c 202 s 3 are each amended to
11 read as follows:

12 A ~~((school that is required to develop an))~~ student's
13 individualized education program ((as required by federal law)) must
14 include ((within the plan)) procedures for notification of a parent
15 or guardian regarding the use of restraint or isolation under RCW
16 28A.600.485. If a student is served by an education center under RCW
17 28A.155.060, the student's individualized education program must also
18 specify any additional procedures required to ensure the education
19 center fully complies with RCW 28A.600.485.

20 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.155
21 RCW to read as follows:

22 (1) Beginning December 1, 2023, and in compliance with RCW
23 43.01.036, the office of the superintendent of public instruction
24 must annually submit a report to the education committees of the
25 legislature regarding student placements at education centers under
26 RCW 28A.155.060. A summary of the report, including a link to the
27 full report content, must also be posted on the office of the
28 superintendent of public instruction's website. The report must
29 include:

30 (a) The academic progress of students receiving special education
31 services from education centers, using the results of the two most
32 recent state assessments;

33 (b) The graduation rates of students who have received special
34 education services from education centers;

35 (c) The rate at which students receiving special education
36 services from education centers return to their resident school
37 districts;

1 (d) Data on student restraint and isolation incidents,
2 discipline, and attendance at education centers; and

3 (e) Any corrective action or change in an education center's
4 approval status, as ordered by the office of the superintendent of
5 public instruction.

6 (2) The data published under subsection (1) of this section must
7 be disaggregated by education center when it is possible to do so
8 without disclosing, directly or indirectly, a student's personally
9 identifiable information as protected under the federal family
10 educational rights and privacy act (Title 20 U.S.C. Sec. 1232g).

11 NEW SECTION. **Sec. 8.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 28A.205.020 (Common school dropouts—Reimbursement) and
14 1999 c 348 s 3, 1997 c 265 s 7, 1993 c 211 s 2, 1990 c 33 s 181, 1979
15 ex.s. c 174 s 1, & 1977 ex.s. c 341 s 2;

16 (2) RCW 28A.205.030 (Reentry of prior dropouts into common
17 schools, rules—Eligibility for test to earn a high school equivalency
18 certificate) and 2013 c 39 s 6;

19 (3) RCW 28A.205.040 (Fees—Rules—Priority for payment—Review of
20 records) and 2013 c 39 s 7, 2006 c 263 s 412, 1999 c 348 s 4, 1990 c
21 33 s 183, 1979 ex.s. c 174 s 2, & 1977 ex.s. c 341 s 4;

22 (4) RCW 28A.205.070 (Allocation of funds—Criteria—Duties of
23 superintendent) and 2006 c 263 s 409, 1993 c 211 s 6, 1990 c 33 s
24 185, & 1985 c 434 s 3;

25 (5) RCW 28A.205.080 (Legislative findings—Distribution of funds—
26 Cooperation with school districts) and 1997 c 265 s 8, 1993 c 211 s
27 7, 1990 c 33 s 186, & 1987 c 518 s 220; and

28 (6) RCW 28A.205.090 (Inclusion of education centers program in
29 biennial budget request—Quarterly plans—Funds—Payment) and 1993 c
30 211 s 8, 1990 c 33 s 187, & 1985 c 434 s 4.

31 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately."

35 Correct the title.

EFFECT: Strikes all material in the underlying bill and replaces it with material that has the following effect:

(1) Changes the term "nonpublic agency" to "education center" throughout the amendment.

(2) Modifies the definition of "education center" to "a private in-state school or facility operated on a profit or nonprofit basis, or any out-of-state school or facility, that contracts with a school district [that meets specified requirements]," rather than "any private school operated on a nonprofit or for profit basis [that meets specified requirements];" and correspondingly allows courses of instruction to be conducted by licensed teachers, rather than professional trained personnel certificated by the Professional Educator Standards Board.

(3) Authorizes the Office of the Superintendent of Public Instruction (OSPI) to approve, rather than certify, education centers, and adds that the OSPI can suspend, revoke, or refuse to renew approval if an education center fails to adhere to federal laws, especially civil rights laws, fails to comply with health and safety requirements, or fails to comply with provisions of its contract with a school district.

(4) Adds that, for a private school in Washington approved by the state board of education (SBE), the OSPI may only approve as an education center the program of special education and related services provided to students with disabilities placed in the education center by the school district.

(5) Specifies that all education centers may be approved for up to three years, rather than permitting education centers that are private schools in Washington approved by the SBE to be approved for up to five years.

(6) Directs the SBE to notify the OSPI of any unresolved concerns, deficiencies, or deviations it has with an education center that is also a private school approved by the SBE.

(7) Requires that, to qualify for approval to provide special education and related services to students with disabilities placed in the education center by a school district, an applicant must demonstrate that its staff are regularly trained on 10 topics, including relevant laws, child and adolescent development, and specified best practices for working with youth (rather than permitting existing safety and security staff training to be provided to education centers located in Washington).

(8) Directs the OSPI to use data on student academic progress, discipline, and attendance (in addition to isolation and restraint) to identify issues of education center noncompliance with approval standards and contract elements.

(9) Repeals six provisions of existing education center law related primarily to funding of the centers and enrollment of common school dropouts.

(10) Adds an intent section.

(11) Makes nonsubstantive changes, for example adding statutory citations, changing the phrase "to provide special education programs for students with disabilities" to "to provide special education and related services to students with disabilities placed in the education center by a school district," and referring more generally to requirements and standards that may be in place for out-of-state entities.

(12) Maintains the emergency clause.

--- **END** ---