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Washington Office of Superintendent of
PUBLIC INSTRUCTION
Chris Reykdal, Superintendent

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Informational

BULLETIN NO. 037-24 OFFICE OF LEGAL AFFAIRS

TO: Educational Service District Superintendents
School District Superintendents

FROM: Chris Reykdal, Superintendent of Public Instruction

RE: Initial Guidance for Implementation of Initiative 2081

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SUMMARY/BACKGROUND

In March 2024, the Legislature passed [Initiative 2081 \(I-2081\)](#), entitled the parents' bill of rights, which took effect on June 6, 2024. **Initiative 2081 did not change, reduce, or diminish student privacy rights in Washington schools that are protected by federal law.** The Office of Superintendent of Public Instruction (OSPI) is aware of pending litigation seeking a preliminary injunction that would prevent implementation of the initiative. School districts must implement the initiative as written unless the court takes action. However, the initiative conflicts with federal law in certain areas of student privacy. Because state law cannot override federal law, school districts should not make changes to any policies or procedures that could be implicated until clarity is provided by the court, the Legislature, the Attorney General's Office, or OSPI.

INITIAL GUIDANCE FOR IMPLEMENTATION OF INITIATIVE 2081

At the direction of the Legislature, OSPI is currently in the process of developing technical guidance and a tool to assist implementation. While much of I-2081 is consistent with state and federal law, there are some provisions that will require additional clarification, such as

provisions related to student privacy and safety through disclosure of certain student records, and will be addressed in OSPI's comprehensive technical guidance. OSPI intends to publish the technical guidance and implementation tool by mid-summer 2024. This timeline may be adjusted, as needed, as the pending litigation unfolds.

In the interim, local education agencies (LEAs) must comply with both I-2081 and other existing state and federal laws. LEAs should implement I-2081 to be consistent with the federal Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), and other applicable federal law. Initiative 2081 did not change, reduce, or diminish student privacy rights in Washington schools that are protected by such federal law, and state law cannot override federal law.

Until comprehensive statewide guidance and additional clarity around the conflicting laws is provided, LEAs should not change or enact policies based on I-2081, particularly around the disclosure of student records. If a situation arises where the meaning of I-2081 is uncertain or appears to conflict with existing law before OSPI publishes its technical guidance, then OSPI recommends that LEAs consult their legal counsel before taking action. OSPI also welcomes LEAs to share such questions with OSPI as they arise, so that OSPI may address them in the comprehensive guidance.

EXISTING STATUTORY REFERENCES FOR I-2081

OSPI recognizes that several provisions of I-2081 appear to overlap or mirror existing law without providing textual references. Therefore, OSPI is providing the below chart to aid the process of cross-referencing the provisions of the Initiative with existing law. Further guidance will be forthcoming as OSPI obtains legal advice and consults technical expertise.

Initiative Section	Existing Law
Sec. 1(2)(a): Parent's right to examine textbooks, curriculum, and supplemental material used in their child's classroom.	RCW 28A.605.020 requires districts to enact a policy providing for parent/guardian access to their child's classroom, including teaching material, and school-sponsored activities.
Sec. 1(2)(b)(i): Parent's right to inspect their child's public school records in accordance with RCW 28A.605, and to receive a copy of their child's records within 10 business days of submitting a written request, either electronically or on paper.	RCW 28A.605.030 provides parents/guardians with a right to review all education records of their student, although the specific procedure is determined by each district. <i>See also</i> 20 U.S.C. § 1232g and 34 CFR Part 99 (FERPA and related regulations); 20 U.S.C. §

Initiative Section	Existing Law
	<p>1400 et. seq. (IDEA) and WAC 392-172A-05190 (access to special education records).</p> <p>Please note: While this provision does not provide parents/guardians with greater access to their students’ education records than they already have under FERPA and IDEA, the 10-day response timeline is significantly shorter than under existing authorities.</p>
<p>Sec. 1(2)(f): Parent’s right to receive immediate notification if a <i>criminal action</i> is deemed to have been committed against their child or by their child.</p>	<p>RCW 28A.320.160 requires school districts to notify parents/guardians of alleged sexual misconduct by a school employee at first opportunity but in all cases within 48 hours. WAC 392-400-455 and WAC 392-400-515 require notice to parents/guardians of discipline or emergency removals.</p>
<p>Sec. 1(2)(g): Parent’s right to receive immediate notification if <i>law enforcement personnel question</i> their child, except in cases where the parent or legal guardian has been accused of abusing or neglecting the child.</p>	<p>RCW 28A.600.475 requires school districts to notify parents/guardians and students in advance of turning over student records to law enforcement pursuant to a subpoena or court order.</p>
<p>Sec. 1(2)(h): Parent’s right to receive immediate notification if their <i>child is taken or removed</i> from the public school campus without parental permission, including to stay at a youth shelter or ‘host home’ as defined in RCW 74.15.020.</p>	<p>RCW 28A.605.010 provides that school districts must not allow students to be removed from school grounds during school hours unless authorized by a parent/guardian with legal custody.</p> <p>Please note: There is a limited exception in RCW 28A.605.010 for removal by school security personnel, and existing policy requires parent/guardian notification in such circumstances. See WSSDA Model Policy 3124P.</p>
<p>Sec. 1(2)(i): Parent’s right to receive assurance their child’s public school will</p>	<p>RCW 28A.642.010 prohibits discrimination based on religion. See also RCW 28A.600.025.</p>

Initiative Section	Existing Law
<p>not discriminate against their child based upon the sincerely held <i>religious beliefs</i> of the child's family in accordance with chapter 28A.642 RCW.</p>	<p>WAC 392-190-060 requires each school district to include a nondiscrimination statement in written announcements, notices, recruitment materials, employment application forms, and other publications made available to all students, parents/guardians, or employees.</p>
<p>Sec. 1(2)(j): Parent’s right to receive written notice and the option to opt their child out of any <i>surveys, assignments, questionnaires, role-playing activities, recordings of their child, or other student engagements</i> that include questions about any of the following:</p> <ul style="list-style-type: none"> (i) The child’s <i>sexual experiences or attractions</i>; (ii) The child’s <i>family beliefs, morality, religion, or political affiliations</i>; (iii) any <i>mental health or psychological problems</i> of the child or a family member; <p>and</p> <ul style="list-style-type: none"> (iv) All <i>surveys, analyses, and evaluations</i> subject to areas covered by the protection of pupil rights amendment of the family educational rights and privacy act. 	<p>The federal Protection of Pupil Rights Amendment (PPRA) requires prior written consent by parents/guardians under similar circumstances. See 20 U.S.C. § 1232h. See also 34 CFR Part 98.</p> <p>Please note: The above federal provisions only apply to programs administered with federal funds, and only to “a survey, analysis, or evaluation.”</p> <p>RCW 28A.300.475(7) allows parents/guardians to view materials and opt their children out of instruction on comprehensive sexual health education. WAC 392-500-030 requires written consent of parent/guardian prior to any written or oral test, questionnaire, survey, or examination to elicit the personal religious beliefs or practices of a student or parents/guardians. WAC 392-500-035 requires each school district to keep on file the written consent of the parent/guardian prior to the administering of any diagnostic personality test.</p>
<p>Sec. 1(2)(k): Parent’s right to receive written notice and have the option to opt their child out of <i>instruction on topics associated with sexual activity</i> in accordance with RCW 28A.300.475.</p>	<p>RCW 28A.300.475(7) allows parents/guardians to view materials and opt their children out of instruction on comprehensive sexual health education.</p>
<p>Sec. 1(2)(o): Parent’s right to be informed if their child’s <i>academic performance</i>,</p>	<p>While RCW 28A.655.270 referenced in this subsection was repealed in 2023 (Laws 2023 c</p>

Initiative Section	Existing Law
including whether their child is provided a student learning plan under RCW 28A.655.270, is such that it could <i>threaten the child's ability to be promoted to the next grade level and to be offered an in-person meeting with the child's classroom teacher and principal to discuss any resources or strategies available to support and encourage the child's academic improvement.</i>	271 § 11), the references below from existing law could support districts' implementation. Existing law requires districts to provide information about the resources available to assist the child and the parents/guardians. Further, parents/guardians are already notified of their children's performance on tests and assessments conducted under Chapter 28A.230 RCW. See WAC 180-51-220 , RCW 28A.320.203 , RCW 28A.230.195 , RCW 28A.300.320 .

INFORMATION AND ASSISTANCE

For questions regarding this bulletin, please contact Darryl Colman, Deputy Chief Legal Officer, at darryl.colman@k12.wa.us, or Jennifer Stevens, Executive Assistant for the Office of Legal Affairs, at jennifer.stevens@k12.wa.us. The OSPI TTY number is 360-664-3631.

This bulletin is also available on the [Bulletins](#) page of the OSPI website.

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