



Initiative 2081 Implementation

REPORT FOR OCTOBER 2024

BACKGROUND

In March 2024, the Washington State Legislature passed [Initiative 2081](#), entitled the Parents' Bill of Rights, which became effective on June 6, 2024. Also in March 2024, the Legislature passed the 2024 Supplemental Operating Budget, which included an investment for the Office of Superintendent of Public Instruction (OSPI) "to develop guidance and provide technical assistance to school districts on the implementation of Initiative Measure No. 2081" ([Senate Bill 5950, Sec. 501\(4\)\(uu\)](#)). The Legislature directed OSPI to create a process and website reporting tool to track questions and concerns about implementation of I-2081, as well as provide technical assistance to school districts.

The purpose of this report is to provide updates to the Legislature about OSPI's implementation of Initiative 2081, and to summarize questions and concerns raised by the public.

OSPI issued initial technical guidance through [Bulletin 037-24: Initial Guidance for Implementation of Initiative 2081](#) on June 7, 2024. OSPI's [webpage and public comment tool](#) regarding I-2081 was published and went live on July 1, 2024. OSPI has received several comments and questions from interested educators and members of the public through this tool.

In the midst of OSPI's implementation efforts, various plaintiffs filed a lawsuit in King County Superior Court, seeking to enjoin I-2081 before it became effective. On June 21, 2024, the Court granted a preliminary injunction mandating that "Washington State shall cease all implementation and enforcement" of Initiative 2081 "to the extent that it requires disclosure of medical, health, and mental health records and/or information protected by RCW 70.02.020" as well as "Initiative 2081's portions related to the time in which schools must provide records." OSPI has complied with the judge's order and continued implementation efforts on provisions not covered by the injunction.

SUMMARY OF KEY THEMES

To date, OSPI has received 34 questions and comments through its I-2081 website tool. OSPI received the largest amount of engagement from school district staff, followed by community members and parents/families. Most respondents indicated that they had either concerns (47%) or

questions (38%) about implementation, followed by some comments expressing support for the initiative (9%).

Submissions to the reporting tool originated from geographically diverse counties across the state of Washington. When prompted to specify a topic for their question or concern, the most numerous category was “write-in,” followed by the topic of student records and student privacy.

A common theme from the questions posed to OSPI was that the undefined terms and lack of specificity in I-2081 made implementation difficult. This included concerns surrounding the meaning of the terms that trigger a notification requirement under the initiative. Another common theme was that, to the extent that I-2081 was different than existing law, the new provisions were not consistent with school district policies or practice.

FREQUENTLY ASKED QUESTIONS

The most common questions OSPI has received surrounding I-2081’s provisions are surrounding parent and guardian access to their student’s public-school records, an existing right under state and federal law that is expanded significantly in the new law. OSPI is prohibited by the preliminary injunction from providing guidance or otherwise implementing provisions concerning students’ medical or mental health records, or the 10-day timeline for providing records found in I-2081, which are currently not in effect.

Outside of records, the most common type of question received by OSPI concern the definitions that trigger a notification requirement for a school district. For example, OSPI was asked whether information about a student’s pronouns alone triggered a notification requirement. OSPI confirmed that it does not, which is discussed in the technical assistance section below. Additionally, the questions reveal the difficulties that school district staff encounter when key terms triggering notification requirements are undefined, making it unclear, for example, who determines whether a crime has been committed under Section 2(f), or what it means for a school to “indirectly” arrange medical treatment under Section 2(e).

SUMMARY OF TECHNICAL ASSISTANCE

To assist with implementation and as required by the Legislature, OSPI made its [webpage and dedicated tool](#) for I-2081 available to the public on July 1, 2024. This publication built on OSPI’s initial bulletin on I-2081, [Bulletin 037-24: Initial Guidance for Implementation of Initiative 2081](#), which was published on June 7, 2024.

OSPI continues to provide technical assistance on specific implementation questions raised by school district staff. Since OSPI cannot provide legal advice, OSPI advises that school districts consult their own legal counsel and attempt to comply with existing law as well as the initiative when taking action under I-2081. Throughout these communications, OSPI has emphasized its position that the initiative does not alter or reduce student privacy rights protected by federal law.

The areas of primary concern with implementation, as reported to OSPI, especially relate to provisions of I-2081 involving student medical and mental health records, which are subject to the King County Superior Court's injunction. Beyond that, OSPI has sought feedback from local education partners about their primary concerns and is developing additional guidance on areas of the initiative that are not enjoined from implementation.

OSPI will also share examples of technical assistance that may be of general interest. For example, school district staff approached OSPI for guidance on whether I-2081 requires districts to provide notification to parents if the district receives information about a student's gender identity, including the pronouns they use at school. While I-2081 does require release of education records that may include a student's sexual orientation, any such records that are mental health or medical records may not be released under the current injunction. Further, a student's gender identity or expression is distinct from their sexual orientation, and I-2081 does not discuss gender identity or expression. Therefore, simply asking or learning a student's pronouns does not trigger a notification requirement under I-2081. This interpretation aligns with existing OSPI civil rights guidance about a student's privacy related to their gender identity expressed at school.¹

In addition to receiving requests for guidance on this question, OSPI also became aware that some school districts and school boards have relied on I-2081 as support for making revisions to their gender-inclusive schools policies and procedures that require unprompted notification to parents of their student's gender identity without the student's consent. Such an interpretation of I-2081 is not aligned with existing OSPI guidance about a student's privacy related to their gender identity expressed at school. Further, such changes are inconsistent with the King County Superior Court's injunction on implementing I-2081 "to the extent that it requires disclosure of medical, health, and mental health records and/or information protected by RCW 70.02.020." OSPI reiterates its guidance that school districts should not make changes to any policies or procedures implicated by I-2081 unless authorized to do so by the court, the Legislature, the Attorney General's Office, or OSPI.

ADDITIONAL RESOURCES

- [Implementation of I-2081, the Parents' Bill of Rights \(OSPI Webpage and Tool\)](#)
- [Bulletin 037-24: Initial Guidance for Implementation of Initiative 2081](#)
- [Prohibiting Discrimination in Washington Public Schools](#), February 2012

¹ Information about a student's transgender status, legal name, or gender assigned at birth may constitute confidential medical or education information. Disclosing this information to other students, their parents, or other third parties may violate privacy laws, such as the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99). School staff should not disclose information that may reveal a student's transgender status to others, including parents and other school staff, unless legally required to do so or unless the student has authorized such disclosure.