

Guide to ESHB 1296

Rights of Parents and Legal Guardians

Background

The following chart clarifies rights related to parent and guardian access to classrooms, instructional materials, and school-sponsored activities.

OSPI has sought to harmonize the provisions of RCW 28A.605.005 with both federal and state law that preexisted ESHB 1296. OSPI avoids any interpretation that diminishes student privacy and safety rights, to the maximum extent allowed by the language of RCW 28A.605.005. If a situation arises where the meaning is uncertain or appears to conflict with existing law, OSPI recommends that districts consult their legal counsel. Districts should implement ESHB 1296 consistent with the federal Family Educational Rights and Privacy Act (FERPA), federal Health Insurance Portability and Accountability Act (HIPAA), and other applicable federal law.

OSPI Guidance

RCW 28A.605.005	OSPI Guidance
Parents have the right to access their child's classroom and school-sponsored activities in accordance with RCW 28A.605.020 and to examine textbooks, curriculum, and supplemental material used in their child's classroom. RCW 28A.605.005(2)(a)	This provision should be interpreted consistently with RCW 28A.605.020 , which requires districts to enact a policy providing for parent/guardian access to their child's classroom, including teaching material, and school-sponsored activities. This provision does not create a new right or process for parents/guardians to challenge a district's use of certain textbooks, curriculum, or supplemental material.
Parents have the right to inspect and review their child's public school records in accordance with RCW 28A.605, and to receive a copy of their child's records within a reasonable period of time, but not more than 45 days, of submitting a request, in accordance with FERPA either	Under the ESHB-1296 amendments to RCW 28A.605.005, Education records means those official records, files, and data directly related to a student and



electronically or on paper. RCW 28A.605.005(2)(b)(i)	maintained by the public school including, but not limited to, records encompassing all the material kept in the child's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, disciplinary status, test protocols, and individualized education programs; 28A.605.005 (2)(b)(iv): Education records do not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record; 28A.605.005(2)(b)(v): The revised definition of education records eliminated the list of types of records, such as "medical and health care records" and "mental health counseling records" that was previously contained in RCW 28A.605.005.
No changes to access or disclosures established in chapter 70.02 RCW related to health care information. 28A.605.005 (2)(b)(vi):	See chapter 70.02 RCW related to health care information and chapter 71.34 RCW behavioral health services for minors. Districts must comply with chapter 28A.210 RCW related to health screens, immunizations, medications, treatments, as well as diabetes, asthma, and anaphylaxis.

	For specific information and resources, see OSPI's Health & Safety & Health Services Resources
Parents have the right to receive immediate notification if a criminal action is alleged to have been committed against their child. 28A.605.005 (2)(c)	This notification requirement applies upon receipt of a report that criminal action is alleged to have been committed against their child on school property or during a school sponsored activity. This includes immediate notification if there has been a shooting on school property or if their child has been detained regarding involvement in criminal activity on school property during the school day.
Parents have the right to receive immediate notification if their child is an alleged victim or target of physical or sexual abuse or sexual misconduct by a schoolemployee. 28A.605.005(2)(d):*	This provision requires that school districts immediately notify parents or legal guardians after a report of allegation that a student is the victim or target of physical or sexual abuse, sexual misconduct, or sexual assault by a school employee or contractor as required by RCW 28A.320.160 .
Parents have the right to receive immediate notification if law enforcement personnel question their child at school during the school day, except in cases where the parent or legal guardian has been accused of abusing	See OSPI Guidance - Protections for Immigrant Students in Washington's K-12 Public Schools and Washington State office of the Attorney General (AGO) Guidance on the Keep Washington Working Act for guidance on immigration officers in schools.

or neglecting the child. 28A.605.005(2)(e)	Also, 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.
Parents have the right to not have their child removed from school campus grounds or building, during school hours without authorization of a parent or legal guardian. 28A.605.005(2)(f)	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.
Parents have the right to have their child receive a public education in a setting which prohibits discrimination.28A.605.005(2)(g)	RCW 28A.640.010 and 28A.642.010 prohibit discrimination in Washington public schools on the basis of sex; race; ethnicity; creed; religion; color; national origin; honorably-discharged veteran or military status; sexual orientation; gender expression; gender identity; homelessness; immigration or citizenship status; the presence of any sensory, mental, or physical disability; neurodivergence; or the use of a trained dog guide or service animal by a person with a disability.
Parents have the right to receive written notice and the option to opt their child out of any survey, analysis, or evaluation that reveals specific types of information. 28A.605.005(2)(h)	Written notice and the opportunity to opt their child out of any survey, analysis, or evaluation that reveals information concerning (i) Political affiliations or beliefs of the student or parent; (ii) Mental or psychological problems of the student or the student's family; (iii) Sex behavior and attitudes; (iv) Illegal, antisocial, self-incriminating or demeaning behavior; (v) Critical appraisals of other individuals with whom respondents have

	close family relationships; (vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; (vii) Religious practices, affiliations, or beliefs of the student or student's parent or legal guardian; or (viii) Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program. This notification requirement is only triggered when the survey, analysis, or evaluation solicits information about the listed categories. A student volunteering information listed in subsections (i)-(viii), without the information being solicited, does not trigger a notification requirement. 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. Similarly, 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.
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Release not required 28A.605.005 (3)	A public school shall not be required to release any records or information regarding a student's (medical or health records or mental health counseling) health care, social work, counseling, or disciplinary records to a parent or legal guardian who is the defendant in a criminal proceeding where the student is the named victim or during the pendency of an investigation of child abuse or neglect conducted by any law enforcement agency or the department of children, youth, and families where the parent or legal guardian is the target of the investigation, unless the parent or legal guardian has obtained a court order.
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