
HOUSE BILL 2771

State of Washington

55th Legislature

1998 Regular Session

By Representatives Murray, Mitchell, Skinner, Radcliff, Kastama, Morris, Kessler, Ballasiotes, Grant, Anderson, Quall, Fisher, Romero, Mason, Poulsen, Ogden, Kenney, Cole, Regala and Costa

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1 AN ACT Relating to protecting public school students; amending RCW
2 28A.640.020; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that families and
5 educators alike want schools to be institutions where learning can
6 occur. The legislature also recognizes that learning cannot take place
7 without a certain level of physical and emotional safety and that
8 parents want and need to be able to send their children to school
9 without concern over the physical and emotional safety of their
10 children. The legislature finds that policies to ensure students'
11 freedom from sexual and malicious harassment and even existence of such
12 policies varies from one Washington state public school district to the
13 next. Whereas sexual and other malicious harassment are particularly
14 pernicious threats to school safety, the legislature intends to require
15 that public school districts establish, publicize and enforce policies
16 prohibiting and punishing such behavior. It is also the intent of the
17 legislature to ensure that all school personnel and students understand
18 the importance of and the procedures for maintaining a safe learning

1 environment and enforcing their school districts' sexual and malicious
2 harassment policies.

3 **Sec. 2.** RCW 28A.640.020 and 1994 c 213 s 1 are each amended to
4 read as follows:

5 (1) The superintendent of public instruction shall develop
6 regulations and guidelines to eliminate sex discrimination as it
7 applies to public school employment, counseling and guidance services
8 to students, recreational and athletic activities for students, access
9 to course offerings, and in textbooks and instructional materials used
10 by students.

11 (a) Specifically with respect to public school employment, all
12 schools shall be required to:

13 (i) Maintain credential requirements for all personnel without
14 regard to sex;

15 (ii) Make no differentiation in pay scale on the basis of sex;

16 (iii) Assign school duties without regard to sex except where such
17 assignment would involve duty in areas or situations, such as but not
18 limited to a shower room, where persons might be disrobed;

19 (iv) Provide the same opportunities for advancement to males and
20 females; and

21 (v) Make no difference in conditions of employment including, but
22 not limited to, hiring practices, leaves of absence, hours of
23 employment, and assignment of, or pay for, instructional and
24 noninstructional duties, on the basis of sex.

25 (b) Specifically with respect to counseling and guidance services
26 for students, they shall be made available to all students equally.
27 All certificated personnel shall be required to stress access to all
28 career and vocational opportunities to students without regard to sex.

29 (c) Specifically with respect to recreational and athletic
30 activities, they shall be offered to all students without regard to
31 sex. Schools may provide separate teams for each sex. Schools which
32 provide the following shall do so with no disparities based on sex:
33 Equipment and supplies; medical care; services and insurance;
34 transportation and per diem allowances; opportunities to receive
35 coaching and instruction; laundry services; assignment of game
36 officials; opportunities for competition, publicity and awards;
37 scheduling of games and practice times including use of courts, gyms,
38 and pools: PROVIDED, That such scheduling of games and practice times

1 shall be determined by local administrative authorities after
2 consideration of the public and student interest in attending and
3 participating in various recreational and athletic activities. Each
4 school which provides showers, toilets, or training room facilities for
5 athletic purposes shall provide comparable facilities for both sexes.
6 Such facilities may be provided either as separate facilities or shall
7 be scheduled and used separately by each sex.

8 The superintendent of public instruction shall also be required to
9 develop a student survey to distribute every three years to each local
10 school district in the state to determine student interest for male/
11 female participation in specific sports.

12 (d) Specifically with respect to course offerings, all classes
13 shall be required to be available to all students without regard to
14 sex: PROVIDED, That separation is permitted within any class during
15 sessions on sex education or gym classes.

16 (e) Specifically with respect to textbooks and instructional
17 materials, which shall also include, but not be limited to, reference
18 books and audio-visual materials, they shall be required to adhere to
19 the guidelines developed by the superintendent of public instruction to
20 implement the intent of this chapter: PROVIDED, That this subsection
21 shall not be construed to prohibit the introduction of material deemed
22 appropriate by the instructor for educational purposes.

23 (2)(a) (~~By December 31, 1994,~~) The superintendent of public
24 instruction shall develop criteria for use by school districts in
25 developing sexual harassment and malicious harassment policies as
26 required under (b) of this subsection. The criteria shall address the
27 subjects of grievance procedures, remedies to victims of sexual
28 harassment and malicious harassment, disciplinary actions against
29 violators of the policy, and other subjects at the discretion of the
30 superintendent of public instruction. Disciplinary actions must
31 conform with collective bargaining agreements and state and federal
32 laws. The superintendent of public instruction also shall supply
33 sample policies to school districts upon request.

34 (b) (~~By June 30, 1995,~~) Every school district shall adopt and
35 implement ((a)) written ((policy)) policies concerning sexual
36 harassment and malicious harassment. The ((policy)) policies shall
37 apply to all school district employees, volunteers, parents, and
38 students, including, but not limited to, conduct between students.

1 (c) School district policies on sexual harassment and malicious
2 harassment shall be reviewed by the superintendent of public
3 instruction considering the criteria established under (a) of this
4 subsection as part of the monitoring process established in RCW
5 28A.640.030.

6 (d) The school district's sexual harassment (~~policy~~) and
7 malicious harassment policies shall be conspicuously posted throughout
8 each school building, and provided to each employee. A copy of the
9 (~~policy~~) policies shall appear in any publication of the school or
10 school district setting forth the rules, regulations, procedures, and
11 standards of conduct for the school or school district.

12 (e)(i) Each school shall develop a process for discussing the
13 district's sexual harassment (~~policy~~) and malicious harassment
14 policies with students. The process shall ensure the discussion
15 addresses the definition of sexual harassment and malicious harassment
16 and issues covered in the sexual harassment (~~policy~~) and malicious
17 harassment policies.

18 (ii) Each school district shall provide to employees and volunteers
19 who have significant contact with students training on the school
20 district's sexual harassment and malicious harassment policies in
21 accordance with the guidelines adopted by the superintendent of public
22 instruction under section 3(2) of this act.

23 (f) "Sexual harassment" as used in this section means unwelcome
24 sexual advances, requests for sexual favors, sexually motivated
25 physical contact, or other verbal or physical conduct or communication
26 of a sexual nature if:

27 (i) Submission to that conduct or communication is made a term or
28 condition, either explicitly or implicitly, of obtaining an education
29 or employment;

30 (ii) Submission to or rejection of that conduct or communication by
31 an individual is used as a factor in decisions affecting that
32 individual's education or employment; or

33 (iii) That conduct or communication has the purpose or effect of
34 substantially interfering with an individual's educational or work
35 performance, or of creating an intimidating, hostile, or offensive
36 educational or work environment.

37 (g) "Malicious harassment" as used in this section means verbal or
38 physical conduct or communication directed at a specific person because
39 that person is a member of a group that is protected under RCW

1 9A.36.080, knowing that the conduct or communication is likely to
2 alarm, annoy, harass, threaten, intimidate, embarrass, or be
3 detrimental to the person.

4 NEW SECTION. Sec. 3. (1) The superintendent of public instruction
5 shall develop the criteria for use by school districts in developing
6 malicious harassment policies, as required under RCW 28A.640.020(2)(a),
7 by December 31, 1998. All school districts shall adopt and implement
8 a written policy concerning malicious harassment, as required under RCW
9 28A.640.020(2)(b) by July 1, 1999.

10 (2)(a) The superintendent of public instruction shall adopt
11 guidelines for use by school districts on training school district
12 employees and volunteers about school district policies regarding
13 sexual harassment and malicious harassment. The superintendent of
14 public instruction shall establish training program guidelines that, to
15 the extent possible, can be implemented within existing training
16 programs for employees and volunteers and with minimal additional
17 expenditure of time and resources.

18 (b) The superintendent of public instruction shall adopt training
19 guidelines under this subsection (2) by July 1, 1999. To the extent
20 possible, each school district shall institute training programs in
21 accordance with the guidelines adopted by the superintendent of public
22 instruction and as required under RCW 28A.640.020(2)(e), by the
23 beginning of the 1999 school year.

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