
SENATE BILL 5552

State of Washington

59th Legislature

2005 Regular Session

By Senators Kohl-Welles, McAuliffe, Benton, Johnson, Shin, Carrell, Rasmussen, Mulliken and Roach

Read first time 01/27/2005. Referred to Committee on Early Learning, K-12 & Higher Education.

1 AN ACT Relating to information required for school district
2 employment applicants; and amending RCW 28A.400.301.

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

4 **Sec. 1.** RCW 28A.400.301 and 2004 c 29 s 2 are each amended to read
5 as follows:

6 (1) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a) "Applicant" means an applicant for employment in a certificated
9 or classified position who is currently or was previously employed by
10 a school district.

11 (b) "Employer" means a school district employer.

12 (2) Before hiring an applicant, a school district shall request the
13 applicant to sign a statement:

14 (a) Authorizing the applicant's current and past employers,
15 including employers outside of Washington state, to disclose to the
16 hiring school district sexual misconduct, if any, by the applicant and
17 making available to the hiring school district copies of all documents
18 in the previous employer's personnel, investigative, or other files
19 relating to sexual misconduct by the applicant; and

1 (b) Releasing the applicant's current and past employers, and
2 employees acting on behalf of that employer, from any liability for
3 providing information described in (a) of this subsection, as provided
4 in subsection (4) of this section.

5 (3) Before hiring an applicant, a school district shall request in
6 writing, electronic or otherwise, the applicant's current and past
7 employers, including out-of-state employers, to provide the information
8 described in subsection (2)(a) of this section, if any. The request
9 shall include a copy of the statement signed by the applicant under
10 subsection (2) of this section.

11 (4) Not later than twenty business days after receiving a request
12 under subsection (3) of this section, a school district shall provide
13 the information requested and make available to the requesting school
14 district copies of all documents in the applicant's personnel record
15 relating to the sexual misconduct. The school district, or an employee
16 acting on behalf of the school district, who in good faith discloses
17 information under this section is immune from civil liability for the
18 disclosure.

19 (5) A hiring district shall request from the office of the
20 superintendent of public instruction verification of certification
21 status, including information relating to sexual misconduct as
22 established by the provisions of subsection (11) of this section, if
23 any, for applicants for certificated employment.

24 (6) A school district shall not hire an applicant who does not sign
25 the statement described in subsection (2) of this section.

26 (7) School districts may employ applicants on a conditional basis
27 pending the district's review of information obtained under this
28 section.

29 (8) Information received under this section shall be used by a
30 school district only for the purpose of evaluating an applicant's
31 qualifications for employment in the position for which he or she has
32 applied. Except as otherwise provided by law, a board member or
33 employee of a school district shall not disclose the information to any
34 person, other than the applicant, who is not directly involved in the
35 process of evaluating the applicant's qualifications for employment.
36 A person who violates this subsection is guilty of a misdemeanor.

37 (9) Beginning September 1, 2004, the board or an official of a
38 school district shall not enter into a collective bargaining agreement,

1 individual employment contract, resignation agreement, severance
2 agreement, or any other contract or agreement that has the effect of
3 suppressing information about verbal or physical abuse or sexual
4 misconduct by a present or former employee or of expunging information
5 about that abuse or sexual misconduct from any documents in the
6 previous employer's personnel, investigative, or other files relating
7 to verbal or physical abuse or sexual misconduct by the applicant. Any
8 provision of a contract or agreement that is contrary to this
9 subsection is void and unenforceable, and may not be withheld from
10 disclosure by the entry of any administrative or court order. This
11 subsection does not restrict the expungement from a personnel file of
12 information about alleged verbal or physical abuse or sexual misconduct
13 that has not been substantiated.

14 (10) This section does not prevent a school district from
15 requesting or requiring an applicant to provide information other than
16 that described in this section.

17 (11) By September 1, 2004, the state board of education has the
18 authority to and shall adopt rules defining "verbal abuse," "physical
19 abuse," and "sexual misconduct" as used in this section for application
20 to all classified and certificated employees. The definitions of
21 verbal and physical abuse and sexual misconduct adopted by the state
22 board of education must include the requirement that the school
23 district has made a determination that there is sufficient information
24 to conclude that the abuse or misconduct occurred and that the abuse or
25 misconduct resulted in the employee's leaving his or her position at
26 the school district.

27 (12) Except as limited by chapter 49.12 RCW, at the conclusion of
28 a school district's investigation, a school employee has the right to
29 review his or her entire personnel file, investigative file, or other
30 file maintained by the school district relating to sexual misconduct as
31 addressed in this section and to attach rebuttals to any documents as
32 the employee deems necessary. Rebuttal documents shall be disclosed in
33 the same manner as the documents to which they are attached. The
34 provisions of this subsection do not supercede the protections provided
35 individuals under the state whistleblower laws in chapter 42.41 RCW.

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