
SUBSTITUTE HOUSE BILL 2834

State of Washington 61st Legislature 2010 Regular Session

By House Education (originally sponsored by Representatives Probst, Hurst, Sullivan, Hope, Quall, Chase, Kelley, Wallace, Hunt, Conway, Haigh, Kenney, and Simpson; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/03/10.

1 AN ACT Relating to gang and hate group activity on school grounds
2 and at school activities; amending RCW 28A.225.225 and 28A.600.455; and
3 adding a new section to chapter 28A.635 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.635
6 RCW to read as follows:

7 (1) The legislature finds that gang activity on school grounds and
8 at school activities places staff and students at risk of intimidation
9 and violence, can create a hostile school atmosphere, and interferes
10 with the educational mission of schools. The legislature further finds
11 that gang activity has spread from urban areas to suburban and rural
12 areas of the state, and that because of the highly mobile nature of
13 modern gangs, no region is immune to the effects of criminal street
14 gang activity.

15 (2) It is the intent of the legislature that the schools of the
16 state will be free of the negative influences of criminal street gangs
17 that are inconsistent with the maintenance of a positive and safe
18 school climate. The legislature finds that discipline for gang
19 activity must be based on evidence of prohibited conduct and that

1 clearly stated school policies are necessary to protect student due
2 process rights. It is the intent of the legislature that all schools
3 will have consistent policies and procedures to address gangs and any
4 associated conduct and behavior.

5 (3) The legislature also finds that suppression must be combined
6 with prevention and intervention to effect long-term reductions in gang
7 activity, and intends that the use of school discipline will be
8 balanced against gang prevention and intervention programs, alternative
9 learning placements, and dropout prevention programs.

10 (4) Policies and procedures enacted pursuant to this section must
11 be constructed and applied in a manner that does not discriminate on
12 the basis of race, creed, color, national origin, religion, sex, or
13 sexual orientation, and must be consistent with the requirements of RCW
14 49.60.030. Beginning September 1, 2012, the superintendent of public
15 instruction shall require annual aggregate reporting of discipline for
16 criminal street gang conduct to monitor for disproportional impact on
17 protected groups.

18 (5) By September 1, 2011, the board of directors of each school
19 district shall enact a policy or modify an existing policy to be
20 consistent with the requirements in this section. The policy must
21 prohibit criminal street gang activity on school property and school
22 vehicles, and at all officially sanctioned school activities, and must
23 outline a procedure that implements the policy in a manner consistent
24 with all pertinent statutes, rules, and any guidance provided by the
25 superintendent of public instruction.

26 (6) The policy and associated procedure of each district shall, at
27 a minimum:

28 (a) Include a statement that criminal street gang activities are
29 prohibited on school properties and at officially sanctioned school
30 events for the purpose of promoting safety and the educational mission;

31 (b) Set forth definitions of all terms, including "criminal street
32 gang," "gang member or associate," "gang activity," and "hate group,"
33 consistent with the definitions in RCW 28A.600.455 and any definitions
34 provided in rules adopted by the superintendent of public instruction;

35 (c) Include specific parameters to be used for determining if a
36 student falls under the definition of a member or associate of a
37 criminal street gang for the purpose of disciplinary action, and an

1 avenue for a student to appeal that determination and/or have it later
2 removed from his or her record;

3 (d) A provision that no student may be disciplined unless the
4 student knowingly violates the policy or published rules of the school
5 district, and methods by which parents and students are notified of
6 what specific clothing, symbols, gestures, or other activity are deemed
7 by the school district to be gang-related; and

8 (e) An outline of progressive discipline steps for violations of
9 the policy, including an initial warning and opportunity to correct
10 violations, and including appropriate interventions other than
11 suspension for first infractions, except in the case of exceptional
12 misconduct as defined under WAC 392-400-245.

13 (7) The Washington state school directors' association and the
14 office of superintendent of public instruction, in collaboration with
15 the task force on gangs in schools and other stakeholders, shall
16 develop and make available to school districts a model policy and
17 procedure by January 1, 2011. Representatives of the following
18 stakeholder groups must be included in the development of the model
19 policy: School directors, school administrators, civil rights
20 organizations, the state ethnic commissions, the tribal leaders'
21 congress, the office of the education ombudsman, the achievement gap
22 oversight and accountability commission, parents, students, and law
23 enforcement.

24 **Sec. 2.** RCW 28A.225.225 and 2009 c 380 s 7 are each amended to
25 read as follows:

26 (1) Except for students who reside out-of-state and students under
27 RCW 28A.225.217, a district shall accept applications from nonresident
28 students who are the children of full-time certificated and classified
29 school employees, and those children shall be permitted to enroll:

30 (a) At the school to which the employee is assigned;

31 (b) At a school forming the district's K through 12 continuum which
32 includes the school to which the employee is assigned; or

33 (c) At a school in the district that provides early intervention
34 services pursuant to RCW 28A.155.065 or preschool services pursuant to
35 RCW 28A.155.070, if the student is eligible for such services.

36 (2) A district may reject applications under subsection (1) of this
37 section if:

1 (a) The student's disciplinary records ((~~indicate~~)) raise
2 significant concerns for staff or student safety as evidenced by: (i)
3 A history of convictions for offenses or crimes((~~7~~)); or (ii)
4 disciplinary actions for violent or disruptive behavior((~~7~~ or gang
5 membership)) that resulted in suspension or expulsion;

6 (b) The student has been expelled or suspended from a public school
7 for more than ten consecutive days and there is evidence that admission
8 of the student would present a significant risk of disruption of the
9 educational environment or significant concern for student safety. Any
10 policy allowing for readmission of expelled or suspended students under
11 this subsection (2)(b) must apply uniformly to both resident and
12 nonresident applicants; or

13 (c) Enrollment of a child under this section would displace a child
14 who is a resident of the district, except that if a child is admitted
15 under subsection (1) of this section, that child shall be permitted to
16 remain enrolled at that school, or in that district's kindergarten
17 through twelfth grade continuum, until he or she has completed his or
18 her schooling.

19 (3) Except as provided in subsection (1) of this section, all
20 districts accepting applications from nonresident students or from
21 students receiving home-based instruction for admission to the
22 district's schools shall consider equally all applications received.
23 Each school district shall adopt a policy establishing rational, fair,
24 and equitable standards for acceptance and rejection of applications by
25 June 30, 1990. The policy may include rejection of a nonresident
26 student if:

27 (a) Acceptance of a nonresident student would result in the
28 district experiencing a financial hardship;

29 (b) The student's disciplinary records ((~~indicate~~)) raise
30 significant concerns for staff or student safety as evidenced by: (i)
31 A history of convictions for offenses or crimes((~~7~~)); or (ii)
32 disciplinary actions for violent or disruptive behavior((~~7~~ or gang
33 membership)) that resulted in suspension or expulsion; or

34 (c) The student has been expelled or suspended from a public school
35 for more than ten consecutive days and there is evidence that admission
36 of the student would present a significant risk of disruption of the
37 educational environment or significant concern for student safety. Any

1 policy allowing for readmission of expelled or suspended students under
2 this subsection (3)(c) must apply uniformly to both resident and
3 nonresident applicants.

4 ~~((For purposes of subsections (2)(a) and (3)(b) of this section,
5 "gang" means a group which: (i) Consists of three or more persons;
6 (ii) has identifiable leadership; and (iii) on an ongoing basis,
7 regularly conspires and acts in concert mainly for criminal purposes.))~~

8 (4) Any district accepting applications from nonresident students
9 for admission to an online learning program may not deny a nonresident
10 application on the basis of subsection (2)(a) or (b) or (3)(b) or (c)
11 of this section unless that program regularly requires the presence of
12 the student on school property and there is a significant risk of
13 disruption of the educational environment or a significant concern for
14 staff or student safety caused by the student's presence.

15 (5) The district shall provide to applicants written notification
16 of the approval or denial of the application in a timely manner not to
17 exceed five school days from receipt unless extenuating circumstances
18 exist. If the application is rejected, the notification shall include
19 the reason or reasons for denial and the right to appeal to the
20 superintendent of public instruction under RCW 28A.225.230(3).

21 **Sec. 3.** RCW 28A.600.455 and 1997 c 266 s 2 are each amended to
22 read as follows:

23 (1) A student who is enrolled in a public school or an alternative
24 school may be suspended or expelled, consistent with other laws and
25 rules related to student discipline, if the student is a member or
26 associate of a criminal street gang and knowingly engages in gang
27 activity on school grounds or while engaged in any officially
28 sanctioned school-sponsored activity.

29 (2) ~~(("Gang" means a group which: (a) Consists of three or more
30 persons; (b) has identifiable leadership; and (c) on an ongoing basis,
31 regularly conspires and acts in concert mainly for criminal purposes.))~~
32 The superintendent of public instruction, in consultation with the task
33 force on gangs in schools and the school safety advisory committee, may
34 adopt rules pertaining to the discipline of students for gang-related
35 behavior. Such rules shall include, but not be limited to, reasonable
36 standards establishing whether a student falls under the definition of
37 a gang member or associate, specific definitions of conduct considered

1 gang activity, limits on disciplinary exclusions from school, and
2 required reporting or recordkeeping. The superintendent of public
3 instruction shall provide guidance to districts on the application of
4 this section, and shall thereafter update such guidance as necessary.

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

7 (a) "Criminal street gang" means any ongoing organization,
8 association, or group of three or more persons, whether formal or
9 informal, having a common name or common identifying sign or symbol,
10 having as one of its primary activities the commission of criminal
11 acts, and whose members or associates individually or collectively
12 engage in or have engaged in a pattern of criminal street gang
13 activity. This definition includes hate groups to the extent such
14 groups otherwise satisfy the requirements of this definition. This
15 definition does not apply to employees engaged in concerted activities
16 for their mutual aid and protection, or to the activities of labor and
17 bona fide organizations or their members or agents.

18 (b) "Criminal street gang associate or member" means any person who
19 actively participates in any criminal street gang and who intentionally
20 promotes, furthers, or assists in any criminal act by the criminal
21 street gang.

22 (c) "Gang activity" means any act that is committed for one or more
23 of the following reasons:

24 (i) To gain admission, prestige, or promotion within the gang;

25 (ii) To increase or maintain the gang's size, prestige, dominance,
26 or control in any geographical area;

27 (iii) To exact revenge or retribution for the gang or any member of
28 the gang;

29 (iv) To obstruct justice, or intimidate or eliminate any witness
30 against the gang or any member of the gang;

31 (v) To directly or indirectly cause any benefit, aggrandizement,
32 gain, profit, or other advantage for the gang, its reputation,
33 influence, or membership; or

34 (vi) To provide the gang with any advantage in, or any control or
35 dominance over any criminal market sector, including, but not limited
36 to, manufacturing, delivering, or selling any controlled substance
37 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen

1 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
2 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
3 (chapter 9.68 RCW).

4 (d) "Hate group" means an organization whose primary purpose is to
5 promote animosity, hostility, and malice against a person or persons or
6 against the property of a person or persons because of race, religion,
7 disability, sexual orientation, ethnicity, or national origin.

8 NEW SECTION. **Sec. 4.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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