
Education Committee

SSB 5689

Brief Description: Concerning harassment, intimidation, bullying, and discrimination in public schools.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Lias, Saldaña, Pedersen, Wellman, Wilson, C., Randall, Hunt, McCoy, Salomon, Darneille, Hasegawa, Keiser, Kuderer and Nguyen).

Brief Summary of Substitute Bill

- Requires school districts to adopt or amend a transgender student policy and procedure, and to designate a primary contact for the policy.
- Directs the Office of the Superintendent of Public Instruction (OSPI) to develop, and educational service districts to offer, mandatory training for school district primary contacts for the transgender student policy and the anti-harassment, intimidation, or bullying policy.
- Requires the OSPI to develop online training material available to all school staff based on the model transgender student policy.
- Provides that a teacher's evaluation may not be negatively impacted if a teacher chooses to use curriculum or materials that address sexual orientation including gender expression or identity if the materials are age appropriate and connected to the content area.

Hearing Date: 3/14/19

Staff: Megan Wargacki (786-7194).

Background:

Prohibited Discrimination in Public Schools. Discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sex, sexual orientation including gender expression or identity, the presence of any

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability is prohibited.

The rules of the Office of the Superintendent of Public Instruction (OSPI) require school districts to provide training to administrators and classroom personnel regarding their responsibilities to raise awareness of and eliminate bias based on these protected classes and characteristics. The OSPI's rules require school districts to designate one employee to be responsible for monitoring and coordinating compliance with prohibitions against discrimination in public schools. This employee is responsible for ensuring that all discrimination complaints communicated to the district are promptly investigated and resolved.

According to rules and guidelines developed by the OSPI, harassment may be discrimination when it is based on a student's protected class or characteristic, such as gender expression or identity. The guidelines state that a school district is responsible for addressing discriminatory harassment about which it knows or reasonably should have known, including promptly investigating and, if appropriate, taking effective steps reasonably calculated to end the harassment, eliminate any hostile environment, and prevent harassment from recurring.

Harassment, Intimidation, and Bullying. "Harassment, intimidation and bullying" (HIB) is defined as any intentional electronic, written, verbal, or physical act, including one shown to be motivated by any characteristic listed in the malicious harassment statute of the criminal code, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act: (a) physically harms a student or damages the student's property; (b) has the effect of substantially interfering with a student's education; (c) is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or (d) has the effect of substantially disrupting the orderly operation of the school. The affected student is not required to actually possess a characteristic that is a basis for the HIB.

Model HIB Policy and Procedure. In 2010 the OSPI was directed to update its model anti-HIB prevention policy and procedure, in consultation with representatives of parents, school personnel, the Office of the Education Ombuds (OEO), the Washington State School Directors' Association (WSSDA), and other interested parties. The OSPI publishes on its website this model anti-HIB policy and procedure, along with training and instructional materials on the components that must be included in any school district policy and procedure.

School District HIB Policy and Procedure. School districts must have anti-HIB prevention policies and procedures that, at a minimum, incorporate the OSPI's model anti-HIB policy and procedure. Districts were encouraged to adopt or amend their anti-HIB policy and procedure through a process that included parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that school district anti-HIB policies emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy. School districts must share their HIB policy with parents or guardians, students, volunteers, and school employees in accordance with the OSPI's rules on this topic.

Primary Contact. Each school district must designate one person to: serve as the primary contact on the anti-HIB policy and procedure between the district, the OEO, and the OSPI;

receive copies of all formal and informal complaints; and implement the HIB policy and procedure.

Posting of District HIB Materials. Each school district was required to provide the OSPI with a brief summary of the school district's anti-HIB policies, procedures, programs, partnerships, vendors, instructional and training materials, and a link to the school district's website, by August 15, 2011 for posting on the OSPI website. Each primary contact must verify the posted information and links and notify the OSPI of any updates or changes, on an annual basis.

Model and School District Cyberbullying Policy and Procedure. In 2007 the WSSDA, with the assistance of the OSPI, was directed to convene an advisory committee to develop a model policy prohibiting acts of HIB that are conducted via electronic means by a student while on school grounds and during the school day (cyberbullying). "Electronic" is defined as any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. The WSSDA was required to post the model policy and sample educational materials on its website. School districts must have a policy that prohibits cyberbullying.

Healthy Youth Survey. The Healthy Youth Survey is a collaboration between the OSPI, the Department of Health, the Department of Social and Health Services, and the Liquor and Cannabis Board. This survey about the health of adolescents in Washington is conducted every other year. The survey includes questions about safety and violence; physical activity and diet; alcohol, tobacco, and other drug use; and related risk and protective factors.

Teacher Evaluations. Most teachers are evaluated using a four-level rating evaluation system with eight specified minimum criteria. Except in certain cases, every four years the evaluation must be comprehensive and use all eight criteria. In the intervening years, evaluations are focused, zeroing in on a specific evaluation criterion for professional development.

Summary of Bill:

Transgender Student Policy and Procedure. *School District Policy and Procedure.* By January 31, 2020, school districts must adopt or amend if necessary a transgender student policy and procedure that, at a minimum, incorporates the model policy and procedure described below. School districts must share the transgender student policy and procedure with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the Office of the Superintendent of Public Instruction (OSPI). School districts must provide their transgender student policy and procedure to the OSPI, as required.

Model Policy and Procedure. By September 1, 2019, and periodically thereafter, the Washington State School Directors' Association (WSSDA) must collaborate with the OSPI to develop and update a model transgender student policy and procedure. The model policy and procedure must, at a minimum: incorporate the OSPI's rules and guidelines to eliminate discrimination on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model anti-harassment, intimidation and bullying (HIB) policy and procedure to transgender students. The OSPI and the WSSDA must maintain the model policy and procedure on each agency's website at no cost to school districts.

Primary Contact. Each school districts must designate one person to serve as the primary contact regarding the transgender student policy and procedure. In addition to other duties required by law and the school district, the primary contact must: ensure the implementation of the policy and procedure; receive copies of all formal and informal complaints; communicate with the school district employees responsible for monitoring school district compliance with prohibitions against discrimination in public schools and the anti-HIB policy and procedure; and serve as the primary contact on the policy and procedure between the school district, the Office of the Education Ombuds, and the OSPI. The primary contact may also serve as the primary contact regarding the anti-HIB policy and procedure.

Training. Primary Contact Training. By December 31, 2020, the OSPI must develop a statewide training class for primary contacts regarding the anti-HIB policy. The training class must be offered on an annual basis by educational service districts in collaboration with the OSPI. The training class must be based on the model anti-HIB policy and include materials related to hazing and the model transgender student policy and procedure. Primary contacts must attend at least one training class, once this training is available.

Training for School Staff. By December 31, 2020, the OSPI must develop online training material available to all school staff based on the model transgender student policy and procedure and the OSPI's rules and guidance on prohibiting discrimination in public schools. The online training material must describe the role of school district primary contacts for monitoring school district compliance with: prohibitions on discrimination in public schools; requirements related to the anti-HIB policies and procedures, and requirements related to transgender student policies and procedures. The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences. The OSPI must annually notify school districts of the availability of the online training material.

Harassment, Intimidation, and Bullying Policy and Procedure. The following modifications are made to provisions related to the HIB prevention policy and procedure: the provisions are moved from the Superintendent of Public Instruction chapter to the student chapter of the school code; the definition of HIB is modified to refer to characteristics in the statutes related to anti-discrimination and sexual equality in the school code, rather than the malicious harassment statute of the criminal code; and changes are made to mirror the requirements related to transgender student policies and procedures.

Healthy Youth Survey Alignment. The OSPI, in collaboration with the Department of Health and the Department of Social and Health Services, must review and align the questions in the Healthy Youth Survey with the model transgender student policy and procedure.

Impact on Teacher Evaluation. A teacher's evaluation may not be negatively impacted if a teacher chooses to use curriculum or instructional materials that address subject matter related to sexual orientation including gender expression or identity so long as the subject matter is age-appropriate and connected to the teacher's content area.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.