

# SENATE BILL REPORT

## SSB 5689

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As Amended by House, April 9, 2019

**Title:** An act relating to preventing harassment, intimidation, bullying, and discrimination in public schools.

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

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

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/18/19, 2/22/19 [DPS, DNP, w/oRec].

**Floor Activity:**

Passed Senate: 2/27/19, 29-20.

Passed House: 4/09/19, 60-36.

### Brief Summary of First Substitute Bill

- Requires school districts to adopt or amend a transgender student policy and procedure and to designate a primary contact.
- Tasks the Office of the Superintendent of Public Instruction (OSPI) with developing mandatory training for primary contacts for the transgender student policy and the anti-harassment, intimidation, or bullying policy.
- Directs 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 express or identity if the materials are age-appropriate and connected to the content area.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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*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.*

**Majority Report:** That Substitute Senate Bill No. 5689 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hunt, McCoy, Mullet, Pedersen and Salomon.

**Minority Report:** Do not pass.

Signed by Senators Hawkins, Ranking Member; Padden.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Holy and Wagoner.

**Staff:** Ailey Kato (786-7434)

**Background:** Harassment, Intimidation, or Bullying Policy and Primary Contacts. Current law requires each school district to have adopted or amended a policy and procedures that prohibits harassment, intimidation, or bullying (HIB) policy and procedure. School districts must designate a primary contact regarding the policy with certain responsibilities.

Discrimination Prohibition. State law prohibits discrimination on the basis of sexual orientation including gender expression or identity in Washington public schools. State law directs OSPI to develop rules and guidelines to eliminate discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students. According to OSPI's guidance, harassment based on gender identity and gender expression is a form of discrimination prohibited in Washington public schools. A school district is responsible for addressing discriminatory harassment about which it knows or reasonably should have known.

Washington State School Directors' Association (WSSDA). This organization is comprised of all 1477 school board members from Washington's 295 public school districts. WSSDA provides materials and educational services to its members, including model policies and procedures. In 2014, WSSDA revised its model transgender student policy and procedure.

Healthy Youth Survey. This survey is a collaborative effort between OSPI, the Department of Health (DOH), and the Department of Social and Health Service (DSHS). It is conducted every two years. The survey measures health risk behaviors of youth in the state. These behaviors include alcohol, tobacco, and other drug use; behaviors that result in unintentional and intentional injuries, such as violence; dietary behaviors; physical activity; and related risk and protective factors.

Teacher Evaluations. Teachers are subject to a rating evaluation system referred to as the Teacher/Principal Evaluation Program. Teachers receive an annual evaluation that focuses on one of eight specified criteria. Every four years, the evaluation must be comprehensive and use all of the criteria.

**Summary of First Substitute Bill:** Transgender Student Policy and Primary Contacts. By September 1, 2019, and periodically thereafter, WSSDA must collaborate with OSPI to

develop and update a model transgender student policy and procedure. At a minimum, it must:

- incorporate OSPI's rules and guidelines to eliminate discrimination in public schools 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 HIB policy and procedure to transgender students.

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. School districts must share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by OSPI.

School districts must designate one person in the district as the primary contact regarding the policy who must:

- ensure the implementation of the policy and procedure;
- receive copies of all formal and informal complaints;
- communicate with employees responsible for monitoring compliance; and
- serve as the primary contact between the school district, the Office of the Education Ombuds, and OSPI.

Harassment, Intimidation, or Bullying Policy and Primary Contacts. Current law regarding HIB policy, procedure, and primary contact is recodified and amended to mirror some of the requirements for transgender students.

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

Training for School Staff. By December 31, 2020, OSPI must develop online training material available to all school staff based on the model transgender student policy and procedure and OSPI's rules and guidance, which must:

- describe the role of school district primary contacts for monitoring school district compliance; and
- include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

OSPI must annually notify school districts of the availability of the online training material.

Healthy Youth Survey. OSPI, in collaboration with DOH and DSHS, must review and align the questions in the Healthy Youth Survey with the model transgender student policy and procedure created by WSSDA.

Teacher Evaluations. 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.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Students who experience bullying and intimidation are at an increased risk for anxiety and depression, and there are negative impacts on students' relationships and health. School safety is critical for transgender students. The statistics regarding safety of transgender students including suicide attempts are alarming. This bill will save lives. Transgender students are having very different experiences depending on the school district, and they often have to be their own advocate. If school districts focus on addressing the unique challenges of the transgender student population, school districts will create a safe, affirming, and nurturing environment for all students. School districts can adapt the model policy to address their unique circumstances, and they should be proactive instead of reactive. Consistent policies and procedures will help decrease anxiety for transgender students and families when working with new teachers and administrators. Training materials are needed for all school staff. Educators who use age appropriate material regarding sexual orientation that is connected to their content area should be protected from negative impacts on their evaluation.

OTHER: The timeline for WSSDA, OSPI, and school districts should be extended.

**Persons Testifying:** PRO: Senator Marko Lias, Prime Sponsor; Lucinda Young, Washington Education Association; Jill Davidson, Washington State Association of School Psychologists; Nita Hill, Washington School Counselors Association; Corina Pfeil, Washington State PTA and PFLAG of Bellevue/Eastside; Skyler Pfeil, Duel Enrollment High School College Programs Student, Lake Washington Institute of Technology; Nolle Pritchard, citizen; Eli Oldfield, Q Youth Resources; Phelix Zapp, Gender Justice League Representative; Homeless Foster Youth; Dierk Meierbachtol, OSPI/Chief Legal Officer; Flora Benson, citizen.

OTHER: Jessica Vavrus, Washington State School Directors' Association.

**Persons Signed In To Testify But Not Testifying:** No one.

#### **EFFECT OF HOUSE AMENDMENT(S):**

- Modifies references to policies and procedures and makes conforming changes.

- Adds that OSPI must collaborate with the Health Care Authority and the Liquor and Cannabis Board and removes the requirement to collaborate with DSHS to review and align the Healthy Youth Survey.