

HOUSE BILL REPORT

HB 1791

As Reported by House Committee On:
Education

Title: An act relating to reprimands for professional educators.

Brief Description: Concerning reprimands for professional educators.

Sponsors: Representatives Harris and Santos.

Brief History:

Committee Activity:

Education: 1/28/22, 2/1/22 [DPS].

Brief Summary of Substitute Bill

- Requires the Professional Educator Standards Board (PESB) to adopt rules providing for reviewing and vacating reprimands issued to certificated professional educators.
- Directs the Superintendent of Public Instruction (SPI) to make reasonable efforts to contact certificated professional educators who were issued a reprimand during a specified time period and whose reprimand is eligible for vacating under the PESB rules.
- Requires the SPI to report to the Legislature, by July 1, 2025, with an update on the progress made towards contacting certificated professional educators and on the number of certificated professional educators who had a reprimand vacated under the PESB rules.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, Ortiz-Self, Rude, Steele and Stonier.

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

Minority Report: Do not pass. Signed by 2 members: Representatives Walsh, Assistant Ranking Minority Member; McEntire.

Staff: Megan Wargacki (786-7194).

Background:

Code of Professional Conduct.

The Professional Educator Standards Board (PESB) is a statutorily created 12-member board whose duties include establishment and enforcement of rules determining eligibility for and certification of professional educators, such as teachers, administrators, and educational staff associates working in public schools. The Superintendent of Public Instruction (SPI) is the administrator of these such rules and has the power to issue and revoke certificates in accordance with the PESB rules.

The Code of Professional Conduct are the PESB's rules for reprimand, suspension, and revocation actions related to certificated professional educators. A reprimand orders the certificate holder not to continue or repeat the unprofessional conduct or lack of good moral character or personal fitness that the certificate holder was found to have committed. The SPI may issue a reprimand order whenever the SPI determines that the certificated professional educator has:

- admitted the commission of an act of unprofessional conduct or lack of good moral character or personal fitness and has presented to the SPI an agreed order to not continue or repeat the conduct described in the findings of fact;
- committed an act of unprofessional conduct but the evidence is probably insufficient to meet the clear and convincing proof standard for suspension or revocation; or
- committed an act of unprofessional conduct but the violation and the consequence were not serious and the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a reprimand.

If a reprimand order is issued, the certificated professional educator may appeal to an informal review committee or to an Administrative Law Judge. Final disciplinary actions remain on a professional educator's record permanently and are available through public disclosure requests.

Report on Educator Professional Practice in Washington.

In 2020 as directed by legislation enacted in 2019, the Office of the Superintendent of Public Instruction and the PESB submitted a report to the Legislature regarding the effect that discipline issued against professional educator certificates has on the recruitment and retention of educators in Washington. The legislation specifically required the report to include a recommendation regarding whether the PESB should be authorized to establish a process for review and expungement of reprimands issued against educator certifications.

The report recommends that the PESB be provided the authority to "vacate," rather than "expunge" reprimands. The report indicates that there is no definition of "expunge" within the Code of Professional Conduct, but that Washington courts use this term to mean the destruction of a record or file in such a way as to make it permanently irretrievable. The report instead suggests creation of a process to "vacate," meaning cancel or render null and void, reprimands. The report also recommends considering conversion of a reprimand to a letter of concern, or vacating a reprimand, after certain conditions are met or a certain amount of time had passed.

The report also recommended the establishment of a non-disciplinary letter of concern that could be issued in lieu of a reprimand.

Summary of Substitute Bill:

By December 1, 2023, the Professional Educator Standards Board (PESB) must adopt rules providing for reviewing and vacating reprimands issued to certificated professional educators.

Beginning within 90 days of the adoption of the PESB rules, the Superintendent of Public Instruction (SPI) must make reasonable efforts to contact each certificated professional educator who was issued a reprimand between January 1, 2007, and the date of adoption of the rules, and whose reprimand is eligible for vacating under the rules. By July 1, 2025, the SPI must report to the Legislature with an update on the progress made towards meeting the contact requirement and on the number of certificated professional educators who have had a reprimand vacated under the PESB rules.

Substitute Bill Compared to Original Bill:

Compared to the original bill, the substitute bill:

- removes the requirement that the Professional Educator Standards Board (PESB) convene a workgroup to make recommendations to the PESB for reviewing and vacating reprimands issued to certificated professional educators;
- directs the Superintendent of Public Instruction (SPI) to make reasonable efforts to contact certificated professional educators who were issued a reprimand during a specified time period and whose reprimand is eligible for vacating under the PESB rules; and
- requires the SPI to report to the Legislature, by July 1, 2025, with an update on the progress made towards contacting certificated professional educators and on the number of certificated professional educators who had a reprimand vacated under the PESB rules.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 2, 2022.

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

Staff Summary of Public Testimony:

(In support) Legislation enacted in 2019 authorized the Professional Educator Standards Board (PESB) and the Office of Professional Practice at the Office of the Superintendent of Public Instruction to convene a workgroup to streamline the administration of the discipline system and to identify alternative forms of discipline, as well as asking for a recommendation about whether the PESB should be authorized to establish a process for review and expungement of reprimands issued against educator certificates. Many of the recommendations were subsequently adopted by the PESB.

The 2020 report of the workgroup also recommended that the PESB be given the authority to vacate reprimands. Currently, no process exists for vacating a reprimand on an educator certificate. Some educators make poor judgments that result in a reprimand on their educator certificate. Regardless of their excellence as an educator, and even once an educator addresses the underlying issues that resulted in disciplinary action, they have a permanent mark on their record that may limit career opportunities and advancement.

This bill provides a much needed second chance for educators who have undertaken corrective action, especially at a time with the education system is facing a staff shortage. There is value in pursuing appropriate solutions for deserving persons, even if only one person is affected. Appropriate solutions should be applied retrospectively, in addition to prospectively. Mercy should be applied once justice has been met. The workgroup described in this bill should have the flexibility to define the best path forward to inform effective policy, so the bill should allow, rather than require, the PESB to adopt rules.

(Opposed) None.

Persons Testifying: Representative Paul Harris, prime sponsor; Laurie Weidner, Professional Educator Standards Board; Robert Shadle; and Nasue Nishida, Washington Education Association.

Persons Signed In To Testify But Not Testifying: None.