
Education Committee

HB 1239

Brief Description: Establishing a simple and uniform system for complaints related to, and instituting a code of educator ethics for, conduct within or involving public elementary and secondary schools.

Sponsors: Representatives Santos, Kloba, Morgan, Ramel and Pollet.

Brief Summary of Bill

- Directs the design and establishment of a simple, uniform, and easily accessible state-level process for the receipt and classification of complaints involving the elementary and secondary education system.
- Requires school districts and educational service districts to post the complaint process on their websites and otherwise make available information about the complaint process.
- Requires the Professional Educator Standards Board and the Paraeducator Board to report to the Legislature with recommendations related to a code of educator ethics.
- Changes the defense for use of force on children with respect to teachers and other school staff.

Hearing Date: 1/23/23

Staff: Megan Wargacki (786-7194).

Background:

Complaint Processes.

There are several complaint and investigation processes related to public school employees and

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students, for example: the special education community complaint process; discrimination complaint processes; the process for making complaints related to student harassment, intimidation, and bullying; and the complaint and investigation provisions related to revocation or suspension of educator certificates, such as for sexual misconduct towards a child.

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 the certification of teachers, administrators, and educational staff associates working in elementary and secondary schools. The PESB has established a Code of Professional Conduct to protect the health, safety, and general welfare of students, to assure the citizens that education practitioners are accountable for acts of unprofessional conduct, and to define and provide notice to certificated educators of the acts of unprofessional conduct for which they are accountable.

Use of Force on Children.

The stated policy of the state is to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. The criminal code specifies that the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child.

The criminal code also specifies that any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The education code prohibits the use of restraint or isolation to control a student participating in school activities, except when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm. "Likelihood of serious harm" generally means there is evidence of substantial risk that the student will inflict physical harm upon self, another, or the property of others.

When a school staff member uses restraint or isolation on a student participating in school activities, among other things:

- The staff member must discontinue the restraint or isolation as soon as the likelihood of serious harm has dissipated.
- The staff member must inform the building administrator as soon as possible and submit a written report of the incident to the district administrator within two business days.
- The principal must make a reasonable effort to inform the student's parent or guardian within 24 hours of the incident and must send written notification to the parent or guardian as soon as possible, but no later than 5 business days, after the incident.
- The school must review the incident with the student and the parent or guardian to address the behavior that precipitated the incident and the appropriateness of the response, and review the incident with the staff member to discuss whether the proper procedures were followed and what support is needed for the staff member to help the student avoid similar

situations.

Administrative rules of the Superintendent of Public Instruction prohibit school staff to use corporal punishment, including any act that willfully inflicts or willfully causes the infliction of physical pain, on a student. Corporal punishment does not include: the use of reasonable physical force to maintain order or to prevent a student from harming themselves, other students, school personnel, or property; physical discomfort caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student; or physical exertion shared by all students in a teacher-directed class activity.

Summary of Bill:

Uniform Complaint Process.

By July 1, 2024, the Superintendent of Public Instruction (SPI) must establish a simple, uniform, and easily accessible process for the receipt and classification of complaints involving the elementary and secondary education system. This process is intended to apply to complaints that were not resolved by informal discussions between the complainant and the individual who is the subject of the complaint.

The SPI and the Office of the Education Ombuds (OEO) must collaborate to design the complaint process. The following entities must be consulted during research and development: The SPI's equity and civil rights office; the SPI's office of professional practices; the SPI's office of Native education; the SPI special education advisory council, an association of educational service districts, a state association of parents, the Washington State School Directors' Association, a state association of superintendents, a state association of principals, state associations of public school employees, the Washington State Office of Equity, the state ethnic commissions, and the Washington State Human Rights Commission.

The process must connect to all other complaint and investigation processes related to public school employees. To facilitate resolution at the lowest level possible, the process must classify each complaint and direct each complainant to the appropriate individual or entity for resolution.

The process must include marking each complaint with a unique identifier. Complaints may be submitted by any individual who has knowledge of a violation of federal, state, or local laws, policies and procedures, or codes of conduct related to public elementary and secondary education committed by an employee or contractor, student, parent or legal guardian of a student, or member of the public. "Employee or contractor" means employees and contractors of the state education agencies, educational service districts, public schools, the state school for the blind, and the Center for Deaf and Hard of Hearing Youth.

The OEO must have access to each complaint and may contact any parties to a complaint to facilitate resolution of a complaint. The OEO must also post on its website the complaint process.

Beginning with the 2024-25 school year, school districts and educational service districts must post on their websites the complaint process and must distribute information about the complaint process in existing materials that are shared with students and their families, and with employees and contractors.

Code of Educator Conduct.

By November 1, 2023, the Professional Educator Standards Board and the Paraeducator Board (boards) must jointly report to the Legislature with any recommendations for the Legislature to take related to a code of educator ethics or any planned activities by either board related to adopting and enforcing a code of educator ethics. In this context, "educator" refers to certificated administrative staff, certificated instructional staff, and paraeducators.

Before making its recommendations, these boards must review, with interested parties, the National Association of State Directors of Teacher Education and Certification's model code of ethics for educators and issues related to the enforcement of a code of educator ethics.

If the boards recommend legislative action, then the recommendations must advise the Legislature whether the model code of ethics for educators should be adopted or adapted, or whether a code of educator ethics unique to Washington should be developed.

Use of Force on Children.

The defense for teachers that use of force on a child is not unlawful when it is reasonable and moderate and inflicted for purposes of restraining or correcting the child is replaced with a defense that use of force on a child is not unlawful if it complies with requirements for school staff use of restraint and isolation including that the use of force be reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

Appropriation: None.

Fiscal Note: Available.

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