

# SENATE BILL REPORT

## SB 5237

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As of January 16, 2023

**Title:** An act relating to establishing complaint procedures to address noncompliance with certain state education laws.

**Brief Description:** Establishing complaint procedures to address noncompliance with certain state education laws.

**Sponsors:** Senators Wilson, C., Wellman and Hunt.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/16/23.

**Brief Summary of Bill**

- Directs the Office of the Superintendent of Public Instruction (OSPI) to establish procedures to investigate and address complaints alleging noncompliance with state laws concerning civil rights; harassment, intimidation, and bullying; certain curriculum requirements; the use of restraint or isolation on a student; and student discipline.
- Requires school districts to submit compliance action plans if OSPI finds noncompliance with any of these state laws and allows OSPI to impose certain consequences.
- Specifies that violation of a school district director's oath of office includes willful or negligent noncompliance with these state laws and may be the basis for a recall of the elected official.

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

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

**Background:** Existing Complaint Procedures. Current state law includes certain complaint

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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 part of the legislation nor does it constitute a statement of legislative intent.*

procedures regarding issues related to:

- school safety and security staff;
- instructional materials used by school districts;
- physical abuse or sexual misconduct by a certificated employee;
- harassment, intimidation, or bullying; and
- discrimination.

Other state and federal agencies also address discrimination complaints. Local school district policies and procedures may also include complaint procedures concerning staff or programs.

School Board Member's Oath of Office and Recall. Every school director must take an oath or affirmation to support the federal and state constitutions and faithfully discharge the duties of the office according to the best of their ability.

A voter may demand the recall of an elected public official by preparing a written charge that the official has committed an act of malfeasance, an act of malfeasance while in office, violated the oath of the office, or has been guilty of any two or more acts specified in the Constitution as grounds for a recall.

**Summary of Bill:** Complaint Procedures. The Office of the Superintendent of Public Instruction (OSPI) must establish procedures to investigate two types of complaints alleging noncompliance with state law:

- individual complaints, which impacts an individual student and involves an issue that has not been resolved by existing complaint procedures; and
- broad complaints, which impacts an entire student body or group of students.

The purpose of the complaint procedures is to secure equitable resolutions to justifiable complaints related to alleged noncompliance with state laws concerning:

- civil rights including discrimination and sexual harassment;
- harassment, intimidation, and bullying;
- curriculum requirements, including comprehensive sexual health education and tribal history, and the policies and procedures related to the selection or deletion of instructional materials;
- the use of restraint or isolation on a student; or
- student discipline.

Anyone may file a complaint with OSPI against a local superintendent, school board, or school board member. Before a person may file an individual complaint, the person must exhaust existing complaint procedures established under state law and local policy and procedure.

Upon receipt of the complaint, OSPI must conduct a prompt and thorough investigation into the allegations in the complaint.

Compliance Action Plans. If OSPI finds noncompliance with state law, the local superintendent and school board must adopt and submit a compliance action plan to OSPI. The plan must include:

- a description of the changes in existing policies, structures, agreements, processes, and practices needed to come into compliance with state law; and
- the timeline for coming into compliance.

Compliance action plans must be developed in collaboration with OSPI, school staff, parents, unions, students, impacted communities, and other representatives of the local community. Before adopting and submitting a plan, the local school board must conduct a public hearing to allow public comment. OSPI must provide assistance and publish guidelines as needed, and plans must be developed in accordance with state collective bargaining laws.

Consequences for Willful Noncompliance with State Law. If OSPI finds willful noncompliance with state law, the school district must conduct at least two additional public hearings, and OSPI may impose any of the following consequences:

- require the school district to adopt or readopt policies and procedures to come into compliance;
- find that a superintendent committed any act of unprofessional conduct and may be held accountable under rules adopted by the Professional Educator Standards Board; and
- withhold up to 20 percent of state funds for the basic education allocation, with prior written notice, and redirect those funds to support the compliance action plan.

These complaint procedures do not change any existing authority OSPI has to enforce compliance with state law including health and safety requirements.

OSPI Rules. OSPI must adopt rules regarding the complaint procedures, timelines, compliance action plans, and consequences. OSPI may adopt rules to allow for an expedited process when the complaint relates to an immediate health or safety concern.

School Board Member's Oath of Office and Recall. In addition to supporting the federal and state constitutions, the school board member's oath or affirmation must include that they support the laws of the state of Washington.

The definition for violation of the oath of office, as it applies to the recall of an elected official, is amended to include a school director's willful or negligent noncompliance with state law.

"Willful" means nonaccidental action or inaction by a local superintendent, school board, or school board member that they knew or reasonably should have known would result in noncompliance with state law. "Negligent" means the failure to exercise ordinary care, and

they knew or reasonably should have known that failure to exercise ordinary care would result in noncompliance with state law.

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2023.

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

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