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**HOUSE BILL 1239**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Santos, Kloba, Morgan, Ramel, and Pollet

Read first time 01/11/23. Referred to Committee on Education.

1 AN ACT Relating to establishing a simple and uniform system for  
2 complaints related to, and instituting a code of educator ethics for,  
3 conduct within or involving public elementary and secondary schools;  
4 amending RCW 9A.16.100; adding a new section to chapter 28A.300 RCW;  
5 adding a new section to chapter 43.06B RCW; adding a new section to  
6 chapter 28A.400 RCW; creating new sections; and providing expiration  
7 dates.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300  
10 RCW to read as follows:

11 (1) By July 1, 2024, and in compliance with this section, the  
12 superintendent of public instruction shall establish a simple,  
13 uniform, and easily accessible process for the receipt and  
14 classification of complaints involving the elementary and secondary  
15 education system. This process is intended to apply to complaints  
16 that were not resolved by informal discussions between the  
17 complainant and the individual who is the subject of the complaint.

18 (2) Complaints may be submitted by any individual who has  
19 knowledge of a violation of federal, state, or local laws, policies  
20 and procedures, or codes of conduct related to public elementary and

1 secondary education committed by an employee or contractor, student,  
2 parent or legal guardian of a student, or member of the public.

3 (3) In order to facilitate resolution at the lowest level  
4 possible, the process must classify each complaint and direct each  
5 complainant to the appropriate individual or entity for resolution.

6 (4) Complaint process materials must include instructions for  
7 filing the complaint and information related to the procedural  
8 deadlines for elevating the complaint to the next level.

9 (5) The office of the education ombuds must have access to each  
10 complaint.

11 (6) The process must include marking each complaint with a unique  
12 identifier.

13 (7) The process must be designed to discourage frivolous  
14 complaints and complaints made in bad faith.

15 (8) For the purposes of this section, "employee or contractor"  
16 means employees and contractors of the state education agencies,  
17 educational service districts, public schools as defined in RCW  
18 28A.150.010, the state school for the blind, and the center for deaf  
19 and hard of hearing youth.

20 NEW SECTION. **Sec. 2.** (1) The superintendent of public  
21 instruction and the office of the education ombuds shall collaborate  
22 to design the complaint process that must be established under  
23 section 1 of this act.

24 (2) The following entities must be consulted during research and  
25 development: The superintendent's equity and civil rights office; the  
26 superintendent's office of professional practices; the  
27 superintendent's office of Native education; the superintendent's  
28 special education advisory council, an association of educational  
29 service districts, a state association of parents, the Washington  
30 state school directors' association, a state association of  
31 superintendents, a state association of principals, state  
32 associations of public school employees, the Washington state office  
33 of equity, the state ethnic commissions, and the Washington state  
34 human rights commission. The office of the superintendent of public  
35 instruction and the office of the education ombuds may consult with  
36 other relevant organizations.

37 (3) The process must connect to all other complaint and  
38 investigation processes related to public school employees, for  
39 example the special education community complaint process,

1 discrimination complaint processes, the process for making complaints  
2 related to harassment, intimidation, and bullying, and the complaint  
3 and investigation provisions under RCW 28A.410.090 and 28A.410.095.

4 (4) This section expires June 30, 2024.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.06B  
6 RCW to read as follows:

7 (1) The office of the education ombuds shall post on its website  
8 the complaint process established under section 1 of this act.

9 (2) The office of the education ombuds may contact any parties to  
10 a complaint to facilitate resolution of a complaint.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.400  
12 RCW to read as follows:

13 Beginning with the 2024-25 school year, school districts and  
14 educational service districts must post on their websites the  
15 complaint process established under section 1 of this act and must  
16 distribute information about the complaint process in existing  
17 materials that are shared with students and their families, and with  
18 employees and contractors, such as welcome packets, orientation  
19 guides, and newsletters.

20 NEW SECTION. **Sec. 5.** (1) By November 1, 2023, and in accordance  
21 with RCW 43.01.036, the Washington professional educator standards  
22 board and the paraeducator board shall jointly report to the  
23 appropriate committees of the legislature with any recommendations  
24 for the legislature to take related to a code of educator ethics or  
25 any planned activities by either board related to adopting and  
26 enforcing a code of educator ethics.

27 (2) Before making its recommendations, these boards must review  
28 the following topics with interested parties:

29 (a) The national association of state directors of teacher  
30 education and certification's model code of ethics for educators; and

31 (b) Issues related to the enforcement of a code of educator  
32 ethics.

33 (3) If the boards recommend legislative action, then the  
34 recommendations must advise the legislature whether the model code of  
35 ethics for educators should be adopted or adapted, or whether a code  
36 of educator ethics unique to Washington should be developed.

1 (4) As used in this section, "educator" refers to certificated  
2 administrative staff, certificated instructional staff, and  
3 paraeducators.

4 (5) This section expires June 30, 2024.

5 **Sec. 6.** RCW 9A.16.100 and 1986 c 149 s 1 are each amended to  
6 read as follows:

7 (1) It is the policy of this state to protect children from  
8 assault and abuse and to encourage parents(~~(, teachers,)~~) and their  
9 authorized agents to use methods of correction and restraint of  
10 children that are not dangerous to the children. However, the  
11 physical discipline of a child is not unlawful when it is reasonable  
12 and moderate and is inflicted by a parent(~~(, teacher,)~~) or guardian  
13 for purposes of restraining or correcting the child. Any use of force  
14 on a child by any other person is unlawful unless it ~~((is))~~ either:  
15 (a) Is reasonable and moderate and is authorized in advance by the  
16 child's parent or guardian for purposes of restraining or correcting  
17 the child; or (b) complies with RCW 28A.600.485 including that it is  
18 reasonably necessary to control spontaneous behavior that poses an  
19 imminent likelihood of serious harm.

20 (2) The following actions are presumed unreasonable when used to  
21 correct or restrain a child: ~~((+1))~~ (a) Throwing, kicking, burning,  
22 or cutting a child; ~~((+2))~~ (b) striking a child with a closed fist;  
23 ~~((+3))~~ (c) shaking a child under age three; ~~((+4))~~ (d) interfering  
24 with a child's breathing; ~~((+5))~~ (e) threatening a child with a  
25 deadly weapon; or ~~((+6))~~ (f) doing any other act that is likely to  
26 cause and which does cause bodily harm greater than transient pain or  
27 minor temporary marks. The age, size, and condition of the child and  
28 the location of the injury shall be considered when determining  
29 whether the bodily harm is reasonable or moderate. This list is  
30 illustrative of unreasonable actions and is not intended to be  
31 exclusive.

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