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**SUBSTITUTE HOUSE BILL 1239**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Education (originally sponsored by Representatives Santos, Kloba, Morgan, Ramel, and Pollet)

READ FIRST TIME 02/09/23.

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 discussions between the complainant and the  
17 individual who is the subject of the complaint at the lowest level of  
18 dispute resolution. When the process is used by a complainant to  
19 submit an initial complaint, the process must redirect the complaint  
20 to the lowest appropriate level of dispute resolution.

1 (2) Complaints may be submitted by any individual who has first-  
2 hand knowledge of a violation of federal, state, or local laws,  
3 policies and procedures, or codes of conduct related to public  
4 elementary and secondary education committed by an employee or  
5 contractor, student, parent or legal guardian of a student, or member  
6 of the public.

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

10 (4) Complaint process materials must include instructions for  
11 filing the complaint and information related to the procedural  
12 deadlines for elevating the complaint to the next level.

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

15 (6) The process must include marking each complaint with a unique  
16 identifier.

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

19 (8) The establishment of a process as required in this section  
20 does not confer additional authority to the office of superintendent  
21 of public instruction to mitigate or oversee disputes.

22 (9) For the purposes of this section, "employee or contractor"  
23 means employees and contractors of the state education agencies,  
24 educational service districts, public schools as defined in RCW  
25 28A.150.010, the state school for the blind, and the center for deaf  
26 and hard of hearing youth.

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

31 (2) The following entities must be consulted during research and  
32 development: The superintendent's equity and civil rights office; the  
33 superintendent's office of professional practices; the  
34 superintendent's office of Native education; the superintendent's  
35 special education advisory council, an association of educational  
36 service districts, a state association of parents, the Washington  
37 state school directors' association, a state association of  
38 superintendents, a state association of principals, state  
39 associations of public school employees, the Washington state office

1 of equity, the state ethnic commissions, and the Washington state  
2 human rights commission. The office of the superintendent of public  
3 instruction and the office of the education ombuds may consult with  
4 other relevant organizations.

5 (3) The process must connect to all other complaint and  
6 investigation processes related to public school employees, for  
7 example the special education community complaint process,  
8 discrimination complaint processes, the process for making complaints  
9 related to harassment, intimidation, and bullying, and the complaint  
10 and investigation provisions under RCW 28A.410.090 and 28A.410.095.

11 (4) The office of the superintendent of public instruction and  
12 the office of the education ombuds must consider including data  
13 collection as an element of the complaint process design.

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

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

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

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

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

23 Beginning with the 2024-25 school year, school districts and  
24 educational service districts must post on their websites the  
25 complaint process established under section 1 of this act and must  
26 distribute information about the complaint process in existing  
27 materials that are shared with students and their families, and with  
28 employees and contractors, such as welcome packets, orientation  
29 guides, and newsletters.

30 NEW SECTION. **Sec. 5.** (1) By January 31, 2024, and in accordance  
31 with RCW 43.01.036, the Washington professional educator standards  
32 board and the paraeducator board shall jointly report to the  
33 appropriate committees of the legislature with any recommendations  
34 for the legislature to take related to a code of educator ethics or  
35 any planned activities by either board related to adopting and  
36 enforcing a code of educator ethics.

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

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

5 (b) Issues related to the enforcement of a code of educator  
6 ethics.

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

11 (4) As used in this section, "educator" refers to certificated  
12 administrative staff, certificated instructional staff, and  
13 paraeducators.

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

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

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

30 (2) The following actions are presumed unreasonable when used to  
31 correct or restrain a child: ~~((+1))~~ (a) Throwing, kicking, burning,  
32 or cutting a child; ~~((+2))~~ (b) striking a child with a closed fist;  
33 ~~((+3))~~ (c) shaking a child under age three; ~~((+4))~~ (d) interfering  
34 with a child's breathing; ~~((+5))~~ (e) threatening a child with a  
35 deadly weapon; or ~~((+6))~~ (f) doing any other act that is likely to  
36 cause and which does cause bodily harm greater than transient pain or  
37 minor temporary marks. The age, size, and condition of the child and  
38 the location of the injury shall be considered when determining  
39 whether the bodily harm is reasonable or moderate. This list is

1 illustrative of unreasonable actions and is not intended to be  
2 exclusive.

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