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**SECOND SUBSTITUTE HOUSE BILL 1239**

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**State of Washington 68th Legislature 2023 Regular Session**

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

AN ACT Relating to 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; amending RCW 9A.16.100; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 43.06B RCW; adding a new section to chapter 28A.400 RCW; creating new sections; and providing expiration dates.

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

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

(1) By July 1, 2024, and in compliance with this section, the superintendent of public instruction shall 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 discussions between the complainant and the individual who is the subject of the complaint at the lowest level of dispute resolution. When the process is used by a complainant to submit an initial complaint, the process must redirect the complaint to the lowest appropriate level of dispute resolution.

(2) Complaints may be submitted by any individual who has first-hand 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.

(3) In order 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.

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

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

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

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

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

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

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

(2) The following entities must be consulted during research and development: The superintendent's equity and civil rights office; the superintendent's office of professional practices; the superintendent's office of Native education; the superintendent's 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 office of the superintendent of public instruction and the office of the education ombuds may consult with other relevant organizations.

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

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

(5) This section expires June 30, 2024.

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

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

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

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

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

NEW SECTION. **Sec.**  (1) By January 31, 2024, and in accordance with RCW 43.01.036, the Washington professional educator standards board and the paraeducator board shall jointly report to the appropriate committees of 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.

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

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

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

(3) 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.

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

(5) This section expires June 30, 2024.

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

(1) It is the policy of this state 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. However, 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. Any use of force on a child by any other person is unlawful unless it ((~~is~~)) either: (a) Is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child; or (b) complies with RCW 28A.600.485 including that it is reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

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

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

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