

HOUSE BILL REPORT

SHB 1207

As Passed Legislature

Title: An act relating to preventing and responding to harassment, intimidation, bullying, and discrimination in schools by requiring distribution of related policies and complaint procedures, designation of a primary contact for compliance with nondiscrimination laws, and changing a prejudicial student discipline term.

Brief Description: Preventing and responding to harassment, intimidation, bullying, and discrimination in schools.

Sponsors: House Committee on Education (originally sponsored by Representatives Senn, Rude, Fey, Reed, Bergquist, Ramel, Doglio, Callan, Thai and Pollet).

Brief History:

Committee Activity:

Education: 1/19/23, 1/26/23 [DPS].

Floor Activity:

Passed House: 2/27/23, 60-36.

Senate Amended.

Passed Senate: 4/5/23, 28-20.

House Concurred.

Passed House: 4/13/23, 64-32.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires distribution of policies and a complaint procedure related to harassment, intimidation, bullying, and discrimination in public schools.
- Codifies requirements related to designation of a primary contact for compliance with nondiscrimination laws.
- Replaces the term "emergency expulsion" with "emergency removal" in state laws related to student discipline and permits certain students to request that their education record be revised to use the new term.

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.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; Bergquist, Callan, Eslick, Harris, McClintock, Ortiz-Self, Pollet, Stonier and Timmons.

Minority Report: Do not pass. Signed by 2 members: Representatives McEntire, Assistant Ranking Minority Member; Steele.

Minority Report: Without recommendation. Signed by 1 member: Representative Sandlin.

Staff: Megan Wargacki (786-7194).

Background:

Discrimination Prohibited.

Discrimination in Washington public schools on the basis of race; creed; religion; color; national origin; honorably discharged veteran or military status; sexual orientation including gender expression or identity; the presence of any sensory, mental, or physical disability; or the use of a trained guide dog or service animal by a person with a disability is prohibited. The Superintendent of Public Instruction (SPI) must develop rules and guidelines to eliminate discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

The rules of the SPI require each school district and charter school to:

- annually notify students, students' parents and guardians, and employees of the discrimination complaint procedure outlined in rule;
- include a nondiscrimination statement in publications made available to all students, parents, or employees; and
- include information about the sexual harassment policy and complaint procedure in any publication about the standards of conduct.

The Equity and Civil Rights Office at the Office of the Superintendent of Public Instruction has developed sample language that can be included in student and staff handbooks to meet these requirements.

The SPI has the power to enforce and obtain compliance with state laws and guidelines prohibiting discrimination by, among other things, instituting corrective action, withholding state funds, or terminating the offending program.

Primary Contacts for Antidiscrimination and for Anti-harassment, Intimidation, and

Bullying.

The rules of the SPI require each school district and governing board of a charter school to designate at least one employee who is responsible for monitoring and coordinating the district's or charter school's compliance with rules and guidelines related to eliminating unlawful discrimination in public schools. The designated employee is also responsible for ensuring that all complaints of discrimination are promptly investigated and resolved.

State statute requires each school district to designate a primary contact for the policy and procedure prohibiting harassment, intimidation, and bullying and a primary contact for policies and procedures relating to transgender students. These two primary contacts can be a single person. In addition to other duties required by law and the district policy, these primary contacts must ensure the implementation of the relevant policies and procedures, including receiving copies of formal and informal complaints. These primary contacts must communicate with each other and with the employee responsible for monitoring and coordinating compliance with nondiscrimination requirements.

Office of the Education Ombuds.

The Office of the Education Ombuds (OEO) was created within the Office of the Governor to provide information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary system. Beginning August 1, 2023, public schools must provide students and their parents with a description of OEO's services and its contact information at the time of initial enrollment or admission and either include a link on the school website or provide the information in existing materials that are shared annually with families, students, and school employees.

Emergency Expulsion of Students.

State statute requires the SPI to adopt rules related to student discipline that prescribe the substantive and procedural due process guarantees of students. The statute also specifies that emergency expulsions must end or be converted to another form of corrective action within 10 school days from the date of the emergency removal from school. In addition, the statute requires school districts to provide an opportunity for students to receive educational services while they are emergency expelled.

The rules of the SPI add that a student may be removed from their school placement when the school district has sufficient cause to believe that the student's presence poses either an immediate and continuing danger to other students or school personnel or an immediate and continuing threat of material and substantial disruption of the educational process.

Summary of Substitute Bill:

Model Student Handbook Language.

The Office of the Superintendent of Public Instruction (OSPI) must develop, and periodically update, model student handbook language that includes information about policies and complaint procedures related to discrimination, including sexual harassment

and addressing transgender students, and information about policies and complaint procedures related to harassment, intimidation, and bullying (HIB), as well as the overlap between the policies and complaint procedures. The model student handbook language must:

- include a description of the services available through the Office of the Education Ombuds (OEO) and the contact information for the OEO;
- be aligned with existing requirements in state law including laws related to discrimination, sexual harassment, HIB, and the OEO;
- be jointly developed with the Washington State School Directors' Association, and in consultation with the OEO; and
- be posted publicly on the OSPI's website beginning July 1, 2024.

Beginning with the 2024-25 school year, each school district must include the model student handbook language developed by the OSPI in any student, parent, employee, and volunteer handbook that it or one of its schools publishes and on the school district's website, and any schools' websites. If a school district neither publishes a handbook nor maintains a website, it must provide the model student handbook language to each student, parent, employee, and volunteer at least annually.

The model student handbook language may be used to satisfy existing requirements related to informing students, parents, and guardians about the sexual harassment policy; the HIB policy; the transgender students policy; and the OEO.

Primary Contact Regarding Compliance with State Laws Prohibiting Discrimination.

Each school district and charter school must designate one person in the school district as the primary contact regarding compliance with state laws prohibiting discrimination in public schools. In addition to any other duties required by law and the school policy, the primary contact must: (1) ensure that complaints of discrimination communicated to the school are promptly investigated and resolved; and (2) communicate with the primary contact regarding the school district's or charter school's policy and procedure prohibiting HIB and the primary contact regarding the school district's or charter school's policies and procedures related to transgender students.

A school district's primary contact regarding nondiscrimination laws may serve as the primary contact regarding the HIB policy and the primary contact regarding the transgender students policy, and vice versa.

Requiring Use of the Term "Emergency Removal," Instead of "Emergency Expulsion."

Throughout the school code, the term "emergency expulsion" is changed to "emergency removal."

The OSPI must publish a bulletin to notify school districts and public schools that the term "emergency removal" must be used instead of the term "emergency expulsion" in the context of student discipline. The Legislature's intent as described in the bill must be

included in the bulletin. The bulletin must also include guidance about student discipline data collection and historical data comparison. A student who was emergency expelled between September 1, 2019, and the effective date of the act may request that any reference to "emergency expulsion" in the student's education record be revised to "emergency removal."

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Communities have concerns about what school discipline policy is and what it is meant to do. The intent of the bill is to make it clear for families and students so there is less conflict and confusion. An emergency expulsion requires a student to go home. The student might be expelled or suspended, or they might be welcomed back to school. The community thinks this student was expelled, but really the student was removed from a dangerous or confusing situation so that the school could evaluate what happened. Emergency expulsion sometimes impacts students with disabilities who might be having a behavior issue and need to be removed for safety reasons but are not later expelled. Having an emergency expulsion on a student's school record, puts expulsion on the student's mind and on the minds of the teacher and other students. This bill makes a language clarification that resonates with people.

The bill will improve access for students, families, and staff to information about their rights and how to address concerns about discrimination and harassment at school. This vital info is often difficult to find or missing from handbooks and websites, leaving families unsure about how to address their concerns and about schools' obligations to respond to their concerns. Harassment, intimidation, bullying, and discrimination are governed by distinct laws. But these laws overlap when a student is experiencing discriminatory harassment.

The bill replaces a prejudicial student discipline term with one that more accurately reflects the occasional need to remove a student when they pose a danger or threat of substantial disruption. Building leaders do not take the decision to exercise emergency expulsion lightly. Although school districts are required to continue to provide educational services and convert to another form of disciplinary action, the current term has been problematic for years. The term "emergency expulsion" is unnecessarily aggressive and cannot be changed because it is a legal term. Families impacted by their student's emergency expulsion respond by appealing, requesting that the term be removed from the record, and expressing how the term makes them feel. Expulsion means to force out or take away rights and

membership. This term is inappropriate because, even when they have unacceptable conduct, students need love and support and to hold themselves accountable without the label of expulsion on their permanent record. The term "emergency removal" is more accurate and does not limit the ability of building leaders to take appropriate action. Changing the term "emergency expulsion" to "emergency removal" is closer to the law's intent and will provide an opportunity to better educate schools on the proper implementation of this process.

(Opposed) None.

Persons Testifying: Representative Tana Senn, prime sponsor; Sarah Albertson, Office of Superintendent of Public Instruction; and John Harrison, Bellevue School District.

Persons Signed In To Testify But Not Testifying: None.