
SENATE BILL 5237

State of Washington

68th Legislature

2023 Regular Session

By Senators C. Wilson, Wellman, and Hunt

Read first time 01/10/23. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to establishing complaint procedures to address
2 noncompliance with certain state education laws; amending RCW
3 28A.343.360 and 29A.56.110; adding new sections to chapter 28A.300
4 RCW; adding a new section to chapter 28A.410 RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature acknowledges and
8 supports the importance of local control for school district
9 governance. Local school boards and superintendents are in the best
10 position to effectively and quickly respond to the needs of their
11 communities. However, local control is not absolute and must also be
12 balanced against the need to ensure all students have access to a
13 healthy, safe learning environment that celebrates and protects their
14 diversity and civil rights. There are certain areas of state law
15 which are critically important to ensuring every student has equal
16 access to this type of supportive and responsive learning
17 environment.

18 (2) The legislature is aware that some school districts are
19 intentionally not complying with certain requirements in state law
20 and that this noncompliance is negatively impacting students. School
21 board members and superintendents are uniquely responsible for

1 ensuring that their school district is in compliance with those state
2 laws and members of the school district should have a mechanism to
3 hold those individuals accountable if state laws are not followed.

4 (3) The legislature therefore intends to establish complaint
5 procedures for parents and community members to address noncompliance
6 with certain state laws that are necessary for protecting the health,
7 safety, and civil rights of students in order to ensure every student
8 has access to a positive learning environment.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300
10 RCW to read as follows:

11 The definitions in this section apply throughout sections 3
12 through 6 of this act and RCW 29A.56.110 unless the context clearly
13 requires otherwise.

14 (1) "Broad complaint" means a complaint that impacts an entire
15 student body or group of students.

16 (2) "Individual complaint" means a complaint that impacts an
17 individual student and involves an issue that has not been resolved
18 by existing complaint procedures.

19 (3) "Negligent" means the failure to exercise ordinary care by a
20 local superintendent, a local school district board of directors, or
21 a member of a board of directors and they knew or reasonably should
22 have known that the failure to exercise ordinary care would result in
23 noncompliance with state law as defined in this section.

24 (4) "Noncompliance with state law" means action or inaction by a
25 local superintendent, a local school district board of directors, or
26 a member of a board of directors that results in noncompliance with
27 state laws concerning:

28 (a) Civil rights including discrimination as described in RCW
29 28A.640.010 and 28A.642.010 and "sexual harassment" as defined in RCW
30 28A.640.020;

31 (b) "Harassment, intimidation, and bullying" as defined in RCW
32 28A.600.477;

33 (c) Curriculum requirements as described in RCW 28A.150.230,
34 28A.300.475, and 28A.320.170, and the policies and procedures related
35 to the selection or deletion of instructional materials as described
36 in RCW 28A.320.230;

37 (d) The use of restraint or isolation on a student as described
38 in RCW 28A.600.485; or

39 (e) Student discipline as described in chapter 28A.600 RCW.

1 (5) "Willful" means nonaccidental action or inaction by a local
2 superintendent, a local school district board of directors, or a
3 member of a board of directors that they knew or reasonably should
4 have known would result in noncompliance with state law as defined in
5 this section.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300
7 RCW to read as follows:

8 (1) The office of the superintendent of public instruction must
9 establish procedures to investigate and address two types of
10 complaints alleging noncompliance with state law:

- 11 (a) Individual complaints; and
- 12 (b) Broad complaints.

13 (2) The purpose of the complaint procedures is to secure
14 equitable resolutions to justifiable complaints relating to alleged
15 noncompliance with the state laws listed in section 2(4) of this act.

16 (3)(a) Anyone may file an individual or broad complaint with the
17 office of the superintendent of public instruction alleging
18 noncompliance with a state law listed in section 2(4) of this act.

19 (b) Individual and broad complaints may be filed against a local
20 superintendent, a local school district board of directors, or a
21 member of a board of directors.

22 (c) Before a person may file an individual complaint with the
23 office of the superintendent of public instruction, the person must
24 exhaust existing complaint procedures established under state law
25 including but not limited to RCW 28A.320.124, 28A.320.230,
26 28A.410.090, 28A.600.477, 28A.640.020, and 28A.642.030, and local
27 policy and procedure.

28 (4)(a) The office of the superintendent of public instruction
29 must adopt rules regarding the complaint procedures, timelines,
30 compliance action plans, and consequences established under this
31 section and sections 4 and 5 of this act.

32 (b) The office of the superintendent of public instruction may
33 adopt rules to allow for an expedited process when the complaint
34 relates to an immediate health or safety concern.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.300
36 RCW to read as follows:

1 (1) Upon receipt of the complaint, the office of the
2 superintendent of public instruction must conduct a prompt and
3 thorough investigation into the allegations in the complaint.

4 (2) (a) If the office of the superintendent of public instruction
5 finds noncompliance with state law, the local district superintendent
6 and local school district board of directors must adopt and submit a
7 compliance action plan to the office of the superintendent of public
8 instruction. Unless otherwise required by subsection (4) of this
9 section, the plan must be submitted under a timeline as required by
10 the office of the superintendent of public instruction.

11 (b) A compliance action plan must be developed in collaboration
12 with the office of the superintendent of public instruction,
13 administrators, teachers, and other staff, parents, unions
14 representing any employees within the school district, students,
15 impacted communities, and other representatives of the local
16 community.

17 (c) The office of the superintendent of public instruction must
18 provide a school district with assistance in developing its plan and
19 must develop and publish guidelines for the development of compliance
20 action plans as needed.

21 (d) Before adopting and submitting a compliance action plan to
22 the office of the superintendent of public instruction, the local
23 school board must conduct a public hearing to allow for public
24 comment on the proposed compliance action plan.

25 (3) A compliance action plan must include the following:

26 (a) A description of the changes in the school district's or
27 school's existing policies, structures, agreements, processes, and
28 practices needed to come into compliance with state law; and

29 (b) The timeline for coming into compliance with state law.

30 (4) Compliance action plans must be developed in accordance with
31 chapters 41.56 and 41.59 RCW where applicable.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.300
33 RCW to read as follows:

34 (1) If the office of the superintendent of public instruction
35 investigates a complaint under this act and finds willful
36 noncompliance with state law, the school district must conduct at
37 least two public hearings in addition to the public hearing under
38 section 4(2)(d) of this act:

1 (a) One public hearing must take public comment on the willful
2 noncompliance with state law and the actions the public thinks are
3 needed to come into compliance;

4 (b) One public hearing must present the progress on the
5 compliance action plan after it has been submitted to the office of
6 the superintendent of public instruction and take public comment on
7 this progress; and

8 (c) Additional public hearings with public comment must be
9 conducted every six months until the office of the superintendent of
10 public instruction finds that the school district has come into
11 compliance with state law.

12 (2) If the office of the superintendent of public instruction
13 finds willful noncompliance with state law, the office of the
14 superintendent of public instruction may impose any of the following
15 consequences:

16 (a) Require the school district to adopt or readopt policies and
17 procedures to come into compliance with state law;

18 (b) Find that a superintendent committed an act of unprofessional
19 conduct under section 6 of this act and may be held accountable for
20 such conduct under rules established under section 6 of this act; and

21 (c) Withhold up to 20 percent of state funds for the basic
22 education allocation and redirect these funds to support the
23 compliance action plan required in section 4 of this act until the
24 office of the superintendent of public instruction finds that the
25 school district has come into compliance with state law. Written
26 notice of the intent to withhold and redirect state funds, with
27 reasons stated for this action, must be made to the school district
28 by the office of the superintendent of public instruction before any
29 portion of the state allocation is withheld and redirected.

30 (3) Sections 3 and 4 of this act and this section do not change
31 any existing authority the office of the superintendent of public
32 instruction has to enforce compliance with state law including health
33 and safety requirements.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.410
35 RCW to read as follows:

36 The professional educator standards board must adopt rules that
37 makes a superintendent's willful noncompliance with state law an act
38 of unprofessional conduct and provides that a superintendent, whether
39 certificated or not, may be held accountable for such conduct under

1 rules established under this section. It is a defense if the
2 superintendent can show that they were actively attempting to bring
3 the school district into compliance with state law.

4 **Sec. 7.** RCW 28A.343.360 and 1990 c 33 s 314 are each amended to
5 read as follows:

6 Every person elected or appointed to the office of school
7 director, before entering upon the discharge of the duties thereof,
8 shall take an oath or affirmation to support the Constitution of the
9 United States and the state of Washington and the laws of the state
10 of Washington and to faithfully discharge the duties of the office
11 according to the best of his or her ability. In case any official has
12 a written appointment or commission, the official's oath or
13 affirmation shall be endorsed thereon and sworn to before any officer
14 authorized to administer oaths. School officials are hereby
15 authorized to administer all oaths or affirmations pertaining to
16 their respective offices without charge or fee. All oaths of office,
17 when properly made, shall be filed with the county auditor. Every
18 person elected to the office of school director shall begin his or
19 her term of office at the first official meeting of the board of
20 directors following certification of the election results.

21 **Sec. 8.** RCW 29A.56.110 and 2003 c 111 s 1407 are each amended to
22 read as follows:

23 Whenever any legal voter of the state or of any political
24 subdivision thereof, either individually or on behalf of an
25 organization, desires to demand the recall and discharge of any
26 elective public officer of the state or of such political
27 subdivision, as the case may be, under the provisions of sections 33
28 and 34 of Article 1 of the Constitution, the voter shall prepare a
29 typewritten charge, reciting that such officer, naming him or her and
30 giving the title of the office, has committed an act or acts of
31 malfeasance, or an act or acts of misfeasance while in office, or has
32 violated the oath of office, or has been guilty of any two or more of
33 the acts specified in the Constitution as grounds for recall. The
34 charge shall state the act or acts complained of in concise language,
35 give a detailed description including the approximate date, location,
36 and nature of each act complained of, be signed by the person or
37 persons making the charge, give their respective post office
38 addresses, and be verified under oath that the person or persons

1 believe the charge or charges to be true and have knowledge of the
2 alleged facts upon which the stated grounds for recall are based.

3 For the purposes of this chapter:

4 (1) "Misfeasance" or "malfeasance" in office means any wrongful
5 conduct that affects, interrupts, or interferes with the performance
6 of official duty;

7 (a) Additionally, "misfeasance" in office means the performance
8 of a duty in an improper manner; and

9 (b) Additionally, "malfeasance" in office means the commission of
10 an unlawful act;

11 (2) "Violation of the oath of office" means the neglect or
12 knowing failure by an elective public officer to perform faithfully a
13 duty imposed by law. For school district directors, violation of the
14 oath of office includes willful or negligent noncompliance with state
15 law as defined in section 2 of this act.

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