
HOUSE BILL 2941

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By Representatives Short, Klippert, McCabe, Griffey, Manweller, Dent, Johnson, Buys, Shea, Wilcox, Van Werven, Taylor, Hayes, Hargrove, Schmick, Muri, and Magendanz

Read first time 01/29/16. Referred to Committee on Judiciary.

1 AN ACT Relating to privacy and sex-specific use of school
2 bathrooms and athletic facilities; and amending RCW 28A.640.020.

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

4 **Sec. 1.** RCW 28A.640.020 and 1994 c 213 s 1 are each amended to
5 read as follows:

6 (1) The superintendent of public instruction shall develop
7 (~~regulations~~) rules and guidelines to eliminate sex discrimination
8 as it applies to public school employment, counseling and guidance
9 services to students, recreational and athletic activities for
10 students, access to course offerings, and in textbooks and
11 instructional materials used by students.

12 (a) Specifically with respect to public school employment, all
13 schools shall be required to:

14 (i) Maintain credential requirements for all personnel without
15 regard to sex;

16 (ii) Make no differentiation in pay scale on the basis of sex;

17 (iii) Assign school duties without regard to sex except where
18 such assignment would involve duty in areas or situations, such as
19 but not limited to a shower room, where persons might be disrobed;

20 (iv) Provide the same opportunities for advancement to males and
21 females; and

1 (v) Make no difference in conditions of employment including, but
2 not limited to, hiring practices, leaves of absence, hours of
3 employment, and assignment of, or pay for, instructional and
4 noninstructional duties, on the basis of sex.

5 (b) Specifically with respect to counseling and guidance services
6 for students, they shall be made available to all students equally.
7 All certificated personnel shall be required to stress access to all
8 career and vocational opportunities to students without regard to
9 sex.

10 (c) Specifically with respect to recreational and athletic
11 activities, they shall be offered to all students without regard to
12 sex. Schools may provide separate teams for each sex. Schools which
13 provide the following shall do so with no disparities based on sex:
14 Equipment and supplies; medical care; services and insurance;
15 transportation and per diem allowances; opportunities to receive
16 coaching and instruction; laundry services; assignment of game
17 officials; opportunities for competition, publicity and awards;
18 scheduling of games and practice times including use of courts, gyms,
19 and pools: PROVIDED, That such scheduling of games and practice times
20 shall be determined by local administrative authorities after
21 consideration of the public and student interest in attending and
22 participating in various recreational and athletic activities. Each
23 school which provides showers, toilets, or training room facilities
24 for athletic purposes shall provide comparable facilities for both
25 sexes. Such facilities may be provided either as separate facilities
26 or shall be scheduled and used separately by each sex.

27 The superintendent of public instruction shall also be required
28 to develop a student survey to distribute every three years to each
29 local school district in the state to determine student interest for
30 male/female participation in specific sports.

31 (d) Specifically with respect to course offerings, all classes
32 shall be required to be available to all students without regard to
33 sex: PROVIDED, That separation is permitted within any class during
34 sessions on sex education or gym classes.

35 (e) Specifically with respect to textbooks and instructional
36 materials, which shall also include, but not be limited to, reference
37 books and audiovisual materials, they shall be required to adhere to
38 the guidelines developed by the superintendent of public instruction
39 to implement the intent of this chapter: PROVIDED, That this
40 subsection shall not be construed to prohibit the introduction of

1 material deemed appropriate by the instructor for educational
2 purposes.

3 (2)(a) By December 31, 1994, the superintendent of public
4 instruction shall develop criteria for use by school districts in
5 developing sexual harassment policies as required under (b) of this
6 subsection. The criteria shall address the subjects of grievance
7 procedures, remedies to victims of sexual harassment, disciplinary
8 actions against violators of the policy, and other subjects at the
9 discretion of the superintendent of public instruction. Disciplinary
10 actions must conform with collective bargaining agreements and state
11 and federal laws. The superintendent of public instruction also shall
12 supply sample policies to school districts upon request.

13 (b) By June 30, 1995, every school district shall adopt and
14 implement a written policy concerning sexual harassment. The policy
15 shall apply to all school district employees, volunteers, parents,
16 and students, including, but not limited to, conduct between
17 students.

18 (c) School district policies on sexual harassment shall be
19 reviewed by the superintendent of public instruction considering the
20 criteria established under (a) of this subsection as part of the
21 monitoring process established in RCW 28A.640.030.

22 (d) The school district's sexual harassment policy shall be
23 conspicuously posted throughout each school building, and provided to
24 each employee. A copy of the policy shall appear in any publication
25 of the school or school district setting forth the rules,
26 regulations, procedures, and standards of conduct for the school or
27 school district.

28 (e) Each school shall develop a process for discussing the
29 district's sexual harassment policy. The process shall ensure the
30 discussion addresses the definition of sexual harassment and issues
31 covered in the sexual harassment policy.

32 (f) "Sexual harassment" as used in this section means unwelcome
33 sexual advances, requests for sexual favors, sexually motivated
34 physical contact, or other verbal or physical conduct or
35 communication of a sexual nature if:

36 (i) Submission to that conduct or communication is made a term or
37 condition, either explicitly or implicitly, of obtaining an education
38 or employment;

1 (ii) Submission to or rejection of that conduct or communication
2 by an individual is used as a factor in decisions affecting that
3 individual's education or employment; or

4 (iii) That conduct or communication has the purpose or effect of
5 substantially interfering with an individual's educational or work
6 performance, or of creating an intimidating, hostile, or offensive
7 educational or work environment.

8 (3) Schools must provide toilets and restroom facilities for each
9 sex with no disparities based on sex. Each school must provide
10 facilities to be used separately by each sex. Schools may provide a
11 gender-neutral single occupant bathroom to accommodate a student's
12 privacy concerns.

13 (4) "Sex" as used in this section means biological sex or sex
14 assigned at birth.

15 (5) The provisions of chapter 49.60 RCW and any rules or
16 guidelines adopted by the superintendent of public instruction
17 pursuant to the provisions of chapter 49.60 RCW do not apply to
18 subsections (1)(c) and (3) of this section.

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