

HOUSE BILL REPORT

SHB 1113

As Passed House:
February 6, 2023

Title: An act relating to reprimands for professional educators.

Brief Description: Reviewing reprimands for professional educators.

Sponsors: House Committee on Education (originally sponsored by Representatives Harris, Santos and Stonier).

Brief History:

Committee Activity:

Education: 1/17/23, 1/26/23 [DPS].

Floor Activity:

Passed House: 2/6/23, 93-0.

Brief Summary of Substitute Bill

- Requires the Professional Educator Standards Board to adopt rules providing for reviewing and vacating reprimands related to behavior that did not involve a student issued to certificated professional educators.
- Directs the Office of the Superintendent of Public Instruction to report to the Legislature with data related to vacating eligible reprimands.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bergquist, Callan, Eslick, Harris, McClintock, Ortiz-Self, Pollet, Sandlin, Steele, Stonier and Timmons.

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.

Staff: Megan Wargacki (786-7194).

Background:

Code of Professional Conduct.

The Professional Educator Standards Board (PESB) is a statutorily created 12-member board whose duties include establishment and enforcement of rules determining eligibility for the certification/licensure of "professional educators," such as teachers, administrators, and educational staff associates working in elementary and secondary schools. The Superintendent of Public Instruction (SPI) is the administrator of these rules and has the power to issue and revoke certificates in accordance with PESB rules.

The code of Professional Conduct is the PESB's rules for reprimand, suspension, and revocation actions related to certificated professional educators. A reprimand orders the certificate holder to not continue or repeat the unprofessional conduct or lack of good moral character or personal fitness that the certificate holder was found to have committed. The SPI may issue a reprimand order whenever the SPI determines that the certificated professional educator has:

- admitted the commission of an act of unprofessional conduct or lack of good moral character or personal fitness and has presented to the SPI an agreed order to not continue or repeat the conduct described in the findings of fact;
- committed an act of unprofessional conduct but the evidence is probably insufficient to meet the clear and convincing proof standard for suspension or revocation; or
- committed an act of unprofessional conduct but the violation and the consequence was not serious and the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a reprimand.

If a reprimand order is issued, the certificated professional educator may appeal to an informal review committee or to an Administrative Law Judge. Final disciplinary actions remain on a certificated professional educator's record permanently and are available through public disclosure requests.

Report on Educator Professional Practice in Washington.

In 2020, as directed by legislation enacted in 2019, the Office of the Superintendent of Public Instruction and the PESB submitted a report to the Legislature regarding the effect that discipline issued against certificated professional educators has on the recruitment and retention of educators in Washington. The legislation specifically required the report to recommend whether the PESB should be authorized to establish a process for review and expungement of reprimands issued against the certificated professional educators.

The report recommends that the PESB be provided the authority to "vacate," rather than "expunge" reprimands. The report indicates that there is no definition of "expunge" within the Code of Professional Conduct, but that Washington courts use this term to mean the

destruction of a record or file in such a way as to make it permanently irretrievable. The report instead suggests creation of a process to "vacate," meaning cancel or render null and void, reprimands.

The report also recommends considering conversion of a reprimand to a letter of concern or vacating a reprimand after certain conditions are met or a certain amount of time had passed. Finally, the report recommends establishing a non-disciplinary letter of concern that could be issued in lieu of a reprimand.

Summary of Substitute Bill:

By December 1, 2024, the Professional Educator Standards Board must adopt rules that provide for reviewing and vacating reprimands related to behavior that did not involve a student issued to certificated professional educators. The rules must also describe the process for submitting a petition for vacating of a reprimand related to behavior that did not involve a student.

By July 1, 2026, the Office of the Superintendent of Public Instruction must report to the Legislature with the number of certificated professional educators who submitted a petition to have a reprimand vacated under PESB rules, and the number who had a reprimand vacated under PESB rules.

Appropriation: None.

Fiscal Note: Requested on January 26, 2023.

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) It is important to show mercy. Sometimes educators behave unprofessionally and are reprimanded for their conduct. Some people who have been reprimanded are outstanding educators and are unlikely to repeat the unprofessional conduct. Reprimands on an educator's record affect the educator's employability. Educators who have committed minor infractions should be allowed to seek removal of the reprimand from their record.

A workgroup has made recommendations about the professional practice of educators. Many of the recommendations were adopted. The process for reviewing and vacating reprimands has not been adopted. This bill will give the Professional Educator Standards Board the authority to do that through rulemaking.

The bill should be amended to limit vacated reprimands to non-student-related reprimands. The bill should also be amended to require the educator to seek the reprimand vacation,

rather than requiring the Office of the Superintendent of Public Instruction to notify eligible people.

(Opposed) Reprimands are not given out lightly and are the result of a comprehensive and often lengthy investigation by the school district and the Office of the Superintendent of Public Instruction. There is an appeal process in place for educators that receive reprimands. Reprimands can include physical and verbal instances between an educator and student. Some reprimands are the result of a process where an educator who was eligible for a suspension negotiated the disciplinary action to a reprimand. Vacating reprimands is an unusual process for professional licenses in Washington. The bill should be amended to narrow the scope around types of reprimands that would be eligible for vacating.

Persons Testifying: (In support) Representative Paul Harris, prime sponsor; Nasue Nishida, Washington Education Association; and Rob Shadle.

(Opposed) Kristin Murphy, Office of Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.