

SENATE BILL REPORT

E4SHB 1239

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 21, 2024

Title: 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.

Brief Description: 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.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Santos, Kloba, Morgan, Ramel and Pollet).

Brief History: Passed House: 2/12/24, 92-5.

Committee Activity: Early Learning & K-12 Education: 2/19/24, 2/21/24 [DPA-WM, w/oRec].

Brief Summary of Amended Bill

- Directs the Office of the Education Ombuds to create a simple and uniform access point for the receipt of complaints involving the elementary and secondary education system.
- Requires the Professional Educator Standards Board and the Paraeducator Board to report to the Legislature on a code of educator ethics.
- Modifies the defense for use of force on children with respect to teachers and other school staff.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

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.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hunt, Mullet and Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Dozier and McCune.

Staff: Benjamin Omdal (786-7442)

Background: Office of the Education Ombuds. In 2006 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 education system and to advocate on behalf of students.

The OEO has the power and duty to, among other things: (1) facilitate the resolution of complaints made by parents and students with regard to the state's public elementary and secondary education system, and (2) refer complainants and others to appropriate resources, agencies, or departments. All matters are treated as confidential by the OEO, except as necessary to perform the duties of the office.

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 of teachers, administrators, and educational staff associates working in elementary and secondary schools.

The PESB has established a Code of Professional Conduct to protect the health, safety, and general welfare of students, to assure the citizens that education practitioners are accountable for acts of unprofessional conduct, and to define and provide notice to certificated educators of the acts of unprofessional conduct for which they are accountable.

Use of Force on Children. In statute, the stated policy of the state is 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. Washington criminal code specifies that 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.

The criminal code also specifies that any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

Administrative rules of the state Superintendent of Public Instruction prohibit school staff from using corporal punishment, including any act that willfully inflicts or willfully causes the infliction of physical pain, on a student.

Washington State education law prohibits school staff from using restraint or isolation to control a student participating in school activities, except when reasonably necessary to control spontaneous behavior of the student that poses an imminent likelihood of serious harm. Likelihood of serious harm generally means there is evidence of substantial risk that the student will inflict physical harm upon themselves, another, or the property of others.

When school staff use restraint or isolation on a student, the staff must complete follow-up activities, such as incident notifications and reports.

Summary of Amended Bill: Uniform Complaint Process. By July 1, 2025, OEO must create a simple and uniform access point for the receipt of complaints involving the elementary and secondary education system. The purpose of the access point is to provide a single point of entry for complaints to be reported and then referred to the most appropriate individual or entity for dispute resolution at the lowest level of intercession.

Complaints may be submitted by any individual who has firsthand knowledge of a violation of federal, state, or local laws, policies and procedures, or of improper or illegal actions related to elementary and secondary education and performed by an employee or contractor, student, parent or legal guardian, or member of the public. Employee or contractor means employees and contractors of the state education agencies, educational service districts, public schools, the State School for the Blind, and the Center for Deaf and Hard of Hearing Youth.

OEO must delineate a complaint resolution and referral process for reports received through the access point. The process must:

- require that OEO assign a unique identifier to a complaint upon receipt before referring the complaint to the appropriate individual or entity for dispute resolution at the lowest level of intercession;
- link to all existing relevant complaint and investigative processes; and
- discourage frivolous complaints and complaints made in bad faith.

OEO, in collaboration with the Office of the Superintendent of Public Instruction, must develop protocols for the receipt, resolution, and referral of complaints and must design a communications plan to inform individuals who report complaints through the access point about the steps in the complaint resolution and referral process, including when to expect a response from the individual or entity charged with resolving the complaint.

The Office of the Superintendent of Public Instruction, school districts, public schools, and educational service districts must post on their websites a prominent link to the complaint resolution and referral access point maintained by OEO.

Code of Educator Conduct. By September 1, 2025, the PESB and the Paraeducator Board (boards) must jointly report to the Legislature on a code of educator ethics. For the purposes

of the code of educator ethics, educator refers to certificated administrative staff, certificated instructional staff, and paraeducators.

The boards must engage with stakeholders across the professional educator spectrum and review the National Association of State Directors of Teacher Education and Certification's model code of ethics for educators.

The report must advise the Legislature on the following topics:

- how a code of educator ethics will support the development of an effective and comprehensive professional educator workforce;
- whether a model code of educator ethics will be adopted or adapted for Washington, or whether a code of educator ethics unique to Washington will be developed; and
- any challenges that are anticipated with state adoption of a code of educator ethics.

The report must also include a summary of the required activities, any planned activities by either board related to adopting a code of educator ethics, and any recommendations for legislative action, if necessary, related to state adoption of a code of ethics.

Use of Force on Children. The defense for teachers that use of force on a child is not unlawful when it is reasonable and moderate and inflicted for purposes of restraining or correcting a child is removed.

The defense to use of force on a child by any person other than the parents and their authorized agents is expanded, such that use of force on a child is not unlawful if, when occurring in an educational setting and involving an educator, it actually or substantially complies with limitations on the use of student isolation and restraint, including that it is used only when a student's behavior poses an imminent likelihood of serious harm.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Specifies that the exception for unlawful use of force on a child relating to complying with limitations on the use of student isolation and restraint applies when occurring in an educational setting and involves an educator.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Fourth Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Abusive educators can lead to children experiencing trauma, causing them to retreat into their shells and removing their will to go to school. Parents have been told by police that there is nothing they can do against abusive educators due to the current law. This bill is a correction of current law, since no child should go to school and be traumatized. The criminal code currently allows educators to use physical force; this bill fixes that issue. The bill gives parents a place to send complaints to address teacher conduct. Some teachers bully their students and are still allowed to teach despite this behavior. When children do not feel safe they do not learn. The bill helps protect children's futures and is fiscally responsible due to less services being required. This bill has been well worked. The bill will make it illegal to use physical force in classrooms and track such incidents and complaints. Passing this bill will make sure that systems are held accountable.

Persons Testifying: PRO: Representative Sharon Tomiko Santos, Prime Sponsor; Julianna Hillard, Seattle Council PTSA; Marianne Bryan; Samantha Fogg, SCPTSA, Interim Co-President; Athena Frederick; Asha Musa; Manuela Slye.

Persons Signed In To Testify But Not Testifying: No one.