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## Education Committee

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### HB 1296

**Brief Description:** Promoting a safe and supportive public education system.

**Sponsors:** Representatives Stonier, Macri, Lekanoff, Doglio, Berry, Salahuddin, Davis, Ramel, Obras, Reed, Ormsby, Scott, Nance, Bergquist, Fitzgibbon, Parshley, Alvarado, Kloba, Pollet, Peterson, Fey, Simmons, Hill and Fosse.

#### Brief Summary of Bill

- Requires policies and procedures of school districts, charter schools, and state-tribal education compact schools (STECs) to prioritize the protection of every student's safety, access to a free public education, and privacy.
- Makes changes to delineated rights of parents and legal guardians of public school children.
- Establishes a statement of student rights and associated duties for school districts, charter schools, STECs, and the Office of the Superintendent of Public Instruction.
- Establishes antiretaliation protections for public school employees supporting students in the exercise of their legal rights and performing work in accordance with certain requirements.

**Hearing Date:** 1/23/25

**Staff:** Ethan Moreno (786-7386).

**Background:**

Declaration of Parental and Guardian Rights.

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*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.*

Legislation enacted in 2024 (Initiative Measure No. 2081) declared parents and guardians of public school children younger than 18 years old to have 15 specified rights. The delineated rights related to: receiving or being notified of academic, medical, safety, and law enforcement matters; examining and inspecting certain materials and records; and opting their children out of certain activities.

#### Transgender Student Policy and Procedure Requirements.

The Washington State School Directors' Association is required to collaborate with the Office of the Superintendent of Public Instruction (OSPI) to develop and update a model transgender student policy and procedure. The model policy and procedure must, at a minimum:

- incorporate the OSPI's rules and guidelines to eliminate discrimination in public schools on the basis of gender identity and expression;
- address the unique challenges and needs faced by transgender students in public schools; and
- describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying to transgender students.

Each school district and charter school must adopt or amend policies and procedures that incorporate all the elements of the model transgender student policy and procedure. School districts and charter schools also must designate a primary contact regarding these policies and procedures who must, among other things, receive copies of related complaints.

#### Student Records: Nondisclosure in Certain Child Abuse and Neglect Investigations.

Notwithstanding anything to the contrary, unless the parent has obtained a court order, a public school may not be required to release any records or information regarding a student's medical or health records or mental health counseling to a parent during the pendency of an investigation of child abuse or neglect. This non-release requirement applies if the investigation is of the parent and is being conducted by a law enforcement agency or the Department of Children, Youth, and Families.

#### Public School Employees: Employment Protections.

The Washington Law Against Discrimination (WLAD) prohibits discrimination on the basis of gender identity and sexual orientation in places of public accommodation, including public schools. Under the WLAD, it is unlawful for any employer to discharge, expel, or otherwise discriminate against any person because the person has opposed any practice forbidden by the WLAD.

The Washington Supreme Court recognizes the common law tort of wrongful termination in violation of public policy. As a result, it is unlawful to terminate an employee for refusing to commit an unlawful act, for performing a public duty, for exercising a legal right or privilege, or in retaliation for reporting employer misconduct.

Additionally, most public school employees in Washington are subject to collective bargaining agreements. Collective bargaining agreements typically limit school districts to “just cause”

termination and discipline, and afford covered employees with certain rights and protections.

## **Summary of Bill:**

### I. State Policy: Prioritizing the Protection of Students' Safety, Access to Public Education, and Privacy.

Policies and procedures adopted by school districts, charter schools, and state-tribal education compact schools (STECs) must prioritize the protection of every student's safety, access to a free public education, and privacy to the fullest extent possible, except as required by state or federal law. This policy is supplemental to existing and future policies and procedures and must be considered an integral part of those policies and procedures.

The Office of the Superintendent of Public Instruction (OSPI) must develop technical assistance and related materials, adopt rules, and enforce and obtain compliance with the policy. Examples of sanctions the OSPI may issue include:

- terminating all or part of state apportionment or categorical moneys to the offending school district, charter school, or STEC;
- terminating specified programs in which violations may be flagrant within the offending school district, charter school, or STEC; and
- placing the offending school district, charter school, or STEC on probation with appropriate sanctions until compliance is achieved.

### II. Parental and Guardian Rights.

Additions, modifications, and deletions are made to the list of declared rights for parents or guardians of public school children. Parental and legal guardian rights are expressly specified to include the right to enroll their child of qualifying age in a public school, regardless of sincerely held beliefs, housing status, immigration status, English language proficiency, or disability, and to provide for the instruction of their child through an approved private school or home-based instruction.

*Additional Rights.* Examples of additionally declared rights include the right to:

- have their child receive a public education in a setting in which discrimination on the basis of protected class is prohibited;
- file a complaint on behalf of their child relating to harassment, intimidation, and bullying;
- have their child qualify for enrollment in a school district if they are transferred to, or pending transfer to, a military installation within the state in accordance with specified requirements;
- have their child qualify without a legal residence for enrollment in a school district;
- receive annual notice of the public school's language access policies and services, the parents' rights to free language access services under federal law, and the contact information for any language access services; and
- request information about special education programs and assistance for their child if their child is eligible for, but not receiving, special education services, including due to illness.

*Modified Rights.* Examples of modified rights include the right to:

- access their child's classroom and school sponsored activities in order to observe class procedure, teaching materials, and class conduct (rather than examining textbooks, curriculum, and supplemental materials used in their child's classroom);
- inspect and review the education records of their child within a reasonable period of time, but not more than 45 days (rather than to inspect their child's public school records and receive a copy within 10 days); and
- receive immediate notification if their child is taken or removed from the public school campus (rather than receive immediate notification if their child is taken or removed from the public school campus without parental permission, including to stay at a youth shelter or host home).

"Education records" is defined as records that contain information directly related to a student and are maintained by the public school, except as provided in the federal Family Educational Rights and Privacy Act (rather than any student-specific files, documents, or other materials that are maintained by the public school). "Education records" do not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

*Repealed Rights.* Examples of eliminated rights include the right to:

- receive prior notification when medical services are being offered to their child, except where emergency medical treatment is required;
- receive notification when any medical service or medications have been provided to their child that could result in any financial impact to the parent's or legal guardian's health insurance payments or copays;
- receive notification when the school has arranged directly or indirectly for medical treatment that results in follow-up care beyond normal school hours;
- receive immediate notification if a criminal action is deemed to have been committed against their child or by their child; and
- receive immediate notification if law enforcement personnel question their child, except in cases where the parent or legal guardian has been accused of abusing or neglecting the child.

### III. Student Records: Nondisclosure in Certain Child Abuse, Neglect, and Criminal Investigations.

Student record disclosure limitations for parents that are related to certain child abuse and neglect investigations of law enforcement or the Department of Children, Youth, and Families are extended to health care, social work, counseling, and disciplinary records (rather than records and information regarding medical or health records or mental health counseling). The disclosure limitations are also extended to apply in criminal proceedings of parents and legal guardians where the student is the named victim.

### IV. Statement of Student Rights.

The Statement of Student Rights (Statement) is established for public school students. The

Statement provides 24 examples of student rights derived from the federal and state constitutions, and federal and state statutes. Examples of the privileges and protections specified include:

- the free exercise of religion;
- the freedom of speech;
- the right of students with disabilities to receive special education and related services that address their individual needs;
- the right of students with disabilities to be free from discrimination with regard to accessing education programs and facilities;
- the right to access, without tuition, a school district's kindergarten through twelfth grade basic education program for students of qualifying age; and
- the right to access a learning environment with historically and scientifically accurate information.

Each school district, charter school, and STEC must develop student-focused materials that incorporate the Statement, share them via websites and other communication channels, and include them in a required civics course.

#### V. Requirements Related to Transgender Students and Gender-Expansive Students.

By January 31, 2026, school districts and charter schools must adopt or amend policies and procedures related to transgender students to address the unique challenges faced by gender-expansive students and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying to gender-expansive students. The primary contact must receive copies of related complaints.

Online training materials of the OSPI based on a model policy and procedure of the Washington State School Directors' Association must be periodically revised by the OSPI and available to all school staff. Additionally, the OSPI must adopt rules by December 31, 2025, to ensure compliance with requirements related to gender inclusive schools.

#### VI. Public School Employees: Antiretaliation Protections.

Employees and directors of school districts, charter schools, and STECs may not take an adverse employment action against an employee for supporting students in the exercise of their legal rights, including their right to a learning environment with historically and scientifically accurate information, or performing work in a manner consistent with the bill's provisions.

In addition, employees and directors of school districts, charter schools, and STECs may not take an adverse employment action against a teacher for instructing students in a manner consistent with state learning standards or using approved instructional materials that are culturally and experientially representative.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2025.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.