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**SUBSTITUTE SENATE BILL 5237**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Early Learning & K-12 Education (originally sponsored by Senators C. Wilson, Wellman, and Hunt)

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

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

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

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

1 laws and members of the school district should have a mechanism to  
2 hold those individuals accountable if state laws are not followed.

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

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

10 The definitions in this section apply throughout sections 3  
11 through 6 of this act unless the context clearly requires otherwise.

12 (1) "Broad complaint" means a complaint that impacts an entire  
13 student body, an entire school, or an entire school district.

14 (2) "Limited complaint" means a complaint that impacts one or  
15 more individual students.

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

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

25 (a) Civil rights including discrimination as described in RCW  
26 28A.640.010 and 28A.642.010 and "sexual harassment" as defined in RCW  
27 28A.640.020;

28 (b) "Harassment, intimidation, and bullying" as defined in RCW  
29 28A.600.477;

30 (c) Curriculum requirements as described in RCW 28A.150.230,  
31 28A.300.475, and 28A.320.170, and the policies and procedures related  
32 to the selection or deletion of instructional materials as described  
33 in RCW 28A.320.230;

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

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

37 (5) "Willful" means nonaccidental action or inaction by a local  
38 superintendent, a local school district board of directors, or a  
39 member of a board of directors that they knew or reasonably should

1 have known would result in noncompliance with state law as defined in  
2 this section.

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

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

8 (a) Limited complaints; and

9 (b) Broad complaints.

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

13 (3)(a) Anyone residing within the boundaries of the school  
14 district or who has a student enrolled in the school district may  
15 file a limited or broad complaint with the office of the  
16 superintendent of public instruction alleging noncompliance with a  
17 state law listed in section 2(4) of this act.

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

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

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

31 (b) The office of the superintendent of public instruction must  
32 consult with the state board of education to build a connection  
33 between the rules adopted under this subsection and the state board  
34 of education's rules on basic education compliance established under  
35 RCW 28A.150.220 for complaints regarding noncompliance with  
36 curriculum requirements as described in section 2(4)(c) of this act.

37 (c) The office of the superintendent of public instruction may  
38 adopt rules to allow for an expedited process when the complaint  
39 relates to an immediate health or safety concern.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.300

2 RCW to read as follows:

3 (1) Upon receipt of a complaint filed under section 3 of this  
4 act, the office of the superintendent of public instruction must  
5 conduct a prompt and thorough investigation into the allegations in  
6 the complaint.

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

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

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

24 (d) Before adopting and submitting a compliance action plan to  
25 the office of the superintendent of public instruction, the local  
26 school board must conduct a public hearing to allow for public  
27 comment on the proposed compliance action plan. For complaints in  
28 which individual students may be identified, the public hearing and  
29 materials prepared for such hearing must adhere to nondisclosure of  
30 personally identifiable information consistent with state and federal  
31 student privacy laws.

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

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

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

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.300

2 RCW to read as follows:

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

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

11 (b) One public hearing must present the progress on the  
12 compliance action plan after it has been submitted to the office of  
13 the superintendent of public instruction and take public comment on  
14 this progress; and

15 (c) Additional public hearings with public comment must be  
16 conducted every six months until the office of the superintendent of  
17 public instruction finds that the school district has come into  
18 compliance with state law.

19 (2) For complaints in which individual students may be  
20 identified, the public hearings and materials prepared for such  
21 hearings must adhere to nondisclosure of personally identifiable  
22 information consistent with state and federal student privacy laws.

23 (3) If the office of the superintendent of public instruction  
24 finds willful noncompliance with state law, the office of the  
25 superintendent of public instruction may impose any of the following  
26 consequences:

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

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

32 (c) Withhold up to 20 percent of state funds for the basic  
33 education allocation and redirect these funds to support the  
34 compliance action plan required in section 4 of this act until the  
35 office of the superintendent of public instruction finds that the  
36 school district has come into compliance with state law. Written  
37 notice of the intent to withhold and redirect state funds, with  
38 reasons stated for this action, must be made to the school district  
39 by the office of the superintendent of public instruction before any  
40 portion of the state allocation is withheld and redirected.

1 (4) A member of a board of directors may be subject to recall and  
2 discharge for willful or negligent noncompliance with state law under  
3 RCW 29A.56.110.

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

8 (6) The complainant or school district may file a notice of  
9 appeal with the office of the superintendent of public instruction  
10 within 30 days of the final decision. An administrative law judge of  
11 the office of administrative hearings will hear and determine the  
12 appeal. Appeal proceedings must be conducted pursuant to chapter  
13 34.05 RCW. An appeal of the administrative law judge's determination  
14 or order shall be to the superior court. The superior court's  
15 decision is subject only to discretionary review under the rules of  
16 appellate procedure.

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

19 The professional educator standards board must adopt rules that  
20 makes a superintendent's willful noncompliance with state law an act  
21 of unprofessional conduct and provides that a superintendent, whether  
22 certificated or not, may be held accountable for such conduct under  
23 rules established under this section. It is a defense if the  
24 superintendent can show that they were actively attempting to bring  
25 the school district into compliance with state law.

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

28 Every person elected or appointed to the office of school  
29 director, before entering upon the discharge of the duties thereof,  
30 shall take an oath or affirmation to support the Constitution of the  
31 United States and the state of Washington and the laws of the state  
32 of Washington and to faithfully discharge the duties of the office  
33 according to the best of his or her ability. In case any official has  
34 a written appointment or commission, the official's oath or  
35 affirmation shall be endorsed thereon and sworn to before any officer  
36 authorized to administer oaths. School officials are hereby  
37 authorized to administer all oaths or affirmations pertaining to  
38 their respective offices without charge or fee. All oaths of office,

1 when properly made, shall be filed with the county auditor. Every  
2 person elected to the office of school director shall begin his or  
3 her term of office at the first official meeting of the board of  
4 directors following certification of the election results.

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