H-0042.3

HOUSE BILL 1207

State of Washington 68th Legislature 2023 Regular Session

By Representatives Senn and Rude

AN ACT Relating to preventing and responding to harassment, intimidation, bullying, and discrimination in schools by requiring distribution of related policies and complaint procedures, designation of a primary contact for compliance with nondiscrimination laws, and changing a prejudicial student discipline term; amending RCW 28A.300.042 and 28A.600.015; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.642 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall develop, and periodically update, model student handbook language that includes information about policies and complaint procedures related to discrimination, including sexual harassment, and information about policies and complaint procedures related to harassment, intimidation, and bullying, as well as the overlap between the policies and complaint procedures. The model student handbook language must be posted publicly on the office of the superintendent of public instruction's website beginning July 1, 2024.

(2) Beginning with the 2024-25 school year, each school district must include the model student handbook language developed under subsection (1) of this section in any student, parent, employee, and volunteer handbook that it or one of its schools publishes and on the school district's website, and any school's website, if a school or the school district maintains a website. If a school district neither publishes a handbook nor maintains a website, it must provide the model student handbook language developed under subsection (1) of this section to each student, parent, employee, and volunteer at least annually.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.642 RCW to read as follows:

Each school district shall designate one person in the school district as the primary contact regarding school district compliance with this chapter. In addition to any other duties required by law and the school district, the primary contact must:

(1) Ensure that complaints of discrimination communicated to the school district are promptly investigated and resolved; and

(2) Communicate with the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080.

NEW SECTION. **Sec. 3.** (1) The legislature recognizes that public schools have the authority to immediately remove a student from school if the student poses an immediate and continuing danger to other students or to school staff, or if the student poses an immediate and continuing threat of material and substantial disruption of the education process. The legislature acknowledges that emergency expulsion is limited to 10 consecutive school days, the school must provide an opportunity for the student to receive educational services during the emergency expulsion, and both the emergency expulsion and any suspension or expulsion that the emergency expulsion is converted to can be appealed. However, the legislature finds that emergency expulsion tarnishes a student's reputation and self-image, which can result in school staff, fellow students, or the student's families making assumptions about the student, and, in some cases, these assumptions result in harassment,

intimidation, or bullying of the student. Therefore, the legislature intends to discontinue the use of the prejudicial term "emergency expulsion," and replace it with the term "emergency removal," which is a more accurate description of the temporary removal of a student from school to assess and properly respond to an emergent situation involving the student.

(2) As soon as possible after the effective date of this section, the office of the superintendent of public instruction must publish a bulletin to notify school districts and public schools that the term "emergency removal" must be used instead of the term "emergency expulsion" in the context of student discipline and as required by sections 4 and 5 of this act. The legislature's intent as described in subsection (1) of this section must be included in the bulletin. The bulletin must also include guidance about student discipline data collection and historical data comparison.

Sec. 4. RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students

for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency ((~~expulsion~~)) <u>removal</u>;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

Sec. 5. RCW 28A.600.015 and 2016 c 72 s 105 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ((~~ten~~)) 10

consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ((~~ten~~)) 10 consecutive school days.

(3) Emergency ((~~expulsions~~)) removals must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency ((~~expulsion~~)) removal is converted to another form of corrective action.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

(6) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection (6)(a) through (d) of this section and should first consider alternative actions.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school

district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(9) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state.

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