



HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	HF 2567	House Committee: PASSED on 2/18 (19-4)
Committee:	Education/Ways and Means	House Floor:
Floor Manager	Representative Hite	Senate Floor:
Date:	March 23, 2022	Governor:
Staff:	Kristin Rozeboom (1-3015)	

BOEE Re-Write

- Makes all school employees over 18 mandatory reporters.
- Changes make-up of the BOEE board.
- Schools must keep written records of all complaints.
- The BOEE must track all complaints including those that are dismissed.

Section by Section Analysis

Section 1. Section 232.69(1)

Mandatory reporters shall report abuse of a child over 12 years old. Previously was “may” report.

Section 2. Section 232.70(6) New Paragraph

The reporting procedure must include that if the person who makes the report is a licensed school employee who reasonably believes the person responsible for the injury is a licensed school employee, the identity of the licensed school employee the person making the report believes is responsible for the injury.

Section 3. Section 256.9 New Subsection

Directs the Department of Education to develop and implement a process for the reporting and investigation of any incident that would reasonably lead to the conclusion that a teacher employed by the school has violated any law.

The process shall require the board to establish a committee to investigate incidents that are reported and any incidents that haven't been reported but which the board have knowledge. Half of the members of the committee shall be individuals who reside within the boundaries of the school district and who are not a teacher or the spouse, parent, or child of a teacher; member of the board of directors of a school district or the spouse, parent, or child of a board member; or a member of the authorities in charge of an accredited nonpublic school or the spouse, parent or child of a member of the authorities in charge of an accredited nonpublic school. The remaining members shall be selected from the following groups:

- Parents or guardians of children enrolled in the school district or accredited nonpublic school
- Teachers
- Administrators
- Members of the school board.

The process requires that within 10 business days after an incident is reported or the board learns of an incident, the committee shall meet to evaluate the incident and determine whether the teacher should be placed on administrative leave during the investigation. If the committee determines that the incident may have occurred, the committee shall notify the board and investigate to determine what action the committee shall recommend.

The process requires the board to report the existence and nature of an incident to the BOEE and local law enforcement agencies after the committee notifies the board of the incident.

The process prohibits the board of a district or nonpublic school from entering into any of the following agreements:

- An agreement that prohibits the board, an employee of the district, a contractor of the school district, or a member of the committee from discussing an incident, past performance actions, or past allegations of wrongdoing with any government agent, government officer, or any potential employer.
- An agreement that waives the liability of the licensed practitioner relating to or arising from an incident, past performance actions, or past allegations of wrongdoing.

The school board, employees of the school district, contractors of the school, and the members of the committee shall be immune from any civil liability arising from discussing an incident, past performance actions, or past allegations of wrongdoing with any government agent, government officer, or any potential employer.

The process shall require the school district to collect and retain a written record of all incidents reported and incidents that the board has knowledge.

An incident reported to the board, and any incident that hasn't been reported but has knowledge of, and all records related to the incident, are not subject to chapter 22.

If a court finds the school has failed to follow the process laid out above, the court shall assess a civil penalty against the administrator of not more than \$5000. Payments of the civil penalty provided in this paragraph shall be remitted to the treasurer of state for deposit into the general fund.

If a court finds the school has intentionally concealed, attempted to conceal an incident, or the investigation of the incident, the court shall assess a civil penalty against an administrator who assisted in the concealment of not more than \$10000.

Section 4. Section 272.2(14) New Paragraph

For offenses not already listed as disqualifying criminal offenses, the board shall suspend a teacher's license who is convicted of an aggravated misdemeanor or a more serious offense.

Section 5. Section 272.2(15)

The BOEE will adopt rules that require the collection and retention of written complaints that are filed. If the complaint is not founded, the complaint and all records shall be kept confidential and not subject to chapter 22.

Adopt rules that require the board to notify the school that employs, or is seeking to employ, a teacher who is the subject of an investigation, of the existence and nature of the complaint filed against the teacher.

Adopt rules that require the evaluation of the complaints that didn't result in any discipline or sanction if similar complaints are filed against the same teacher.

Adopt rules that require if a licensed practitioner is required to take an ethics course, it won't be required to be a specific course offered.

Section 6. Section 272.3

Amends the make-up of the board to consist of 6 members of the general public, the director of the Department of Education, and four teachers. At least one of those shall be an administrator.

Section 7. Section 272.4(1)

Makes conforming changes to change in the board membership.

Section 8. Section 279.69

Prior to hiring an individual who is subject to a background investigation, a school district shall contact the BOEE to see if the potential employee is the subject of an investigation.

Section 9. Section 280.32

The school board shall follow the process created by the Dept. of Ed. relating to the reporting and investigation

Section 10. Applicability

Membership of the board and terms of office apply.

Amendment Analysis

H-3994 by Hite—

Section 232.69(1)(b)(4)

Makes all full-time school employees who are 18 or older mandatory reporters.

Removes the local board portion.

Section 256.9

The Department of Ed. must develop and implement a process for the reporting and investigation of any incident that arises that would reasonably lead to the conclusion that an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the BOEE has committed a felony or has engaged in conduct described in 272.15.

The process shall prohibit schools from entering into the following agreements:

- A written or oral agreement that prohibits the school board, authorities in charge of a nonpublic school, an employee of the school district or nonpublic school from discussing an incident, past performance or actions, or past allegations leading to discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.
- A written or oral agreement that waives the liability of an individual with a license, endorsement, certification, authorization, or statement of a recognition issued by the BOEE related to or arising from an incident, past performance or action, or past allegations of wrongdoing.

The school board or authorities in charge of a nonpublic school and contractors of the school district or nonpublic school shall be immune from any civil liability arising from discussing an incident, past performance or actions, or past allegations leading to discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

If the BOEE finds that the school board or authorities in charge of an accredited nonpublic school has failed to follow the process established, or failed to follow the reporting requirements, the BOEE shall assess a civil penalty against an administrator of the district who failed to ensure compliance. The fine shall be not less than \$500 and not more than \$5000. Payments will be remitted to the treasurer for deposit in the general fund of the state.

If the BOEE finds that the board has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident, or any conduct required to be reported, the administrator shall be assessed a civil penalty of not more than \$10,000 who assisted in the concealment.

Section 256E.7

Includes charter schools as applying to these rules.

Section 272.2(14)(b)(1)

Adds that the BOEE can find a by a preponderance of the evidence that a person committed the offenses previously needing a guilty finding.

Clarifies that the only investigations that need to be disclosed to employers or potential employers are ongoing investigations.

States that the board needs to adopt rules that require the board to investigate an administrator that employs a teacher who is subject to investigation.

Changes the BOEE make up to include four members of the general public. Seven are licensed practitioners.

Clarifies that prior to hiring an individual with a license, endorsement, certification, authorization, or statement of recognition by the BOEE, the district shall contact the BOEE to determine if that person is subject to an ongoing investigation, if a complaint has been filed against them, if a report has been filed against them, or if they have surrendered a license, endorsement, certification, authorization, or statement of recognition. Information provided shall be confidential, is not subject to Chapter 22, and may only be shared with individuals directly involved in the hiring process.

States that school boards shall follow the process for the reporting and investigation of an incident involving the possible commission of a felony by any person who has been issued a license, endorsement, certification, authorization, or statement of recognition by the BOEE.

H-XXXX by Hite—changes reference to teacher to “licensed practitioner” and adds that schools need to be “intentionally” failing to follow the processes in place to be fined. Removes any of the changes made to the make up of the BOEE board and keeps it as is now.