

Date of Hearing: May 13, 2015

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1452 (Hadley) – As Introduced February 27, 2015

SUBJECT: Certificated employees: personnel files: expungement: egregious misconduct

SUMMARY: Prohibits school districts, county offices of education and charter schools from expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, as defined in Education Code Section 44932.

EXISTING LAW specifies school districts, county offices of education, and charter schools are prohibited from entering into an agreement that would authorize expunging from a school employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct (sex offenses; controlled substance offenses; and, child abuse and neglect offenses, as specified). This prohibition does not preclude any agreement to remove documents containing allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted. (Education Code 44939.5)

FISCAL EFFECT: This bill is keyed non-fiscal.

COMMENTS: Existing law specifies that school districts, county offices of education (COEs), and charter schools are prohibited from entering an agreement that would authorize expunging complaints of egregious misconduct from a personnel file. Egregious misconduct is defined as sex offenses; controlled substance offenses; and, child abuse and neglect offenses, as specified. This bill expressly prohibits expunging complaints of egregious misconduct from a personnel file.

AB 215 (Buchanan), Chapter 55 from 2014 created the prohibition in existing law with the understanding that some school districts had collective bargaining agreements that contained language requiring the removal of all complaints from an employee's personnel file, regardless of the nature, after a specified amount of time. This bill closes a small loophole, that could allow a district to purge personnel files of egregious misconduct complaints as a district policy, without such a collective bargaining agreement. While Legislative intent appears to be clear in this area, prohibiting employers from purging personnel files of egregious misconduct complaints is consistent with Legislative intent to prohibit an employer from entering an agreement that would require the purging of those same documents.

According to author, this bill would prohibit a school district, administrator or charter school from purging credible substantiated cases of abuse or neglect where the district has made a decision not to discipline a teacher based on an accusation of egregious or immoral acts. This will preserve an important record for current and future administrators to determine if there is a pattern of behavior that suggests children may be at risk. This will also allow prosecutors to build a more solid case when a teacher is accused of new acts of egregious or immoral behavior. By the same token, the absence of such accusations in an employee's personnel record would

also be a more meaningful fact in establishing the possible innocence of an accused employee, if parents, administrators and courts can rely upon such records not to have been previously expunged.

Related Legislation: AB 215 (Buchanan), Chapter 55 from 2014, made various changes to the dismissal process for certificated employees.

REGISTERED SUPPORT / OPPOSITION:

Support

EdVoice

Opposition

None on file

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