

Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 2534 (Flora) – As Amended April 1, 2024

SUBJECT: Certificated employees: disclosures: egregious misconduct

SUMMARY: Requires teachers applying for jobs at a new school district, COE, charter school, or state special school to disclose where the applicant has previously been employed; and requires the school district, COE, charter school, or state special school to inquire with all previous employing agencies whether the applicant had credible complaints, investigations, or discipline for egregious misconduct that were required to be reported to the Commission on Teacher Credentialing (CTC). Specifically, **this bill:**

- 1) Requires any person applying for a certificated position at a school district, COE, charter school, or state special school to provide that prospective employer with a complete list of every public school where the applicant has previously been employed.
- 2) Requires a school district, COE, charter school, or state special school considering an applicant for a certificated position to inquire with each public school employer that previously employed the applicant, as disclosed, as to whether the applicant, while previously employed by the public school employer, was the subject of any credible complaints of, substantiated investigations into, or discipline for, egregious misconduct that were required to be reported to the CTC.
- 3) Requires a previous employing public school to provide the inquiring public school with a copy of all relevant information within its possession that was required to be reported to the CTC.

EXISTING LAW:

- 1) Defines egregious misconduct as immoral conduct that is the basis for an offense related to sex offenses; child abuse and neglect offenses; and controlled substance offenses, as specified. (Education Code (EC) 44932)
- 2) Prohibits school districts, COEs, and charter schools from entering into an agreement that would prevent a mandatory report of egregious misconduct to the CTC or any other state or federal agency. (EC 44939.5)
- 3) Prohibits school districts, COEs, and charter schools from expunging from an employee's personnel file, or entering into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for, egregious misconduct. States that this prohibition does not preclude removing, or entering into 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. (EC 44939.5)

- 4) Requires a school district, COE, or charter school that has made a report of an employee's egregious misconduct to the CTC to disclose this fact to a school district, COE, or charter school considering an application for employment from the employee, upon inquiry. (EC 44939.5)
- 5) States that any school employee who alleges that another school employee has engaged in egregious misconduct, knowing at the time of making the allegation that the allegation was false, shall be subject to certificate revocation, if applicable. (EC 44939.5)
- 6) Prohibits the dismissal of permanent employees except for one or more of the following causes:
 - a) Immoral conduct, including, but not limited to, egregious misconduct.
 - b) Unprofessional conduct;
 - c) Commissioning, aiding or advocating the commission of acts of criminal syndicalism;
 - d) Dishonesty;
 - e) Unsatisfactory performance;
 - f) Evident unfitness for service;
 - g) Physical or mental condition unfitting him or her to instruct or associate with children;
 - h) Persistent violation of or refusal to obey the school laws of the state by the State Board of Education (SBE) or by the local governing board employing him or her;
 - i) Conviction of a felony or any crime involving moral turpitude;
 - j) Advocating for or teaching communism with the intent of indoctrinating the mind of any pupil;
 - k) Knowing membership by the employee in the Communist Party; or,
 - l) Alcoholism or other drug abuse which makes the employee unfit to instruct or associate with children. (EC Section 44932)
- 6) Authorizes the governing board of any school district to immediately suspend a certificated employee, if it deems such action necessary, on charges of:
 - a) Immoral conduct;
 - b) Conviction of a felony or of any crime involving moral turpitude;
 - c) Incompetency due to mental disability;
 - d) Willful refusal to perform regular assignments without reasonable cause;

- e) With violation of teacher or inculcating Communism; or,
 - f) With knowing membership by the employee in the Communist Party. (EC 44939)
- 7) Establishes jurisdiction for the committee on credentials (COC) to have jurisdiction to commence an initial review upon receipt of any of the following, among others:
- a) A statement from an employer notifying the CTC that, as a result of an allegation of misconduct, or while an allegation of misconduct is pending, a credentialholder has been dismissed, nonreelected, suspended for more than 10 days, or placed pursuant to a final adverse employment action on unpaid administrative leave for more than 10 days, or has resigned or otherwise left employment.
 - i) The employer shall provide the notice described in subparagraph (A) to the CTC not later than 30 days after the dismissal, nonreelection, suspension, placement on unpaid administrative leave, resignation, or departure from employment of the employee.
 - b) A notice from an employer that a complaint was filed with the school district alleging sexual misconduct by a credentialholder. Results of an investigation by the COC shall not be considered for action by the committee unless there is evidence presented to the COC in the form of a written or oral declaration under penalty of perjury that confirms the personal knowledge of the declarant regarding the acts alleged to constitute misconduct. (EC 44242.5)
- 8) Requires the superintendent of an employing school district to report a change in employment status to the CTC not later than 30 days after the final employment action whenever a credential holder, working in a position requiring a credential, as a result of an allegation of misconduct or while an allegation of misconduct is pending:
- a) Is dismissed or non-reelected;
 - b) Resigns;
 - c) Is suspended or placed on unpaid administrative leave as a final adverse employment action for more than 10 days;
 - d) Retires; or
 - e) Is otherwise terminated by a decision not to employ or re-employ; or
 - f) “Otherwise terminated by a decision not to employ or re-employ.”
- 9) States that failure to make a report required constitutes unprofessional conduct. Requires the COC to investigate any superintendent who holds a credential but fails to file the reports required. States that where the CTC has information or belief that a report has not been made, a letter shall be sent to the responsible superintendent providing facts, detailing reporting

responsibilities, and requesting a response. (California Code of Regulations, Title 5, Section 80303)

FISCAL EFFECT: Unknown

COMMENTS:

What does this bill do? Existing law requires schools to retain employment records pertaining to allegations of egregious misconduct. Existing law requires superintendents to notify the CTC when an employee has a change in employment status while an allegation of misconduct is pending. Existing law requires schools to release information that has been reported to the CTC, upon request, to other schools as part of their hiring process. This bill requires all employing schools to contact all previous employing schools of an applicant and requires the schools where the applicant previously was employed to release all employment records pertaining to allegations or investigations of egregious misconduct, that were required to be reported to the CTC.

Need for the bill. According to the author, “I believe this bill is good policy, plain and simple. We require transparency in so many areas of our state and local agencies and schools should be no different. This bill will provide extra safeguards and make sure that we hire the best people for our schools.”

What is egregious misconduct? Existing law prohibits school districts, COEs, and charter schools from expunging complaints or 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.

AB 215 (Buchanan), Chapter 55, Statutes of 2014 established the definition of egregious misconduct and the prohibition on expunging these records in response to the fact that some school districts historically 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.

School districts must report teacher employment changes due to allegations of misconduct to the state. Under current law, the superintendent of an employing school district must report a change in employment status to the CTC no later than 30 days after the final employment action whenever a credential holder, working in a position requiring a credential, as a result of an allegation of misconduct or while an allegation of misconduct is pending, is dismissed, resigns, is suspended or placed on administrative leave, retires, or is otherwise terminated. Among the information that must be reported for these individuals is an explanation of the allegation of misconduct, contact information for all persons who may have information relating to the alleged misconduct, and all documentation related to the case.

While the requirement for school districts to report teacher employment changes due to allegations of misconduct is intended to help protect students, not all school districts have access to this information.

Related legislation. AB 2708 (Wicks) of the 2021-22 Session would have prohibited, on or after January 1, 2023, a local educational agency, and any officer or employee of a local educational agency (LEA), from entering into, extending or renewing, a confidentiality agreement with an

employee under investigation for complaints of misconduct related to harassment or assault of a pupil or who has had complaints of misconduct related to harassment or assault of a pupil substantiated against them by an investigation. Further the measure would have prohibited a local educational agency from providing a favorable recommendation for, or otherwise facilitating or promoting, the employment of an employee with another LEA who is under investigation for complaints of misconduct related to harassment or assault of a pupil, or who has had complaints of misconduct related to harassment or assault of a pupil substantiated against them by an investigation. This bill was held in the Assembly Education Committee.

AB 1456 (Morrell) of the 2017-18 Session would have established the Sexual Abuse-Free Education Act, which would have: (1) prohibited public and private school entities from hiring individuals who would have direct contact with children if they were previously convicted of child abuse or sexual misconduct with a child, (2) required applicants for school entity positions that would have direct contact with children to provide specified information about whether the applicant had ever been the subject of an investigation concerning child abuse or sexual misconduct with a child, and (3) required school entities to conduct reviews of the information provided by the applicants, including obtaining specified information from the current and each former employer. This bill was held in the Senate Judiciary Committee.

AB 709 (Morrell) of the 2019-20 Session would have established the Sexual Abuse-Free Education Act, which would have: (1) prohibited public and private school entities from hiring individuals who would have direct contact with children if they were previously convicted of child abuse or sexual misconduct with a child, (2) required applicants for school entity positions that would have direct contact with children to provide specified information about whether the applicant had ever been the subject of an investigation concerning child abuse or sexual misconduct with a child, and (3) required school entities to conduct reviews of the information provided by the applicants, including obtaining specified information from the current and each former employer. This bill was held in the Senate Education Committee.

AB 1452 (Hadley), Chapter 59, Statutes of 2015, prohibits school districts, COEs and charter schools from expunging from an employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct.

AB 215 (Buchanan), Chapter 55, Statutes of 2014, makes various changes to the dismissal process for certificated employees and established the definition of egregious misconduct.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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