
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 1452
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Urgency: No
Consultant: Lenin Del Castillo
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Fiscal: No

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

SUMMARY

This bill 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.

BACKGROUND

Existing law specifies that 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. Egregious misconduct includes sex offenses, controlled substance offenses and child abuse and neglect offenses. However, 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)

ANALYSIS

This bill 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 § 44932.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, 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.

- 2) **Closing a loophole.** Among other things, AB 215 (Buchanan, Chapter 55, Statutes of 2014) established the prohibition for school districts to enter into an agreement that would authorize expunging a teacher's record of credible complaints of, substantiated investigations into, or discipline for, egregious misconduct. Egregious misconduct includes sex offenses, controlled substance offenses, and child abuse and neglect offenses, as specified. According to the author's office, AB 215 did not expressly prohibit an administrator or school district from unilaterally expunging a teacher's record and as a result, a school district could purge personnel files of egregious misconduct complaints as part of a district policy. This bill is intended to close that loophole.
- 3) Prior and related legislation. AB 215 (Buchanan, Chapter 55, Statutes of 2014) made various changes to the dismissal process for certificated employees.

SUPPORT

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OPPOSITION

None received.

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