



Pennsylvania Association of School Administrators
Proud Leadership for Pennsylvania Schools

Testimony on Senate Bill 1459
Presented to the
Senate Education Committee
April 3, 2012

Good morning, Chairman Piccola, Chairman Dinniman and distinguished members of the Senate Education Committee. My name is James Capolupo. I have the pleasure of serving as Superintendent of the Springfield School District in Delaware County. I am here today as a representative of the Pennsylvania Association of School Administrators (PASA). PASA represents school superintendents and other school administrators from across the Commonwealth. We thank the Committee for the opportunity today to share our thoughts on Senate Bill 1459, which amends the Professional Educator Discipline Act.

It is an unfortunate fact that each year in Pennsylvania a relatively small number of the more than 130,000 professional educators who devote their life's work to the education of the Commonwealth's children conduct themselves in a manner that does not reflect well upon the practices, values, integrity or reputation of the profession.

PASA supports this effort to revise and update the Professional Educator Discipline Act. PASA members believe that their first responsibility is the protection of the welfare, health and safety of their students. PASA has worked with the Professional Standards and Practices Commission (PSPC) over the past year to assist in its work to develop recommendations for updating the Act.

These amendments not only modernize the Act to align it with the expanded types of educational entities and categories of professional certification that deliver services to students enrolled in public schools. It also strengthens and expands the authority of the PSPC to

appropriately discipline professional educators, who through inappropriate conduct while carrying out their duties, or personal conduct, cause students physical or emotional harm or do not reflect well upon the profession.

PASA supports the following nine (9) changes made to the following provisions as important steps in protecting students:

1. **Expansion of the authority of the PSPC to include educators who hold certification to teach in private academic schools.** This is an important step to ensure that all educators, who have the privilege of being licensed by the Commonwealth to educate students, are subject to the Code of Professional Practice and Conduct for Educators and subject to discipline by the PSPC.
2. **Changes that clarify and expand mandatory reporting requirements.** The construction of the current law sometimes leads to confusion among administrators and district solicitors as to when certain actions are required to be reported to the Department of Education. The amended provisions expand and clarify the reporting obligations of administrators.
3. **Reductions in the timeframe for reporting allegations of sexual misconduct.** Reducing the deadline from 60 to 15 days adds urgency for action by both the school entity and Department of Education to take prompt action.
4. **Addition of sexual misconduct as independent basis for discipline.** The addition of sexual misconduct as an independent basis for discipline is a positive step that may help to intervene and prevent such misconduct from escalating to sexual abuse or exploitation.
5. **Revisions that clarify that both founded and indicated reports under the Child Protective Services Act can serve as the basis for discipline by the PSPC.** This is a good step towards improving linkages between the two separate systems operated by two

different state agencies, both of which share a common objective of protecting our children.

6. **Removal of the statute of limitations for educator misconduct.** Individuals who have not maintained the highest standards of conduct as professional educators should not be immune from discipline simply because the improper conduct was not reported within one-year from the date of the occurrence or date of its discovery or five years after a student reaches his or her 18th birthday in matters involving sexual abuse or exploitation.
7. **Permitting in a prosecution the use of allegations discovered during the course of the Department's investigation of a misconduct complaint unrelated to the initial complaint.**
8. **Adding rehabilitation opportunities as an option, when appropriate, in concert with discipline imposed against educators found to have violated the Code of Professional Practice and Conduct for Educators or Act.**
9. **Removal of the requirement that complainants must have their formal complaint notarized prior to its submission to the Department of Education.** This will eliminate potential delays in complainants' submitting complaints to the Department and also removes the ability of the notary from reviewing confidential information and potentially sharing this information in an inappropriate manner. Placing a penalty on the submission of a false complaint should be a sufficient disincentive to those who may consider the intentional submission of a false complaint.

PASA also suggests that eight (8) provisions should be revised to clarify or strength the bill. I will not read these provisions to you however, I have provided them in my written testimony. The revisions include the following:

1. The requirement that all reports submitted by a school entity include all information and documentary and physical evidence in possession or control of the school entity relating

to the misconduct resulting in the report (page 23, lines 7-10) should be revised. We suggest that, instead, a list of evidence be submitted with the report, and physical evidence be physically transferred from the school entity to the Department upon request. Sending physical evidence presents opportunities for the loss of the evidence, creates a break in the chain of possession, and provides the potential for either unintentional or intentional tampering with the evidence. A similar provision on page 31 (lines 23-25) should also be revised.

2. The 90-day deadline for school districts to conduct an investigation, inform the department of the outcome of the investigation, and determine whether it will pursue local employment action and make other recommendations concerning discipline, as outlined on page 31 (lines 13 – 18), should include a provision that permits the department to extend the deadline, when appropriate, when requested by the school entity. This will provide additional flexibility in the conduct and completion of investigations.
3. The provisions that address confidentiality should explicitly recognize that information about incidents of misconduct are often known outside the official reporting, investigation and disciplinary proceedings. To recognize this reality and limit any potential action against those who learned about misconduct outside of official investigation and proceedings, we suggest revising the sentence to read “prior to, or outside the disciplinary proceeding.” (page 41, line 4)
4. The expanded reporting requirement that any educator who has been provided with notice of intent to dismiss or of nonrenewal for cause contained in Section 9.1(a)(1) should be clarified to make clear the situations to which this provision applies. For example, does it apply when a untenured teacher or substitute is dismissed or non-renewed for unsatisfactory performance?
5. We caution the Committee that, without also amending the Child Protective Services Law (23 Pa. C. S. Chapter 63) to authorize the Department of Public Welfare to share information with the Department of Education and PSPC and authorize them to use the

information in the disciplinary process, the new provisions contained in this section may not be able to be implemented. Currently, under the Child Protective Services Law, information regarding indicated reports of abuse is confidential and is neither provided nor available to the Department of Education and PSPC. (Page 28, Section 9.4).

6. Section 1.2. Definitions, should include the following changes:
 - a) The terms “invalid certificate” and “inactive certificate” should be defined to clarify their meanings as used in the bill.
 - b) The term “chief school administrator” should also include a chief school administrator of a contracted educational provider. Likewise, the term “contracted educational provider” should be included in the definitions for the terms “Revocation,” “Student,” and “Suspension” to bring consistency in its use throughout the bill.
7. We suggest clarifying the provision that provides that the consent of a child is not a defense in matters involving sexual misconduct to also include matters involving sexual abuse or exploitation. (Page 6, lines 10-12).
8. We suggest inserting the term “supplemental sanctions,” which would revise the sentence to include the complete list of disciplinary sanctions permitted under the statute (Page 14, Line 20).

Finally, while the Act and the changes provided in SB 1459 are essential in providing the process and structure for addressing educator misconduct, it is largely without benefit unless adequate staff and resources are provided to the Department of Education and PSPC. They must have sufficient resources to process and review complaints submitted to the Department, conduct thorough investigations of allegations of misconduct, prosecute those who commit the misconduct and provide for the adjudication of each case. Educators are well aware that this system has a long history of backlogged cases and lengthy delays. SB 1459 is a good first step to bring the Professional Educator Discipline Act up to standard but equally important is the need to ensure the agencies of state government responsible for carrying out the responsibilities under

the Act have sufficient personnel and other resources necessary to handle the volume of complaints, investigations and adjudications they are charged to handle.

Thank you for providing PASA the opportunity to share our thoughts about this important legislation that will help us strengthen our ability to protect the welfare, health and safety of the students of the Commonwealth of Pennsylvania. The time is now to hold the accountability bar at THE highest level.

Although I am not an attorney, I would be happy to respond to your questions from the perspective of a superintendent.