



**Testimony  
on  
Senate Bill 1459, Printer Number 2055  
Proposing Amendments to the  
Professional Educator Discipline Act**

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Good morning Chairmen Piccola and Dinniman and members of the Senate Education Committee. Thank you for inviting PSBA to present testimony regarding Senate Bill 1459, proposing amendments that would modernize and improve the Professional Educator Discipline Act.

Let me begin by emphasizing that PSBA fully supports the goals of this effort and has been deeply involved in the evolution of the language of what is now Senate Bill 1459. We agree that the Act is need of substantial overhaul to ensure that the Department of Education, the Professional Standards and Practices Commission and local school employers have the necessary tools and are able to work optimally in partnership to improve the safety of school students and the quality of the educator workforce.

During the past three or so years, PSBA has been working with the Professional Standards and Practices Commission on this effort, and have assisted the Commission and its staff in developing and refining several successive drafts of what now is before the committee today. We are grateful to the Commission and to this committee for the opportunity all along the way to offer benefit of our perspectives and experience, and we are pleased to see much of our input reflected in the current version.

The current version generally presents a very sound approach to accomplishing the needed modernization of the Act, and PSBA applauds the Commission and its staff for their outstanding work and commitment to a thorough and very inclusive process that has led to this point. Nonetheless, that process is not quite complete, and our review of the bill reveals a number of aspects in which we think it still needs improvement. We will be pleased to work with the committee staff on specific amendments to address those aspects.

Before turning to how the bill can be strengthened and made clearer, I want to highlight a number of important things it will do to improve the way the educator discipline process functions and clarify the responsibilities of local school administrators, as well as make appropriate outcomes more likely and logical:

- Adds a new category of misconduct subject to a mandatory reporting requirement---“sexual misconduct”---addressing school staff engaging in romantic or sexual relations with students, including grooming behaviors and other attempts to develop such relationships;
- Makes it mandatory to report to the department in situations where an employee has resigned in the face of misconduct allegations whether or not the employer proceeds with formal termination action;
- Adds a category of misconduct making subject to discipline discrimination or retaliation against someone for reporting educator misconduct in good faith, or against victims or witnesses;
- Expressly provides for immunity from liability of employers who in good faith provide information about professional misconduct to prospective employers;
- Prohibits school entities from making agreements with professional educators or their unions to refrain from reporting matters otherwise subject to reporting, or from withholding or expunging related information, and
- Better provides for reciprocal discipline and discipline on grounds other than criminal convictions.
- Better provides for restorative and other supplemental sanctions or conditions on eligibility for reinstatement.

- Better reflects the distinctions between the procedural roles of the commission and the department.

As previously mentioned, there still are a number of places in the current bill that PSBA believes merit further refinement. Although many are basically technical tweaks, some of these are of substantial significance. Fortunately, we do not perceive that these are aspects upon which we anticipate that the Commission, PSBA or members of the Committee are likely to disagree.

PSBA's substantive concerns (in order of appearance) include the following:

- Section 1.2 (Definitions of "certificate" and "educator"). We recommend a review of the current language to examine more closely whether the current language is adequately clear that the act and its processes are applicable to the employment eligibility of persons employed in roles for which a commission or administrative certificate normally would be required, but for whom the normal requirements have been waived. [p. 2, line 6 and p. 4, line 14]
- Section 1.2 (Definition of "sexual abuse or exploitation"), Section 9.4(a)(3) (Imposition of Discipline on Founded and Indicated Reports), and Section 9.1(a)(3) (Mandatory Reporting). The applicability of the act to non-sexual child abuse seems to vary. Section 9.4 authorizes discipline based on founded or indicated reports of the broader concept of child abuse as defined in the CPSL. Reporting requirements in Section 9.1 (p. 22, lines 8-17) appear to pertain only to the subcategory of child abuse sexual abuse or exploitation (as well as sexual misconduct and other acts

that would constitute other abuse by a school employee). Unless this distinction was intentional for reasons not readily apparent, they should be made to dovetail better and be consistent.

- Section 9.1(c) (Mandatory Reporting). The requirement that employees self-report to employer any felony or misdemeanor conviction should be broadened to include reporting of all felony and misdemeanor arrests. [p. 23, lines 2-6]
- Section 9.2(a)(2) (Discipline for Criminal Offenses). Since the bill expressly provides for the department to pursue discipline even in the case of acquittal, the current language requiring immediate reinstatement if a conviction is reversed on appeal should be modified to allow more flexibility based on particular circumstances. [p. 25, lines 23-26 & p. 26, lines 24-28]
- Section 9.3 (a)(11) (Discipline on Additional Grounds). The provision for educator discipline on the basis of failing to file reports under School Code seems overly broad, subject to wide variance in interpretation, and presents an invitation to abuse and overreaching. There are far more appropriate ways to enforce administrative paperwork submission requirements, some already in the law and in use today. [p. 27, lines 23-24]
- Section 9.4(a)(3) (Imposition of Discipline on Founded and Indicated Reports). Since the bill expressly provides for the department to pursue discipline even where a founded or indicated report was later designated as unfounded, current language requiring immediate reinstatement should be modified to allow more flexibility based on particular circumstances. [p. 28, line 29 through p. 29, line 8]

- Section 12(b) (Department Action After Investigation). Provisions are needed assuring notice to and input from local school entity employers regarding proposed settlements of disciplinary proceedings. Current language merely provides for notice of an alternative resolution after the fact. [p. 32, line 21 through p. 33, line 5]
- Section 13(c)(4) (Hearing). PSBA objects to current language imposing new limitations on the intervention rights of local school entity, and giving hearing officers undefined discretion in this regard. [p 34, line 18-26]
- Section 16 (Reinstatement). Provisions are needed assuring notice to and input from local school entity employers regarding petitions for reinstatement. Current language does not assure notice until after the reinstatement petition is disposed of, and merely gives the commission the option to seek such input. Provisions allowing employers to intervene in such petitions also are needed. [p 37, line 19 through p. 38, line 13]
- Section 15(c) (Appeal). Provisions for expungement of local employer records when the Commission has not found educator misconduct meriting discipline under the Act are likely to impair the ability of employers to impose and maintain records of other kinds of discipline when appropriate, and to conflict with the goals of other legislation addressing employment history review. This section of the Act also does not appear to be the appropriate place for such a provision. What now appear in subsections 15(c) and (d) are more appropriately located in Section 14 (Decision). [p. 37, lines 7-15]

- Section 17.2 (Confidentiality). The confidentiality provisions need to be revised to ensure they reflect the recognition that local employers may be conducting their own local investigations and disciplinary proceedings, independently of any Department-directed local investigation. As currently written, these provisions could make it impossible for information developed in the course of a Department-directed investigation or submitted at Department request to be used in local disciplinary proceedings. [p. 40, line 9 thru p. 41, line 25]

With respect to the other more technical or editorial matters I mentioned previously, I will be happy to go over those line by line separately with committee staff.

In conclusion, PSBA again thanks the Committee for this opportunity to testify on this issue, and we look forward to working with you in further improving and refining the bill to maximize its effectiveness. I would be happy at this point to try to answer any questions you may have.