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The OHIO 8

TO: Senator Padgett

FROM: The Buckeye Association of School Administrators
The Ohio 8 Coalition
The Ohio Association of Elementary School Administrators
The Ohio Association of School Business Officials
The Ohio Association of Secondary School Administrators
The Ohio Education Association
The Ohio Federation of Teachers
The Ohio School Boards Association

DATE: April 10, 2008

RE: **School Employee Misconduct Recommendations**

Thank you for meeting with our eight statewide education organizations regarding school employee misconduct. After reviewing our testimony, you requested a short list of our legislative recommendations for amendments. Our suggestions are included below for your consideration. We appreciate your work on this important issue and we thank you for considering our recommendations. Feel free to contact us if you have questions.

- Clarify the date for subsequent criminal records checks as required by HB 190 by amending 3319.391(A) to include a specific date in statute. This will help to clarify the deadline for districts. For example, "Subsequent criminal records checks shall be requested by September 5th in the fifth year following the person's most recent criminal records check" in the appropriate sections.
- Authorize districts to request assistance from educational service centers in conducting criminal records checks under HB 190 for substitute employees, in addition to substitute teachers.
- Clarify provisions in HB 190 regarding "contractors" and other non-licensed employees. The law should be amended to require employees of private contractors providing certain services to school districts to undergo a criminal records check if they will have unsupervised access to children while working in schools.
- Clarify standards for reporting misconduct by basing the duty to report on actual knowledge of the misconduct based on a reasonable person standard. Precedent for this standard is already articulated in law concerning the report of abuse and neglect in R.C. 2151.421(A)(1)(a).

- Require the Ohio Department of Education (ODE) to formally notify districts of an employee's arrest for certain offenses within 30 days and require ODE to formally notify districts when the criminal action against an employee concludes. SB 270 requires districts to remove an employee from the classroom upon arrest for specific offenses and requires districts to notify ODE that an employee has been removed due to an arrest. The district must first receive notification of the arrest before the removal and notification to ODE can take place. The district must also receive notification when the criminal action concludes so that they can decide whether or not to return the employee to the classroom.
- Preserve the ability of a district to remove an educator from the school environment while it investigates allegations or awaits the actions of appropriate law enforcement authorities. This discretion on the part of the district should continue.
- Expand the civil immunity provisions included in SB 270 to school employees who report alleged school employee misconduct to the superintendent, or designee, of a school district. This expansion would be consistent with the "Licensure Code of Professional Conduct for Ohio Educators" which requires reporting of misconduct to the superintendent or designee, of a school district.
- Include penalties for individuals who intentionally make false accusations and false reports of misconduct.
- Allow a Public Children Services Agency (PCSA) to complete its process for determining the validity of a claim before the information is passed on to ODE to avoid duplication of efforts.
- Require PCSAs to contact districts when they begin investigations of school employees so that districts are aware of the fact that an investigation is taking place.
- Limit the automatic revocation of an educator license for certain convictions to the list of offenses in the current rule for the State to grant a license (OAC 3301-20-01) and as included in the as-introduced version of SB 270.
- Amend SB 270 to ensure adequate due process by granting an educator the opportunity to request a hearing after the removal from the classroom due to an arrest; granting an educator the opportunity to request a review of the State Board's automatic revocation of licensure for certain convictions; and requiring an automatic hearing for licensure reinstatement if a conviction is overturned.
- Amend language in SB 270 that allows ODE to review and take action on anything in a sealed/expunged record, whether the information in the record is related to the position or not. Instead, ODE should be required to show the connection between the conviction in the sealed/expunged record and the individual's position before taking disciplinary action.
- Amend SB 270 to allow ODE's Office of Professional Conduct access to the Ohio Courts Network instead of the Ohio Law Enforcement Gateway and provide penalties for abuse of access to the information.
- Amend language in SB 270 that permits the State Board of education to take disciplinary action against a license upon a finding of "eligibility for intervention in lieu of conviction" (3319.31(B)(3)). This language is too broad and should be changed to require that an individual "agree to participate in an intervention in lieu program," not just become eligible to participate. Being eligible for a program and agreeing to participate are two different standards.