



EDVOICE STATEMENT ON AB 215

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Legislation Speeds Process to Dismiss School Employees Accused of Egregious Misconduct

Sacramento, CA – After years of contentious debate and no progress to fix the complex law governing appeals of the suspension and dismissal of permanent certificated school employees, the Legislature finally has a viable chance to act on a comprehensive measure to protect students and staff from abusers in California public schools and streamline all adverse action appeals.

AB 215 expedites the hearings of due process appeals by employees dismissed for sexually or physically abusing students or other staff, or who try to sell controlled substances to minors. The bill also significantly streamlines the appeals process of other misconduct and chronic unsatisfactory performance suspension and dismissal adverse actions.

“Unfortunately, it’s no secret that when it comes to dismissing an adult for committing unthinkable acts against a child in a California public school, the law is broken. The bottleneck of procedural complexities and costs of permanent school employee dismissal appeals ties the hands of districts and incentivizes shocking settlement agreements,” said Bill Lucia, President of EdVoice.

“California owes a debt of gratitude for the wisdom and leadership of Governor Brown in vetoing last year’s bill and pushing the author to continue working with stakeholders to identify balanced changes to improve the law and not make things potentially worse. The Governor clearly understands the details of the process and made it very clear he would not support changes that could create new problems and do more harm than good,” continued Lucia. “And the CTA and the author have shown a willingness to listen carefully to sincere concerns from the vantage point of children and parents and work honorably toward shared goals to identify workable solutions. The proposed changes will make all California public schools safer and keep more education resources in the classroom where they belong.”

“For years adults in the system have pointed the finger at each other in blame for the loopholes, delays, costs of appeals, and shocking settlement agreements. Parents of the children and innocent staff have waited long enough for a fix; that’s why we came together to work with the CTA, the Legislature and the Governor. We have put posturing aside and together propose improvements to significantly streamline and reduce procedural complexities, while balancing fairness to all parties, especially victims and potential victims of egregious misconduct. The time to act is now,” explained Lucia.

Bill Summary:

AB 215 significantly streamlines the complexity of certificated staff suspension and dismissal appeals while being fair to adults and keeping all students and staff in California public schools safe. The bill balances the call for reduced cost and complexity in the appeals process with the rights of permanent employees subject to adverse actions and the rights of students and other victims of egregious misconduct. And the measure eliminates loopholes and distorted incentives in current law that have led to lengthy delays in commencing and completing hearings, and unnecessary use of superior courts to referee procedural disputes for employment actions. These practices have resulted in costly litigation and settlement agreements, and robbed classrooms of tens of millions of dollars, while still leaving vulnerable children and unsuspecting schools open to being the next victims of egregious misconduct. The bill is supported by Governor Brown, the California Teachers Association (CTA), and EdVoice. The Senate Education Committee is expected to hear the bill on April 23, 2014.

Background on Key Changes:

AB 215 delivers schools the tools they need to protect students and staff and move quickly and fairly through dismissal appeals. The appeal hearing itself for egregious misconduct, notorious for taking months or years to actually get underway, will be prioritized by the Office of Administrative Hearings (OAH) and start within 60 days. And these appeals will be heard entirely by an administrative law judge (ALJ), replacing the administrative panel and the bouncing back and forth between the old panel and superior court to cherry-pick venues to referee procedural disputes. Other appeals of dismissals for lesser misconduct and chronic unsatisfactory performance will be heard by a 3- member panel, including an ALJ, and commence no later than six months from the request for a hearing.

Where current law only permits a district to notify an employee of a dismissal when school is in session, this bill enables the notice to be given at any point during the calendar year. Beyond timing, the bill eliminates the 4-year statute of limitations on evidence of egregious misconduct and ensures that all victims will be able to have their stories heard.

AB 215 closes dangerous loopholes that enable employees to settle costly appeals and cut deals to have credible evidence of egregious misconduct expunged from their record – positioning them to get a job at a new, unsuspecting school. And to add an additional safeguard, the bill requires disclosure of any prior mandatory reporting of employee misconduct to the state when another school inquires about an employment application from a dismissed employee. Further, the bill clarifies a district's authority to suspend an employee without pay and exclusively decide on employee assignment during the pendency of administrative appeals. And to protect the innocent, it creates new, serious penalties for employees who knowingly make false allegations.