

Senate Education Committee
Senator Peggy Lehner, Chair
March 19, 2019

Chairman Lehner, Ranking Minority Member Fedor, and members of the Senate Education Committee, I am Lori Kelly, director of the Office of Professional Conduct at the Ohio Department of Education. Thank you for the opportunity to speak on behalf of the Department in support of Senate Bill 34.

The General Assembly has worked with the Department over the past 13 years to prevent educator misconduct that could pose a threat to students. We have collaborated on legislation to ensure thorough criminal records checks for school employees and to provide the Department with timely notice of educator arrests and convictions from the Attorney General. SB 34 represents a continuation of that collaboration, and we appreciate Sen. Kunze's willingness to work with the Department on this bill. We all share the goal of protecting Ohio's students.

For too long, a teacher or other school staff member who has engaged in sexual misconduct with a student at one school has been able to obtain employment at another school, without that other school ever learning of the prior misconduct. Consequently, the federal Every Student Succeeds Act requires states to have laws in place to prevent this practice. SB 34 complies with the federal law by prohibiting school employees and school board members from helping an individual get a job at a school if there is reasonable cause to believe the individual committed a sex offense involving a student. For example, a common scenario is that a teacher accused of sexual misconduct will resign and then school administrators will give good references, so the teacher is able to get a job in a new district, essentially making the issue go away. Under the bill, this could not happen. The former employer would be prohibited from recommending the teacher. Moreover, if the new district inquired about the teacher's history, the former employer could not withhold information about the misconduct.

SB 34 also would make it easier for schools to learn of any reports of educator misconduct filed with the Ohio Department of Education. Schools must report to the Department certain disciplinary or criminal actions against individuals holding educator licenses. Right now, these reports are confidential. The bill would allow the Department to share this information with school hiring officers, upon their request.

Several other key provisions of SB 34 close loopholes in the current licensure system that allow educator misconduct to go undiscovered:

- The bill requires contractors with a school to hold the same Department-issued licenses they would be required to hold if they were employed directly by the school. This ensures contractors providing student services such as physical therapy, athletic training, or speech-language pathology undergo regular criminal records checks and are subject to investigation by the Department in the event of

misconduct. For example, it would prevent an athletic trainer whose license has been revoked for bad behavior from taking a job with a third-party contractor to continue working in schools.

- The bill settles a split in Ohio courts by allowing the State Board of Education to consider a licensure applicant's prior conduct in deciding whether to issue the license, even if that conduct is not connected to the applicant's ability to perform the typical duties of the license. For instance, an applicant accused of child abuse or neglect could plead a more serious criminal offense down to disorderly conduct. Currently, the State Board could only consider the disorderly conduct conviction in some court jurisdictions, even though the underlying conduct is directly related to the safety of children.
- Schools currently must suspend a school employee from duties involving the care of a child when they learn of an arrest or indictment for serious crimes. If the employee holds an educator license, the bill further requires the Department to inactivate the license during a criminal trial. Inactivating the license guarantees the person cannot seek employment with another school while the criminal case is unresolved.

Finally, in Ohio, there are criminal offenses that are absolute bars to working in a school. The absolute bars include sex offenses, offenses of violence and major drug offenses. A person with a conviction for an absolute bar offense cannot receive an educator license or be employed by a school. The Department receives notice of these offenses through routine criminal records checks. However, juvenile adjudications for those offenses may be sealed, in which case they will not show up on a records check.

For this reason, SB 34 carves out a smaller subset of the most serious absolute bar offenses. Further, the bill makes a juvenile adjudication for an offense in this smaller subset of offenses an absolute bar to licensure or working in a school. It also ensures that individuals who have committed offenses in the smaller subset cannot seek relief from the collateral sanction of being barred from receiving an educator license.

While the Department recognizes the importance of rehabilitating both juvenile and adult offenders, the school environment is a unique setting. Teachers, aides, coaches and other school staff have close relationships with students. They often work with students with special needs and assist them in personal, intimate tasks. Having a teacher with a juvenile adjudication for a sex offense in daily contact with students gives schools and parents legitimate cause for concern.

SB 34 is thoughtful and intentional about where to draw the line when it comes to rehabilitation and the safety of students. It does not give the Department access to information about all juvenile adjudications. It does allow the Department to be made aware of juvenile adjudications for sex offenses, offenses of extreme violence and offenses that compromise the safety of children, such as distributing child pornography or permitting a child to take drugs.

SB 34 is the next step in protecting Ohio's students. It will enable Ohio to comply with federal law and strengthen our current system to deal with school employee misconduct.

Thank you for your consideration. I'd be happy to answer any questions the committee may have.