

AMENDED IN ASSEMBLY MAY 29, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member Blakeslee

February 23, 2007

An act to amend Sections 44244, ~~44246~~, and ~~44932~~ and 44246 of the Education Code, and to amend Section 11522 of the Government Code, relating to school personnel.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, Blakeslee. School teachers: ~~grounds for dismissal: administrative hearings.~~ *adverse actions on credentials.*

(1) *Existing law requires the Committee of Credentials, under the supervision of the Commission on Teacher Credentialing, to conduct a formal review when a person's application or a holder's credential is subject to adverse action, as specified.*

This bill would require the Committee of Credentials to give priority to adverse actions based on conduct that exposes a child to physical harm.

(2) *Existing law requires all testimony before the Committee of Credentials to be verified under penalty of perjury by oath or affirmation.*

This bill, for formal reviews involving conduct that exposes a child to physical harm, would require the Committee of Credentials to allow a material witness to testify before the committee, unless the testimony would not be germane.

(3) Existing law requires the Commission on Teacher Credentialing to initiate an adjudicatory hearing, upon application by the applicant or credentialholder, if the Committee of Credentials determines that probable cause for an adverse action exists.

This bill would require the Commission on Teacher Credentialing to give priority to hearings for adverse actions to deny, suspend, or revoke a credential based upon conduct that exposes a child to physical harm.

~~Existing law prohibits a permanent employee from being dismissed except for one or more of certain enumerated causes, one of which is immoral or unprofessional conduct.~~

~~This bill would include writing a sexually suggestive or romantic communication to a pupil as unprofessional conduct for which the employee may be dismissed.~~

~~Existing law requires that each allegation of an act or omission by an applicant for, or holder of, a credential for which his or her credential can be denied, suspended, or revoked be presented to the Committee of Credentials under the supervision of the Commission on Teacher Credentialing. Existing law authorizes the committee to conduct a formal review and, if it determines that probable cause for an adverse action exists, upon receipt of a request from the applicant or credential holder, to initiate an adjudicatory hearing.~~

~~This bill would require the commission and committee to prioritize formal reviews and hearings based on a violation of immoral or unprofessional conduct, as defined. This bill would also require the Attorney General’s office to prioritize petitions based on based on violations of immoral or unprofessional conduct.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 44244 of the Education Code is amended
- 2 to read:
- 3 44244. (a) At least 30 days prior to any formal review of the
- 4 Committee of Credentials at which the application of an applicant
- 5 or credential of a holder is to be considered, the committee shall
- 6 notify the applicant or holder of the specific allegations of
- 7 misconduct that make the application or credential subject to
- 8 adverse action. The notification shall be in ordinary and concise
- 9 language and set forth the acts or omissions charged and the

1 statutes or rules violated. Supplemental allegations of misconduct
2 shall be sent to the holder or applicant at least 30 days prior to the
3 formal review. The portions of the investigation of the original or
4 supplemental allegations that constitute the basis for the allegations
5 shall be open to inspection and copying by the holder or applicant
6 and his or her attorney. The statement of the allegations shall
7 inform the applicant or holder that the allegations, if true, are
8 sufficient to cause his or her application or credential to be subject
9 to adverse action.

10 (b) (1) The formal review shall be held no later than six months
11 after the commencement of the initial review as set forth in
12 subdivision (c) of Section 44242.5. The formal review shall
13 determine either that no adverse action shall be taken or that the
14 allegations are sufficient to cause his or her application or
15 credential to be subject to adverse action.

16 (2) All testimony before the committee shall be verified under
17 penalty of perjury by oath or affirmation. The chairperson of the
18 committee may administer the oath or affirmation. The chairperson
19 may designate staff to administer the oath or affirmation for
20 statements taken during the investigation of allegations of
21 misconduct.

22 (3) *For formal reviews involving the consideration of adverse*
23 *action for conduct that exposes a child to physical harm, a material*
24 *witness shall be allowed to testify before the Committee of*
25 *Credentials, unless his or her testimony would not be germane to*
26 *the formal review.*

27 (c) Notwithstanding subdivision (b), the chairperson of the
28 commission may grant the committee an extension of time, not
29 exceeding six months, when the committee demonstrates that
30 additional time is necessary to complete its investigation or
31 determination, as described in subdivision (b).

32 (d) The recommendation of the committee shall be in writing
33 and a copy of the recommendation shall be delivered to the
34 credentialholder or applicant personally or sent to him or her by
35 certified mail within 14 days after the formal review, together with
36 specific information relative to any appeal rights to which the
37 credentialholder or applicant is entitled.

38 (e) The committee shall give priority to conducting formal
39 reviews and initiating hearings for which the application of an
40 applicant or credential of a holder is subject to adverse action for

1 ~~immoral or unprofessional conduct in violation of paragraph (1)~~
2 ~~of subdivision (a) of Section 44932: *conduct that exposes a child*~~
3 ~~*to physical harm.*~~

4 SEC. 2. Section 44246 of the Education Code is amended to
5 read:

6 44246. (a) When a hearing is held to deny, suspend, or revoke
7 a credential, the proceeding shall be conducted in accordance with
8 Chapter 5 (commencing with Section 11500) of Part 1 of Division
9 3 of Title 2 of the Government Code, and the commission shall
10 have all the powers granted therein.

11 (b) The commission shall give priority to hearings to consider
12 an adverse action to deny, suspend, or revoke a credential based
13 ~~upon immoral or unprofessional conduct, as defined in paragraph~~
14 ~~(1) of subdivision (a) of Section 44932: *upon conduct that exposes*~~
15 ~~*a child to physical harm.*~~

16 ~~SEC. 3. Section 44932 of the Education Code is amended to~~
17 ~~read:~~

18 ~~44932. (a) No permanent employee shall be dismissed except~~
19 ~~for one or more of the following causes:~~

20 ~~(1) Immoral or unprofessional conduct. For purposes of this~~
21 ~~section, writing a sexually suggestive or romantic communication~~
22 ~~to a pupil is unprofessional conduct for which an employee may~~
23 ~~be dismissed.~~

24 ~~(2) Commission, aiding, or advocating the commission of acts~~
25 ~~of criminal syndicalism, as prohibited by Chapter 188 of the~~
26 ~~Statutes of 1919, or in an amendment to that chapter.~~

27 ~~(3) Dishonesty.~~

28 ~~(4) Unsatisfactory performance.~~

29 ~~(5) Evident unfitness for service.~~

30 ~~(6) Physical or mental condition unfitting him or her to instruct~~
31 ~~or associate with children.~~

32 ~~(7) Persistent violation of or refusal to obey the school laws of~~
33 ~~the state or reasonable regulations prescribed for the government~~
34 ~~of the public schools by the State Board or by the governing board~~
35 ~~of the school district employing him or her.~~

36 ~~(8) Conviction of a felony or of a crime involving moral~~
37 ~~turpitude.~~

38 ~~(9) Violation of Section 51530 or conduct specified in Section~~
39 ~~1028 of the Government Code, added by Chapter 1418 of the~~
40 ~~Statutes of 1947.~~

1 ~~(10) Knowing membership by the employee in the Communist~~
2 ~~Party.~~

3 ~~(11) Alcoholism or other drug abuse that makes the employee~~
4 ~~unfit to instruct or associate with children.~~

5 ~~(b) The governing board of a school district may suspend~~
6 ~~without pay for a specific period of time on grounds of~~
7 ~~unprofessional conduct a permanent certificated employee or, in~~
8 ~~a school district with an average daily attendance of less than 250~~
9 ~~pupils, a probationary employee, pursuant to the procedures~~
10 ~~specified in Sections 44933, 44934, 44935, 44936, 44937, 44943,~~
11 ~~and 44944. This authorization shall not apply to a school district~~
12 ~~that has adopted a collective bargaining agreement pursuant to~~
13 ~~subdivision (b) of Section 3543.2 of the Government Code.~~

14 ~~SEC. 4. Section 11522 of the Government Code is amended~~
15 ~~to read:~~

16 ~~11522. (a) A person whose license has been revoked or~~
17 ~~suspended may petition the agency for reinstatement or reduction~~
18 ~~of penalty after a period of not less than one year has elapsed from~~
19 ~~the effective date of the decision or from the date of the denial of~~
20 ~~a similar petition. The agency shall give notice to the Attorney~~
21 ~~General of the filing of the petition and the Attorney General and~~
22 ~~the petitioner shall be afforded an opportunity to present either~~
23 ~~oral or written argument before the agency itself. The agency itself~~
24 ~~shall decide the petition, and the decision shall include the reasons~~
25 ~~therefor, and any terms and conditions that the agency reasonably~~
26 ~~deems appropriate to impose as a condition of reinstatement. This~~
27 ~~section shall not apply if the statutes dealing with the particular~~
28 ~~agency contain different provisions for reinstatement or reduction~~
29 ~~of penalty.~~

30 ~~(b) With respect to persons whose license has been revoked or~~
31 ~~suspended based upon a violation of Section 44932 of the~~
32 ~~Education Code, the Attorney General's office shall give priority~~
33 ~~to petitions based on immoral or unprofessional conduct, as defined~~
34 ~~in paragraph (1) of subdivision (a) of that section.~~

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