

September 16, 2013

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

**AB 375 (Buchanan)
Request for Veto**

Dear Governor Brown:

On behalf of the California School Boards Association (CSBA), which represents nearly 1,000 school districts and county boards of education statewide, we must oppose AB 375 (Buchanan) and respectfully request that you veto this measure when it reaches your desk. AB 375 would impose time limits for the commencement and completion of an appeal of a local education agency's (LEA) decision to dismiss a teacher. AB 375 also adds procedural steps and constrains the ability of LEAs to amend charges and depose witnesses to substantiate the charges. The time limit, additional steps, and limitations on amendments to charges and depositions favor teachers accused of unsatisfactory performance or misconduct and will make it harder to dismiss individuals who may be a threat to student safety.

The following is a brief explanation of the problems with AB 375:

Limits on depositions and number of witnesses – AB 375 would create a new process for disclosure of evidence and identification of witnesses. No more than five witnesses could be deposed. This could preclude some victims of abuse from being heard and hinder the ability of the LEA to prove its case.

Limitations on amendment of charges – AB 375 would allow an LEA to amend charges against an employee only upon motion before an administrative law judge (ALJ). The amendment cannot be granted less than 90 days before the hearing if it would extend the close of the record beyond the 7-month time limit. These restrictions would make it harder for LEAs to dismiss a teacher as charges may now be amended at any time with the consent of the ALJ.

Time limit – Existing law requires suspension and dismissal hearings to begin within 60 days. AB 375 would extend the requirement for beginning the hearing to 6 months and require the hearing to be completed within 7 months from the date of the employee's demand for a hearing. The deadline for commencement of the hearing could be extended for extraordinary circumstances.

CSBA continues to believe the 7-month deadline for completion of the hearing will be difficult to meet with existing capacity of the Office of Administrative Hearings. It is also unclear whether discovery must be completed before the hearing can be "commenced" to meet the 6-month deadline for commencement. In cases involving immoral conduct, it could be difficult to complete discovery within 6 months. AB 375 is silent with regard to what happens to the case if it is not commenced within 6 months and the administrative law judge finds no extraordinary circumstances warranting a continuance.

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We fear the result will be the case will be dismissed and districts will be forced to re-file charges. This could require asking children to re-live abuse in testimony.

Challenge of suspension – AB 375 would enable a certificated employee to challenge a suspension while he or she awaits the dismissal hearing. This new procedure would add time and costs to the hearing process administered by the ALJ, and make it more difficult to meet the 7-month deadline for completion.

Challenge of qualifications of panel members – AB 375 would allow any party to object to the qualifications of members of the Commission on Professional Competence (CPC). Permitting the parties to object to the qualifications of a panel member at the time of selection adds cost and delay to the process without a benefit. At the time of selection, neither party is familiar with the qualifications of the panel members.

Deadline for appointment of panel members – Existing law allows the employee and the employer to select members of the CPC, and requires selection at least 7 calendar days before the hearing. AB 375 would require selection of the panel members no later than 45 days before the hearing. Failure to meet the deadline would constitute a waiver of the right to select a member of the panel. Since employees are more likely to know current teachers with 5 years of experience, or three years as proposed by AB 375, the time limit would favor the employee over management.

For all of these reasons, we are opposed to AB 375 (Buchanan) and respectfully request that you veto this bill when it crosses your desk.

Sincerely,



Brian M. Rivas
Legislative Advocate
Office of Governmental Relations

cc: Assembly Member Joan Buchanan
Gareth Elliot, Secretary of Legislative Affairs, Office of the Governor
Karen Staph Walters, Executive Director, State Board of Education
Erin Gabel, Director of Government Affairs, California Department of Education
Judy M. Cias, Chief Counsel, State Board of Education
Cathy McBride, Office of Legislative Affairs, Office of the Governor
Nick Schweizer, Program Budget Manager, Department of Finance