



# CINDI DUCHOW

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Assembly Education Committee  
Public Hearing, AB 329  
June 15, 2017

Chairman Thiesfeldt and Members of the Committee,

Thank you for the opportunity to testify today on Assembly Bill 329, relating to prohibiting aiding and abetting sexual abuse.

AB 329 is a federal requirement for states under the Every Student Succeeds Act, or ESSA. This policy, commonly referred to as “pass the trash” in other states, will prevent schools from helping educators find new jobs if there is reasonable suspicion to believe they committed a sex crime with a minor or pupil. At least six other states – Connecticut, Texas (both in response to ESSA’s directive), Michigan, Missouri, Oregon and Pennsylvania – have implemented a similar policy.

While our schools are supposed to be safe, nurturing environments for young children to grow and learn, that isn’t always the case. We have all heard heartbreaking stories of educators taking advantage of children at school, and later obtaining recommendations to transfer to other educational environments. While it is inexcusable to knowingly enable sexual predators in this way, schools may be leery of drawing negative attention to their institutions, thus brushing such misconduct under the rug and helping offenders find positions elsewhere. We cannot tolerate “passing the trash” here in Wisconsin.

Currently, the state superintendent can revoke an educator’s license for immoral conduct. This bill simply expands “immoral conduct” in current law to include helping a school employee, contractor or agent find a new job if there is reason to believe that individual committed a sex offense with a minor or student. AB 329 clarifies that a license can be revoked for aiding a person in this manner. Exceptions to aiding and abetting include transferring administrative or personnel files and information, or for recommending a person who has previously been suspected of a sex offense but whose case has been investigated and closed by law enforcement without a conviction.

It is my hope that the committee support this federal requirement to help ensure our kids have a safe environment while at school. Thank you again for the opportunity to testify.

Representative Cindi Duchow

**Assembly Committee on Education**

**June 15, 2017**

**Wisconsin Department of Public Instruction  
Testimony in Support of Assembly Bill 329**

Thank you Chairman Thiesfeldt and members of the Committee for the opportunity to be here today to testify on Assembly Bill 329 (AB 329). The Department of Public Instruction (DPI) would also like to extend our appreciation to the authors, Representative Duchow and Senator Olsen, for drafting this legislation at the request of the DPI. AB 329 updates the current statute to ensure Wisconsin complies with the federal requirement under the Every Student Succeeds Act (ESSA).

Section 8546 of ESSA requires that every state, state educational agency, or local education agency which receives federal funds under ESSA must have laws, regulations, or policies prohibiting any individual who is a school employee, contractor, or any state education agency from assisting a school employee in obtaining a new job if the individual or agency knows the employee engaged in sexual misconduct involving a minor or student in violation of the law. This legislation would update the current statute to specify that it is immoral conduct for a licensee to help another employee obtain a new job if the licensee knows the employee has committed a sexual offense of a minor or pupil.

Under this bill, "immoral conduct" means conduct or behavior that is contrary to commonly accepted moral or ethical standards and that endangers the health, safety, welfare, or education of any pupil. "Immoral conduct" includes all of the following:

- The intentional use of an educational agency's equipment to download, view, solicit, seek, display, or distribute pornographic material.
- Assisting a school employee, contractor, or agent to obtain a new job if the individual knows or has reasonable suspicion to believe that the school employee, contractor, or agent committed a sex offense, as defined in s. 301.45 (1d)(b), and the victim was a minor or a pupil.

It is **not** immoral conduct if any of the following apply:

- The assistance is the transmittal of administrative and personnel files.
- The information the individual knows or that is the basis of the individual's reasonable suspicion has been properly reported to law enforcement and law enforcement has closed any resulting case or investigation without a conviction.

The bill further stipulates that no school board, governing body of a private school, or operator of a charter school may assist a school employee, contractor, or agent to obtain a new job if the school board, governing body, or operator knows or has a reasonable suspicion to believe the school employee, contractor, or agent committed a sex offense, as defined in **s. 301.45 (1d) (b)**, and the victim was a minor or a pupil.

Thank you for the opportunity to testify on this bill. The DPI is happy to answer any questions.



"Leadership in Public School Governance"

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WISCONSIN  
ASSOCIATION OF  
SCHOOL BOARDS

TO: Members, Assembly Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: June 15, 2017  
RE: **SUPPORT for ASSEMBLY BILL 329**, relating to prohibiting aiding and abetting sexual abuse.

The Wisconsin Association of School Boards (WASB), on behalf of all 422 public school boards in the state of Wisconsin, **supports** Assembly Bill 329, although we have some concerns.

Assembly Bill 329 would implement in state statutes some provisions in (Section 8038 of) the Every Student Succeeds Act intended to prohibit aiding and abetting sexual abuse of children/students by school personnel.

The bill would specify in state law that it is immoral conduct for a licensee (e.g., a teacher, administrator or HR director, etc.) to assist a school employee, contractor, or agent to obtain a new job if the licensee knows or has reason to believe that the school employee, contractor, or agent has committed a sex offense and the victim was a minor or a pupil.

The bill would also prohibit a school board, governing body of a private school, and operator of a charter school from assisting a school employee, contractor, or agent to obtain a new job if the school board, governing body, or operator knows or has reason to believe that the school employee, contractor, or agent has committed a sex offense and the victim was a minor or a pupil.

Although we have some concerns about ambiguity in what it means to "assist" a person to get a new job or whether, for example, the bill would apply even in cases the new job does not involve working with children or minors and would like to see these issues clarified, we support the policy objective underlying Assembly Bill 329.

**Background:** A provision in section 8038 of the Every Student Succeeds Act ("ESSA") entitled "Prohibition on Aiding and Abetting Sexual Abuse" attempts to prevent school employees who have engaged in sexual misconduct with students from being passed from one school district to another.

Specifically, the provision requires states, state educational agencies and local school districts that receive federal funding to have laws, regulations and policies in place that prohibit anyone from assisting a school employee, contractor or agent in obtaining a new job if there is probable cause to believe that such person had engaged in sexual misconduct regarding a minor or student in violation of the law. The provision encourages the reporting of sexual misconduct to the proper authorities and effectively discourages the practice of school districts entering confidentiality agreements with sexual predators.

The ESSA provision provides for exceptions to the rule of prohibiting assistance with obtaining a new job. The prohibition does not apply if the alleged sexual misconduct in question was properly reported to a law enforcement agency with jurisdiction **and** properly reported to other authorities (such as a child welfare agency), including Title IX authorities, **and** the reporting resulted in one of the following:

- The matter was officially closed or the prosecutor or police notified the school district that there was insufficient information to establish probable cause that the alleged conduct violated the law;
- The employee/contractor/agent was acquitted or otherwise exonerated; or
- The case remains open but there have been no charges filed against, or indictment of, the employee/contractor/agent within four years of the date of the report.



## KETTLE MORaine SCHOOL DISTRICT

### DISTRICT OFFICE

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June 15, 2017

Wisconsin State Assembly Committee on Education

Re: Testimony to Support AB329, Relating to: prohibiting aiding and abetting sexual abuse.

Chair Thiesfeldt and Committee Members:

Thank you for this opportunity to testify in support of AB329. I am addressing you as a Board Member of the Kettle Moraine School District (KM). Our District generally supports AB329 with a couple of reservations and suggestions.

KM supports keeping individuals convicted of sexual misconduct involving a minor out of schools. KM staff would not knowingly give a positive job reference to another school district looking to hire someone convicted of sexual misconduct. Kettle Moraine School District performs criminal background checks on all potential employees in order to prevent hiring these individuals in the first place. It is already common practice when a school employee is terminated for this type of misconduct for the district's HR department to only give dates of employment and last salary in response to a job reference.

We suggest the proposed bill be revised for the following:

- Provide clarity for the phrase "reasonable suspicion to believe" so that school employees understand their obligations when contacted for a job reference; as not all job references go through a District's HR office.
- Specify whether a school employee contacted for a reference has an affirmative obligation to state that the individual in question has been convicted of sexual misconduct or whether it is sufficient to state "no comment" and not give any type of reference.
- Address the issue of whether this prohibition applies to all jobs or only to school jobs, as we suggest the individual (former staff member) should have the ability to seek a new career opportunity outside of education where they can continue to be a contributing member of society.

The bill includes the "*Analysis by the Legislative Reference Bureau*": "Under current law, the state superintendent of public instruction may revoke a license issued by the state superintendent for immoral conduct on the part of a licensee. This bill specifies that it is immoral conduct for a licensee to help a school employee, contractor, or agent obtain a new job if the licensee knows or has reason to believe that the school employee, contractor, or agent has committed a sex offense and the victim was a minor or a pupil. . ."

The analysis suggests the bill could result in punitive action to staff in good standing. Please clarify what this means. The success of our schools is based on the hard work and willingness of our administrative and teaching staff to accept and embrace new challenges and programs, and carry on these efforts for the benefit of our students. We need the total participation and engagement of our staff to achieve success every day. We need to encourage our staff rather than threaten them with unclear and potentially unreasonable punitive actions.

Thank you.

James M. Romanowski, Kettle Moraine School District Board Member



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

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## Testimony

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To: Members of the State Assembly Committee on Education  
From: Wisconsin Coalition Against Sexual Assault  
Date: June 15, 2017  
Subject: AB 329: Prohibiting Aiding and Abetting Sexual Abuse  
Position: Support

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The Wisconsin Coalition Against Sexual Assault (WCASA) is a statewide membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 56 sexual assault service provider agencies throughout the state that offer support, advocacy and information to survivors of sexual assault and their families.

WCASA thanks Chairman Thiesfeldt, Ranking Member Pope, and Representatives Duchow and Considine for bringing Assembly Bill 329 forward for consideration today. WCASA also thanks the bill's many cosponsors for supporting this vital legislation. WCASA is proud to support this bill.

As you know, Assembly Bill 329 enables the state superintendent to revoke the license of an individual who helps a school employee, contractor or agent obtain a new job if the licensee knows or has reason to believe that the school employee, contractor or agent has sexually abused a minor or a student. The bill also prohibits a school board, governing body of a private school, and an operator of a charter school from providing similar assistance.

WCASA believes all students should be safe from sexual violence, especially from trusted adults such as teachers and other school personnel. From the bus driver to the principal, our educators and their colleagues are entrusted with the safety and learning of our children. That also means these personnel are in positions of authority, which perpetrators often seek out in order to access children and youth.

The U.S. Department of Education reported in 2004 that nearly 9.6% (i.e., almost 1 out of 10) of K-12 students experience sexual abuse by school personnel at some point in their school career.<sup>1</sup>

Unfortunately, we may never know the true prevalence of sexual abuse by school personnel. Too many cases are swept under the rug or not reported at all, hence the need for this legislation. The negative effects of this abuse can be many and long-lasting.

As cited by the U.S. Government Accountability Office in 2014, research indicates that "child sexual abuse often has significant detrimental consequences on children's physical, psychological, academic, and behavioral development."<sup>ii</sup> Some of these consequences include "anxiety, depression, guilt, fear, sexual dysfunction, difficulty with interpersonal relationships, difficulty trusting, challenged boundary setting, lowered self-esteem, and dissociation."<sup>iii</sup> Of course, the effects of child sexual abuse vary from survivor to survivor, and may be influenced by other factors.<sup>iv</sup>

Over the years, occasional media reports have highlighted school districts and schools quietly pushing child sex offenders onto unwitting districts and schools. WCASA condemns these entities' disregard for

child and community safety in favor of expediency and reputation. Assembly Bill 329 will be an essential tool in ending this deplorable practice in Wisconsin.

Thank you for your consideration. If you have questions, please feel free to contact us.

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<sup>i</sup> Educator Sexual Misconduct: A Synthesis of Existing Literature. US Department of Education. 2004.

<https://www2.ed.gov/rschstat/research/pubs/misconductreview/report.pdf>

<sup>ii</sup> Child Welfare: Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel. GAO-14-42. US Government Accountability Office. January 30, 2014. <http://www.gao.gov/products/GAO-14-42>

<sup>iii</sup> Long-Term Effects of Childhood Sexual Abuse. Letter from the Editor. *Research & Advocacy Digest*. Volume 10, 1. Washington Coalition of Sexual Assault Programs. 2008. <http://www.wcsap.org/long-term-effects-childhood-sexual-abuse>

<sup>iv</sup> *ibid.*