



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Senate Bill 49	Senate Substitute Amendment 1
<i>Memo published:</i> June 13, 2011	<i>Contact:</i> Anne Sappenfield, Senior Staff Attorney (267-9485)

Senate Bill 49 modifies current law relating to revocation of licenses issued by the Department of Public Instruction (DPI).

Current Law

Under current law, DPI may, after written notice of the charges and an opportunity for defense, revoke any license granted by DPI for incompetency or immoral conduct on the part of the licensee. Current law defines “immoral conduct” as 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. An administrator is required to report to DPI the name of any person employed by the educational agency and licensed by DPI if: (1) the person is charged or convicted of specified crimes; (2) the person is dismissed, or his or her contract is not renewed, by the employer based in whole or in part on evidence that the person engaged in immoral conduct; or (3) the person resigns and the administrator has a reasonable suspicion that the resignation relates to the person having engaged in immoral conduct.

Upon receiving a report from an administrator relating to a licensee, DPI must investigate to determine whether to initiate revocation proceedings. During the investigation, DPI must keep confidential all information pertaining to the investigation except the fact that an investigation is being conducted and the date of the revocation hearing. Current law requires DPI to destroy all information pertaining to an investigation or a revocation proceeding three years from the date on which the investigation is terminated or a final decision denying revocation of the license is issued, whichever is later.

Senate Bill 49

The bill provides that “immoral conduct” includes the intentional use of an educational agency’s equipment to download, view, or distribute pornographic material in violation of the educational agency’s policy.

Under the bill, DPI must initiate proceedings to revoke a license granted by DPI if the licensee is dismissed or his or her contract is not renewed based in whole or in part on evidence that the licensee engaged in immoral conduct, as defined in the bill.

Under the bill, notwithstanding the confidentiality requirement and the requirement to destroy information, DPI must post the name of the licensee and the results of the revocation proceeding on the DPI website.

Senate Substitute Amendment 1

Under the substitute amendment, “immoral conduct” includes the intentional use of an educational agency’s equipment to download, view, solicit, seek, display, or distribute pornographic material.

The substitute amendment requires an administrator, when reporting to DPI about a licensee’s conduct, to include a complete copy of the licensee’s personnel file and all records related to any investigation of the licensee conducted by or on behalf of the educational agency. The substitute amendment exempts the transfer of these records by the administrator of an educational agency to DPI from s. 19.356 (2) (a), Stats., of the open records law. Under this provision, with certain exceptions, if an authority decides to permit access to specific types of records,¹ the authority must, before permitting access and within three days after making the decision to permit access, notify any subject of the record that the authority is permitting access to the record.

Under the substitute amendment, in addition to the investigation and confidentiality requirements described above, DPI is required to post the name of the licensee who is under investigation on the DPI website.

Senate Substitute Amendment 1 repeals the current statute which requires DPI to destroy all information pertaining to an investigation or a revocation proceeding after three years, as described above. Instead, under the substitute amendment, DPI is required to maintain a record of all investigations it conducts that indicates the name of the licensee, the date the investigation began, the reason for the investigation, and the result of the investigation. Whenever an investigation results in the revocation of a license, DPI must post the name of the person whose license was revoked on the DPI website.

Legislative History

Senate Substitute Amendment 1 was offered by Senator Olsen. On June 7, 2011, the Senate Committee on Education unanimously recommended adoption of Senate Substitute Amendment 1 and passage of Senate Bill 49, as amended.

AS:ty

¹ A record containing information relating to an employee that is created or kept by the authority and is the result of an investigation into a disciplinary matter involving the employee or possible employment-related violation by the employee of a statute, ordinance, rule, regulation, or policy of the employer; a record obtained by the authority through a subpoena or search warrant, or a record prepared by an employer other than an authority if that record contains information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information. [s. 19.356 (2) (a) 1., 2., and 3., Stats.]