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## Luther S. Olsen

State Senator

14th District

**TO:** Senate Committee on Education  
**FROM:** Senator Luther Olsen  
**DATE:** Thursday, August 17, 2017  
**SUBJECT:** Testimony for Senate Bill 253

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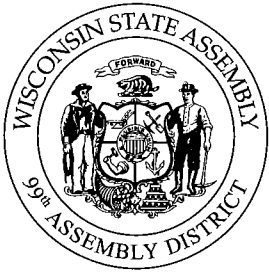
Thank you members of the Senate Committee on Education for holding a public hearing today and allowing me to testify in favor of Senate Bill 253.

Currently, the state superintendent can revoke a license for immoral conduct. In the Every Student Succeeds Act (ESSA) that was passed by congress they included a section on the prohibition of aiding and abetting sexual abuse, section 8546.

It requires that a state, state educational agency, or local educational agency that receives federal funds under ESSA must have laws, regulations, or policies prohibiting any individual who is a school employee, contractor, or any state educational agency from assisting a school employee in obtaining a new job if the individual or agency knows that the employee engaged in a sexual misconduct regarding a minor or student in violation of the law.

This legislation will update the current statute to specify that it is immoral conduct for a licensee to help another employee obtain a new job if they know that the employee has committed a sexual offense of a minor or pupil. It is my hope that this bill will help to ensure a safe environment for our students and prevent any incidents from merely being brushed under the rug.

Again, thank you for allowing me to testify today and I ask for your support on Senate Bill 253.



# CINDI DUCHOW

STATE REPRESENTATIVE • 99<sup>th</sup> ASSEMBLY DISTRICT

(608) 266-3007  
Toll-Free (888) 534-0099

Rep.Duchow@legis.wi.gov  
RepDuchow.com  
P.O. Box 8952  
Madison, WI 53708-8952

Senate Education Committee  
Public Hearing, SB 253  
August 17, 2017

Chairman Olsen and Members of the Committee,

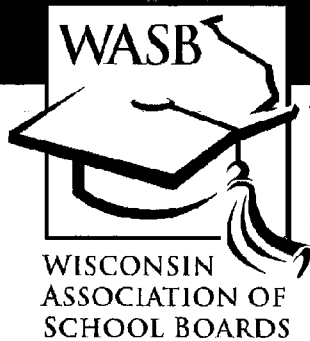
Thank you for the opportunity to provide testimony on Senate Bill 253, relating to prohibiting aiding and abetting sexual abuse.

SB 253 would fulfill 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, Michigan, Missouri, Oregon and Pennsylvania – have implemented a similar policy.

While our schools are supposed to be safe, nurturing environments for 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. 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. SB 253 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 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 provide my testimony.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Senate Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: August 17, 2017  
RE: **SUPPORT for SENATE BILL 253**, 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** Senate Bill 253, although we have expressed some concerns about the bill.

Senate Bill 253 would implement in state statutes provisions in (Section 8038 of) the federal 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 DPI 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. A violation could subject the licensee to potential loss or his or her DPI license.

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.

We strongly support the policy objective underlying Senate Bill 253, but 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 see value in trying to clarify these issues.

**Background:** A provision in section 8038 of the Every Student Succeeds Act ("ESSA") entitled "Prohibition on Aiding and Abetting Sexual Abuse" aims 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.

Senate Committee on Education  
August 17, 2017

Wisconsin Department of Public Instruction  
Testimony in Support of Senate Bill 253

Thank you Chairman Olsen and members of the Committee for the opportunity to be here today to testify on Senate Bill 253 (SB 253). 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 department. AB 253 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 that 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 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 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 no school board, governing body of a private school, or operator of a charter school may assist a school employee, contactor, 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 department is happy to answer any questions.



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

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## Testimony

To: Members of the State Senate Committee on Education  
From: Wisconsin Coalition Against Sexual Assault  
Date: August 17, 2017  
Subject: SB 253: 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 Olsen, Vice Chairperson Darling, and the other authors of Senate Bill 253 for bringing this legislation forward for consideration. WCASA is proud to support this bill.

As you know, Senate Bill 253 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>i</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. Senate Bill 253 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.

Dominic W. Holt, M.S.W., M.F.A.  
Public Policy & Communications Coordinator  
Wisconsin Coalition Against Sexual Assault  
2801 West Beltline Highway, Suite 202  
Madison, WI 53713  
608-257-1516 ext. 113  
dominich@wcasa.org

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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.*