

Senate File 2365 - Introduced

SENATE FILE 2365
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 3041)

A BILL FOR

1 An Act relating to education by modifying provisions related
2 to a process for investigating complaints against school
3 employees and the responsibilities of the department of
4 education and the board of educational examiners.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.9, subsection 67, Code 2024, is
2 amended by striking the subsection.

3 Sec. 2. Section 256.146, Code 2024, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 25. *a.* Develop and implement a process
6 for the reporting and investigation of any incident that arises
7 that may reasonably lead to the conclusion that any individual
8 who is employed by the board of directors of a school district,
9 the authorities in charge of an accredited nonpublic school,
10 or the governing board of a charter school, including an
11 individual with a license, endorsement, certification,
12 authorization, or statement of recognition issued by the
13 board of educational examiners, has committed a felony or,
14 in the case of an individual with a license, endorsement,
15 certification, authorization, or statement of recognition
16 issued by the board of educational examiners, has engaged in
17 conduct described in section 256.160, subsection 1, paragraph
18 "a", subparagraph (1).

19 *b.* The process shall prohibit the board of directors of a
20 school district, the authorities in charge of an accredited
21 nonpublic school, and the governing board of a charter school
22 from entering into any of the following:

23 (1) A written or oral agreement that prohibits the board
24 of directors of the school district, the authorities in charge
25 of an accredited nonpublic school, the governing board of
26 a charter school, an employee of the school district, the
27 accredited nonpublic school, or the charter school, or a
28 contractor of the school district, the accredited nonpublic
29 school, or the charter school from discussing an incident, past
30 performance or actions, past allegations leading to discipline
31 or adverse employment action, or employee resignation with any
32 governmental agent, governmental officer, or any potential
33 employer.

34 (2) A written or oral agreement that waives the liability
35 of an individual with a license, endorsement, certification,

1 authorization, or statement of recognition issued by the
2 board of educational examiners related to or arising from an
3 incident, past performance or action, or past allegations of
4 wrongdoing.

5 *c.* (1) The process shall require the board of directors
6 of a school district, the authorities in charge of an
7 accredited nonpublic school, and the governing board of a
8 charter school to provide all documentation and information
9 related to the incident to the board of educational examiners
10 for investigation if the employee who is the subject of the
11 incident and who has a license, endorsement, certification,
12 authorization, or statement of recognition issued by the board
13 of educational examiners resigns or the employee's contract is
14 terminated during the school district's, accredited nonpublic
15 school's, or charter school's investigation of the incident.

16 (2) The process shall require the board of directors of a
17 school district, the authorities in charge of an accredited
18 nonpublic school, and the governing board of a charter school
19 to finalize the investigation of the incident even if the
20 employee who is the subject of the incident and who does not
21 have a license, endorsement, certification, authorization, or
22 statement of recognition issued by the board of educational
23 examiners resigns or the employee's contract is terminated
24 during the school district's, accredited nonpublic school's, or
25 charter school's investigation of the incident.

26 *d.* The process shall require that, prior to hiring an
27 applicant for any position, the board of directors of a
28 school district, the authorities in charge of an accredited
29 nonpublic school, and the governing board of a charter school
30 must conduct a review of the applicant's employment history,
31 including by contacting the applicant's previous employers
32 listed on the application for employment and by viewing the
33 board of educational examiners' public license information to
34 determine if the applicant has a case pending with a finding of
35 probable cause or any licensure sanction.

1 e. The process shall require the board of directors of a
2 school district, the authorities in charge of an accredited
3 nonpublic school, and the governing board of a charter school
4 to maintain on forms prescribed by the board of educational
5 examiners reference information related to all employees of
6 the school district, accredited nonpublic school, or charter
7 school, and respond to any request for such information from
8 a potential employer. This paragraph shall not be construed
9 to require the board of directors of a school district, the
10 authorities in charge of an accredited nonpublic school, or
11 the governing board of a charter school to disclose unfounded,
12 closed investigations. The board of directors of a school
13 district, the authorities in charge of an accredited nonpublic
14 school, or the governing board of a charter school shall be
15 immune from any criminal or civil liability arising from the
16 disclosure of reference information under this paragraph if the
17 school district, accredited nonpublic school, or charter school
18 does not knowingly disclose false information.

19 f. The board of directors of a school district, the
20 authorities in charge of an accredited nonpublic school, or
21 the governing board of a charter school, and contractors of
22 the school district, the accredited nonpublic school, or the
23 charter school shall be immune from any civil liability arising
24 from discussing an incident, past performance or actions,
25 past allegations leading to discipline or adverse employment
26 action, or employee resignation with any governmental agent,
27 governmental officer, or any potential employer.

28 g. If, after investigation, the board of educational
29 examiners determines that the board of directors of a
30 school district, the authorities in charge of an accredited
31 nonpublic school, or the governing board of a charter school
32 has intentionally failed to follow the process established
33 by this subsection regarding an incident, or the reporting
34 requirements established pursuant to section 256.160, related
35 to an employee who holds a license, endorsement, certification,

1 authorization, or statement of recognition issued by the board
2 of educational examiners, any administrator of the school
3 district, the accredited nonpublic school, or the charter
4 school who intentionally failed to ensure compliance with the
5 process shall be subject to a hearing conducted by the board of
6 educational examiners.

7 *h.* If, after investigation, the board of educational
8 examiners determines that the board of directors of a school
9 district, the authorities in charge of an accredited nonpublic
10 school, or the governing board of a charter school has
11 intentionally failed to follow the process established by
12 this subsection regarding an incident related to an employee
13 who does not hold a license, endorsement, certification,
14 authorization, or statement of recognition issued by the board
15 of educational examiners, any administrator of the school
16 district, the accredited nonpublic school, or the charter
17 school who intentionally failed to ensure compliance with the
18 process shall be subject to a hearing conducted by the board of
19 educational examiners.

20 *i.* If, after investigation, the board of educational
21 examiners determines that the board of directors of a school
22 district, the authorities in charge of an accredited nonpublic
23 school, or the governing board of a charter school has
24 intentionally concealed, or attempted to conceal from any
25 governmental agent, governmental officer, or potential employer
26 a founded incident, or any conduct required to be reported
27 pursuant to section 256.160, related to an employee who holds
28 a license, endorsement, certification, authorization, or
29 statement of recognition issued by the board of educational
30 examiners, any administrator of the school district, the
31 accredited nonpublic school, or the charter school who
32 intentionally assisted in the concealment, or attempted
33 concealment, of an incident, or any conduct required to be
34 reported pursuant to section 256.160, shall be subject to a
35 hearing conducted by the board of educational examiners.

1 *j.* If, after investigation, the board of educational
2 examiners finds that the board of directors of a school
3 district, the authorities in charge of an accredited nonpublic
4 school, or the governing board of a charter school has
5 intentionally concealed, or attempted to conceal from any
6 governmental agent, governmental officer, or potential employer
7 a founded incident related to an employee who does not hold
8 a license, endorsement, certification, authorization, or
9 statement of recognition issued by the board of educational
10 examiners, any administrator of the school district, the
11 accredited nonpublic school, or the charter school who
12 intentionally assisted in the concealment, or attempted
13 concealment, of an incident shall be subject to a hearing
14 conducted by the board of educational examiners.

15 *k.* (1) Annually, on or before June 30 of each year, the
16 board of educational examiners shall submit to the general
17 assembly a report that contains information related to all of
18 the following:

19 (a) The number and types of disciplinary hearings before the
20 board of educational examiners.

21 (b) Any trends in the number or types of disciplinary
22 hearings before the board of educational examiners.

23 (c) The number of board of educational examiners
24 investigations of the employees of school districts, accredited
25 nonpublic schools, or charter schools who do not hold a
26 license, endorsement, certification, authorization, or
27 statement of recognition issued by the board of educational
28 examiners, that the board of educational examiners referred to
29 a law enforcement agency.

30 (d) Any other information deemed relevant by the board of
31 educational examiners in order to inform the general assembly
32 of the status of the enforcement of the board of educational
33 examiners' rules.

34 (2) The report shall not include any personally
35 identifiable information related to investigations referred to

1 a law enforcement agency.

2 Sec. 3. Section 280.34, Code 2024, is amended to read as
3 follows:

4 **280.34 Incidents related to licensed practitioners —**
5 **reporting and investigation.**

6 The board of directors of a school district and the
7 authorities in charge of each accredited nonpublic school shall
8 follow the process created by the ~~department of education board~~
9 of educational examiners pursuant to section ~~256.9, subsection~~
10 ~~67~~ 256.146, subsection 25, related to the reporting and
11 investigation of an incident involving the possible commission
12 of a felony by any employee of the board of directors of the
13 school district or the authorities in charge of the accredited
14 nonpublic school.

15 Sec. 4. REPEAL. Section 256.158A, Code 2024, is repealed.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to education by modifying provisions
20 related to a process for investigating complaints against
21 school employees and the responsibilities of the department of
22 education (DE) and the board of educational examiners (BOEE).

23 Current law requires the director of DE to develop and
24 implement a process for the reporting and investigation of
25 any incident that arises that may reasonably lead to the
26 conclusion that any individual who is employed by the board
27 of directors of a school district, the authorities in charge
28 of an accredited nonpublic school, or the governing board of
29 a charter school has committed a felony or, in the case of
30 an individual with a license, endorsement, certification,
31 authorization, or statement of recognition issued by the
32 BOEE, has engaged in other prohibited conduct. Current law
33 also establishes required elements of this process, including
34 prohibiting schools from entering into certain agreements,
35 requiring schools to provide documentation related to

1 certain incidents to the BOEE, requiring schools to conduct
2 a review of an applicant's employment history and public
3 license information, requiring schools to maintain reference
4 information related to employees and respond to requests
5 for such information from potential employers, establishing
6 immunities for disclosure of certain information by schools,
7 and establishing enforcement mechanisms. The bill transfers
8 all of the authority related to developing and implementing
9 this process from DE to the BOEE.

10 The bill requires that the BOEE include in its annual
11 report to the general assembly information related to the
12 number of BOEE investigations of school employees who do not
13 hold a license, endorsement, certification, authorization,
14 or statement of recognition that the BOEE referred to a law
15 enforcement agency. The bill establishes that the BOEE's
16 annual report shall not include any personally identifiable
17 information related to investigations referred to a law
18 enforcement agency.