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WRITTEN TESTIMONY OF
CHRISTOPHER P. HANKINS, LEGAL COUNSEL

CONNECTICUT EDUCATION ASSOCIATION

BEFORE THE

EDUCATION COMMITTEE

REGARDING

RAISED BILL NO. 323

“AN ACT CONCERNING UNSUBSTANTIATED ALLEGATIONS OF ABUSE AND
NEGLECT

BY SCHOOL EMPLOYEES”

MARCH 2, 2016

My name is Christopher P. Hankins and I am Legal Counsel for the Connecticut Education Association. I am commenting on several aspects of Raised Bill No. 323.

1. C.G.S. Subsection 17a-101i (c) (1):
 - a. This proposed subsection is an excellent statutory mechanism to assist in lessening the stigma of an unfounded allegation of child abuse or neglect by way of the removal of documents that record an event that was investigated yet found not to have occurred.
 - b. Through investigation by the Department of Children and Families (DCF), the vast majority of allegations of child abuse or neglect against teachers ultimately wind up being unsubstantiated. Without the removal of any reference to a report or investigation from the school employee's personnel record these untrue indicia of wrongdoing would remain accessible to public purview as a teacher's personnel file, like the personnel file of any public employee, is largely accessible to the public through the Freedom of Information Act. To have public access to an untrue allegation would be manifestly unjust to an innocent teacher.

- c. Lingering vestiges of a previously unsubstantiated DCF investigation, if left in a teacher's personnel file, could hamper that teacher's employment prospects outside their school district. This is because C.G.S. Section 10-222c requires the hiring board of education to check back with prior employers for the prospective teacher's fitness for duty. This proposed subsection would help alleviate such a concern of unfounded allegations of abuse or neglect.
 - d. If allowed to remain in a school employee's personnel file, this untrue allegation could be used against the employee by the employing district if there was a second allegation that might be made at any time in the future. This is because the district always refers to the first unsubstantiated case when reporting to DCF, thus setting a false and prejudicial tone for the second investigation. This proposed subsection would help alleviate this problem.
 - e. One requested change to this proposed subsection is that "the school employee's representative" should be added to the individuals or entities that are notified by the Commissioner of Children and Families when abuse or neglect is unsubstantiated. The reason for this is that the superintendent as well as the employing school or school district is notified along with the employing superintendent.
2. C.G.S. Subsection 17a-101i (c) (2):
- a. Proposed subsection (c) (2) is opposed as it undoes all the benefits to school employees that occur with proposed subsection (c) (1).
 - b. Proposed subsection (c) (2) is contradictory to proposed subsection (c) (1) as this section seeks to use unsubstantiated reports against teachers whereas the preceding proposed subsection seeks to protect teachers by deleting such references out of their personnel files or similar files.
 - c. There are already other statutory mechanisms in place that accomplish the objective of proposed subsection (c) (2). C.G.S. Section 10-151 (d) permits a superintendent at any time to initiate termination proceedings against a teacher for moral misconduct or for other due and sufficient cause. C.G.S. Section 10-145b (i) (1) permits the State Board of Education to revoke a teacher's certificate at any time if the holder is deemed to be professionally unfit to perform their duties for which the permit was granted or for other due and sufficient cause. Given the foregoing, proposed subsection (c) (2) is not needed and is unnecessary.
 - d. This proposed subsection goes against C.G.S. Sections 10-221s and 17a-101h, which permit the coordination of investigatory activities between the school district, DCF and law enforcement agencies. Since a school district can do a parallel investigation, using unsubstantiated allegations after the investigation is completed runs counter to the investigation and decision that has already occurred. Simultaneous investigations would also lessen the impact on child witnesses as they would not have to be questioned once by the DCF and then later by the school district after the allegations have been unsubstantiated.