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OCT 29 2013

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

October 29, 2013

Initiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

Re: Request for Title and Summary for Proposed Initiative

Dear Initiative Coordinator:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure to your office, to be known and cited as follows:

STOP CHILD MOLESTERS, SEXUAL ABUSERS AND DRUG DEALERS  
FROM WORKING IN CALIFORNIA SCHOOLS ACT

I request that you prepare a circulating title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Thank you for your time and attention to this important matter. Should you have any questions or require additional information, please contact the undersigned.

Very Truly Yours,



Ashlee N. Titus,  
Proponent

ANT/cfd  
Enclosures as stated.

**STOP CHILD MOLESTERS, SEXUAL ABUSERS AND DRUG DEALERS FROM  
WORKING IN CALIFORNIA SCHOOLS ACT**

**INITIATIVE STATUTE**

SECTION 1. Title.

This measure shall be known and may be cited as the “Stop Child Molesters, Sexual Abusers and Drug Dealers from Working in California Schools Act”.

SECTION 2. Findings and Declarations.

(a) The People of the State of California find and declare California statutes do not enable school districts to expeditiously and permanently protect innocent students and staff from school employees who perpetrate acts of child molestation, sexual abuse, drug dealing, and other egregious misconduct.

(b) Any number of press reports of egregious misconduct against children and staff in California schools carried out by school employees is abhorrent and indicative that California schools are not safe from such perpetrators:

(1) In Los Angeles a third grade school employee abusing dozens of students ages 6 to 10, including spoon-feeding semen and semen-laced cookies to blindfolded children, over a period of at least five school years.

(2) In San Clemente a middle school employee committing lewd acts, repeated sexual assault and oral copulation with students under the age of 14.

(3) In the Bay Area a third grade school employee sexually penetrating a child, performing lewd acts on a child and molesting students over a period of at least three school years; and, another school employee engaging in unlawful sexual intercourse with a minor under the age of 16, oral copulation of a person under 16 and performing lewd acts on a child.

(4) In the Silicon Valley a school employee selling crystal methamphetamine and date-rape drug GHB to undercover police.

(5) In Sacramento a school employee alleged to have sexually molested students not being dismissed but transferred to another school and the next school year committing child molestation and sexual battery on students.

(6) In the Central Valley a school employee disciplined for one week by one school district returning to work as a school substitute in another district and committing child molestation and lewd and lascivious acts with elementary students.

(7) In Simi Valley a school employee committing lewd acts and oral copulation with a student under the age of 14.

(8) In the Inland Empire prosecution of a school employee committing countless sexual offenses and abuse against a student brought to light two more victims of sexual offenses by the same school employee; and, a middle school employee packaging crystal methamphetamine for sale.

(9) In the High Desert a school employee committing child molestation, oral copulation and unlawful intercourse with a minor in the classroom.

(10) In San Diego a middle school employee of the year receiving and possessing child pornography, including explicit images of a 10-year-old girl, and possessing a computer and disks containing images of minors – many of them prepubescent – engaged in sexually explicit conduct.

(c) Most school districts do everything within their power to protect innocent students and staff from school employees who perpetrate acts of child molestation, sexual abuse, drug dealing and other egregious misconduct despite inadequate state laws.

(d) Current law includes loopholes for school employees perpetrating egregious misconduct to remain on the public payroll and earn continuing retirement credit for excessive time after having been charged in writing with committing egregious misconduct and being notified of a decision to terminate employment thereby increasing the dismissal costs to school districts and draining resources from schools and the children they serve.

(e) School employees perpetrating egregious misconduct in California have exploited loopholes to delay and conceal dismissal proceedings manipulating school districts to pay-off, reassign, enter into agreements to expunge evidence of egregious misconduct from district personnel files, and approve secret settlement agreements enabling the school employee to continue to perpetrate offenses in other schools and school districts, thereby infringing on the inalienable right of students and staff to attend public primary, elementary, junior high, and senior high school campuses which are safe, secure and peaceful as guaranteed by the Constitution of the State of California.

(f) Accordingly, the People of the State of California declare that to secure the constitutional guarantee of students and staff to be safe and secure in their persons at public primary, elementary, junior high and senior high school campuses, school districts must have the appropriate statutory authority to expeditiously remove and permanently dismiss perpetrators of egregious misconduct without facing lengthy and costly litigation or creating incentives to transfer the school employee to another assignment, school or school district.

SECTION 3. Part 5.5 (commencing with Section 7500) is added to Division 1 of Title 1 of the Education Code to read:

*Part 5.5  
Egregious Misconduct by School Employees*

7500. Definitions. *As used in this part:*

(a) *“Egregious misconduct” means conduct for which a school employee is subject to discipline or dismissal and that conduct is also reasonably related to any offense as described in Sections 44010 and 44011 of this code, and Sections 11165.2 to 11165.6, inclusive of the Penal Code, including but not limited to child molestation, sexual abuse of minors, sexual assault on minors or adults, and unlawful distribution of illicit or specified controlled substances.*

(b) *“School district” includes school district governing boards, county superintendent of schools and county boards of education.*

(c) *“School employee” includes but is not limited to any certificated or classified person whether or not providing services through an agreement with a school district, or charter school as specified in this part, and without regard to whether the person is permanent, probationary, temporary, substitute, full-time or part-time or whether the person is an employee or independent contractor.*

7501. Prohibited Censorship of Facts and Evidence, Notice of Dismissal, Hearings, Appeals.

(a) *Notwithstanding any other provision of law, a notice of dismissal or suspension in a proceeding initiated pursuant to charges of egregious misconduct of a school employee may be served at any time during the calendar year.*

(b) *Notwithstanding any other provision of law with respect to any required hearing on the suspension or dismissal of a school employee pursuant to charges of egregious misconduct:*

(1) *There shall be no limitation in producing evidence, including but not limited to declarations, testimony or depositions from victims or witnesses, reasonably relating to acts of egregious misconduct by a school employee.*

(2) *Evidence of egregious misconduct shall not be excluded based on the passage of time.*

(3) *There shall be no limitation on the amendment of written charges for suspension or dismissal of a school employee when the substance of the amendment is an allegation of egregious misconduct. To the extent that written charges are amended, the school employee shall be given a reasonable opportunity to respond to the amended charges.*

*(c) Notwithstanding any other provision of law, on or after the effective date of this part:*

*(1) No agreement that is amended, renewed, or entered into by a school district or charter school, or agent thereof, shall authorize or require the removal from school employees' records any evidence of credible complaints, reprimands, punishments, substantiated investigations, or discipline relating to a school employee's commission, or alleged commission, of an act of egregious misconduct, including but not limited to child molestation, sexual assault or abuse of a minor or adult, or the distribution of illicit drugs and other unlawful distribution of specified controlled substances. This prohibition does not preclude a provision in any agreement for the removal of documents containing unfounded, erroneous or false allegations from a school employee's permanent personnel file upon a finding by the governing board by majority vote that the information was unfounded, erroneous or false, upon the order of an administrative law judge in a final decision of an adverse action or order of a court of competent jurisdiction as otherwise provided by law.*

*(2) No school district or charter school, or agent thereof, shall enter into an agreement that would prevent a report of any change in the employment status of a school employee alleged to have engaged in egregious misconduct, including but not limited to reporting to any local, state or federal law enforcement agency, or reports as mandated by Section 44030.5. Change in employment status includes, but is not limited to, dismissal, nonreelection, resignation, suspension or placement on administrative leave for more than 10 days as a final adverse action, retirement, or termination, a decision not to employ or reemploy.*

*(3) Mandatory reports of change of employment status of a school employee pursuant to Section 44030.5, when the misconduct included egregious misconduct, shall be subject to disclosure by the commission under the procedures of the California Public Records Act (Ch. 3.5 (commencing with Section 6250) of the Government Code). This paragraph does not authorize the release of personal directory information such as the address, telephone number, or email of the school employee nor does it alter the public disclosure requirements otherwise applicable to the commission*

*(d) Notwithstanding any other provision of law:*

*(1) Any required hearing that involves egregious misconduct by a school employee holding a certificate shall be conducted solely by an administrative law judge.*

*(2) The decision of the administrative law judge with regard to any required hearing conducted pursuant to paragraph (1) shall be the final decision regarding the discipline of the school employee.*

*(3) There shall be no restriction on a school district governing board in the physical placement or duties of a school employee during the pendency of a proceeding pursuant to paragraph (1).*

*(4) The final decision by the administrative law judge pursuant to paragraph (1) may, on petition of either the governing board of the school district or the school employee, be reviewed by a court of competent jurisdiction. The court, on review, shall exercise its independent judgment on the evidence. The proceeding shall be set for hearing at the earliest possible date and shall take precedence over other cases, except older matters of the same character and matters to which special precedence is given by law.*

*(e) Nothing in this section shall require a charter school governing board to follow state laws that do not otherwise apply to them, or infringe upon the authority of a charter school to utilize an expedited disciplinary procedure, including an alternative administrative procedure, for suspending or dismissing a certificated school employee for egregious misconduct.*

7502. Expedited Hearing for Egregious Misconduct.

*(a) The Office of Administrative Hearings shall give priority to any proceedings involving egregious misconduct by school employees.*

*(b) An administrative law judge shall only grant a continuance in a proceeding involving allegations of egregious misconduct by a school employee for good cause, and upon granting the continuance, if any, the administrative law judge shall establish a final timetable for the proceedings ensuring a reasonable time for the completion of the hearing.*

*(c) The Chief Administrative Law Judge of the Office of Administrative Hearings may prospectively prohibit an administrative law judge from hearing a proceeding involving egregious misconduct by a school employee if the chief believes there has been undue delay or excessive granting of continuances caused by the administrative law judge previously hearing such proceedings.*

7503. School District Recovery of Certain Payments and Retirement Credit.

*(a) If the final decision is that employment of a school employee is terminated for reason of egregious misconduct, the school district may recover the equivalent of all payments paid to and on behalf of the school employee beginning 30 days after the school district or its authorized representative has served the school employee with written notice of the intent to dismiss for egregious misconduct through the date of the final decision in the disciplinary proceedings*

*(b) Subdivision (a) shall only be operative in a school district if that school district governing board adopts a resolution at a duly noticed public hearing that it intends to exercise the authority pursuant to subdivision (a) with respect to termination of specified school employees and notifies all classes of affected school employees in writing, and a written copy of the resolution is incorporated into the school district's written notice to a school employee of its intent to dismiss for the reason of egregious misconduct.*

*(c) A school district may notify the Franchise Tax Board for purposes of taking appropriate action to recover the equivalent of the payments specified in subdivision (a) when a final decision is termination for the reason of egregious misconduct. The Franchise Tax Board may seek reimbursement for costs from the school district for any costs incurred in assisting the district recover payments pursuant to this subdivision.*

*(d) The time period beginning 30 days after service of a written notice of the intent to dismiss for the reason of egregious misconduct through the date of the final decision of disciplinary proceedings ultimately dismissing a school employee for the reason of egregious misconduct shall not constitute creditable service for purposes of any public retirement system.*

*(e) Payments made to a school employee during the time period beginning 30 days after service of a written notice of the intent to dismiss for the reason of egregious misconduct through the date of the final decision of disciplinary proceedings ultimately dismissing a school employee for the reason of egregious misconduct shall not constitute creditable compensation for purposes of any public retirement system.*

#### 7504. Attorney Fees and Costs.

*If the final decision of the administrative law judge or charter school governing board in any proceeding addressing allegations of egregious misconduct by a school employee is appealed to a court of competent jurisdiction, the prevailing party on the appeal shall be entitled to an award of reasonable attorney fees and costs for the appeal. The court in rendering its decision on the appeal shall determine the award of attorney fees and costs to the prevailing party.*

#### 7505. False Allegations.

*In addition to any other discipline or punishment provided by law, any school employee who alleges that another school employee has engaged in egregious misconduct knowing at the time of making the allegation that the allegation was false shall be subject to certificate revocation, if applicable.*

#### SECTION 4. Amendment.

(a) The Legislature may amend this act to further its purposes by a bill passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring, and enacted into law, or by a statute that becomes effective only when approved by the voters.

(b) Notwithstanding subdivision (a), the Legislature shall not enact a statute to:

(1) Restrict the allowances for notice, evidence, and amendment of charges in subdivisions (a), (b) or (c) of Section 7501.

(2) Alter the prohibitions, or repeal the public transparency, specified in subdivision (c) of Section 7501.

(3) Modify provisions of subdivisions (d) of Section 7501 providing for due process hearings involving egregious misconduct by certificated school employees of a school district to be conducted solely by an administrative law judge.

(4) Repeal the authority of a school employee subject to dismissal for egregious misconduct, or the school district bringing the charges, from appealing a final decision of an administrative law judge to the superior court.

(c) Amendments made to Part 5.5 (commencing with Section 7500) of the Education Code solely to accurately cross-reference other statutes are not deemed to amend this act.

#### SECTION 5. Conflicting Law.

It is the intent of the people of the State of California in enacting this act that if any provision of this act conflicts with an existing provision of law that specifies a process for dismissal of school employees or permissible provisions of any agreement entered into by a school district, the provisions of this act shall govern, including but not limited to the requirements, limitations, and prohibitions.

#### SECTION 6. Conflicting Measures.

In the event that this measure and another measure that addresses discipline of school employees for egregious misconduct shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

#### SECTION 7. Severability.

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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