



# Ohio Legislative Service Commission

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## Bill Analysis

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### H.B. 30

130th General Assembly  
(As Introduced)

**Reps.** Johnson, Duffey, Retherford, Young, Derickson, Green

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### **BILL SUMMARY**

- Permits the Superintendent of Public Instruction, on behalf of the State Board of Education, to issue letters of admonishment to licensed educators for conduct unbecoming to their positions.
  - Allows a licensed educator one year to petition the State Board to rescind a letter of admonishment that was issued by the Department of Education prior to January 1, 2012.
  - Allows a licensed educator to petition the State Board to seal any letter of admonishment.
  - Requires the State Board to adopt rules on issuing, rescinding, and sealing letters of admonishment.
  - Grants immunity from civil liability to the State Board and its members, the state Superintendent, and the Department of Education and its employees for actions related to letters of admonishment.
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### **CONTENT AND OPERATION**

#### **Letters of admonishment**

The bill provides for the issuance of "letters of admonishment" to licensed educators. Under the bill, a letter of admonishment is a written reprimand issued to a person that holds a license from the State Board of Education, which details misconduct by the person that the State Board considers to be conduct unbecoming to the person's

position.<sup>1</sup> Such a letter is issued when the State Board, or the Superintendent of Public Instruction on behalf of the State Board, finds the licensed educator's conduct to be unbecoming, but does not intend to take further action, such as suspension or revocation of the license (see "**Background**" below).

Under the bill, a letter of admonishment may be issued to any person that holds a license granted by the State Board, which includes, among others, teachers, administrators, treasurers, and counselors.<sup>2</sup> All letters must include a waiver signed by the licensed educator that acknowledges agreement with the letter, as well as waives the licensed educator's right to an administrative hearing. The bill also requires the State Board to adopt rules regarding the implementation of these provisions, including the issuance, rescission, and sealing of letters of admonishment.<sup>3</sup>

## **Sealing or rescission of letters of admonishment**

### **Sealing**

The bill permits a licensed educator who is issued a letter of admonishment to petition the Department of Education to seal that letter under specified conditions.<sup>4</sup> Under that provision, the state Superintendent, on behalf of the State Board, may seal a letter of admonishment only if the license holder meets rehabilitation criteria prescribed by rules adopted by the State Board.

The bill specifies that a sealed letter of admonishment is not a public record.

### **Rescission**

The bill permits a licensed educator who received a letter of admonishment prior to January 1, 2012, under the practice of the Department of Education, to file a petition with the Department to rescind that letter. The licensed educator must file that petition not later than one year following the adoption of rules by the State Board for letters of admonishment, as described above.<sup>5</sup> Such a letter may not be rescinded if it was issued under a consent agreement or by resolution of the State Board. In other words, this provision applies only to *prior* letters of admonishment that were issued by the Department without official action by the State Board.

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<sup>1</sup> R.C. 3319.318(A)(1).

<sup>2</sup> In R.C. 3319.318(A)(2). See also R.C. 3319.31(A), not in the bill.

<sup>3</sup> R.C. 3319.318(G).

<sup>4</sup> R.C. 3319.319(D).

<sup>5</sup> R.C. 3319.318(C).



The bill also specifies that a rescinded letter of admonishment is not a public record.

### **Approval or denial of petitions**

The state Superintendent has the authority to either grant or deny the rescission or sealing of a letter of admonishment. In doing so, the Superintendent must issue a written decision, including notification to the petitioner regarding the petitioner's right to appeal the Superintendent's decision. In order to appeal the decision, the petitioner must request an oral hearing before an independent hearing officer. However, the bill specifically states that the appeal proceedings are not subject to the Administrative Procedure Act (R.C. Chapter 119.) and that the independent hearing officer's decision is final and nonappealable.<sup>6</sup>

### **Immunity from civil liability**

The bill specifies that the State Board and its members, the state Superintendent, and the Department of Education and its employees are granted immunity from any civil liability related to letters of admonishment, including the issuance, rescission, or sealing of any letter.<sup>7</sup> In addition, the bill provides that the State Board and its members, the state Superintendent, and the Department and their employees are not responsible for any attorney's fees or other costs incurred or imposed as a result of a letter of admonishment being issued, rescinded, or sealed. The bill does not state any conditions for the civil immunity provided for under the bill.

### **Background**

Current law does not specify any procedures regarding letters of admonishment, as prescribed by the bill, but the Department of Education has issued such letters as an alternative to taking any disciplinary action that is currently provided for in statute.

The State Board is specifically authorized to deny, limit, suspend, or revoke an educator license if it determines the licensee or applicant has engaged in an immoral act, incompetence, negligence, or conduct unbecoming to the person's position; or has been convicted of or has pled guilty to any felony, unlawful sexual conduct with a minor, sexual imposition, sexual importuning, an offense of violence, any of several theft offenses, a drug abuse offense that is not a minor misdemeanor, or a violation of a substantively comparable municipal ordinance.<sup>8</sup> In addition, there are approximately 80

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<sup>6</sup> R.C. 3319.318(E).

<sup>7</sup> R.C. 3319.318(F).

<sup>8</sup> R.C. 3319.31 and 3319.311, neither in the bill.

criminal offenses which require the State Board to automatically revoke or deny a license. Grounds for automatic revocation constitute the most egregious criminal offenses and are explicitly listed in statute.<sup>9</sup>

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## HISTORY

ACTION	DATE
Introduced	02-05-13

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<sup>9</sup> R.C. 3319.31(C).

