



Input on HB 4623

Relating to the waiver of immunity for schools.

May 22, 2025

The **Association of Texas Professional Educators (ATPE)** offers the following input on **House Bill (HB) 4623** by Rep. Mitch Little.

ATPE is deeply committed to ensuring all educational settings are safe and secure environments where students, school employees, and volunteers can be productive. In particular, we are dedicated to high professional and ethical standards for educators, in addition to high educational standards.

ATPE has supported strengthening the educator pipeline, including ensuring that all potential educators are screened prior to serving in a classroom and that they undergo meaningful professional practice and ethics training. We have opposed the Texas Education Agency's attempts to remove the testing of teacher ethics from educator certification examinations. We have also supported the removal of any person who abuses their position as a school employee to engage in an inappropriate romantic or physical relationship with a student, including placement of that individual on a do-not-hire registry. Under current law, school staff are only immune from liability as it relates to acts that are "... incident to or within the scope of the duties of the employee's position ...". It is hard, if not impossible, to imagine a scenario where sexual misconduct, as defined by the bill, could ever be considered incident to or within the scope of an employee's duties. Therefore, the immunity Texas Education Code Section 22.0511 currently provides would not exist for public school employees in these circumstances.

We unambiguously support the goal of vigorously discouraging anyone who would commit an act defined by Section 118.001(4) from being employed in a public school or indeed in any school. We appreciate the changes made to HB 4623 in the House committee. However, we are concerned that the bill in its current form will both fail to fully accomplish its intended goal and will cause significant harm to unrelated students. This is because, as Rep. Schofield pointed out, the money at issue does not belong to any of the people who can be sued; it belongs to the taxpayer.

In recent years, the state has put significant emphasis on deterring and reporting sexual misconduct in schools. In our estimation, the uptick in reporting is a sign the "Do Not Pass the Trash" initiative from the last session is working. That said, we recognize that victims have little control over the criminal justice system, as well as what cases do and don't get pursued in a system where demand far exceeds resources. We understand the desire and reasoning behind wanting to give litigants a pathway to justice they can choose to pursue themselves through the civil court. However, for that justice to happen, the consequence must fall on a losing defendant, not merely adjacent to him. In a normal civil case, the monetary incentive of judgment against an aggrieving party provides a deterrent effect. Here, that is not the case. Not only does the district's

The Association of Texas Professional Educators (ATPE) is the leading educator association in Texas and has been a strong voice for Texas educators since 1980. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for the more than 5 million Texas public schoolchildren. ATPE is the ally and the voice of Texas public school educators.

money not flow or belong to the individual staff member accused of misconduct, but also it does not belong to the principal, the superintendent, or even the school board. It belongs to the taxpayer. Similarly, a district is not a for-profit entity, and a financial judgment does not impact the pocketbook of any owner, CEO, board member, or shareholder. The district's money is taxpayer money collected for the benefit of schoolchildren. Reducing that funding does not punish the wrongdoer. It impacts only taxpayers and students, neither of whom are in a position to impact the bad actors or actions at issue. Therefore, waiving district immunity to allow civil suits in order to get at district funds both hurts schoolchildren while failing to punish the current defendant or deter future potential defendants.

Both perpetrators of sexual misconduct and supervisors who have knowingly or negligently failed to prevent or address sexual misconduct are already likely not subject to immunity for those actions and are subject to personal financial penalties. We suspect the real issue here is that they are also largely judgment-proof, as educators are not typically known for being wealthy and civil plaintiffs' attorneys rightly expect to be paid for their time and work. What we propose, should you wish to move forward with legislation, is this:

- Clarifying that those committing sexual misconduct against a student are not protected by immunity.
- Clarifying that an educator to whom TEC 21.006 applies who fails to comply with the requirements of TEC 21.006 with regard to allegations of sexual misconduct as defined by this bill are not protected by immunity. TEC 21.006, as strengthened by the Senate over successive recent sessions, not 261.101 of the Family code, is the correct statute to identify the staff who have control over ensuring that employees who commit sexual misconduct are fired, reported, and not allowed to move to new district and the duty to act.
- Defining that, in addition to any personal financial judgment against either of the two classes of defendants described above, they shall be subject to a permanent injunction against their employment by any entity or organization in the state of Texas that educates minors. The witnesses in the House hearing expressed that ensuring the perpetrator and enablers not be allowed to harm additional students was their primary goal. We agree, which is why this provision should be added to the bill to ensure that goal is met.
- Removing any direct financial liability of the district, as such liability only harms unrelated students at taxpayer expense.

We stand by your side in the desire to reduce sexual misconduct in public schools to zero. However, this bill seems unlikely to significantly move the state toward that goal, but it does seem likely to imperil significant taxpayer funds through a new and potentially faultless cause of action. For this and all of the reasons above, ATPE urges you not to pass HB 4623 as currently drafted. We offer ourselves up as a partner to work with the author or committee members to improve this bill. For additional information, contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org.