

# MEMO



**TO:** Statewide Media

**FROM:** Nick De Leeuw, Citizens Protecting Michigan's Constitution

**DATE:** September 6, 2012

**SUBJECT:** Effect of "Protect our Jobs" on Students, Public Education in Michigan

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The "Protect Our Jobs" campaign has spent a considerable amount of time, effort and perhaps millions of dollars on television advertisements promoting the notion that their deceptive, intentionally confusing proposal is good for students and good for parents.

Nothing could be further from the truth.

The fact of the matter is the union-boss backed attempt to hijack Michigan's Constitution would undo perhaps dozens of laws that Michigan parents rely on to keep their kids safe at school and to ensure their children receive the best possible public school education.

As parents across Michigan this week sent their children back to school, **I want to draw your attention to just a few of the invaluable education laws currently on the books in Michigan that would likely be overturned with passage of POJ**, stripping Michigan parents and children irrevocably of the protections, safety and quality assurances on which they currently rely.

Below you will find a brief list of the harmful effects POJ would have on just a few existing student, parent and taxpayer protections, including a brief description of the law that would likely be affected.

Please also find attached an **internal Michigan Education Association memo** sent to MEA UniServ Directors from the union's legal department and Ottawa County MEA field director Craig Culver which explicitly lays out these and many other state laws and taxpayer, student and parental protections that the union itself admits would be overturned upon passage of POJ's hijacking scheme.

**Effects of POJ on education and public school related laws include but are not limited to:**

- 1) **Effect of Proposal: Schools would potentially be banned from suspending teachers accused or convicted of having sex with students (and other criminal acts)**

Laws effected: Teachers' Tenure Act – Act 4 of 1937 & Revised School Code – Act 451 of 1976

(MORE)

*Teacher Tenure Act: Suspension of teacher pending certain conditions; compensation*

**Consequence:** This provision allows for the suspension of teachers for certain misconduct, including criminal conduct, and allows the school to put the teacher's salary in escrow when the teacher is accused of a crime and to discontinue the teacher's salary upon conviction of a felony. **Under POJ, this provision may be subject to amendment by a collective bargaining agreement.**

*Revised School Code: Conviction of teacher for certain crimes; notice of right to hearing; suspension of teaching certificate; summary suspension; findings for action under subsection (1) or (2); compensation; reinstatement, continued suspension, or permanent revocation of teaching certificate; effect of reversal of conviction on final appeal; notice of conviction; evidence of conviction; failure to make final decision and order; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions*

**Consequence:** This provision requires a school to suspend the pay of an teacher who is the subject of proceedings to determine whether the suspend or revoke the teacher's license after the teacher has been convicted of certain crimes. **Under POJ this provision may be subject to amendment by a collective bargaining agreement.**

2) **Effect of Proposal: Public schools may be banned from firing staff who hid criminal history during hiring process**

Law affected: Revised School Code – Act 451 of 1976

*Offer of full-time, part-time, or contract employment; criminal history check; employment as conditional employee; conditions; voiding contract and terminating employment; position as substitute teacher or substitute bus drivers; report received by another district; consent; request; conducting criminal history check; report; disclosure of conviction of listed offense or felony; verification; use; disclosure; violation as misdemeanor; penalty; exception; verification information; definitions*

**Consequence:** This provision, among other things, provides that a school may void the employment contract of an employee that is hired conditionally pending the completion of a criminal background check and that any existing collective bargaining agreement does not apply to that employee if the criminal background check reveals a criminal record that the employee failed to disclose **Instead of the law, under POJ this provision may be subject instead to a collective bargaining agreement.**

3) **Effect of Proposal: Allows public schools to hide / suppress unprofessional conduct of current and former staff from parents if agreed to in a collective bargaining agreement**

Law affected: Revised School Code – Act 451 of 1976

*Applicant for employment; information regarding unprofessional conduct to be provided by previous employer; signed statement authorizing disclosure; request; immunity from civil*

*liability; prohibition; use of information; violation of subsection (5) as misdemeanor; effect of contract or agreement; other information; definitions*

**Consequence:** This provision prohibits a school from entering into any collective bargaining agreement that requires the school to suppress or conceal information about the unprofessional conduct of an employee or former employee.

4) **Effect of Proposal: POJ would constitutionally prohibit laws that mandate school years begin after Labor Day**

Laws effected: Revised School Code – Act 451 of 1976 & Public Employment Relations Act – Act 336 of 1947

*RSC: School in session before Labor day; prohibition; effect of collective bargaining agreement; year-round school or program; waiver; exception; "Labor day" defined*

*PERA: Collective bargaining; duties of employer and employees' representative; prohibited subjects between public school employer and bargaining representative of employee; placement of public school in state school reform/redesign school district or under chief executive officer; effect of local government and school district fiscal accountability act; selection method for certain departments or boards; prohibited subjects of bargaining.*

**Consequence:** Among other things, this provision includes language that prevents teachers unions from using collective bargaining to control the start of the school year, length of the school day, whether to participate in school-of-choice, and whether to use volunteers (such as parents) to do some services in the school

5) **Effect of Proposal: School bus drivers would no longer be legally required to have safety training**

Law affected: Public Transportation Act – Act 187 of 1990

*School bus safety education*

**Consequence:** This provision establishes minimum training and continuing education requirements for people operating school buses. **This law may be subject to revisions per a collective bargaining agreement.**

6) **Effect of Proposal: Enshrines “First In – Last Out” teacher tenure in Constitution**

Law affected: Revised School Code – Act 451 of 1976

*Personnel decisions resulting in elimination of position; policies; collective bargaining agreement; expiration; action brought by teacher; remedy*

**Consequence:** This provision prohibits a school from using tenure or length of service of a teacher as the determining factor in deciding which employees to retain or let go

whenever there is a workforce reduction unless all other factors are equal. **Under POJ, this protection will be subject to negotiation and removal by the union.**

7) **Effect of Proposal: State forbidden from basing teacher tenure on teacher effectiveness instead of only time on the job**

Legislation effected: House Bill 4142 of 2012

*This Democrat sponsored bill and student protection to base teacher tenure on evaluation of teacher effectiveness instead of only time on the job would be prohibited by POJ, making tenure subject only to a collective bargaining agreement.*

8) **Effect of Proposal: Allows unions to ban parents from volunteering and performing cost-saving services in schools if subject to a bargaining agreement**

Law affected: Public Employment Relations Act – Act 336 of 1947

*Collective bargaining; duties of employer and employees' representative; prohibited subjects between public school employer and bargaining representative of employee; placement of public school in state school reform/redesign school district or under chief executive officer; effect of local government and school district fiscal accountability act; selection method for certain departments or boards; prohibited subjects of bargaining.*

**Consequence: Among other things, this provision includes language that prevents teachers unions from using collective bargaining to control the start of the school year, length of the school day, whether to participate in school-of-choice, and whether to use volunteers (such as parents) to do some services in the school.**

These taxpayer protections and cost savings could be removed via a collective bargaining agreement, should POJ win approval in November.

9) **Effect of Proposal: Job performance may be forbidden from factoring into pay increases for teachers**

Law affected: Revised School Code – Act 451 of 1976

*Compensation including job performance and accomplishments as factors; effect if collective bargaining agreement*

**Consequence: This provision requires schools to include job performance as a significant factor in determining pay increases. Now it will be subject to a bargaining agreement.**

10) **Effect of Proposal: Schools would be forbidden for firing teachers who rate “ineffective” in three consecutive annual performance reviews**

Law affected: Revised School Code – Act 451 of 1976

*Performance evaluation system for teachers and school administrators; requirements; governor's council on educator effectiveness; recommendations on evaluation processes; compliance with subsection (2) or (3) not required; effect of collective bargaining agreement; effectiveness label*

Consequence: This provision, among other things, requires certain standards for teacher performance testing and mandates that a school must dismiss any teacher who is rated as "ineffective" in three consecutive annual reviews. **Now, this requirement will be subject to a collective bargaining agreement.**