

SENATE, No. 414

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Requires school districts, charter schools, and contracted service providers to review employment history of prospective employees to ascertain allegations of child abuse or sexual misconduct and includes penalties for certain willful violations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning public school employees and supplementing
2 chapter 6 of Title 18A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. A school district, charter school, or contracted service
8 provider holding a contract with a school district or charter school
9 shall not employ for pay or contract for the paid services of any
10 person serving in a position which involves regular contact with
11 students unless the school district, charter school, or contracted
12 service provider:

13 a. Requires the applicant to provide:

14 (1) A list, including name, address, telephone number and other
15 relevant contact information of the applicant's:

16 (a) current employer;

17 (b) all former employers that were schools; and

18 (c) all former employers where the applicant was employed in a
19 position that involved direct contact with children; and

20 (2) A written authorization that consents to and authorizes
21 disclosure of the information requested under subsection b. of this
22 section and the release of related records by the applicant's
23 employers listed under paragraph (1) of this subsection, and that
24 releases those employers from liability that may arise from the
25 disclosure or release of records;

26 (3) A written statement as to whether the applicant:

27 (a) has been the subject of any child abuse or sexual misconduct
28 investigation by any employer, State licensing agency, law
29 enforcement agency, or the Division of Child Protection and
30 Permanency in the Department of Children and Families, unless the
31 investigation resulted in a finding that the allegations were false or
32 the incident of child abuse was not substantiated;

33 (b) has ever been disciplined, discharged, nonrenewed, asked to
34 resign from employment, resigned from or otherwise separated from
35 any employment while allegations of child abuse or sexual
36 misconduct were pending or under investigation, or due to an
37 adjudication or finding of child abuse or sexual misconduct; or

38 (c) has ever had a license, professional license, or certificate
39 suspended, surrendered, or revoked while allegations of child abuse
40 or sexual misconduct were pending or under investigation, or due to
41 an adjudication or finding of child abuse or sexual misconduct;

42 and

43 b. Conducts a review of the employment history of the applicant
44 by contacting those employers listed by the applicant under the
45 provisions of paragraph (1) of subsection a. of this section and
46 requesting the following information:

47 (1) The dates of employment of the applicant; and

48 (2) A statement as to whether the applicant:

1 (a) was the subject of any child abuse or sexual misconduct
2 investigation by any employer, State licensing agency, law
3 enforcement agency, or the Division of Child Protection and
4 Permanency in the Department of Children and Families, unless the
5 investigation resulted in a finding that the allegations were false or
6 the incident of child abuse was not substantiated;

7 (b) was disciplined, discharged, nonrenewed, asked to resign
8 from employment, resigned from or otherwise separated from any
9 employment while allegations of child abuse or sexual misconduct
10 were pending or under investigation, or due to an adjudication or
11 finding of child abuse or sexual misconduct; or

12 (c) has ever had a license, professional license, or certificate
13 suspended, surrendered, or revoked while allegations of child abuse
14 or sexual misconduct were pending or under investigation, or due to
15 an adjudication or finding of child abuse or sexual misconduct.

16
17 2. a. An applicant who provides false information or willfully
18 fails to disclose information required in subsection a. of section 1 of
19 this act:

20 (1) shall be subject to discipline up to, and including, termination
21 or denial of employment;

22 (2) may be deemed in violation of N.J.S.2C:28-3;

23 (3) may be subject to a civil penalty of not more than \$500 which
24 shall be collected in proceedings in accordance with the "Penalty
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

26 b. A school district, charter school, or contracted service
27 provider holding a contract with a school district or charter school
28 shall include a notification of the penalties set forth in this section
29 on all applications for employment for positions which involve
30 regular contact with students.

31
32 3. No later than 20 days after receiving a request for
33 information under subsection b. of section 1 of this act, an employer
34 that has or had an employment relationship with the applicant shall
35 disclose the information requested on a standardized form
36 developed by the Department of Education.

37
38 4. After reviewing the information disclosed under subsection
39 b. of section 1 of this act and finding an affirmative response to any
40 of the inquiries in paragraph (2) of subsection b. of section 1 of this
41 act, the prospective employer, prior to determining to continue with
42 the applicant's job application process, shall make further inquiries
43 of the applicant's current or former employer to ascertain additional
44 details regarding the matter disclosed.

45
46 5. a. Information received by an employer under this act shall
47 not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et
48 seq.) or the common law concerning access to public records.

- 1 • was the subject of any child abuse or sexual misconduct
2 investigation by any employer, State licensing agency, law
3 enforcement agency, or the Division of Child Protection and
4 Permanency in the Department of Children and Families;
5 • was disciplined, discharged, nonrenewed, asked to resign
6 from employment, resigned from or otherwise separated
7 from any employment while allegations of child abuse or
8 sexual misconduct were pending or under investigation, or
9 due to an adjudication or finding of child abuse or sexual
10 misconduct; or
11 • has ever had a license, professional license or certificate
12 suspended, surrendered, or revoked while allegations of
13 child abuse or sexual misconduct were pending or under
14 investigation, or due to an adjudication or finding of child
15 abuse or sexual misconduct.

16 The applicant must also provide his own written statement
17 disclosing any of the same matters.

18 The applicant must provide a written authorization that consents
19 to and authorizes disclosure of the information requested by the
20 prospective employer and releases the applicant's former and
21 current employers from any liability arising from the disclosure.

22 The information received by a prospective employer under the
23 provisions of this bill is deemed not to be a public record. In
24 addition, the bill provides that the entity providing information or
25 records to the prospective employer will be immune from criminal
26 and civil liability for the disclosure of the information, unless the
27 information or records provided were knowingly false.

28 On or after the effective date of this bill, a school district, charter
29 school, or contracted service provider may not enter into a
30 collective negotiations agreement, an employment contract, an
31 agreement for resignation or termination, a severance agreement, or
32 any other contract or agreement or take any action that:

- 33 • has the effect of suppressing or destroying information
34 relating to an investigation related to a report of suspected
35 child abuse or sexual misconduct by a current or former
36 employee;
37 • affects the ability of the school district, charter school, or
38 contracted service provider to report suspected child
39 abuse or sexual misconduct to the appropriate authorities;
40 or
41 • requires the school district, charter school, or contracted
42 service provider to expunge information about allegations
43 or finding of suspected child abuse or sexual misconduct
44 from any documents maintained by the school district,
45 charter school, or contracted service provider, unless after
46 investigation the allegations are found to be false or the
47 incident of child abuse has not been substantiated.

1 Any provision of an employment contract or agreement for
2 resignation or termination or a severance agreement that is
3 executed, amended, or entered into after the effective date of the
4 bill and that is contrary to these requirements will be void and
5 unenforceable.

6 An applicant who gives false information or willfully fails to
7 disclose information required to be provided under the bill will be
8 subject to discipline, including termination or denial of
9 employment. The applicant also may be deemed in violation of
10 N.J.S.2C:28-3 which concerns false statements to authorities, and
11 may be subject to certain civil penalties. The prospective employer
12 is required to provide notification of these possible penalties to
13 prospective employees in the employment application.