Department of Education
School District
Background Checks - Disqualified Individuals

January 1, 2007 to March 31, 2007

Richard L. Fair
State Auditor
The Honorable Jon S. Corzine  
Governor of New Jersey

The Honorable Richard J. Codey  
President of the Senate

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Department of Education, School District Background Checks - Disqualified Individuals for the period of January 1, 2007 to March 31, 2007. If you would like a personal briefing, please call me at (609) 292-3700.

Stephen M. Eells  
Assistant State Auditor  
August 30, 2007
Table of Contents

Page

Scope ......................................................................... 1
Objectives ............................................................... 1
Methodology .............................................................. 1
Conclusion ................................................................. 2

Finding and Recommendation

Inadequate Monitoring of Disqualified Individuals ........ 3

Auditee Response ........................................................ 5
Department of Education  
School District  
Background Checks - Disqualified Individuals

**Scope**  
We have completed an audit of data maintained by the Department of Education of individuals disqualified to work at school districts for the period January 1, 2007 to March 31, 2007. The Office of Fiscal Accountability and Compliance (OFAC) within the Department of Education (DOE) is responsible for monitoring compliance with N.J.S.A. 18A:6-7.1 et. seq. Accordingly, pursuant to N.J.S.A.18A:6-7.1 a school district under the supervision of the DOE and the board of education which cares for, or is involved in the education of children under the age of 18 shall not employ individuals in positions which involve regular contact with pupils unless the employer has first determined that no criminal history record information exists that would disqualify an individual from being employed.

**Objectives**  
The objective of our audit was to determine if any disqualified individuals identified in the database maintained by the Office of Fiscal Accountability and Compliance were employed by school districts under the supervision of the Department of Education.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

**Methodology**  
Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation and administrative code. We also interviewed Department of Education personnel and district employees to obtain an understanding of the criminal history review process and to determine if disqualified individuals were employed by the districts.
A nonstatistical sampling approach was used. Our sample of districts was designed to provide a conclusion about disqualified individuals' employment within school districts. We judgmentally selected one school district from each county. Our audit included a comparison between the Department of Labor and Workforce Development's wage reporting data files of sampled school districts for the first quarter of calendar year 2007 against the Department of Education's "disqualified individual" database. Field visits were required for nine school districts where data matches occurred and potential disqualified individuals had been hired.

Conclusion

We found that six individuals were working or had worked at a district after being disqualified by the Office of Fiscal Accountability and Compliance. Hence, there continues to be a risk that disqualified individuals are being employed by New Jersey school districts. Details of our conclusion are contained in the following finding.
Inadequate Monitoring of Disqualified Individuals

N.J.S.A. 18A:6-7.1 requires that all prospective employees must submit to a criminal history background check as a condition of their employment. A determination must be made that the individual has no criminal history for specific crimes on the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification database at the Division of State Police. The Department of Education requires school districts to have prospective employees submit an “Applicant Authorization and Certification” and submit to fingerprints to the state-authorized vendor for fingerprint screening.

Our review of 21 sampled school districts noted six disqualified individuals had worked or are currently working at a school district. Our review disclosed:

- One individual was disqualified and was currently employed by a school district.
- One currently employed individual appears to have a fraudulent approval letter in the employee file.
- One individual was disqualified in July 2005 but hired September 1, 2005 by the same school district and worked until April 18, 2007.
- One individual was terminated upon disqualification but was rehired by the school district to teach parent center education.
- Two individuals had initially been terminated but were rehired after having their records expunged. When an individual has a criminal record expunged after a disqualification, they are required to have a new criminal history background check. There was no evidence of a follow-up background check.
Recommendation

To reduce the risk that disqualified individuals are employed at a school district, we recommend that the Office of Fiscal Accountability and Compliance obtain the wage reporting data files from the Department of Labor and Workforce Development on a quarterly basis to match with its current list of disqualified individuals. Appropriate investigation and action should be taken for those individuals that are disqualified and are working at a school district.
August 29, 2007

Mr. Richard L. Fair, State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

Dear Mr. Fair:

SUBJECT: Response to OLS Audit Report of the Department of Education School District Background Checks – Disqualified Individuals

The New Jersey Department of Education (DOE) has received and reviewed the Office of Legislative Services (OLS) Audit Report of the Department of Education School District Background Checks – Disqualified Individuals for the period January 1, 2007 to March 31, 2007. The finding and recommendation contained in the report, along with our response are as follows:

**Finding - Inadequate monitoring of disqualified individuals**

Our review of 21 sampled school districts noted six disqualified individuals had worked or are currently working at a school district. Our review disclosed:

- One individual was disqualified and was currently employed by a school district.
- One currently employed individual appears to have a fraudulent approval letter in the employee file.
- One individual was disqualified in July 2005 but hired September 1, 2005 by the same school district and worked until April 18, 2007.
- One individual was terminated upon disqualification but was rehired by the school district to teach parent center education.
- Two individuals had initially been terminated but were rehired after having their records expunged. When an individual has a criminal record expunged after a disqualification, they are required to have a new criminal history background check. There was no evidence of a follow-up background check.
Recommendation

To reduce the risk that disqualified individuals are employed at a school district, we recommend that the Office of Fiscal Accountability and Compliance (OFAC) obtain the wage reporting data files from the Department of Labor and Workforce Development on a quarterly basis to match with its current list of disqualified individuals. Appropriate investigation and action should be taken for those individuals that are disqualified and are working at a school district.

Department Response

The DOE takes the responsibility for conducting criminal history background checks on employees in New Jersey’s public, private/disabled, charter and nonpublic schools and the protection of our children very seriously. The OFAC interacts on a regular basis with the New Jersey State Police and the Federal Bureau of Investigation for criminal history record checks.

For each instance noted in the finding, the OFAC notified the school district and the applicant, by certified letter, at the time of the disqualification, that the individual was disqualified for employment. The notification to each school district included the following language:

"Pursuant to N.J.S.A. 18A:6-7.1 et seq., N.J.S.A. 18A:39-17 et seq. or N.J.S.A. 18A:6-4.13 et seq., a fingerprint search has been conducted on the above individual through the New Jersey State Police and Federal Bureau of Investigation. The results of that search indicate the presence of a conviction for a crime or offense considered to be disqualifying in nature. Accordingly, the applicant has been notified that he/she is permanently disqualified from employment with any school or educational facility under the supervision of the Department of Education or contractor providing service to said school or institution. Please advise this office as to the final disposition of the applicant’s employment."

In each case, the school district elected to allow the individual to continue working or the individual was hired at another school district. When we were notified by the auditors that these six individuals were working or had worked at a district after being disqualified, a certified letter was sent to each school district notifying them of the individual disqualified.

The OFAC’s actions for each instance are stated below.

- In the instance where the individual was disqualified and was currently employed by the school district, the school district was notified of the disqualification on June 29, 2001. The school continued to allow the individual to work until August 6, 2007 when he was re-fingerprinted. The background check showed that his record had been expunged. As a non-criminal justice agency, the DOE has no authority to review expunged records.
- In the instance where the currently employed individual had an alleged fraudulent approval letter in the file, the original school district that he worked in was notified of the disqualification on May 9, 2002. The individual left that school district and was then hired by another school district that accepted the alleged fraudulent letter, in lieu of having the applicant fingerprinted, as required by law. On August 3, 2007, the OFAC notified the new school district that the individual was disqualified.
• In the instance where the individual was hired on September 1, 2005 and terminated in April 18, 2007, the school district was notified of the disqualification on July 14, 2005. Since the individual was terminated, no further action is required.

• In the instance where the individual was terminated and then rehired to teach parent center education, the school district was notified of the disqualification on April 3, 2007. When OFAC became aware of this situation, the school district was notified that, not only was the applicant disqualified to teach children under the age of 18, but she was not allowed to work in other areas of the school district.

• In the instances where the two individuals had initially been terminated, but were rehired after having their records expunged, the school district was notified of the disqualifications on May 31, 2000 and February 27, 2001, respectively. The school district accepted the applicants’ court documents showing that their records had been expunged, but failed to have them re-fingerprinted, as required by law. As noted in the first instance, the DOE has no authority to review expunged records. On August 9, 2007, the OFAC notified the school district that each individual needed to be re-fingerprinted.

As recommended by the auditors, the OFAC has contacted the Department of Labor and Workforce Development and is working on an agreement to obtain their wage reporting and data files on a quarterly basis. These files will then be matched with our database of disqualified individuals and in all instances where an individual has been disqualified, but is still employed by a school district, the school district will be notified that the person should be terminated or re-fingerprinted. The OFAC has taken the following additional steps:

• Contacted the New Jersey State Police and are working on an agreement to gain access to their Megan’s Law database for sexual offenders.

• Enhanced our technology to be able to identify those educational facilities that were notified of a disqualified employee and did not respond with a letter indicating the date the disqualified employee was removed.

We trust that our response satisfies the concerns raised in the audit report. If you have any questions or need further information, please contact me at 984-5593.

Sincerely,

[Signature]

Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

RJC/CP/response to OLS audit of Background Checks

c: Lucille E. Davy
    John Hart
    Carl Carabelli
    Charles Peffall