

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

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

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

a. Requires the applicant to provide:

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

(a) current employer;

(b) all former employers that were schools; and

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

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

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

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

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

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

and

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

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

(2) A statement as to whether the applicant:

(a) was the subject of any child abuse or sexual misconduct investigation by any employer, State licensing agency, law

enforcement agency, or the Division of Child Protection and Permanency in the Department of Children and Families, unless the investigation resulted in a finding that the allegations were false or the incident of child abuse was not substantiated;

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

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

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

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

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

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

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

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

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

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

b. An employer, school district, charter school, school administrator, or contracted service provider that provides information or records about a current or former employee or

applicant shall be immune from criminal and civil liability for the disclosure of the information, unless the information or records provided were knowingly false. The immunity shall be in addition to and not in limitation of any other immunity provided by law.

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

(1) has the effect of suppressing or destroying information relating to an investigation related to a report of suspected child abuse or sexual misconduct by a current or former employee;

(2) affects the ability of the school district, charter school, or contracted service provider to report suspected child abuse or sexual misconduct to the appropriate authorities; or

(3) requires the school district, charter school, or contracted service provider to expunge information about allegations or finding of suspected child abuse or sexual misconduct from any documents maintained by the school district, charter school, or contracted service provider, unless after investigation the allegations are found to be false or the incident of child abuse has not been substantiated.

b. Any provision of an employment contract or agreement for resignation or termination or a severance agreement that is executed, amended, or entered into after the effective date of this act and that is contrary to this section shall be void and unenforceable.

7. This act shall take effect immediately.

STATEMENT

This bill prohibits a school district, charter school, or contracted service provider holding a contract with a school district or charter school from employing a person serving in a position which involves regular contact with students unless the school district, charter school, or contracted service provider conducts a review of the employment history of the applicant by contacting former and current employers and requesting information regarding child abuse and sexual misconduct allegations. The school district, charter school, or contracted service provider must ask those employers for a statement as to whether the applicant:

- was the subject of any child abuse or sexual misconduct investigation by any employer, State licensing agency, law enforcement agency, or the Division of Child Protection and Permanency in the Department of Children and Families;

- was disciplined, discharged, nonrenewed, asked to resign from employment, resigned from or otherwise separated from any employment while allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct; or
- has ever had a license, professional license or certificate suspended, surrendered, or revoked while allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct.

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

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

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

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

- has the effect of suppressing or destroying information relating to an investigation related to a report of suspected child abuse or sexual misconduct by a current or former employee;
- affects the ability of the school district, charter school, or contracted service provider to report suspected child abuse or sexual misconduct to the appropriate authorities; or
- requires the school district, charter school, or contracted service provider to expunge information about allegations or finding of suspected child abuse or sexual misconduct from any documents maintained by the school district, charter school, or contracted service provider, unless after investigation the allegations are found to be false or the incident of child abuse has not been substantiated.

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

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

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.