

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 205  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 181

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS FOR CHILD-SERVING ENTITIES AND OTHER ORGANIZATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 309, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 309. Background checks for child-serving entities and other organizations.

(e) Upon completion of the criminal background and Child Protection Registry checks:

(1) Where the child-serving entity is a public or private school, a contractor with a school district or the Department of Education, or an employee of a contractor who is an early intervention service provider:

a. 1. The SBI shall provide the criminal background information and DSCYF shall provide the Child Protection Registry check information to the individual and the ~~employing or contracting school or school district or if applicable, a contractor employing the individual.~~ employer or prospective employer.

2. The school, school district, Department of Education, or employing contractor shall determine whether the individual is prohibited from being employed by or contracting with the school, school district, or contractor under subsection (d) of this section. If the individual is not prohibited from employment by subsection (d) of this section but the individual has a criminal conviction or is on the Child Protection Registry, the school or district shall make a determination regarding suitability for employment or contracting using the factors in paragraph (d)(3) of this section.

3. Information obtained under this subsection is confidential and may only be disclosed to any of the following, as applicable:

A. The chief school officer.

B. The head of school.

C. The employing contractor.

D. The chief personnel officer of the school or school district.

E. One person in each school or school district who is designated to assist in the processing of criminal background checks, receive training in confidentiality, and is required to sign an agreement to keep such information confidential.

F. The Secretary of Education, or the Secretary's designee.

b. Upon making its determination of suitability, the public ~~school~~ school, contractor, or Department of Education shall forward the determination to the person seeking employment or a contract. If a determination is made to deny the person employment or a contract with a school or the Department of Education based on the criminal history of the person, the person shall have an opportunity to appeal to the chief school ~~officer or officer,~~ head of school, Secretary of Education, or designee for reconsideration.

c. In the case of a student teacher:

1. The SBI shall provide the criminal background information and DSCYF shall provide the Child Protection Registry check information to the individual and to the Higher Education Institution identified by the individual, through the Administrator of Educator Preparation Program. The Higher Education Institution shall determine whether the individual is prohibited from being employed pursuant to subsection (d) of this section and shall send a copy of the complete criminal background check and Child Protection Registry check information to the district superintendent or charter school director of the Delaware school district or charter school considering the person as a candidate for a student teaching position. If the individual is not prohibited from employment by subsection (d) of this section but the individual has a criminal conviction or is or has been on the Child Protection Registry, the school or district shall make a determination regarding suitability for employment using the factors in paragraph (d)(3) of this section. Information obtained under this subsection is confidential and may only be disclosed to the chief school officer or head of school and the chief personnel officer of the school, and 1 person in

each school who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential.

2. Upon making its determination of suitability, the public school shall forward the determination to the administrator of educator preparation program of the designated higher education institution.

d. In the case of an employee or contractor of the Department of Education, SBI may release all subsequent criminal history to the Department of Education.

Approved September 11, 2023