

5556--A

2013-2014 Regular Sessions

I N S E N A T E

May 20, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring the fingerprinting of prospective employees of approved private special education schools, phasing-in a requirement that all fingerprints submitted by prospective employees and applicants for certification be electronically submitted, authorizing boards of cooperative educational services to conduct fingerprinting for non-component districts, special education schools, and applicants for certification, strengthening identification verification practices at fingerprinting sites for the purpose of conducting criminal history record checks and enhancing existing statutory mechanisms to expedite the removal of persons who commit fingerprint fraud; and to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to making permanent certain provisions relating to conditional clearances for employment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraphs (a) and (b) of subdivision 30 of section 305 of
2 the education law, paragraph (a) and the opening paragraph and subpara-
3 graph (i) of paragraph (b) as amended by chapter 630 of the laws of
4 2006, paragraph (b) as added by chapter 180 of the laws of 2000, are
5 amended to read as follows:

6 (a) The commissioner, in cooperation with the division of criminal
7 justice services and in accordance with all applicable provisions of
8 law, shall promulgate rules and regulations to require the fingerprint-
9 ing of prospective employees, as defined in section eleven hundred twen-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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ty-five of this chapter, of school districts, charter schools and boards of cooperative educational services, AND SPECIAL EDUCATION SCHOOLS, and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, SPECIAL EDUCATION SCHOOLS, and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. The commissioner shall also establish a form for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more, OR TO SPECIAL EDUCATION SCHOOLS LOCATED WITHIN SUCH CITY.

(b) The commissioner, in cooperation with the division of criminal justice services, shall promulgate a form to be provided to all such prospective employees of school districts, charter schools, boards of cooperative educational services, SPECIAL EDUCATION SCHOOLS and nonpublic and private elementary and secondary schools that elect to fingerprint and seek clearance for prospective employees that shall:

(i) inform the prospective employee that the commissioner is required or authorized to request his or her criminal history information from the division of criminal justice services and the federal bureau of investigation and review such information pursuant to this section, and provide a description of the manner in which his or her [fingerprint cards] FINGERPRINTS will be TAKEN AND used upon submission to the division of criminal justice services;

(ii) inform the prospective employee that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

S 2. Subparagraph (vii) of paragraph (c) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(vii) been informed that in the event his or her employment is terminated and such person has not become employed in the same or another school district, charter school, board of cooperative educational services, SPECIAL EDUCATION SCHOOL or nonpublic or private elementary or secondary school within twelve-months of such termination, the commissioner shall notify the division of criminal justice services of such termination, and the division of criminal justice services shall destroy the fingerprints of such person. Such person may request that the commissioner notify the division of criminal justice services that his or her fingerprints shall be destroyed prior to the expiration of such twelve month period in which case the commissioner shall notify the division of criminal justice services and the division shall destroy the fingerprints of such person promptly upon receipt of the request; and

S 3. Paragraph (d) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(d) The commissioner shall develop forms to be provided to all school districts, charter schools, boards of cooperative educational services, SPECIAL EDUCATION SCHOOLS and to all nonpublic and private elementary and secondary schools that elect to fingerprint their prospective employees, to be completed and signed by prospective employees when conditional appointment or emergency conditional appointment is offered.

S 4. Subdivision 30 of section 305 of the education law is amended by adding a new paragraph (f) to read as follows:

(F) AS USED IN THIS SECTION AND SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, "SPECIAL EDUCATION SCHOOL" SHALL MEAN A STATE SCHOOL OPERATED PURSUANT TO ARTICLE EIGHTY-SEVEN OR EIGHTY-EIGHT OF THIS CHAPTER, A STATE-SUPPORTED SCHOOL OPERATED PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS CHAPTER, AN APPROVED PRIVATE NON-RESIDENTIAL OR RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES THAT IS LOCATED WITHIN THE STATE, OR AN APPROVED PROVIDER OF PRESCHOOL SPECIAL EDUCATION SERVICES OR PROGRAMS THAT IS LOCATED WITHIN THE STATE; PROVIDED THAT SUCH TERM SHALL NOT APPLY TO A SCHOOL OR FACILITY OPERATED OR LICENSED BY A STATE AGENCY OTHER THAN THE DEPARTMENT, UNLESS SUCH SCHOOL OR FACILITY IS ALSO AN APPROVED PRIVATE SCHOOL FOR STUDENTS WITH DISABILITIES OR AN APPROVED PROVIDER UNDER SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER.

S 5. Subdivisions 3, 4, 5 and 6 of section 1125 of the education law, subdivisions 3, 4 and 6 as added by chapter 180 of the laws of 2000 and subdivision 5 as amended by section 1 of part E of chapter 501 of the laws of 2012, are amended and a new subdivision 10 is added to read as follows:

1 3. "Employee" shall mean any person receiving compensation from a
2 school district, NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL OR PROGRAM, or
3 employee of a contracted service provider or worker placed within the
4 school under a public assistance employment program, pursuant to title
5 nine-B of article five of the social services law, and consistent with
6 the provisions of such title for the provision of services to such
7 district, its students or employees, directly or through contract,
8 whereby such services performed by such person involve direct student
9 contact.

10 4. "Volunteer" shall mean any person, other than an employee, who
11 provides services to a school or school district OR NON-RESIDENTIAL
12 SPECIAL EDUCATION SCHOOL OR PROGRAM, which involve direct student
13 contact.

14 5. "Educational setting" shall mean the building and grounds of a
15 public school district, NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL OR
16 PROGRAM, the vehicles provided by the school district for the transpor-
17 tation of students to and from school buildings, field trips, co-curri-
18 cular and extra-curricular activities both on and off school district
19 grounds, all co-curricular and extra-curricular activity sites, and any
20 other location where direct contact between an employee or volunteer and
21 a child has allegedly occurred, EXCEPT THAT SUCH TERM SHALL NOT APPLY TO
22 A RESIDENTIAL SCHOOL WITH CHILDREN IN RESIDENTIAL CARE, AS DEFINED IN
23 SECTION FOUR HUNDRED TWELVE-A OF THE SOCIAL SERVICES LAW, FOR WHOM ALLE-
24 GATIONS OF ABUSE OF A CHILD IN RESIDENTIAL CARE OR NEGLECT OF A CHILD IN
25 RESIDENTIAL CARE ARE SUBJECT TO MANDATORY REPORTING TO THE STATEWIDE
26 CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT PURSUANT TO TITLE SIX
27 OF ARTICLE SIX OF THE SOCIAL SERVICES LAW. Such term shall not include a
28 special act school district as defined in section four thousand one of
29 this chapter which shall be subject to article eleven of the social
30 services law.

31 6. "Administrator" or "school administrator" shall mean a principal of
32 a public school, NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL OR PROGRAM,
33 charter school or board of cooperative educational services, or other
34 chief school officer.

35 10. "NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL OR PROGRAM" SHALL MEAN A
36 STATE SUPPORTED SCHOOL OPERATED PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS
37 CHAPTER THAT DOES NOT HAVE A RESIDENTIAL COMPONENT, AN APPROVED PRIVATE
38 NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES
39 THAT IS LOCATED WITHIN THE STATE, OR AN APPROVED PROVIDER OF PRESCHOOL
40 SPECIAL EDUCATION SERVICES OR PROGRAMS THAT IS LOCATED WITHIN THE STATE;
41 PROVIDED THAT SUCH TERM SHALL ALSO APPLY TO AN APPROVED PRIVATE RESIDEN-
42 TIAL SCHOOL OR APPROVED PROVIDER OF PRESCHOOL SPECIAL EDUCATION THAT
43 PROVIDES A RESIDENTIAL PROGRAM THAT ALSO PROVIDES A DAY PROGRAM OR OTHER
44 NON-RESIDENTIAL PROGRAM IF THE STUDENTS IN SUCH NON-RESIDENTIAL PROGRAM
45 ARE NOT CHILDREN IN "RESIDENTIAL CARE," AS DEFINED IN SECTION FOUR
46 HUNDRED TWELVE-A OF THE SOCIAL SERVICES LAW, FOR WHOM ALLEGATIONS OF
47 ABUSE OF A CHILD IN RESIDENTIAL CARE OR NEGLECT OF A CHILD IN RESIDEN-
48 TIAL CARE ARE SUBJECT TO MANDATORY REPORTING TO THE STATEWIDE CENTRAL
49 REGISTER OF CHILD ABUSE AND MALTREATMENT PURSUANT TO TITLE SIX OF ARTI-
50 CLE SIX OF THE SOCIAL SERVICES LAW.

51 S 6. Subdivision 2 of section 1126 of the education law, as added by
52 chapter 180 of the laws of 2000, is amended to read as follows:

53 2. [In] (A) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (B) OF THIS
54 SUBDIVISION, IN any case where it is alleged that a child was abused by
55 an employee, or volunteer of a school other than a school within the
56 school district of the child's attendance, the report of such allega-

tions shall be promptly forwarded to the superintendent of schools of the school district of the child's attendance and the school district where the abuse allegedly occurred, whereupon both school superintendents shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article.

(B) IN THE CASE OF A NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL, WHERE IT IS ALLEGED THAT A CHILD WAS ABUSED BY AN EMPLOYEE OR VOLUNTEER OF SUCH NON-RESIDENTIAL SPECIAL EDUCATION SCHOOL, THE REPORT OF SUCH ALLEGATIONS SHALL BE PROMPTLY FORWARDED TO THE ADMINISTRATOR OF SUCH SCHOOL, WHO SHALL BE RESPONSIBLE FOR COMPLIANCE WITH ALL THE PROVISIONS OF THIS ARTICLE THAT APPLY TO SUPERINTENDENTS OF SCHOOLS.

S 7. Subdivision 1 of section 1128-a of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

1. Where a superintendent of schools OR SCHOOL ADMINISTRATOR forwards to law enforcement a report as described in paragraph (a) of subdivision one of section eleven hundred twenty-six of this article, he or she shall refer such report to the commissioner where the employee or volunteer alleged to have committed an act of child abuse as defined in this article holds a certification or license issued by the department.

S 8. Subdivision 3 of section 1133 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

3. Any superintendent of schools OR SCHOOL ADMINISTRATOR who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required by this article shall have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions.

S 9. Paragraph a of subdivision 39 of section 1604 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND

1 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON
2 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
3 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING
4 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
5 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
6 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
7 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
8 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
9 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of
10 fingerprints taken pursuant to this subdivision shall be promptly
11 submitted to the commissioner for purposes of clearance for employment.

12 S 10. Paragraph a of subdivision 39 of section 1709 of the education
13 law, as amended by chapter 147 of the laws of 2001, is amended to read
14 as follows:

15 a. Shall require, for purposes of a criminal history record check, the
16 fingerprinting of all prospective employees pursuant to section three
17 thousand thirty-five of this chapter, who do not hold valid clearance
18 pursuant to such section or pursuant to section three thousand four-b of
19 this chapter or section five hundred nine-cc or twelve hundred twenty-
20 nine-d of the vehicle and traffic law. Prior to initiating the finger-
21 printing process, the prospective employer shall furnish the applicant
22 with the form described in paragraph (c) of subdivision thirty of
23 section three hundred five of this chapter and shall obtain the appli-
24 cant's consent to the criminal history records search. PROSPECTIVE
25 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
26 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
27 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING
28 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-
29 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
30 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-
31 PRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION
32 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH
33 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE
34 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS
35 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING
36 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,
37 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
38 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO
39 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT
40 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF
41 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND
42 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON
43 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
44 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING
45 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
46 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
47 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
48 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
49 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
50 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of
51 fingerprints taken pursuant to this subdivision shall be promptly
52 submitted to the commissioner for purposes of clearance for employment.

53 S 11. Paragraph a of subdivision 9 of section 1804 of the education
54 law, as amended by chapter 147 of the laws of 2001, is amended to read
55 as follows:

1 a. The board of education shall, for purposes of a criminal history
2 record check, require the fingerprinting of all prospective employees
3 pursuant to section three thousand thirty-five of this chapter, who do
4 not hold valid clearance pursuant to such section or pursuant to section
5 three thousand four-b of this chapter or section five hundred nine-cc or
6 twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to
7 initiating the fingerprinting process, the prospective employer shall
8 furnish the applicant with the form described in paragraph (c) of subdivi-
9 sion thirty of section three hundred five of this chapter and shall
10 obtain the applicant's consent to the criminal history records search.
11 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT
12 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-
13 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-
14 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
15 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
16 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
17 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
18 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
19 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
20 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL
21 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
22 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
23 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
24 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
25 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
26 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
27 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
28 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
29 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
30 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
31 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
32 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
33 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
34 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
35 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
36 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
37 COMMISSIONER. Every set of fingerprints taken pursuant to this subdivi-
38 sion shall be promptly submitted to the commissioner for purposes of
39 clearance for employment.

40 S 12. Subparagraph a of paragraph 11 of subdivision 4 of section 1950
41 of the education law, as amended by chapter 147 of the laws of 2001, is
42 amended to read as follows:

43 a. Shall require, for purposes of a criminal history record check, the
44 fingerprinting of all prospective employees pursuant to section three
45 thousand thirty-five of this chapter, who do not hold valid clearance
46 pursuant to such section or pursuant to section three thousand four-b of
47 this chapter or section five hundred nine-cc or twelve hundred twenty-
48 nine-d of the vehicle and traffic law. Prior to initiating the finger-
49 printing process, the prospective employer shall furnish the applicant
50 with the form described in paragraph (c) of subdivision thirty of
51 section three hundred five of this chapter and shall obtain the appli-
52 cant's consent to the criminal history records search. PROSPECTIVE
53 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
54 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
55 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING
56 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-

1 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
2 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBPARAGRAPH SHALL BE FING-
3 ERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN
4 ADDITION TO THE REQUIREMENTS OF THIS SUBPARAGRAPH, THE COMMISSIONER
5 SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION
6 VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE
7 THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER.
8 PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF
9 AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATE-
10 MENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S
11 IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE
12 AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING
13 VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY
14 AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED,
15 SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE
16 AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY
17 THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFI-
18 CATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS
19 IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE
20 DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
21 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
22 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
23 COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph
24 shall be promptly submitted to the commissioner for purposes of clear-
25 ance for employment.

26 S 13. Subdivision 4 of section 1950 of the education law is amended by
27 adding a new paragraph oo to read as follows:

28 OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD
29 CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY
30 SCHOOLS, SPECIAL EDUCATION SCHOOLS, NON-COMPONENT SCHOOL DISTRICTS AND
31 CHARTER SCHOOLS PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED
32 FIVE OF THIS CHAPTER AND TO ENTER CONTRACTS WITH SUCH SCHOOLS FOR SUCH
33 PURPOSE, AND TO PROCESS FINGERPRINTS FOR CRIMINAL HISTORY RECORDS
34 SEARCHES PURSUANT TO SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER
35 FOR APPLICANTS FOR TEACHER CERTIFICATION AND FOR APPLICANTS FOR A CHAR-
36 TER AS A CHARTER SCHOOL PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-
37 EIGHT HUNDRED FIFTY-TWO OF THIS CHAPTER. SUCH PROCESSING SERVICES SHALL
38 BE PROVIDED AT COST AND THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES
39 SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN PROVIDING SUCH
40 SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF COOPERATIVE
41 EDUCATIONAL SERVICES ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL
42 ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF SUCH
43 SERVICES.

44 S 14. Paragraph a of subdivision 18 of section 2503 of the education
45 law, as amended by chapter 147 of the laws of 2001, is amended to read
46 as follows:

47 a. Shall require, for purposes of a criminal history record check, the
48 fingerprinting of all prospective employees pursuant to section three
49 thousand thirty-five of this chapter, who do not hold valid clearance
50 pursuant to such section or pursuant to section three thousand four-b of
51 this chapter or section five hundred nine-cc or twelve hundred twenty-
52 nine-d of the vehicle and traffic law. Prior to initiating the finger-
53 printing process, the prospective employer shall furnish the applicant
54 with the form described in paragraph (c) of subdivision thirty of
55 section three hundred five of this chapter and shall obtain the appli-
56 cant's consent to the criminal history records search. Every set of

1 fingerprints taken pursuant to this subdivision shall be promptly
2 submitted to the commissioner for purposes of clearance for employment.
3 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT
4 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-
5 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-
6 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
7 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
8 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
9 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
10 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
11 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
12 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL
13 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
14 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
15 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
16 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
17 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
18 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
19 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
20 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
21 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
22 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
23 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
24 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
25 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
26 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
27 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
28 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
29 COMMISSIONER.

30 S 15. Paragraph a of subdivision 25 of section 2554 of the education
31 law, as amended by section 2 of chapter 91 of the laws of 2002, is
32 amended to read as follows:

33 a. Shall require, for purposes of a criminal history record check, the
34 fingerprinting of all prospective employees pursuant to section three
35 thousand thirty-five of this chapter, who do not hold valid clearance
36 pursuant to such section or pursuant to section three thousand four-b of
37 this chapter or section five hundred nine-cc or twelve hundred twenty-
38 nine-d of the vehicle and traffic law. Prior to initiating the finger-
39 printing process, the prospective employer shall furnish the applicant
40 with the form described in paragraph (c) of subdivision thirty of
41 section three hundred five of this chapter and shall obtain the appli-
42 cant's consent to the criminal history records search. Every set of
43 fingerprints taken pursuant to this subdivision shall be promptly
44 submitted to the commissioner for purposes of clearance for employment.
45 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT
46 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-
47 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-
48 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
49 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
50 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
51 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
52 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
53 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
54 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL
55 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
56 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-

1 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
2 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
3 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
4 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
5 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
6 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
7 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
8 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
9 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
10 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
11 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
12 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
13 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
14 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
15 COMMISSIONER.

16 S 16. Subdivision 20 of section 2590-h of the education law, as
17 amended by chapter 345 of the laws of 2009, is amended to read as
18 follows:

19 20. Ensure compliance with qualifications established for all person-
20 nel employed in the city district, including the taking of fingerprints
21 as a prerequisite for licensure and/or employment of such personnel AND,
22 THE TAKING OF FINGERPRINTS AS A PREREQUISITE FOR LICENSURE AND/OR
23 EMPLOYMENT OF PERSONNEL EMPLOYED BY A SPECIAL EDUCATION SCHOOL, AS
24 DEFINED IN SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS
25 CHAPTER, THAT CONTRACTS WITH THE CITY SCHOOL DISTRICT OF THE CITY OF NEW
26 YORK. Every set of fingerprints taken pursuant to this subdivision
27 shall be promptly submitted to the division of criminal justice services
28 where it shall be appropriately processed. Furthermore, the division of
29 criminal justice services is authorized to submit the fingerprints to
30 the federal bureau of investigation for a national criminal history
31 record check.

32 S 16-a. Subdivision 20 of section 2590-h of the education law, as
33 amended by chapter 100 of the laws of 2003, is amended to read as
34 follows:

35 20. Ensure compliance with qualifications established for all person-
36 nel employed in the city district, including the taking of fingerprints
37 as a prerequisite for licensure and/or employment of such personnel AND,
38 THE TAKING OF FINGERPRINTS AS A PREREQUISITE FOR LICENSURE AND/OR
39 EMPLOYMENT OF PERSONNEL EMPLOYED BY A SPECIAL EDUCATION SCHOOL, AS
40 DEFINED IN SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS
41 CHAPTER, THAT CONTRACTS WITH THE CITY SCHOOL DISTRICT OF THE CITY OF NEW
42 YORK. Every set of fingerprints taken pursuant to this subdivision
43 shall be promptly submitted to the division of criminal justice services
44 where it shall be appropriately processed. Furthermore, the division of
45 criminal justice services is authorized to submit the fingerprints to
46 the federal bureau of investigation for a national criminal history
47 record check.

48 S 17. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
49 2854 of the education law, as amended by chapter 147 of the laws of
50 2001, is amended to read as follows:

51 (i) The board of trustees of a charter school shall require, for
52 purposes of a criminal history record check, the fingerprinting of all
53 prospective employees pursuant to section three thousand thirty-five of
54 this chapter, who do not hold valid clearance pursuant to such section
55 or pursuant to section three thousand four-b of this chapter or section
56 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and

1 traffic law. Prior to initiating the fingerprinting process, the
2 prospective employer shall furnish the applicant with the form described
3 in paragraph (c) of subdivision thirty of section three hundred five of
4 this chapter and shall obtain the applicant's consent to the criminal
5 history records search. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE
6 APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHOR-
7 IZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE
8 DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPART-
9 MENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS
10 AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF
11 THIS SUBPARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOY-
12 MENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS SUBPARA-
13 GRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES
14 FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES,
15 WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF
16 THE COMMISSIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
17 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN
18 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE
19 EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF
20 WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPA-
21 BLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE
22 TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
23 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
24 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
25 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
26 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
27 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
28 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
29 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
30 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
31 COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph
32 shall be promptly submitted to the commissioner for purposes of clear-
33 ance for employment.

34 S 18. Subdivision 1 of section 3004-b of the education law, as sepa-
35 rately amended by chapters 147 and 380 of the laws of 2001, is amended
36 to read as follows:

37 1. Criminal history records search. Upon receipt of an application for
38 certification as a superintendent of schools, teacher, administrator or
39 supervisor, teaching assistant or school personnel required to hold a
40 teaching or administrative license or certificate, the commissioner
41 shall, subject to the rules and regulations of the division of criminal
42 justice services, initiate a criminal history records search of the
43 person making application, except that nothing in this section shall be
44 construed to require a criminal history record check of an individual
45 who holds a valid provisional certificate on the effective date of this
46 section and applies for permanent certification in the same certificate
47 title, or of an individual who applies for a temporary license to serve
48 in the city school district of the city of New York and has been cleared
49 for licensure and/or employment by such city school district pursuant to
50 subdivision twenty of section twenty-five hundred ninety-h of this chap-
51 ter. Prior to initiating the fingerprinting process, the commissioner
52 shall furnish the applicant with the form described in paragraph (c) of
53 subdivision thirty of section three hundred five of this chapter and
54 shall obtain the applicant's consent to the criminal history records
55 search. APPLICANTS FOR CERTIFICATION, WHO ARE REQUIRED TO BE FINGER-
56 PRINTED UNDER THIS SECTION, INCLUDING OUT-OF-STATE APPLICANTS TO THE

1 EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT
2 DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING
3 ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
4 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
5 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION
6 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
7 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS SUBDIVISION, THE COMMIS-
8 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
9 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL
10 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
11 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
12 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
13 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
14 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
15 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
16 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
17 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
18 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
19 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
20 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
21 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
22 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
23 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
24 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
25 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
26 COMMISSIONER. The commissioner shall obtain from each applicant ONE SET,
27 OR WHERE NECESSARY, two sets of fingerprints and the division of crimi-
28 nal justice services processing fee imposed pursuant to subdivision
29 eight-a of section eight hundred thirty-seven of the executive law and
30 any fee imposed by the federal bureau of investigation. The commissioner
31 shall promptly transmit such fingerprints and fees to the division of
32 criminal justice services for its full search and retain processing. The
33 division of criminal justice services is authorized to submit the fing-
34 erprints and the appropriate fee to the federal bureau of investigation
35 for a national criminal history record check. The division of criminal
36 justice services and the federal bureau of investigation shall forward
37 such criminal history record to the commissioner in a timely manner. For
38 the purposes of this section the term "criminal history record" shall
39 mean a record of all convictions of crimes and any pending criminal
40 charges maintained on an individual by the division of criminal justice
41 services and the federal bureau of investigation. In addition, upon
42 request from an applicant who has applied for employment with the city
43 school district of the city of New York, the commissioner shall have the
44 authority to forward a copy of such criminal history record to the city
45 school district of the city of New York by the most expeditious means
46 available. Furthermore, upon notification that such applicant is
47 employed by the city school district of the city of New York, the divi-
48 sion of criminal justice services shall have the authority to provide
49 subsequent criminal history notifications directly to the city school
50 district of the city of New York. Upon request from an applicant who has
51 already been cleared for licensure and/or employment by the city school
52 district of the city of New York, such school district shall have the
53 authority to forward a copy of the applicant's criminal history record
54 to the commissioner, by the most expeditious means available, for the
55 purposes of this section. Furthermore, upon notification that such
56 applicant has been certified, the division of criminal justice services

1 shall have the authority to provide subsequent criminal history notifi-
2 cations directly to the commissioner. All such criminal history records
3 processed and sent pursuant to this subdivision shall be confidential
4 pursuant to the applicable federal and state laws, rules and regu-
5 lations, and shall not be published or in any way disclosed to persons
6 other than the commissioner, unless otherwise authorized by law. No
7 cause of action against the department or the division of criminal
8 justice services for damages related to the dissemination of criminal
9 history records pursuant to this subdivision shall exist when the
10 department or division of criminal justice services has reasonably and
11 in good faith relied upon the accuracy and completeness of criminal
12 history information furnished to it by qualified agencies. The provision
13 of such criminal history record by the division of criminal justice
14 services shall be subject to the provisions of subdivision sixteen of
15 section two hundred ninety-six of the executive law. The commissioner
16 shall consider such criminal history record pursuant to article twenty-
17 three-A of the correction law.

18 S 19. Paragraph b of subdivision 2 of section 3020-a of the education
19 law, as amended by section 1 of part B of chapter 57 of the laws of
20 2012, is amended to read as follows:

21 b. The employee may be suspended pending a hearing on the charges and
22 the final determination thereof. The suspension shall be with pay,
23 except the employee may be suspended without pay if the employee has
24 entered a guilty plea to or has been convicted of a felony crime
25 concerning the criminal sale or possession of a controlled substance, a
26 precursor of a controlled substance, or drug paraphernalia as defined in
27 article two hundred twenty or two hundred twenty-one of the penal law;
28 or a felony crime involving the physical abuse of a minor or student ,
29 OR A FELONY CRIME INVOLVING THE SUBMISSION OF FALSE INFORMATION, OR THE
30 COMMISSION OF FRAUD, RELATED TO A CRIMINAL HISTORY RECORD CHECK. The
31 employee shall be terminated without a hearing, as provided for in this
32 section, upon conviction of a sex offense, as defined in subparagraph
33 two of paragraph b of subdivision seven-a of section three hundred five
34 of this chapter. To the extent this section applies to an employee
35 acting as a school administrator or supervisor, as defined in subpara-
36 graph three of paragraph b of subdivision seven-b of section three
37 hundred five of this chapter, such employee shall be terminated without
38 a hearing, as provided for in this section, upon conviction of a felony
39 offense defined in subparagraph two of paragraph b of subdivision
40 seven-b of section three hundred five of this chapter.

41 S 20. Subdivision 1 of section 3035 of the education law, as amended
42 by chapter 630 of the laws of 2006, is amended to read as follows:

43 1. The commissioner shall submit to the division of criminal justice
44 services ONE SET OR WHERE NECESSARY, two sets of fingerprints of
45 prospective employees as defined in subdivision three of section eleven
46 hundred twenty-five of this chapter received from a school district,
47 charter school or board of cooperative educational services and of
48 prospective employees received from nonpublic and private elementary and
49 secondary schools pursuant to title two of this chapter OR A SPECIAL
50 EDUCATION SCHOOL, AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION THIRTY OF
51 SECTION THREE HUNDRED FIVE OF THIS CHAPTER, PURSUANT TO TITLE SIX OF
52 ARTICLE SIX OF THE SOCIAL SERVICES LAW, OTHER THAN A SPECIAL EDUCATION
53 SCHOOL LOCATED IN THE CITY OF NEW YORK, and the division of criminal
54 justice services processing fee imposed pursuant to subdivision eight-a
55 of section eight hundred thirty-seven of the executive law and any fee
56 imposed by the federal bureau of investigation. The division of criminal

1 justice services and the federal bureau of investigation shall forward
2 such criminal history record to the commissioner in a timely manner. For
3 the purposes of this section, the term "criminal history record" shall
4 mean a record of all convictions of crimes and any pending criminal
5 charges maintained on an individual by the division of criminal justice
6 services and the federal bureau of investigation. All such criminal
7 history records sent to the commissioner pursuant to this subdivision
8 shall be confidential pursuant to the applicable federal and state laws,
9 rules and regulations, and shall not be published or in any way
10 disclosed to persons other than the commissioner, unless otherwise
11 authorized by law.

12 S 21. Subdivisions 3 and 3-a of section 3035 of the education law,
13 subdivision 3 as amended by section 7 of chapter 630 of the laws of 2006
14 and subdivision 3-a as added by chapter 380 of the laws of 2001, are
15 amended to read as follows:

16 3. (a) Clearance. After receipt of a criminal history record from the
17 division of criminal justice services and the federal bureau of investi-
18 gation the commissioner shall promptly notify the appropriate school
19 district, charter school, board of cooperative educational services,
20 [or] nonpublic or private elementary or secondary school, OR SPECIAL
21 EDUCATION SCHOOL whether the prospective employee to which such report
22 relates is cleared for employment based upon his or her criminal histo-
23 ry. All determinations to grant or deny clearance for employment pursu-
24 ant to this paragraph shall be performed in accordance with subdivision
25 sixteen of section two hundred ninety-six of the executive law and arti-
26 cle twenty-three-A of the correction law. When the commissioner denies a
27 prospective employee clearance for employment, such prospective employee
28 shall be afforded notice and the right to be heard and offer proof in
29 opposition to such determination in accordance with the regulations of
30 the commissioner, PROVIDED THAT IN THE CASE OF PROSPECTIVE EMPLOYEES OF
31 STATE SCHOOLS PURSUANT TO ARTICLE EIGHTY-SEVEN OR EIGHTY-EIGHT OF THIS
32 CHAPTER THE DUE PROCESS PROCEDURES ESTABLISHED BY THE COMMISSIONER
33 PURSUANT TO SECTION FIFTY OF THE CIVIL SERVICE LAW SHALL APPLY.

34 (b) Conditional clearance. When the commissioner receives a request
35 for a determination on the conditional clearance of a prospective
36 employee, the commissioner, after receipt of a criminal history record
37 from the division of criminal justice services, shall promptly notify
38 the prospective employee and the appropriate school district, charter
39 school, board of cooperative educational services, [or] nonpublic or
40 private elementary or secondary school OR SPECIAL EDUCATION SCHOOL that
41 the prospective employee to which such report relates is conditionally
42 cleared for employment based upon his or her criminal history or that
43 more time is needed to make the determination. If the commissioner
44 determines that more time is needed, the notification shall include a
45 good faith estimate of the amount of additional time needed. Such
46 notification shall be made within fifteen business days after the
47 commissioner receives the prospective employee's fingerprints. All
48 determinations to grant or deny conditional clearance for employment
49 pursuant to this paragraph shall be performed in accordance with subdi-
50 vision sixteen of section two hundred ninety-six of the executive law
51 and article twenty-three-A of the correction law.

52 3-a. Upon request from a prospective employee who has been cleared by
53 the commissioner for employment and/or certification, the commissioner
54 shall have the authority to forward a copy of such criminal history
55 record to the city school district of the city of New York by the most
56 expeditious means available. Furthermore, upon notification that such

1 prospective employee is employed by the city school district of the city
2 of New York OR IS EMPLOYED BY A SPECIAL EDUCATION SCHOOL THAT CONTRACTS
3 WITH THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, the division of
4 criminal justice services shall have the authority to provide subsequent
5 criminal history notifications directly to the city school district of
6 the city of New York. Upon request from a prospective employee who has
7 been cleared for licensure and/or employment by the city school district
8 of the city of New York OR HAS BEEN CLEARED BY THE CITY OF NEW YORK FOR
9 EMPLOYMENT BY A SPECIAL EDUCATION SCHOOL THAT IS LOCATED OUTSIDE OF THE
10 CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, such school district OR
11 CITY shall have the authority to forward a copy of the prospective
12 employee's criminal history record to the commissioner, by the most
13 expeditious means available, for the purposes of this section. Further-
14 more, upon notification that such prospective employee is employed by a
15 school district outside the city of New York OR BY A SPECIAL EDUCATION
16 SCHOOL THAT IS LOCATED OUTSIDE OF THE CITY OF NEW YORK, the division of
17 criminal justice services shall have the authority to provide subsequent
18 criminal history notifications directly to the commissioner.

19 S 22. Paragraph (i) of subdivision (a) of section 4212 of the educa-
20 tion law, as amended by section 1-a of part E of chapter 501 of the laws
21 of 2012, is amended to read as follows:

22 (i) consistent with appropriate collective bargaining agreements and
23 applicable provisions of the civil service law, the review and evalu-
24 ation of the backgrounds of and the information supplied by any person
25 applying to be an employee, a volunteer or consultant, which shall
26 include but not be limited to the following requirements: that the
27 applicant set forth his or her employment history, provide personal and
28 employment references, and relevant experiential and educational infor-
29 mation, [and] sign a sworn statement indicating whether the applicant,
30 to the best of his or her knowledge, has ever been convicted of a crime
31 in this state or any other jurisdiction AND, IN THE CASE OF A PROSPEC-
32 TIVE EMPLOYEE, BE FINGERPRINTED FOR PURPOSES OF A CRIMINAL HISTORY BACK-
33 GROUND CHECK PURSUANT TO SUBDIVISION (D) OF THIS SECTION;

34 S 23. Section 4212 of the education law is amended by adding a new
35 subdivision (d) to read as follows:

36 (D) (I) THE SCHOOL SHALL REQUIRE, FOR PURPOSES OF A CRIMINAL HISTORY
37 RECORD CHECK, THE FINGERPRINTING OF ALL PROSPECTIVE EMPLOYEES OF THE
38 SCHOOL PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE AND
39 SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, EXCEPT WHERE SUCH
40 PROSPECTIVE EMPLOYEES HOLD VALID CLEARANCE PURSUANT TO SECTION THREE
41 THOUSAND THIRTY-FIVE OR SECTION THREE THOUSAND FOUR-B OF THIS CHAPTER OR
42 SECTION FIVE HUNDRED NINE-CC OR TWELVE HUNDRED TWENTY-NINE-D OF THE
43 VEHICLE AND TRAFFIC LAW, OR VALID CLEARANCE ISSUED BY THE CITY OF NEW
44 YORK PURSUANT TO LOCAL LAW. PRIOR TO INITIATING THE FINGERPRINTING PROC-
45 ESS, THE SCHOOL SHALL FURNISH THE PROSPECTIVE EMPLOYEE WITH THE FORM
46 DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THIRTY OF SECTION THREE
47 HUNDRED FIVE OF THIS CHAPTER AND SHALL OBTAIN THE APPLICANT'S CONSENT TO
48 THE CRIMINAL HISTORY RECORDS SEARCH. EVERY SET OF FINGERPRINTS TAKEN
49 PURSUANT TO THIS SUBDIVISION SHALL BE PROMPTLY SUBMITTED TO THE COMMIS-
50 SIONER FOR PURPOSES OF CLEARANCE FOR EMPLOYMENT. NOTWITHSTANDING ANY
51 OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER SHALL BE
52 AUTHORIZED TO PROVIDE SUBSEQUENT CRIMINAL HISTORY NOTIFICATIONS TO THE
53 SCHOOL FOR ITS EMPLOYEES.

54 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
55 SCHOOL MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL APPOINTMENT OR EMER-
56 GENCY CONDITIONAL APPOINTMENT OF PROSPECTIVE EMPLOYEES OF THE SCHOOL TO

THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS A BOARD OF EDUCATION OF A UNION FREE SCHOOL DISTRICT PURSUANT TO SUBDIVISION THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF THIS CHAPTER.

S 24. Paragraph (i) of subdivision (a) of section 4314 of the education law, as amended by section 2 of part E of chapter 501 of the laws of 2012, is amended to read as follows:

(i) consistent with appropriate collective agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references, and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction AND, IN THE CASE OF A PROSPECTIVE EMPLOYEE, BE FINGERPRINTED FOR PURPOSES OF A CRIMINAL HISTORY BACKGROUND CHECK PURSUANT TO SUBDIVISION (D) OF THIS SECTION;

S 25. Section 4314 of the education law is amended by adding a new subdivision (d) to read as follows:

(D) (I) THE DEPARTMENT SHALL REQUIRE, FOR PURPOSES OF A CRIMINAL HISTORY RECORD CHECK, THE FINGERPRINTING OF ALL PROSPECTIVE EMPLOYEES OF THE SCHOOL PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE AND SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, WHO DO NOT HOLD VALID CLEARANCE PURSUANT TO SUCH SECTION THREE THOUSAND THIRTY-FIVE OR PURSUANT TO SECTION THREE THOUSAND FOUR-B OF THIS CHAPTER OR SECTION FIVE HUNDRED NINE-CC OR TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAFFIC LAW, OR VALID CLEARANCE ISSUED BY THE CITY OF NEW YORK PURSUANT TO LOCAL LAW. PRIOR TO INITIATING THE FINGERPRINTING PROCESS, THE DEPARTMENT SHALL FURNISH THE PROSPECTIVE EMPLOYEE WITH THE FORM DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER AND SHALL OBTAIN THE APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH. EVERY SET OF FINGERPRINTS TAKEN PURSUANT TO THIS SUBDIVISION SHALL BE PROMPTLY SUBMITTED TO THE COMMISSIONER FOR PURPOSES OF CLEARANCE FOR EMPLOYMENT.

(II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSIONER MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL APPOINTMENT OR EMERGENCY CONDITIONAL APPOINTMENT OF PROSPECTIVE EMPLOYEES OF THE SCHOOL BY THE DEPARTMENT TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS A BOARD OF EDUCATION OF A UNION FREE SCHOOL DISTRICT PURSUANT TO SUBDIVISION THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF THIS CHAPTER.

S 26. Paragraph (i) of subdivision (a) of section 4358 of the education law, as amended by section 3 of part E of chapter 501 of the laws of 2012, is amended to read as follows:

(i) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction AND, IN THE CASE OF A PROSPECTIVE EMPLOYEE, BE FINGERPRINTED FOR PURPOSES OF A CRIMINAL HISTORY BACKGROUND CHECK PURSUANT TO SUBDIVISION (D) OF THIS SECTION;

1 S 27. Section 4358 of the education law is amended by adding a new
2 subdivision (d) to read as follows:

3 (D) (I) THE DEPARTMENT SHALL REQUIRE, FOR PURPOSES OF A CRIMINAL
4 HISTORY RECORD CHECK, THE FINGERPRINTING OF ALL PROSPECTIVE EMPLOYEES OF
5 THE SCHOOL PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE
6 AND SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, WHO DO NOT HOLD
7 VALID CLEARANCE PURSUANT TO SUCH SECTION THREE THOUSAND THIRTY-FIVE OR
8 PURSUANT TO SECTION THREE THOUSAND FOUR-B OF THIS CHAPTER OR SECTION
9 FIVE HUNDRED NINE-CC OR TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND
10 TRAFFIC LAW, OR VALID CLEARANCE ISSUED BY THE CITY OF NEW YORK PURSUANT
11 TO LOCAL LAW. PRIOR TO INITIATING THE FINGERPRINTING PROCESS, THE
12 DEPARTMENT SHALL FURNISH THE PROSPECTIVE EMPLOYEE WITH THE FORM
13 DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THIRTY OF SECTION THREE
14 HUNDRED FIVE OF THIS CHAPTER AND SHALL OBTAIN THE APPLICANT'S CONSENT TO
15 THE CRIMINAL HISTORY RECORDS SEARCH. EVERY SET OF FINGERPRINTS TAKEN
16 PURSUANT TO THIS SUBDIVISION SHALL BE PROMPTLY SUBMITTED TO THE COMMIS-
17 SIONER FOR PURPOSES OF CLEARANCE FOR EMPLOYMENT.

18 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
19 COMMISSIONER MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL APPOINTMENT OR
20 EMERGENCY CONDITIONAL APPOINTMENT OF PROSPECTIVE EMPLOYEES OF THE SCHOOL
21 BY THE DEPARTMENT TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS A
22 BOARD OF EDUCATION OF A UNION FREE SCHOOL DISTRICT PURSUANT TO SUBDIVI-
23 SION THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF THIS CHAPTER.

24 S 28. Paragraph (a) of subdivision 11 of section 4403 of the education
25 law, as amended by section 4 of part E of chapter 501 of the laws of
26 2012, is amended to read as follows:

27 (a) consistent with appropriate collective bargaining agreements and
28 applicable provisions of the civil service law, the review and evalu-
29 ation of the backgrounds of and the information supplied by any person
30 applying to be an employee, a volunteer or consultant, which shall
31 include but not be limited to the following requirements: that the
32 applicant set forth his or her employment history, provide personal and
33 employment references, and relevant experiential and educational quali-
34 fications and, sign a sworn statement indicating whether the applicant,
35 to the best of his or her knowledge has ever been convicted of a crime
36 in this state or any other jurisdiction AND, IN THE CASE OF A PROSPEC-
37 TIVE EMPLOYEE, BE FINGERPRINTED FOR PURPOSES OF A CRIMINAL HISTORY BACK-
38 GROUND CHECK PURSUANT TO SUBDIVISION TWENTY-ONE OF THIS SECTION;

39 S 29. Section 4403 of the education law is amended by adding a new
40 subdivision 21 to read as follows:

41 21. (A) THE COMMISSIONER SHALL REQUIRE, FOR PURPOSES OF A CRIMINAL
42 HISTORY RECORD CHECK, THE FINGERPRINTING OF ALL PROSPECTIVE EMPLOYEES OF
43 APPROVED PRIVATE RESIDENTIAL AND NON-RESIDENTIAL SCHOOLS WHICH ARE
44 LOCATED WITHIN THE STATE BY SUCH SCHOOLS PURSUANT TO SUBDIVISION THIRTY
45 OF SECTION THREE HUNDRED FIVE AND SECTION THREE THOUSAND THIRTY-FIVE OF
46 THIS CHAPTER, EXCEPT WHERE SUCH PROSPECTIVE EMPLOYEES HOLD VALID CLEAR-
47 ANCE PURSUANT TO SUCH SECTION THREE THOUSAND THIRTY-FIVE OR PURSUANT TO
48 SECTION THREE THOUSAND FOUR-B OF THIS CHAPTER OR SECTION FIVE HUNDRED
49 NINE-CC OR TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAFFIC LAW,
50 OR VALID CLEARANCE ISSUED BY THE CITY OF NEW YORK PURSUANT TO LOCAL LAW.
51 THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO PROGRAMS OPERATED
52 PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF THIS ARTICLE BY A SCHOOL
53 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES. PRIOR TO INITIAT-
54 ING THE FINGERPRINTING PROCESS, THE SCHOOL SHALL FURNISH THE PROSPECTIVE
55 EMPLOYEE WITH THE FORM DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THIRTY
56 OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER AND SHALL OBTAIN THE

1 APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH. EVERY SET OF
2 FINGERPRINTS TAKEN PURSUANT TO THIS SUBDIVISION SHALL BE PROMPTLY
3 SUBMITTED TO THE COMMISSIONER FOR PURPOSES OF CLEARANCE FOR EMPLOYMENT.
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMIS-
5 SIONER SHALL BE AUTHORIZED TO PROVIDE SUBSEQUENT CRIMINAL HISTORY
6 NOTIFICATIONS TO APPROVED PRIVATE SCHOOLS FOR THEIR EMPLOYEES.

7 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
8 APPROVED PRIVATE SCHOOL MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL
9 APPOINTMENT OR EMERGENCY CONDITIONAL APPOINTMENT OF PROSPECTIVE EMPLOY-
10 EES OF THE SCHOOL TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS A
11 BOARD OF EDUCATION OF A UNION FREE SCHOOL DISTRICT PURSUANT TO SUBDIVI-
12 SION THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF THIS CHAPTER.

13 S 30. Section 4410 of the education law is amended by adding a new
14 subdivision 9-e to read as follows:

15 9-E. A. THE COMMISSIONER SHALL REQUIRE, FOR PURPOSES OF A CRIMINAL
16 HISTORY RECORD CHECK, THE FINGERPRINTING OF ALL PROSPECTIVE EMPLOYEES OF
17 APPROVED PROVIDERS OF SPECIAL SERVICES OR PROGRAMS THAT ARE LOCATED
18 WITHIN THE STATE PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED
19 FIVE AND SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER, EXCEPT
20 WHERE SUCH PROSPECTIVE EMPLOYEES HOLD VALID CLEARANCE PURSUANT TO
21 SECTION THREE THOUSAND THIRTY-FIVE OR THREE THOUSAND FOUR-B OF THIS
22 CHAPTER OR SECTION FIVE HUNDRED NINE-CC OR TWELVE HUNDRED TWENTY-NINE-D
23 OF THE VEHICLE AND TRAFFIC LAW OR A VALID CLEARANCE ISSUED BY THE CITY
24 OF NEW YORK PURSUANT TO LOCAL LAW. AN INDIVIDUAL WHO PROVIDES RELATED
25 SERVICES PURSUANT TO THIS SECTION SHALL BE DEEMED A PROSPECTIVE EMPLOYEE
26 FOR PURPOSES OF THIS SUBDIVISION AND SHALL BE RESPONSIBLE FOR SUBMITTING
27 HIS OR HER FINGERPRINTS TO THE COMMISSIONER FOR PURPOSES OF RECEIVING
28 CLEARANCE FOR EMPLOYMENT PRIOR TO HIS OR HER INCLUSION ON A LIST OF
29 RELATED SERVICE PROVIDERS MAINTAINED BY THE MUNICIPALITY OR BOARD PURSU-
30 ANT TO PARAGRAPH C OF SUBDIVISION NINE OF THIS SECTION. PRIOR TO INITI-
31 ATING THE FINGERPRINTING PROCESS, THE PROVIDER SHALL FURNISH ITS
32 PROSPECTIVE EMPLOYEE WITH THE FORM DESCRIBED IN PARAGRAPH (C) OF SUBDI-
33 VISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER AND SHALL
34 OBTAIN THE APPLICANT'S CONSENT TO THE CRIMINAL HISTORY RECORDS SEARCH.
35 EVERY SET OF FINGERPRINTS TAKEN PURSUANT TO THIS SUBDIVISION SHALL BE
36 PROMPTLY SUBMITTED TO THE COMMISSIONER FOR PURPOSES OF CLEARANCE FOR
37 EMPLOYMENT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
38 THE COMMISSIONER SHALL BE AUTHORIZED TO PROVIDE SUBSEQUENT CRIMINAL
39 HISTORY NOTIFICATIONS TO APPROVED PROVIDERS FOR THEIR EMPLOYEES. IN THE
40 CASE OF A PROSPECTIVE EMPLOYEE WHO IS EMPLOYED BY THE CITY SCHOOL
41 DISTRICT OF THE CITY OF NEW YORK, THE COMMISSIONER SHALL BE AUTHORIZED
42 TO PROVIDE SUBSEQUENT CRIMINAL HISTORY NOTIFICATIONS DIRECTLY TO THE
43 CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK.

44 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
45 APPROVED PROVIDER MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL APPOINT-
46 MENT OR EMERGENCY CONDITIONAL APPOINTMENT OF PROSPECTIVE EMPLOYEES OF
47 THE PROVIDER TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS A BOARD
48 OF EDUCATION OF A UNION FREE SCHOOL DISTRICT PURSUANT TO SUBDIVISION
49 THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF THIS CHAPTER.

50 C. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
51 COMMISSIONER MAY ESTABLISH PROCEDURES FOR THE CONDITIONAL APPOINTMENT OR
52 EMERGENCY CONDITIONAL APPOINTMENT OF INDIVIDUALS WHO PROVIDE RELATED
53 SERVICES PURSUANT TO THIS SECTION TO THE SAME EXTENT AND UNDER THE SAME
54 CONDITIONS AS A BOARD OF EDUCATION OF A UNION FREE SCHOOL DISTRICT
55 PURSUANT TO SUBDIVISION THIRTY-NINE OF SECTION SEVENTEEN HUNDRED NINE OF
56 THIS CHAPTER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRA-

1 RY, THE COMMISSIONER SHALL PROVIDE EACH MUNICIPALITY OR BOARD IN WHICH
2 SUCH INDIVIDUAL SEEKS TO BE INCLUDED ON A LIST OF RELATED SERVICES OR
3 SPECIAL EDUCATION ITINERANT SERVICES PROVIDERS WITH A COPY OF SUCH INDI-
4 VIDUAL'S CRIMINAL CLEARANCE OR DENIAL OF CRIMINAL CLEARANCE, AND IN THE
5 EVENT OF A DENIAL OF CLEARANCE, SUCH MUNICIPALITY OR BOARD SHALL REMOVE
6 THE INDIVIDUAL FROM SUCH LIST UNLESS CRIMINAL CLEARANCE IS SUBSEQUENTLY
7 ISSUED BY THE COMMISSIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW
8 TO THE CONTRARY, THE COMMISSIONER SHALL BE AUTHORIZED TO PROVIDE SUBSE-
9 QUENT CRIMINAL HISTORY NOTIFICATIONS TO EACH MUNICIPALITY OR BOARD IN
10 WHICH SUCH INDIVIDUAL IS INCLUDED ON A LIST OF RELATED SERVICE PROVID-
11 ERS.

12 S 31. Section 12 of chapter 147 of the laws of 2001, amending the
13 education law relating to conditional appointment of school district,
14 charter school or BOCES employees, as amended by section 32 of part A of
15 chapter 57 of the laws of 2013, is amended to read as follows:

16 S 12. This act shall take effect on the same date as chapter 180 of
17 the laws of 2000 takes effect[, and shall expire July 1, 2014 when upon
18 such date the provisions of this act shall be deemed repealed].

19 S 32. The commissioner of education, in consultation with the depart-
20 ment of criminal justice, shall conduct a study or studies (1) of the
21 feasibility and desirability of aligning the fingerprinting process used
22 for criminal history records checks for employment in school districts
23 and boards of cooperative educational services and for certification as
24 a teacher or administrator, to the statewide vendor managed network
25 administered by the division of criminal justice services, and (2)
26 establishing a new fingerprinting process using the statewide vendor
27 managed network administered by the division of criminal justice
28 services for criminal history records checks for licensed professionals
29 under title VIII of the education law. The commissioner of education
30 shall submit a report to the board of regents, the governor and the
31 legislature by no later than January 15, 2014, with recommendations,
32 including appropriate actions that would need to be taken to align the
33 existing fingerprinting process and to establish a new fingerprinting
34 process for licensed professionals under title VIII of the education law
35 with the statewide system and any estimated costs and/or savings associ-
36 ated with movement to the statewide system.

37 S 33. The commissioner of education is authorized to promulgate any
38 and all rules and regulations and take any other measures necessary to
39 implement the provisions of this act on its effective date on or before
40 such date.

41 S 34. This act shall take effect on the one hundred eightieth day
42 after it shall have become a law; provided that:

43 a. section thirty-one of this act shall take effect immediately;

44 b. the provisions of sections one, two, three, four, eighteen, nine-
45 teen, twenty, twenty-two, twenty-three, twenty-four, twenty-five, twen-
46 ty-six, twenty-seven and twenty-eight of this act shall apply to
47 prospective employees of special education schools who are appointed on
48 or after such effective date and to individual providers of preschool
49 related services who are placed on lists maintained by the municipality
50 pursuant to subdivision 9 of section 4410 of the education law on and
51 after such effective date;

52 c. if section 1 of part E of chapter 501 of the laws of 2012 has not
53 taken effect by the effective date of this act, the amendments to subdi-
54 vision 5 of section 1125 of the education law, made by section five of
55 this act, shall take effect on the same date and in the same manner as
56 section 1 of part E of chapter 501 of the laws of 2012 takes effect;

1 d. the amendments made to subdivision 20 of section 2590-h of the
2 education law by section sixteen of this act shall be subject to the
3 expiration and reversion of such subdivision pursuant to subdivision 12
4 of section 17 of chapter 345 of the laws of 2009, as amended, when upon
5 such date the provisions of section sixteen-a of this act shall take
6 effect;

7 e. if section 1-a of part E of chapter 501 of the laws of 2012 shall
8 not have taken effect by the effective date of this act, the amendments
9 to paragraph (i) of subdivision (a) of section 4212 of the education
10 law, made by section twenty-two of this act, shall take effect on the
11 same date and in the same manner as section 1-a of part E of chapter 501
12 of the laws of 2012 takes effect;

13 f. if section 2 of part E of chapter 501 of the laws of 2012 has not
14 taken effect by the effective date of this act, the amendments to para-
15 graph (i) of subdivision (a) of section 4314 of the education law, made
16 by section twenty-four of this act, shall take effect on the same date
17 and in the same manner as section 2 of part E of chapter 501 of the laws
18 of 2012 takes effect;

19 g. if section 3 of part E of chapter 501 of the laws of 2012 has not
20 taken effect by the effective date of this act, the amendments to para-
21 graph (i) of subdivision (a) of section 4358 of the education law, made
22 by section twenty-six of this act, shall take effect on the same date
23 and in the same manner as section 3 of part E of chapter 501 of the laws
24 of 2012 takes effect; and

25 h. if section 4 of part E of chapter 501 of the laws of 2012 has not
26 taken effect by the effective date of this act, the amendments to para-
27 graph (a) of subdivision 11 of section 4403 of the education law, made
28 by section twenty-eight of this act, shall take effect on the same date
29 and in the same manner as section 4 of part E of chapter 501 of the laws
30 of 2012 takes effect.