

2542

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. CUSICK -- read once and referred to the Committee
on Education

AN ACT to amend the education law, in relation to pre-employment investigations for personnel employed in school districts

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

1 Section 1. The education law is amended by adding a new section 3001-e
2 to read as follows:

3 S 3001-E. PRE-EMPLOYMENT INVESTIGATION OF PERSONNEL EMPLOYED IN SCHOOL
4 DISTRICTS. 1. EVERY SCHOOL DISTRICT SHALL CONDUCT A PRE-EMPLOYMENT BACK-
5 GROUND INVESTIGATION FOR ALL PERSONNEL EMPLOYED IN THE DISTRICT.

6 2. EACH DISTRICT, IN COOPERATION WITH THE DIVISION OF CRIMINAL JUSTICE
7 SERVICES, SHALL PROMULGATE REGULATIONS REQUIRING ALL PERSONNEL EMPLOYED
8 IN SUCH SCHOOL DISTRICT TO SUBMIT TO MANDATORY BACKGROUND QUESTIONNAIRES
9 AND TO SUCH OTHER TESTS FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR
10 COMMUNICABLE DISEASES AS SHALL BE DETERMINED TO BE NECESSARY AND PROPER.

11 3. EVERY PERSON, AS A CONDITION OF EMPLOYMENT IN A SCHOOL DISTRICT,
12 SHALL COMPLETE A BACKGROUND QUESTIONNAIRE, SUBMIT TO SUCH OTHER TESTS
13 FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS
14 SHALL BE DETERMINED TO BE NECESSARY AND PROPER AND SIGN A DECLARATION
15 UNDER PENALTY OF PERJURY REGARDING ANY PRIOR CRIMINAL CONVICTIONS.

16 4. NO SCHOOL DISTRICT EMPLOYEE SHALL BE ASSIGNED TO WORK INVOLVING THE
17 CARE, CUSTODY OR SUPERVISION OF A CHILD IF IT IS DETERMINED THAT SUCH
18 PERSON HAS TESTED POSITIVE FOR THE PRESENCE OF A CONTROLLED SUBSTANCE OR
19 COMMUNICABLE DISEASE.

20 5. FOR PURPOSES OF THIS SECTION, "COMMUNICABLE DISEASE" SHALL MEAN ANY
21 DISEASE THAT THE COMMISSIONER OF HEALTH, IN THE REASONABLE EXERCISE OF
22 HIS OR HER MEDICAL JUDGEMENT, DETERMINES TO BE COMMUNICABLE, RAPIDLY
23 EMERGENT OR A SIGNIFICANT THREAT TO PUBLIC HEALTH. THE LIST OF DESIG-
24 NATED COMMUNICABLE DISEASES IS IN 10 NYCRR 2.1.

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

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1 S 2. Subdivision 20 of section 2590-h of the education law, as amended
2 by chapter 100 of the laws of 2003, is amended to read as follows:

3 20. Ensure compliance with qualifications established for all person-
4 nel employed in the city district, including the taking of fingerprints,
5 BACKGROUND QUESTIONNAIRES AND SUBMISSION TO SUCH OTHER TESTS FOR THE
6 PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS SHALL BE
7 DETERMINED TO BE NECESSARY AND PROPER as a prerequisite for licensure
8 and/or employment of such personnel. Every set of fingerprints taken
9 pursuant to this subdivision shall be promptly submitted to the division
10 of criminal justice services where it shall be appropriately processed.
11 Furthermore, the division of criminal justice services is authorized to
12 submit the fingerprints to the federal bureau of investigation for a
13 national criminal history record check.

14 S 3. This act shall take effect on the ninetieth day after it shall
15 have become a law; provided however, that effective immediately, the
16 addition, amendment and/or repeal of any rule and regulation necessary
17 for the implementation of this act on its effective date are authorized
18 and directed to be made and completed on or before such effective date.