

6816--A

2013-2014 Regular Sessions

I N A S S E M B L Y

April 19, 2013

Introduced by M. of A. NOLAN -- read once and referred 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 the fingerprinting of applicants as school district employees

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

1 Section 1. Paragraph (a) of subdivision 30 of section 305 of the
2 education law, as amended by chapter 630 of the laws of 2006, is amended
3 to read as follows:
4 (a) The commissioner, in cooperation with the division of criminal
5 justice services and in accordance with all applicable provisions of
6 law, shall promulgate rules and regulations to require the fingerprint-
7 ing of prospective employees, as defined in section eleven hundred twen-
8 ty-five of this chapter, of school districts, charter schools and boards
9 of cooperative educational services and authorizing the fingerprinting
10 of prospective employees of nonpublic and private elementary and second-
11 ary schools, and for the use of information derived from searches of the
12 records of the division of criminal justice services and the federal
13 bureau of investigation based on the use of such fingerprints. The
14 commissioner shall also develop a form for use by school districts,
15 charter schools, boards of cooperative educational services, and nonpub-
16 lic and private elementary and secondary schools in connection with the
17 submission of fingerprints that contains the specific job title sought
18 and any other information that may be relevant to consideration of the
19 applicant. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRON-
20 IC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
21 PRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE
22 FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A
23 PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
24 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND ATTESTING

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

LBD10119-07-3

1 TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN. SUCH LANGUAGE
2 SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I HEREBY CERTIFY
3 AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE INFORMATION AND
4 STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION FOR EMPLOYMENT
5 AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN CONJUNCTION WITH THE
6 EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE." THE PROSPECTIVE EMPLOY-
7 EE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN
8 OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERI-
9 FIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHOR-
10 IZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN
11 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHOR-
12 IZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT
13 ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED,
14 WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE
15 WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE
16 RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS
17 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
18 DURATION OF THE INDIVIDUAL'S EMPLOYMENT. The commissioner shall also
19 establish a form for the recordation of allegations of child abuse in an
20 educational setting, as required pursuant to section eleven hundred
21 twenty-six of this chapter. No person who has been fingerprinted pursu-
22 ant to section three thousand four-b of this chapter or pursuant to
23 section five hundred nine-cc or twelve hundred twenty-nine-d of the
24 vehicle and traffic law and whose fingerprints remain on file with the
25 division of criminal justice services shall be required to undergo fing-
26 erprinting for purposes of a new criminal history record check. This
27 subdivision and the rules and regulations promulgated pursuant thereto
28 shall not apply to a school district within a city with a population of
29 one million or more.

30 S 2. Subparagraph (i) of paragraph (b) of subdivision 30 of section
31 305 of the education law, as amended by chapter 630 of the laws of 2006,
32 is amended to read as follows:

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

40 S 3. Paragraph a of subdivision 39 of section 1604 of the education
41 law, as amended by chapter 147 of the laws of 2001, is amended to read
42 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 SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
54 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
55 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
56 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN

1 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE
2 EMPLOYEE'S IDENTITY AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION
3 CONTAINED THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO
4 THE FOLLOWING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM
5 TO BE, THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING
6 MY APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED
7 BY ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND
8 COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFI-
9 CATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDEN-
10 TIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE
11 EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE
12 PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE
13 FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT
14 PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO
15 IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE
16 FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGU-
17 LATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE
18 DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION
19 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT.
20 Every set of fingerprints taken pursuant to this subdivision shall be
21 promptly submitted to the commissioner for purposes of clearance for
22 employment.

23 S 4. Paragraph a of subdivision 39 of section 1709 of the education
24 law, as amended by chapter 147 of the laws of 2001, is amended to read
25 as follows:

26 a. Shall require, for purposes of a criminal history record check, the
27 fingerprinting of all prospective employees pursuant to section three
28 thousand thirty-five of this chapter, who do not hold valid clearance
29 pursuant to such section or pursuant to section three thousand four-b of
30 this chapter or section five hundred nine-cc or twelve hundred twenty-
31 nine-d of the vehicle and traffic law. Prior to initiating the finger-
32 printing process, the prospective employer shall furnish the applicant
33 with the form described in paragraph (c) of subdivision thirty of
34 section three hundred five of this chapter and shall obtain the appli-
35 cant's consent to the criminal history records search. PROSPECTIVE
36 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
37 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
38 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
39 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
40 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
41 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
42 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
43 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
44 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
45 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
46 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
47 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
48 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
49 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
50 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
51 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
52 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
53 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
54 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
55 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
56 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN

1 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
2 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
3 this subdivision shall be promptly submitted to the commissioner for
4 purposes of clearance for employment.

5 S 5. Paragraph a of subdivision 9 of section 1804 of the education
6 law, as amended by chapter 147 of the laws of 2001, is amended to read
7 as follows:

8 a. The board of education shall, for purposes of a criminal history
9 record check, require the fingerprinting of all prospective employees
10 pursuant to section three thousand thirty-five of this chapter, who do
11 not hold valid clearance pursuant to such section or pursuant to section
12 three thousand four-b of this chapter or section five hundred nine-cc or
13 twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to
14 initiating the fingerprinting process, the prospective employer shall
15 furnish the applicant with the form described in paragraph (c) of subdi-
16 vision thirty of section three hundred five of this chapter and shall
17 obtain the applicant's consent to the criminal history records search.
18 PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING
19 TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES
20 APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING
21 PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL
22 SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLI-
23 CANT'S IDENTITY AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION
24 CONTAINED THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO
25 THE FOLLOWING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM
26 TO BE, THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING
27 MY APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED
28 BY ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND
29 COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFI-
30 CATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDEN-
31 TIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT
32 SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S
33 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
34 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPART-
35 MENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION
36 PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN
37 ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE
38 DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSI-
39 NESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE
40 PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT. Every set of
41 fingerprints taken pursuant to this subdivision shall be promptly
42 submitted to the commissioner for purposes of clearance for employment.

43 S 6. Subparagraph a of paragraph 11 of subdivision 4 of section 1950
44 of the education law, as amended by chapter 147 of the laws of 2001, is
45 amended to read as follows:

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

1 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
2 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
3 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
4 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
5 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
6 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
7 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
8 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
9 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
10 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
11 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
12 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
13 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
14 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
15 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
16 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
17 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
18 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
19 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
20 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
21 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
22 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
23 this paragraph shall be promptly submitted to the commissioner for
24 purposes of clearance for employment.

25 S 7. Paragraph a of subdivision 18 of section 2503 of the education
26 law, as amended by chapter 147 of the laws of 2001, is amended to read
27 as follows:

28 a. Shall require, for purposes of a criminal history record check, the
29 fingerprinting of all prospective employees pursuant to section three
30 thousand thirty-five of this chapter, who do not hold valid clearance
31 pursuant to such section or pursuant to section three thousand four-b of
32 this chapter or section five hundred nine-cc or twelve hundred twenty-
33 nine-d of the vehicle and traffic law. Prior to initiating the finger-
34 printing process, the prospective employer shall furnish the applicant
35 with the form described in paragraph (c) of subdivision thirty of
36 section three hundred five of this chapter and shall obtain the appli-
37 cant's consent to the criminal history records search. PROSPECTIVE
38 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
39 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
40 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
41 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
42 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
43 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
44 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
45 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
46 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
47 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
48 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
49 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
50 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
51 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
52 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
53 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
54 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
55 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
56 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS

1 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
2 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
3 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
4 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
5 this subdivision shall be promptly submitted to the commissioner for
6 purposes of clearance for employment.

7 S 8. Paragraph a of subdivision 25 of section 2554 of the education
8 law, as amended by chapter 91 of the laws of 2002, is amended to read as
9 follows:

10 a. Shall require, for purposes of a criminal history record check, the
11 fingerprinting of all prospective employees pursuant to section three
12 thousand thirty-five of this chapter, who do not hold valid clearance
13 pursuant to such section or pursuant to section three thousand four-b of
14 this chapter or section five hundred nine-cc or twelve hundred twenty-
15 nine-d of the vehicle and traffic law. Prior to initiating the finger-
16 printing process, the prospective employer shall furnish the applicant
17 with the form described in paragraph (c) of subdivision thirty of
18 section three hundred five of this chapter and shall obtain the appli-
19 cant's consent to the criminal history records search. PROSPECTIVE
20 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
21 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
22 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
23 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
24 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
25 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
26 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
27 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
28 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
29 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
30 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
31 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
32 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
33 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
34 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
35 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
36 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
37 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
38 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
39 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
40 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
41 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
42 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
43 this subdivision shall be promptly submitted to the commissioner for
44 purposes of clearance for employment.

45 S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
46 2854 of the education law, as amended by chapter 147 of the laws of
47 2001, is amended to read as follows:

48 (i) The board of trustees of a charter school shall require, for
49 purposes of a criminal history record check, the fingerprinting of all
50 prospective employees pursuant to section three thousand thirty-five of
51 this chapter, who do not hold valid clearance pursuant to such section
52 or pursuant to section three thousand four-b of this chapter or section
53 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and
54 traffic law. Prior to initiating the fingerprinting process, the
55 prospective employer shall furnish the applicant with the form described
56 in paragraph (c) of subdivision thirty of section three hundred five of

1 this chapter and shall obtain the applicant's consent to the criminal
2 history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED
3 USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIG-
4 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO
5 INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED
6 PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE
7 DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND ATTESTING TO THE
8 TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN. SUCH LANGUAGE SHALL
9 INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I HEREBY CERTIFY AND
10 ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE INFORMATION AND
11 STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION FOR EMPLOYMENT
12 AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN CONJUNCTION WITH THE
13 EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE." THE PROSPECTIVE EMPLOY-
14 EE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN
15 OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERI-
16 FIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSON-
17 NEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON
18 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
19 SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE
20 VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND
21 PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES
22 AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY
23 THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
24 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
25 EMPLOYMENT. Every set of fingerprints taken pursuant to this paragraph
26 shall be promptly submitted to the commissioner for purposes of clear-
27 ance for employment.

28 S 10. Subdivision 1 of section 3004-b of the education law, as sepa-
29 rately amended by chapters 147 and 380 of the laws of 2001, is amended
30 to read as follows:

31 1. Criminal history records search. Upon receipt of an application for
32 certification as a superintendent of schools, teacher, administrator or
33 supervisor, teaching assistant or school personnel required to hold a
34 teaching or administrative license or certificate, the commissioner
35 shall, subject to the rules and regulations of the division of criminal
36 justice services, initiate a criminal history records search of the
37 person making application, except that nothing in this section shall be
38 construed to require a criminal history record check of an individual
39 who holds a valid provisional certificate on the effective date of this
40 section and applies for permanent certification in the same certificate
41 title, or of an individual who applies for a temporary license to serve
42 in the city school district of the city of New York and has been cleared
43 for licensure and/or employment by such city school district pursuant to
44 subdivision twenty of section twenty-five hundred ninety-h of this chap-
45 ter. Prior to initiating the fingerprinting process, the commissioner
46 shall furnish the applicant with the form described in paragraph (c) of
47 subdivision thirty of section three hundred five of this chapter and
48 shall obtain the applicant's consent to the criminal history records
49 search. APPLICANTS SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING
50 TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES
51 APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROC-
52 ESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN
53 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S
54 IDENTITY AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED
55 THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOW-
56 ING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE,

1 THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY
2 APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY
3 ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND
4 COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFI-
5 CATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDEN-
6 TIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT
7 SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S
8 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
9 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPART-
10 MENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION
11 PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN
12 ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE
13 DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSI-
14 NESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE
15 PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT. The commis-
16 sioner shall obtain from each applicant two sets of fingerprints and the
17 division of criminal justice services processing fee imposed pursuant to
18 subdivision eight-a of section eight hundred thirty-seven of the execu-
19 tive law and any fee imposed by the federal bureau of investigation. The
20 commissioner shall promptly transmit such fingerprints and fees to the
21 division of criminal justice services for its full search and retain
22 processing. The division of criminal justiceservices is authorized to
23 submit the fingerprints and the appropriate fee to the federal bureau of
24 investigation for a national criminal history record check. The division
25 of criminal justice services and the federal bureau of investigation
26 shall forward such criminal history record to the commissioner in a
27 timely manner. For the purposes of this section the term "criminal
28 history record" shall mean a record of all convictions of crimes and any
29 pending criminal charges maintained on an individual by the division of
30 criminal justice services and the federal bureau of investigation. In
31 addition, upon request from an applicant who has applied for employment
32 with the city school district of the city of New York, the commissioner
33 shall have the authority to forward a copy of such criminal history
34 record to the city school district of the city of New York by the most
35 expeditious means available. Furthermore, upon notification that such
36 applicant is employed by the city school district of the city of New
37 York, the division of criminal justice services shall have the authority
38 to provide subsequent criminal history notifications directly to the
39 city school district of the city of New York. Upon request from an
40 applicant who has already been cleared for licensure and/or employment
41 by the city school district of the city of New York, such school
42 district shall have the authority to forward a copy of the applicant's
43 criminal history record to the commissioner, by the most expeditious
44 means available, for the purposes of this section. Furthermore, upon
45 notification that such applicant has been certified, the division of
46 criminal justice services shall have the authority to provide subsequent
47 criminal history notifications directly to the commissioner. All such
48 criminal history records processed and sent pursuant to this subdivision
49 shall be confidential pursuant to the applicable federal and state laws,
50 rules and regulations, and shall not be published or in any way
51 disclosed to persons other than the commissioner, unless otherwise
52 authorized by law. No cause of action against the department or the
53 division of criminal justice services for damages related to the dissem-
54 ination of criminal history records pursuant to this subdivision shall
55 exist when the department or division of criminal justice services has
56 reasonably and in good faith relied upon the accuracy and completeness

1 of criminal history information furnished to it by qualified agencies.
2 The provision of such criminal history record by the division of crimi-
3 nal justice services shall be subject to the provisions of subdivision
4 sixteen of section two hundred ninety-six of the executive law. The
5 commissioner shall consider such criminal history record pursuant to
6 article twenty-three-A of the correction law.

7 S 11. Subdivision 4 of section 1950 of the education law is amended by
8 adding a new paragraph oo to read as follows:

9 OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD
10 CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY
11 SCHOOLS AND CHARTER SCHOOLS PURSUANT TO SUBDIVISION THIRTY OF SECTION
12 THREE HUNDRED FIVE OF THIS CHAPTER AND TO ENTER CONTRACTS WITH SUCH
13 SCHOOLS FOR SUCH PURPOSE, AND TO PROCESS FINGERPRINTS FOR CRIMINAL
14 HISTORY RECORDS SEARCHES PURSUANT TO SECTION THREE THOUSAND THIRTY-FIVE
15 OF THIS CHAPTER FOR APPLICANTS FOR TEACHER CERTIFICATION AND FOR APPLI-
16 CANTS FOR A CHARTER AS A CHARTER SCHOOL PURSUANT TO SUBDIVISION FOUR OF
17 SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS TITLE. SUCH PROCESSING
18 SERVICES SHALL BE PROVIDED AT COST AND THE BOARD OF COOPERATIVE EDUCA-
19 TIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN
20 PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF
21 COOPERATIVE EDUCATIONAL SERVICES IS HEREBY AUTHORIZED TO DO AND PERFORM
22 ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF
23 SUCH SERVICES.

24 S 12. This act shall take effect immediately; provided, however, that
25 the amendments made to subdivision 39 of section 1604 of the education
26 law by section three of this act, subdivision 39 of section 1709 of the
27 education law by section four of this act, subdivision 9 of section 1804
28 of the education law by section five of this act, paragraph 11 of subdi-
29 vision 4 of section 1950 of the education law by section six of this
30 act, subdivision 18 of section 2503 of the education law by section
31 seven of this act, subdivision 25 of section 2554 of the education law
32 by section eight of this act, paragraph (a-2) of subdivision 3 of
33 section 2854 of the education law by section nine of this act, and
34 subdivision 1 of section 3004-b of the education law by section ten of
35 this act, shall not affect the expirations of such paragraphs or subdi-
36 visions and shall expire and be deemed repealed therewith.