

# STATE OF NEW YORK

9639--A

## IN SENATE

May 16, 2024

Introduced by Sen. SKOUFIS -- 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 complaints concerning the moral character of individuals who hold or who are applicants for New York State teaching certificates

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 305-a  
2 to read as follows:

3 § 305-a. Complaints concerning the moral character of individuals who  
4 hold or who are applicants for New York state teaching certificates. 1.  
5 The commissioner shall maintain an internal registry of certain active  
6 investigations against certified individuals. The registry shall exclu-  
7 sively include active investigations for which the complaint against a  
8 certified individual is a boundary violation between the certificate  
9 holder and a student, a sex-related offense, or a complaint that is  
10 sexual in nature. For the purposes of this subdivision, a boundary  
11 violation shall mean an act, omission, or pattern of such behavior that  
12 is a deviation from the professional behavior required of a school  
13 employee, which may lead to a sex-related offense or offense that is  
14 sexual in nature, as determined by the commissioner. Such registry  
15 shall include information about such certified individuals, including  
16 their full name, position or most recent position held, place of employ-  
17 ment or place of most recent employment, the date on which the depart-  
18 ment received the part eighty-three complaint from the school district,  
19 the nature of the complaint, the current status of the investigation,  
20 and the date by which the department must issue notice whether a  
21 substantial question exists as to the moral character of an individual.

22 2. (a) The department shall add an individual to the registry only  
23 when the complaint regarding moral character has been made by a super-  
24 intendent or chief school administrator if the title of superintendent  
25 is not applicable. The department shall add an individual to the inter-

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

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1 nal registry on the same day it assigns the complaint to an investi-  
2 gator. The department shall not add an individual to the internal regis-  
3 try if the department determines they do not have the authority to  
4 investigate that complaint. The department shall ensure that the infor-  
5 mation in the registry is regularly updated and accurate.

6 (b) The department shall remove a certified individual from the inter-  
7 nal registry on the same day the investigation into the allegation is  
8 closed or upon a determination by a hearing officer or the commissioner  
9 that the individual has good moral character. The commissioner shall  
10 have the authority to determine whether an individual may remain on the  
11 registry if the department determines a substantial question exists as  
12 to the moral character of the individual. If an individual is added to  
13 the registry, formal disciplinary proceedings must be promptly insti-  
14 tuted, prosecuted, and/or completed. All complaints against certified  
15 individuals that result in an individual being added to the registry  
16 shall be prioritized for completion by the department.

17 (c) The department shall notify, in writing, an individual on the same  
18 day that the individual is added to and removed from the internal regis-  
19 try. Within the notice of an individual added to the internal registry,  
20 the department shall include the date by which the department must issue  
21 notice whether a substantial question exists as to the moral character  
22 of an individual. The department shall also include notice of the  
23 opportunity for the individual to appeal and instructions on how to do  
24 so.

25 3. (a) Upon receiving the request for a background check for an indi-  
26 vidual from a school district, the department shall include, with the  
27 background check materials, notification if the individual is on the  
28 internal registry and shall notify solely the superintendent, or chief  
29 school administrator if the title of superintendent is not applicable,  
30 of such school district where the individual is seeking employment, that  
31 the individual is on the internal registry. Disclosure of the status of  
32 an investigation by anyone but the superintendent or chief school admin-  
33 istrator shall be prohibited.

34 (b) If the individual is on the internal registry, the department  
35 shall provide, along with the background check materials, the individ-  
36 ual's full name, position or most recent position held, place of employ-  
37 ment or place of most recent employment, the date on which the depart-  
38 ment received the part eighty-three complaint, and the date by which  
39 the department must issue notice whether a substantial question exists  
40 as to the moral character of an individual. The department shall  
41 include notice that the registry exclusively contains active investi-  
42 gations for which the complaint against a certified individual is a  
43 boundary violation between the certificate holder and a student, a  
44 sex-related offense, or a complaint that is sexual in nature, as  
45 determined by the commissioner. The department shall also include the  
46 current status of the investigation and make it clear that the outcome  
47 of the investigation regarding the individual's moral character has not  
48 yet been determined.

49 4. Pursuant to subdivision seven of this section, the commissioner  
50 shall establish procedures for appeals. Within thirty days from the  
51 date an individual receives notice of their inclusion in the registry,  
52 the individual may commence an appeal to the commissioner. The commis-  
53 sioner shall conduct a review of the appeal, including any supporting  
54 documentation provided by the certified individual. The commissioner  
55 shall render a decision on the appeal within thirty days of receiving  
56 such appeal.

1 5. Except as provided in this section, information related to part  
2 eighty-three investigations and the internal registry of certain active  
3 investigations against certified individuals shall be confidential and  
4 shall not be subject to public disclosure.

5 6. All actions regarding complaints against a certified individual's  
6 moral character are pending the prompt institution, prosecution, and  
7 completion of formal disciplinary proceedings.

8 7. The commissioner shall establish rules and regulations to promul-  
9 gate this section and shall ensure it is congruent with current regu-  
10 lations regarding part eighty-three complaints of moral character of  
11 certified individuals.

12 § 2. This act shall take effect on the ninetieth day after it shall  
13 have become a law.