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:

Section 1. The education law is amended by adding a new section 305-a to read as follows:

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

2. (a) The department shall add an individual to the registry only when the complaint regarding moral character has been made by a superintendent or chief school administrator if the title of superintendent 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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nal registry on the same day it assigns the complaint to an investigator. The department shall not add an individual to the internal registry if the department determines they do not have the authority to investigate that complaint. The department shall ensure that the information in the registry is regularly updated and accurate.

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

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

3. (a) Upon receiving the request for a background check for an individual from a school district, the department shall include, with the background check materials, notification if the individual is on the internal registry and shall notify solely the superintendent, or chief school administrator if the title of superintendent is not applicable, of such school district where the individual is seeking employment, that the individual is on the internal registry. Disclosure of the status of an investigation by anyone but the superintendent or chief school administrator shall be prohibited.

(b) If the individual is on the internal registry, the department shall provide, along with the background check materials, the individual's full name, position or most recent position held, place of employment or place of most recent employment, the date on which the department received the part eighty-three complaint, and the date by which the department must issue notice whether a substantial question exists as to the moral character of an individual. The department shall include notice that the registry exclusively contains active investigations for which the complaint against a certified individual is a boundary violation between the certificate holder and a student, a sex-related offense, or a complaint that is sexual in nature, as determined by the commissioner. The department shall also include the current status of the investigation and make it clear that the outcome of the investigation regarding the individual's moral character has not yet been determined.

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

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

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

7. The commissioner shall establish rules and regulations to promulgate this section and shall ensure it is congruent with current regulations regarding part eighty-three complaints of moral character of certified individuals.

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