

Public Act 16-67 - Are Your Background-Check Practices Compliant?

Education Law Notes

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By Zachary Schurin

It's been almost exactly a year since Public Act 16-67 – officially entitled “**An Act Concerning the Disclosure of Certain Education Personnel Records, Criminal Penalties for Threatening in Educational Settings and the Exclusion of a Minor’s Name from Summary Process Complaints**” was signed into law by Governor Malloy. The Act, more commonly known as the “Pass the Trash” law, includes a host of new requirements designed to make it impossible for school districts and other educational employers to discreetly “pass” to future employers employees who resign while allegations of abuse, neglect or sexual misconduct are pending against them.

At the heart of Public Act 16-67 are new background check requirements for boards of education and charter and magnet schools seeking to hire new staff. Compliance with the new law is mandatory and educational employers who fail to follow – *and to appropriately document their efforts* – risk potential liability if a job applicant with a disqualifying history of abuse, neglect or sexual misconduct slips through the cracks and engages in inappropriate conduct.

The State Department of Education [“SDE”] has developed forms to facilitate the efforts of educational employers to contact an applicant or contractor’s current and former employers regarding the applicant’s abuse, neglect or sexual misconduct history (**here** and **here**).

Public Act 16-67, however, imposes additional obligations that are *not* addressed by the SDE’s forms. For instance, the law mandates that educational employers require job applicants to provide signed, written authorization and release forms, permitting prospective employers to communicate with former school and child-contact employers. The law also mandates that educational employers require each applicant to provide signed, written authorization and release forms, permitting the prospective employers to contact the SDE regarding eligibility, abuse, neglect and sexual misconduct issues and criminal history information.

These new mandates are essential tools both for protecting students and for avoiding liability for a potential employee’s abusive or inappropriate behavior. Consequently, given these new State-mandated requirements – as well as the potential liability for noncompliance – it is imperative that school districts and other educational entities ensure that their application forms cover these elements of Public Act 16-67. Equally important is implementing the proper protocols for contacting former educational employers and the

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BRIDGEPORT
203.330.2000

HARTFORD
860.424.4300

SPRINGFIELD
413.314.6160

WAKEFIELD
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WATERBURY
203.573.9700

WESTPORT
203.254.5000

WHITE PLAINS
914.705.5355

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SDE.

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