

Violations of Background Checks

24 P.S. §1-111

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PURPOSE

The purpose of this circular is to inform you of procedures that will be followed by the Department of Education's School Services Office when investigating alleged violations of 24 P.S. §1-111.

BACKGROUND

Section 1-111 of the Pennsylvania Public School Code of 1949 requires all prospective employees of public and private schools, the schools' contractors, and student teachers to obtain both state and federal background checks prior to school employment or contracting when the employee or contractor will work in a position in which they will have direct contact with children.

The following background checks are required under the School Code:

- PA State Police Criminal History,
- Department of Human Resources Child Abuse History; and,
- Federal Criminal History (FBI) Report.

School administrators are required to review the backgrounds check reports and determine whether applicants/contractors are barred from positions in which they will have contact with children, prior to hiring the applicant or prior to contracting. In addition, school administrators must make copies and keep these reports on file for those who are hired. The law also requires student teachers to obtain these background checks prior to their field experience, and requires that higher education administrators review the background check reports, determine whether student teachers are permitted to participate in their field experience, and make copies of these reports and keep the reports in their files.

AUTHORITY

Section 1-111 authorizes the Department of Education "to determine violators of this section and may, following a hearing, assess a civil penalty not to exceed two thousand five hundred dollars (\$2,500)." An administrator, or other person responsible for employment decisions in a school or a higher education administrator responsible for decisions on student teachers, who willfully fails to comply with the provisions of this section commits a violation of the act and is subject to a civil penalty.

PROCEDURES

Upon receipt of a complaint or allegation, staff in the School Services Office will review the submitted information to determine whether an investigation is necessary. Each complaint will be reviewed and assessed on a case-by-case basis. The investigations will include the following activities:

1. Inform the school or higher education institution of the complaint or allegation.
2. Request information from the school or higher education institution to document hiring/placement dates and required background check reports.
3. If necessary, conduct on-site visit to retrieve information.
4. Review the information to determine whether the required background check reports were obtained prior to hiring, contracting or authorizing a student teacher to begin their field experience.
5. A letter which notes the findings will be sent to the school and a letter will be sent to the individual who filed the complaint or made the allegation.
6. If no violation is found, that will be noted in the letter.
7. If a possible violation is found, the letter will indicate the specific violation(s), and if appropriate, will state what the school must do to correct the problem. The letter will also note whether it was determined that there was a willful violation of Sec. 1-111. The letter may be sent via U.S. Mail, email or fax.
8. The school will be given the opportunity to respond to the findings.
9. If appropriate, the Department will issue, by mail with return receipt requested, an Order to Show Cause to the alleged violator who will be permitted to respond.
10. If necessary, a hearing will be conducted by a hearing officer.
11. The Secretary of Education will render a decision.
12. An appeal may be made.

REFERENCES:

Purdon's Statutes

[24 P.S. §1-111](#)

State Board of Education Regulations

[22 Pa. Code, Chapter 8](#)

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