

Effective 5/12/2020

53G-11-402 Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

- (1) An LEA or qualifying private school shall:
 - (a) require each of the following individuals who is 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:
 - (i) a non-licensed employee;
 - (ii) a contract employee;
 - (iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and
 - (iv) a charter school governing board member;
 - (b) collect the following from an individual required to submit to a background check under Subsection (1)(a):
 - (i) personal identifying information;
 - (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
 - (iii) consent, on a form specified by the LEA or qualifying private school, for:
 - (A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and
 - (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;
 - (c) submit the individual's personal identifying information to the bureau for:
 - (i) an initial fingerprint-based background check by the FBI and the bureau; and
 - (ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and
 - (d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.
- (2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:
 - (a) has passed an initial review; and
 - (b) is one of a pool of no more than five candidates for the position.
- (3) By September 1, 2018, an LEA or qualifying private school shall:
 - (a) collect the information described in Subsection (1)(b) from individuals:
 - (i) who were employed or appointed prior to July 1, 2015; and
 - (ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and
 - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.
- (4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.
- (5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

Amended by Chapter 285, 2020 General Session
Amended by Chapter 374, 2020 General Session