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HOUSE BILL 418

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Terry T. Marquardt

AN ACT

**RELATING TO PUBLIC SCHOOLS; REQUIRING BACKGROUND CHECKS ON
VOLUNTEERS WITH UNSUPERVISED ACCESS TO STUDENTS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 22-10-3.3 NMSA 1978 (being Laws 1997,
Chapter 238, Section 1, as amended) is amended to read:**

"22-10-3.3. BACKGROUND CHECKS. --

**A. An applicant for initial certification shall be
fingerprinted and shall provide two fingerprint cards or the
equivalent electronic fingerprints to the department of
education to obtain the applicant's federal bureau of
investigation record. Convictions of felonies or misdemeanors
contained in the federal bureau of investigation record shall
be used in accordance with the Criminal Offender Employment**

underscored material = new
bracketed material = delete

underscored material = new
[bracketed material] = delete

1 Act. Other information contained in the federal bureau of
2 investigation record, if supported by independent evidence, may
3 form the basis for the denial, suspension or revocation of a
4 certificate for good and just cause. Records and any related
5 information shall be privileged and shall not be disclosed to a
6 person not directly involved in the certification or employment
7 decisions affecting the specific applicant. The applicant for
8 initial certification shall pay for the cost of obtaining the
9 federal bureau of investigation record.

10 B. Local school boards shall develop policies and
11 procedures to require background checks on an applicant who has
12 been offered employment, a contractor, [~~or~~] a contractor's
13 employee or a volunteer with unsupervised access to students at
14 a public school, including a charter school. An applicant for
15 employment who has been initially certified within twelve
16 months of applying for employment with a local school board or
17 a charter school shall not be required to submit to another
18 background check if the department of education has copies of
19 his federal bureau of investigation records on file. An
20 applicant who has been offered employment, a contractor, [~~or~~] a
21 contractor's employee or a volunteer with unsupervised access
22 to students at a public school, including a charter school,
23 shall provide two fingerprint cards or the equivalent
24 electronic fingerprints to the local school board to obtain his
25 federal bureau of investigation record. The applicant who has

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been offered employment, the contractor or the contractor's
employee with unsupervised access to students at a public
school, including a charter school, may be required to pay for
the cost of obtaining a background check. Background checks on
volunteers with unsupervised access to students shall be
conducted at the expense of the local school district. At the
request of a local school board or charter school, the
department of education is authorized to release copies of
federal bureau of investigation records that are on file with
the department of education and that are not more than twelve
months old. Convictions of felonies or misdemeanors contained
in the federal bureau of investigation record shall be used in
accordance with the Criminal Offender Employment Act; provided
that other information contained in the federal bureau of
investigation record, if supported by independent evidence, may
form the basis for the employment decisions for good and just
cause. Records and any related information shall be privileged
and shall not be disclosed to a person not directly involved in
the employment or volunteer decision affecting the specific
applicant who has been offered employment or the contractor,
[~~or~~] the contractor's employee or the volunteer with
unsupervised access to students at a public school, including a
charter school. For the purposes of this section, "volunteer"
does not include a parent, grandparent or legal guardian of a
student at the public school in which the volunteer volunteers.

