

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING LOCAL SCHOOL BOARDS TO OBTAIN BACKGROUND CHECKS ON APPLICANTS WHO HAVE BEEN OFFERED EMPLOYMENT AND CONTRACTORS; LIMITING THE TIME IN WHICH RECORDS CAN BE RELEASED TO LOCAL SCHOOL BOARDS.

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) 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 Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a certificate 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 certification or employment decisions affecting the specific applicant. The applicant

for initial certification shall pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board shall not be required to submit to another background check if the department of education has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board to obtain his federal bureau of investigation record. The applicant who has been offered employment, contractor or contractor's employee may be required to pay for the cost of obtaining a background check. At the request of a local school board, 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 decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students.

C. The department of education shall implement the provisions of Subsection A of this section on or before July 1, 1998. "

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