Effective 5/1/2024

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 the following individuals who are 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition of 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 to be used to ensure the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2)

(a) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

(i) has passed an initial review; and

(ii) is one of a pool of no more than five candidates for the position.

(b) An LEA may not require a non-licensed employee, contract employee, or volunteer to pay the fee described in Subsection (1)(b)(ii).

(3) 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.

(4) 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.

(5) An LEA or qualifying private school shall provide another LEA or qualifying private school that requires a national background check, as described in Subsection 53G-11-402(1)(a), an opportunity to clone the subscription or data from the FBI Rap Back System, as those terms

are defined in Section 53-10-108, for employees or volunteers who are relocating, providing temporary volunteer services, or under contract, and in accordance with Section 53-10-108.

Amended by Chapter 22, 2024 General Session