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53G-11-410 Reference check requirements for LEA applicants and volunteers.

- (1) As used in this section:
 - (a) "Child" means an individual who is younger than 18 years old.
 - (b) "LEA applicant" means an applicant for employment by an LEA.
 - (c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.
 - (d) "Potential volunteer" means an individual who:
 - (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and
 - (ii) during the last three years, has worked in a qualifying position.
 - (e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.
 - (f) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
 - (g) "Student" means an individual who:
 - (i) is enrolled in an LEA in any grade from preschool through grade 12; or
 - (ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
 - (h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.
- (2)
 - (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:
 - (i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;
 - (ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;
 - (iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and
 - (iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).
 - (b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).
 - (c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).
 - (d) An LEA shall request information under Subsection (2)(a)(ii) or (iii) before:
 - (i) hiring an LEA applicant; or
 - (ii) giving an unsupervised volunteer assignment to a potential volunteer.
 - (e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.
- (3)
 - (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall respond to the request within 20 business days after the day on which the LEA received the request.

- (b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.