

PUBLIC EDUCATION REFERENCE CHECK AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill modifies provisions regarding public education system reference checks for certain unsupervised volunteers and job applicants.

Highlighted Provisions:

This bill:

- ▶ requires a local education agency to make reference check requests under certain circumstances; and

- ▶ requires a local education agency to respond to certain reference check requests within 20 business days.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-11-410, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53G-11-410** is amended to read:

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.

- 30 (b) "LEA applicant" means an applicant for employment by an LEA.
- 31 (c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.
- 32 (d) "Potential volunteer" means an individual who:
 - 33 (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and
 - 34 (ii) during the last three years, has worked in a qualifying position.
- 35 (e) "Qualifying position" means paid employment that requires the employee to
- 36 directly care for, supervise, control, or have custody of a child.
- 37 (f) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
- 38 (g) "Student" means an individual who:
 - 39 (i) is enrolled in an LEA in any grade from preschool through grade 12; or
 - 40 (ii) receives special education services from an LEA under the Individuals with
 - 41 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- 42 (h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that
- 43 allows the volunteer significant unsupervised access to a student.
- 44 (2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment
- 45 to a potential volunteer, an LEA shall:
 - 46 (i) require the LEA applicant or potential volunteer to sign a release authorizing the
 - 47 LEA applicant or potential volunteer's previous qualifying position employers to disclose
 - 48 information regarding any employment action taken or discipline imposed for the physical
 - 49 abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;
 - 50 (ii) for an LEA applicant, request that the LEA applicant's most recent qualifying
 - 51 position employer disclose information regarding any employment action taken or discipline
 - 52 imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;
 - 53 (iii) for a potential volunteer, request that the potential volunteer's most recent
 - 54 qualifying position employer disclose information regarding any employment action taken or
 - 55 discipline imposed for the physical abuse or sexual abuse of a child or student by the potential
 - 56 volunteer; and
 - 57 (iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or

58 (iii).

59 (b) An LEA may not hire an LEA applicant who does not sign a release described in
60 Subsection (2)(a)(i).

61 (c) An LEA may not give an unsupervised volunteer assignment to a potential
62 volunteer who does not sign a release described in Subsection (2)(a)(i).

63 (d) An LEA shall [~~use the LEA's best efforts to~~] request information under Subsection
64 (2)(a)(ii) or (iii) before:

65 (i) hiring an LEA applicant; or

66 (ii) giving an unsupervised volunteer assignment to a potential volunteer.

67 (e) In accordance with state and federal law, an LEA may request from an LEA
68 applicant or potential volunteer other information the LEA determines is relevant.

69 (3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall
70 [~~use the LEA's best efforts to~~] respond to the request within 20 business days after the day on
71 which the LEA received the request.

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