



February 13, 2018

Position Statement

SUPPORTING

Senate Bill No. 414 (1R) (Pennacchio / Bucco / Ruiz)

Requires school districts, charter schools, nonpublic schools, and contracted service providers to review employment history of prospective employees to ascertain allegations of child abuse or sexual misconduct and includes penalties for certain willful violations.

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Assembly Bill No. 3381 (Downey / Webber / Lampitt / Lagana)

Requires school districts, charter schools, nonpublic schools, and contracted service providers to review employment history of prospective employees who will have regular contact with students to ascertain allegations of child abuse or sexual misconduct.

The New Jersey School Boards Association (NJSBA), a federation of all of the state's local school districts, supports Senate Bill No. 414 and Assembly Bill No. 3381, which prohibit a school district from employing a person serving in a position which involves regular contact with students unless the school district conducts a review of the employment history of the applicant by contacting former and current employers and requesting information regarding child abuse and sexual misconduct allegations.

The NJSBA support for this legislation is grounded in long-standing NJSBA positions and policies on student health and academic achievement. The NJSBA believes that local boards of education should provide conditions and establish policies that will ensure the health and safety of students. In addition, the primary mission of the NJSBA is the advancement of student achievement for all children throughout the state of New Jersey. The Association believes that a child's physical and mental well-being is a prerequisite for academic achievement, and that the types of abuse and behavior that this legislation seeks to prevent is a direct threat to this well-being.

The NJSBA also supports policies that ensure that any personnel who will have direct contact with children will be properly vetted before they can enter the school environment. This is why we support existing state law that requires all prospective employees to go through a federal and state criminal background check in order to safeguard against employing anyone who has a history of conduct that could be detrimental to the learning environment. The provisions of S-414/A-3381 would provide even greater protections for the health and well-being of students by requiring a comprehensive review of an individual's employment history and any past allegations or instances of child abuse or sexual misconduct.

While the NJSBA supports the overall concept and intent of S-414/A-3381, the Association has offered several some suggestions for improving the legislation so that the implementation of its provisions can be accomplished in an efficient and effective manner. These suggestions, which have been incorporated into the current versions of the S-414 and A-3381, are as follows:

- Applying the bill’s provisions to nonpublic schools, in addition to public school districts, charter schools and contracted service providers. As it is not uncommon for teachers to serve in both public and private school settings throughout their careers, this amendment will help avoid any omissions by a prospective employer in conducting a full review of an applicant’s employment history.
- Directing the NJ Department of Education (NJDOE) to play an active role in assisting employers and applicants in carrying out their new responsibilities. By generating standardized forms, publishing guidance documents and FAQs, and establishing a public awareness campaign, the NJDOE’s assistance will promote uniform and robust compliance by all interested parties.
- Inserting clear definitions of the terms “child abuse” and “sexual misconduct” to provide guidance to employers regarding the types of conduct that must be reported and reviewed.
- Allowing an employer impacted by S-414/A-3381 to hire, under certain circumstances, a prospective employee on a conditional/temporary basis while the employer continues to conduct a review of the applicant’s employment history. This provision will be helpful in ensuring that positions, particularly those of critical need, do not remain vacant due to any delays that might occur during the review process.
- Protecting prospective employers from any liability or fear of a protracted appeals process when they make a personnel decision based on a review of an applicant’s employment history information. Various iterations of this legislation already include comprehensive protections for previous employers in responding to inquiries. The legislation has now been strengthened by providing assurances to prospective employers that they will not face legal action when they decide to hire or not hire an applicant when complying with the bill’s requirements.
- Establishing a specific “lookback” period for an applicant’s employment history (i.e., the previous 20 years). While it is no doubt important to conduct a comprehensive review of an applicant’s history before making a hiring decision, prospective employers could encounter difficulty obtaining information from an employer that an applicant worked for decades ago. There could also be instances in which a previous employer is no longer in operation (e.g., the school has closed) or does not maintain adequate personnel records.

The NJSBA believes that the various improvements cited above will help facilitate the smooth implementation of the legislation should it become law. Additional consideration should be given to bill’s effective date to ensure that school districts, other employers, and the NJDOE have sufficient time to put the necessary policies and procedures in place to effectively comply with the new requirements.

Thank you for your consideration of the NJSBA’s position on this critically important legislative initiative. Any questions may be directed to Jonathan Pushman, NJSBA Legislative Advocate, at (609) 278-5248 or jpushman@njsba.org.