

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))  
14 DE Admin. Code 746

### PROPOSED

### PUBLIC NOTICE

#### Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

#### 746 Criminal Background Check for Student Teaching

##### A. Type of Regulatory Action Required

Amendment to Existing Regulation

##### B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 746 Criminal Background Check for Student Teaching. This regulation is being amended due to changes in Titles 11, 16, and 31 of the Delaware Code related to Background Checks for Child Serving Entities.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before March 7, 2016 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Register of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, Finance Office located at the address listed above.

##### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to help improve student achievement as measured against state achievement standards by clarifying that appropriate criminal background checks have occurred for those child serving entities such as student teachers.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

#### 746 Criminal Background Check for Student Teaching

##### 1.0 Purpose

This regulation shall apply to candidates for a Student Teaching Assignment Placement in a Delaware public school. A

Criminal Background Check shall be completed for Student Teaching Placements at Child Serving Entities. It shall consist of a fingerprinted Delaware and national background check completed by the State Bureau of Identification (SBI) and the Federal Bureau of Investigation (FBI). Additionally, a Child Protection Registry Check shall be completed by the Department of Services for Children, Youth and Their Families (DSCYF). Refer to 14 DE Admin. Code 745 Criminal Background Check for Public School Related Employment for the requirements and procedures related to criminal background checks for pPublic sSchool related employment in a Delaware pPublic sSchool.

#### **42.0 Definitions**

For purposes of this regulation, the following definitions apply:

**“Administrator of Educator Preparation Program”** means the individual identified by the Higher Education Institution as being responsible for overseeing the placement of candidates into a Student Teaching Placement in a Delaware Public School.

**“Higher Education Institution” or “Institution(s) of Higher Education”** means the Delaware college or university that has a teacher preparation program that places candidates into Student Teaching ~~Positions~~ Placement in a Delaware ~~pPublic sSchool-district or charter school.~~

**“Public School”** means any public school and includes any board of education, school district, reorganized school district, special school district, charter school or charter school board and any person or entity acting as an agent thereof.

**“Student Teacher”** means an individual participating in a Student Teaching Placement.

**“Student Teaching Position Placement”** means a structured, supervised learning experience for a student in a teacher education program in which the student teacher practices the skills being learned in the teacher education program and gradually assumes increased responsibility for instruction, classroom management, and other related duties for a class of students in a local school district or charter school. These skills are practiced under the direct supervision of the certified teacher who has official responsibility for the class.

**“Superintendent”** means the chief school officer of any public school district or charter school, or the equivalent of a Superintendent or the Superintendent’s designee.

#### **23.0 Criminal Background Check Requirements and Procedures for Student Teaching Position Candidates**

23.1 Effective ~~January 1, 2014~~ April 7, 2016, any candidate for a Student Teaching ~~Position~~ Placement in a ~~pPublic sSchool district or charter school~~ shall be required to have a criminal background check as prescribed through this regulation.

23.2 The higher education institution where candidates for Student Teaching ~~Positions~~ are enrolled shall require all candidates to complete a Release for Criminal Background Check Information form approved by the Department of Education as a part of the assignment process for a Student Teaching ~~Position~~ in a Delaware public school district or charter school. The State Bureau of Identification (SBI) shall provide the criminal background information and the Department of Services for Children, Youth and Their Families (DSCYF) shall provide the Child Protection Registry check information to the individual and to the Higher Education Institution identified by the individual, through the Administrator of Educator Preparation Program. The Higher Education Institution shall determine whether the individual is prohibited from being placed per the provisions of 31 Del.C. §309(d) and shall send a copy of the complete criminal background check and Child Protection Registry check information to the head of the Public School considering the person as a candidate for a Student Teaching Placement. If the individual is not prohibited from placement per the provisions of 31 Del.C. §309(d), but the individual has a criminal conviction or is or has been on the Child Protection Registry, the Public School shall make a determination regarding suitability for placement using the factors in stated in statute. Information obtained under this subsection is confidential and may only be disclosed to the chief school officer, head of the Public School, the chief personnel officer of the school, and one person in each school who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential.

23.3 The candidate for a Student Teaching ~~Position~~ Placement in a Delaware ~~pPublic sSchool district or charter school~~ shall be subject to the following procedures:

23.3.1 After notification by the ~~hHigher eEducation i~~Institution that he/she is a candidate for a Student Teaching ~~Position~~ Placement, the candidate shall present him/herself to ~~State Bureau of Identification~~ SBI personnel at one of the Delaware State Police Troops that processes such criminal background checks or at an on site appointment arranged by the ~~hHigher eEducation i~~Institution.

23.3.2 The candidate shall cooperate in all respects with this criminal background check process, or his/her application cannot be accepted. On completion of the procedure, the candidate will be given a Verification Form of Processing by the ~~State Bureau of Identification~~ SBI, which may be shown to the candidate’s

placing ~~h~~Higher ~~e~~Education ~~i~~nstitution as proof that the candidate has completed the procedure. The candidate should retain the Verification Form of Processing for his/her records.

~~23.3.3~~ The candidate shall request ~~the State Bureau of Identification that SBI~~ send original versions of the criminal background check to both the candidate and ~~h~~Higher ~~e~~Education ~~i~~nstitution.

~~23.3.3.1~~ Provided further, a candidate attending a private Delaware Higher Education Institution shall provide a copy of his/her state and federal criminal history record, certified by ~~the State Bureau of Identification SBI~~, to the designated person at the placing private Delaware Higher Education Institution.

~~23.4~~ All costs associated with obtaining a criminal background check shall be paid for by the person seeking a ~~s~~Student ~~t~~Teaching ~~p~~osition ~~p~~lacement.

**12 DE Reg. 1306 (04/01/09)**

**13 DE Reg. 843 (12/01/09)**

**14 DE Reg. 557 (12/01/10)**

#### **34.0 Procedures for Higher Education Institutions ~~and~~, Public School Districts ~~and~~ Charter Schools for the Determination of Suitability for Candidates in Student Teaching Positions.**

~~34.1~~ The ~~h~~Higher ~~e~~Education ~~i~~nstitution where the candidate is enrolled and that was sent an original copy of the completed criminal background check shall make the initial determination for suitability for ~~s~~Student ~~t~~Teaching ~~p~~lacement. The criteria for determining the suitability for ~~s~~Student ~~t~~Teaching ~~p~~lacement shall be at the discretion of the ~~h~~Higher ~~e~~Education ~~i~~nstitution and may vary among the various ~~h~~Higher ~~e~~Education ~~i~~nstitutions in Delaware.

~~34.1.1~~ If a determination is made to deny a candidate placement into a ~~s~~Student ~~t~~Teaching ~~p~~osition ~~p~~lacement based upon the ~~h~~Higher ~~e~~Education ~~i~~nstitution's review of the criminal history, the ~~h~~Higher ~~e~~Education ~~i~~nstitution may provide for an appeal process.

~~34.2~~ Upon the initial determination for suitability for the candidate to be placed in a ~~p~~Public ~~s~~School, the ~~h~~Higher ~~e~~Education ~~i~~nstitution liaison responsible for overseeing Student Teaching ~~Position~~ ~~p~~lacements shall confirm the receipt of the original complete criminal background check and send a copy of such to the ~~district Public School Superintendent or charter school director of the Delaware school district or charter school~~ considering the person as a candidate for a Student Teaching ~~Position~~ ~~Placement~~.

~~34.3~~ Each ~~school district and charter school~~ Public School shall make the final determination of suitability for placement of a candidate in a Student Teaching ~~Position~~ Placement in its school.

~~34.3.1~~ Each ~~school district and charter school~~ Public School shall establish the process and criteria for determining suitability for placement of a candidate in a Student Teaching ~~Position~~ Placement in its school(s).

~~34.3.2~~ The criteria for determining the suitability and subsequent placement of a candidate in a ~~s~~Student ~~t~~Teaching ~~position~~ Placement may vary among the ~~districts and charter~~ Public ~~s~~Schools. In addition, a ~~school district or charter~~ Public ~~s~~School may have criteria for ~~s~~Student ~~t~~Teaching ~~p~~lacement that differs from the criteria for ~~p~~Public ~~s~~School employment.

~~34.3.3~~ The ~~school district or charter school~~ Public School shall provide the candidate's ~~h~~Higher ~~e~~Education ~~i~~nstitution the decision to place or deny a candidate in a Student Teaching ~~Position~~ ~~p~~lacement in writing.

~~34.4~~ Candidates for student teaching may have criminal background checks from other states accepted, if all of the following conditions are met;

~~34.4.1~~ The criminal background check shall have been conducted within the previous twelve (12) months and include a federal criminal background check;

~~34.4.2~~ The criminal background check shall be sent directly from the criminal background check agency in the other state to the ~~h~~Higher ~~e~~Education ~~i~~nstitution;

~~34.4.3~~ The out of state candidate shall sign a release to allow the ~~h~~Higher ~~e~~Education ~~i~~nstitution receiving the out of state criminal background check and the reference to confirm their receipt, disclose their contents and forward them, subject to the same disclosure regulations that apply to Delaware criminal background checks.

#### **45.0 Procedures for Maintaining Criminal Background Check Information**

~~45.1~~ All information and records pertaining to criminal background checks and this regulation shall be maintained in a confidential manner including, but not limited to, the following:

~~45.1.1~~ Access to criminal background check records, letters of reference accompanying out of state criminal background checks, and determination of suitability shall be limited to the ~~h~~Higher ~~e~~Education ~~i~~nstitution

officer responsible for student teacher assignments and one person designated to assist in the processing of criminal background checks; and the ~~district Public School~~ Superintendent ~~or charter school director~~ and the ~~district or charter school chief personnel officer~~ responsible for the determination of suitability in the placing ~~district or charter school~~ Public School. These persons shall be required to sign an agreement to keep such information confidential and employ proper precautions to insure that interoffice communications remain confidential;

45.1.2 All such records shall be kept in locked, fireproof cabinets;

45.1.3 No information from such records shall be released without the signed approval of and the appropriate signed release of the candidate or person placed in a Student Teaching Position Placement.

45.2 The ~~Higher Education Institution~~ may dispose of the criminal background check in a secure manner no earlier than six (6) months after the student graduates from the ~~Higher Education Institution~~.

## **56.0 Penalties**

The ~~Higher Education Institution~~ officer responsible for student teacher assignments shall report to the appropriate police authorities evidence of any person who knowingly provides false, incomplete or inaccurate criminal history information or who otherwise knowingly violates this regulation.

## **67.0 Subsequent Criminal History Information**

67.1 Subsequent criminal history on a person in a Student Teaching Position Placement may be sent by ~~the State Bureau of Identification SBI~~ to the ~~Higher Education Institution~~.

67.2 The ~~Higher Education Institution~~ where the candidate is enrolled shall be required to send any subsequent criminal history information received to the ~~school district or charter school~~ Public School where the candidate is engaged in student teaching activities.

67.3 The ~~district or charter school~~ Public School where the person is in a Student Teaching Position Placement may consider any subsequent criminal history received for the person's continued suitability for the Student Teaching Position Placement.

**12 DE Reg. 329 (09/01/08)**

**12 DE Reg. 1306 (04/01/09)**

**19 DE Reg. 706 (02/01/16) (Prop.)**