

Penn*Link

SUBJECT: Background Checks of School Employees

TO: All LEAs

FROM: Stephen Fisher, Advisor to the Deputy Secretary
School Services Office
Office of Elementary and Secondary Education

RE: PDE Reminds School Administrators of Applicability of Changes to the Background Check Law Under Act 24 and Availability of PDE Form to Report Arrests and Convictions of Offenses.

Date: Sept. 28, 2011

Changes to Section 111 of School Code are Effective Sept. 28, 2011.

Act 24 of 2011 (Act 24) contains a number of significant changes to the Pennsylvania Public School Code that are designed to enhance the safety for school children. Among these changes, Act 24 amends Section 111 of the School Code, which provides for background checks for employees of public and private schools, intermediate units (IU) and area vocational-technical schools (AVTS). Section 111 also applies to independent contractors and their employees who have direct contact with children and to student teacher candidates assigned to public and private schools. The changes to Section 111 go into effect Sept. 28, 2011.

Changes to Section 111(e) Crimes: Former Five-Year Ban on School Employment is Now a Permanent Ban on School Employment.

Act 24 adds several additional crimes to the list of Section 111(e) offenses that disqualify individuals from school employment. The amendment also increases the period of disqualification for employment for Section 111(e) offenses. The wording of the previous version of the law prohibited anyone convicted of a crime listed in Section 111(e) from being hired for a period of five (5) years from the date of conviction. Under the amendments to Act 24, a person convicted of a Section 111(e) crime will be permanently excluded from school employment.

New 10-Year, Five-Year and Three-Year Bans on Prospective Employment for Certain Offenses.

Act 24 also amends Section 111 to now prohibit the prospective employment of anyone who has been convicted of any felony of the first, second or third degree, not listed in Section 111(e), from school employment for 10 years after the expiration of the sentence. Further, conviction of any first degree misdemeanor will prohibit employment for five (5) years after the completion of the sentence. The law now also states that a second offense of driving under the influence of alcohol or a controlled substance, graded as a first degree misdemeanor, will result in a three (3) year prohibition on hiring from the date of the completion of the sentence for the most recent offense.

Availability of a New PDE Form for Employees to Report Section 111(e) Offenses to School Administrators.

The new law includes an important mechanism to help ensure that current school employees, who may not have been subject to a previous background check, are now required to provide assurances that they have not been previously arrested or convicted of a Section 111(e) offense. Accordingly, under Act 24, all current school employees are required to complete and return to their school administrator, or other person responsible for school employment decisions (the school administrator), a form developed by PDE to report prior arrests or convictions for any offense listed in Section 111(e). This form “PDE-6004” is now available on PDE’s website:

[http://www.portal.state.pa.us/portal/server.pt/community/background_checks_\(act_114\)/7493](http://www.portal.state.pa.us/portal/server.pt/community/background_checks_(act_114)/7493)

All current school employees of a public or private school, intermediate unit or AVTS must complete “PDE-6004” and return it to the school administrator by Dec. 27, 2011. School administrators are responsible for making sure that all employees complete this form. If an employee refuses to submit the form, Act 24 allows for a school administrator to require that the employee submit to a current background check under Section 111. In addition, school employees will be required to report to the school administrator within 72 hours of any arrest or conviction of an offense listed in Section 111(e) that occurs after Sept. 28, 2011. The “PDE-6004” should be used to report these arrests or convictions to the school administrator.

School administrators are advised to notify their employees of the availability of “PDE-6004” as soon as possible, as well as inform their employees as to whom the form must be returned and the applicable deadlines for return of the form.

School Administrator Required to Order Background Check Upon Reasonable Belief That an Employee was Arrested or Convicted of a Section 111(e) Offense.

The new law requires that if a school administrator has a reasonable belief that an employee was arrested or convicted of a Section 111(e) offense and the employee has not notified the a school administrator of such arrest or conviction, the school administrator must require the school employee to submit to a current Section 111 background check. The background check shall be at expense of the employing entity.

Other Changes to Section 111 Under Act 24

Act 24 also eliminates the exemptions which had permitted certain persons under 21, in a job training program in which summer or seasonal students are hired by the district, to work at schools for up to 90 days without a background check.

School Districts Required to Report All Crimes Noted on “PDE-6004” to Professional Standards and Practices Commission (PSPC)

Under Section 2070.9a of the Professional Educator Discipline Act, the superintendent, assistant superintendent, executive director of an IU, chief administrator of an AVTS or career and technology center, administrator of a charter school or their designees will be required to report to PSPC all instances of employees reporting an arrest or conviction noted on “PDE-6004” or which is otherwise known to them as the result of a background check or otherwise. Contact information for

the PSPC, as well as mandatory reporting forms, can be found on PDE's website:

http://www.portal.state.pa.us/portal/server.pt/community/professional_standards_practices_commissions/8829

For additional information on these changes please contact Denise Wolfgang in PDE's School Services Office at 717-783-3750 or dwolfgang@pa.gov.