

§6103. Criminal history record information conviction data

Beginning July 1, 2000, a credential and renewal under chapters 501 and 502 are subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring a credential under chapters 501 and 502. A person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment. [PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

1. Criminal history record information obtained; reliance. The commissioner shall obtain criminal history record information containing a record of public criminal history record information as defined in Title 16, section 703, subsection 8 from the Maine Criminal Justice Information System for any person applying for a credential or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a credential or renewal.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

2. Issuance restriction. Issuance of a credential or renewal to any person whose criminal history record information includes a criminal conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

3. Confidentiality. Any information obtained pursuant to this section is confidential. The results of criminal history record checks received by the commissioner are for official use only and may not be disseminated outside the department, except that the commissioner may outsource administrative functions of software document management according to federal outsourcing standards as described in 28 Code of Federal Regulations, Section 906.2 (2011) and allow access to these results for that purpose.

[PL 2011, c. 521, §1 (AMD).]

3-A. Fees. The Commissioner of Public Safety shall assess a fee set annually by the Commissioner of Education for each initial criminal history record check and a fee set annually by the Commissioner of Education for each renewal criminal history record check required by this section.

[PL 2015, c. 395, §3 (AMD).]

3-B. Reimbursement of fee.

[PL 2013, c. 506, §13 (RP).]

4. Expenses.

[PL 2005, c. 457, Pt. CC, §2 (RP).]

4-A. Phase-in plan. The fingerprinting and approval process established by this section for certain classes of individuals must be phased in as follows:

A. The fingerprinting and approval process must be phased in for all persons regularly employed in a school during the 1999-2000 school year who require department approval to continue in their positions and who have not been fingerprinted pursuant to this section prior to enactment of this subsection. The department shall issue each person a temporary approval card valid through a specified year from 2001 to 2004. Prior to July 1st of the year specified on the temporary approval card, the person must meet the requirements of this section. Once a person has met the requirements of this section, an approval card must be issued; [PL 1999, c. 791, §4 (NEW).]

B. A person placed under contract by a school and subject to the requirements of this section, who has not been fingerprinted prior to the effective date of this subsection, must meet these requirements by July 1, 2002; [PL 1999, c. 791, §4 (NEW).]

C. A person employed as a substitute who has not been fingerprinted prior to the effective date of this subsection must meet the requirements by July 1, 2002. Beginning with the 2003-2004 school year, a person employed as a substitute who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A person employed as a substitute who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification; and [PL 2003, c. 184, §1 (AMD).]

D. A regular employee subject to the requirements of this section who begins work in a school after the effective date of this subsection must meet these requirements prior to the 20th day of employment. Beginning with the 2003-2004 school year, a regular employee who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A regular employee who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification. [PL 2003, c. 184, §1 (AMD).]

[PL 2003, c. 184, §1 (AMD).]

5. Criminal record information obtained from the Federal Bureau of Investigation. The commissioner shall obtain other state and national criminal history record information from the Federal Bureau of Investigation for any person applying for a credential or renewal. The commissioner may rely on information provided by the Federal Bureau of Investigation within 24 months prior to the issuance of a credential or renewal.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

6. Fingerprinting. The applicant shall submit to having fingerprints taken. The Maine State Police, upon payment by the applicant or any other entity required by law of the expenses specified in subsection 3-A, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the Maine State Police for purposes of this section must be paid over to the Treasurer of State for deposit in the State Police program, Other Special Revenue Funds account in the Department of Public Safety for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record checks under this section.

[PL 2015, c. 267, Pt. SSS, §2 (AMD).]

7. Use of criminal history record. State and federal criminal history record information may be used for the purpose of screening educational personnel applicants by the commissioner in order to determine whether issuance of a credential or a renewal to educational personnel is granted or maintained.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

8. Applicant's access to criminal history record check. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of a criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may inspect and review criminal record information pursuant to Title 16, section 709.

[PL 2013, c. 267, Pt. B, §15 (AMD).]

9. Right of applicant and commissioner to remove fingerprints from fingerprint file. Teachers or educational personnel whose credential has expired and who have not applied for renewal of a credential may request in writing that the State Bureau of Identification remove their fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the requester's fingerprints from the fingerprint file and provide written confirmation of that removal to the requester.

The commissioner may, without notice to an applicant, remove fingerprints from the fingerprint file maintained by the State Bureau of Identification when an applicant has had no active credential for 7 years. An applicant may renew a credential after that applicant's fingerprints have been removed from the fingerprint file upon submitting again to fingerprinting.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

10. Criminal History Record Check Fund. The Criminal History Record Check Fund is created as a dedicated fund within the Department of Education for the transfer of funds from the Department of Public Safety to cover a portion of the cost of a position that issues credentials. The fund may not lapse, but must be carried forward to carry out the purposes of this chapter.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

11. Exemptions. An active duty law enforcement officer from a local law enforcement agency with jurisdiction over a school's premises who assists with school security, safety, emergency preparedness or emergency response or has been assigned other responsibilities concerning the school by the school or the local law enforcement agency is exempt from the provisions of this section.

[PL 2017, c. 155, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 547, §5 (NEW). PL 1997, c. 452, §3 (AMD). PL 1999, c. 35, §§1,2 (AMD). PL 1999, c. 110, §§1,2 (AMD). PL 1999, c. 791, §§1-4 (AMD). PL 2003, c. 184, §1 (AMD). PL 2005, c. 457, §§CC1-4 (AMD). PL 2005, c. 519, §§1,2 (AMD). PL 2011, c. 521, §§1, 2 (AMD). PL 2013, c. 267, Pt. B, §§14, 15 (AMD). PL 2013, c. 506, §13 (AMD). PL 2013, c. 507, §10 (AMD). PL 2015, c. 267, Pt. SSS, §§1-3 (AMD). PL 2015, c. 395, §§1-3 (AMD). PL 2017, c. 155, §1 (AMD). PL 2017, c. 235, §1 (AMD). PL 2017, c. 235, §41 (AFF).

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