

Safeguarding New Jersey Students from Sexual Predators and Child Abuse at School

Examining the Application and Effectiveness of the State's "Pass the Trash" Law



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State of New Jersey
Commission of Investigation

**NJ STATE COMMISSION OF
INVESTIGATION**





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The State Commission of Investigation, pursuant to N.J.S.A. 52:9M-1 to -20, herewith submits its final report of findings and recommendations stemming from an investigation into the efficacy of N.J.S.A. 18A:6-7.13, created to prevent school employees with documented histories of sexual misconduct or child abuse from obtaining new employment in another school district by keeping their past misconduct private.

Respectfully,

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Introduction

For years, teachers and school employees in New Jersey who engaged in sexually inappropriate conduct with a student were able to move to other school districts by quietly entering into confidential settlements with their employers that kept their past misdeeds secret. In many cases, the secret agreement operated to facilitate the offender being hired in a new school district to engage in similar sexual misconduct.

In April 2018, New Jersey enacted a law intended to shut down the practice known as “passing the trash,” by giving schools new obligations to prevent educators with documented histories of sexual misconduct or child abuse in one school from obtaining employment in another district.¹ Upon receiving allegations that provisions of the “Pass the Trash” law were being ignored or circumvented in certain school districts, the State Commission of Investigation (SCI or Commission) launched an investigation into the law’s implementation and application in New Jersey. The findings outlined in this report make plain that reforms are necessary in order for the law to fulfill its purpose of preventing educators with sexual misconduct histories from repeating that behavior in a new school district.

The “Pass the Trash” law was intended to protect school children from abuse or sexual exploitation by school employees by expanding the background checks for new school hires. Specifically, the law mandates that schools determine whether a prospective hire has been the subject of any investigation for sexual misconduct or child abuse at prior school jobs. Such a process must be completed before a school may hire a particular teacher or other school district employee.

Concurrently, the law mandated that a school district that had employed a teacher or other

¹ N.J.S.A. 18A:6-7.13

“...the SCI has discovered that the ‘Pass the Trash’ law has been manipulated not only by educators seeking to keep their past misdeeds private, but also by school districts that have either disregarded or improperly followed the law’s provisions.”

personnel who had engaged in sexual misconduct or child abuse respond truthfully to another school district seeking to employ that individual. No longer could the previous school district employer lie or use a confidential separation agreement to withhold such information from the hiring district. Job applicants were also required to disclose to the prospective school employer whether they

were the subject of any prior complaints or investigations in their prior school districts. Applicants who lied or failed to disclose past misdeeds were subject to both civil and criminal penalties for a 4th degree offense.

Based on its investigation, the SCI has discovered that the “Pass the Trash” law has been manipulated not only by educators seeking to keep their past misdeeds private, but also by school districts that have either disregarded or improperly followed the law’s provisions. Among the SCI’s main findings concerning weaknesses in the “Pass the Trash” law:

- The law relies too heavily on educators with histories of inappropriate or abusive conduct with students to fully disclose to their new employers about their past misdeeds.
- There is no state agency charged with oversight responsibility for the law’s obligations, nor is there a statewide, standardized process for collecting, reporting and verifying information concerning school employees with substantiated investigations of sexual misconduct or child abuse. Instead, each of New Jersey’s 593 school districts is left to develop its own method for collecting, reporting and verifying the information.

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- Without outside oversight or auditing by County or State officials, schools have no assurances that the information provided by applicants or prior employers is accurate, nor if such information is routinely disseminated to successor employer school districts to keep them from hiring a suspected child predator.
 - An SCI analysis of a sampling of districts' recordkeeping practices found spotty compliance with the law. All of the districts had missing forms, incomplete information and/or other failures in meeting the basic requirements of the statute.

During the inquiry, SCI investigators examined nearly 90 cases of school employees who had either been accused or convicted of sexual misconduct or abuse of minors. The investigation included the review of voluminous personnel and other records in dozens of school districts, as well as interviews and the taking of sworn testimony from numerous school administrators, state officials and other school personnel.

To meet the overarching goal of keeping New Jersey school children safe, the Commission recommends that legislators and policymakers re-examine how best to investigate and manage situations involving sexually inappropriate or abusive conduct by school employees. The recommendations put forth at the end of this report primarily focus on closing loopholes and addressing other omissions in the "Pass the Trash" law, including creating a statewide database to collect such information, as well as a mechanism for local, county and state officials to oversee, audit and enforce the law's provisions. Further, the recommendations address the need for clarity regarding identification of the type of conduct that falls within the law and the creation of a standardized procedure to ensure a proper and thorough investigation is conducted by each school or school district when allegations are raised.

Background of the Law

Apart from the criminal history record checks that all New Jersey school employees must undergo, N.J.S.A. 18A:6-7.7, requires an individual seeking employment at a school in a position with regular contact with students to disclose whether they have been the subject of any substantiated investigations into child abuse or sexual misconduct within the past 20 years.²

The law applies to employees working in school districts, charter schools and nonpublic schools operating in the state. It also extends to personnel working for a school-contracted service provider, such as an agency hired by a school district to provide substitute teachers. The positions covered under the law include everything from a school administrator to a teacher, coach or teacher's aide.

The law creates a series of obligations for the job applicant, their previous school employers over the past 20 years and the prospective hiring school employer.

Obligation of the Applicants. Applicants must provide a written statement disclosing whether he or she has:

- been the subject of any child abuse or sexual misconduct investigation by any employer, State licensing agency, law enforcement agency, or the Department of Children and Families unless the investigation resulted in a finding that the allegations were false or the alleged incident of child abuse or sexual misconduct was not substantiated;
- been disciplined, discharged, non-renewed, asked to resign from employment, resigned from or otherwise separated from any employment while allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct;
- had a license, professional license, or certificate suspended, surrendered, or revoked while

² "Sexual misconduct' means any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialogue, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent or erotic contact with a student." N.J.S.A. 18A:6-7.6

allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct.

Additionally, an applicant must also provide a prospective employer with information for the previous 20 years regarding (1) the applicant's current employer; (2) all former employers that were school entities; and (3) all former employers where the applicant was employed in a position that involved regular contact with students. The applicant is required to provide a list, including the name, address and telephone number and other relevant contact information for the current and prior employers.³

Applicants who provide false information or fail to disclose information to a prospective employer may be terminated or denied employment. They are also subject to a civil fine of no more than \$500 and deemed in violation of N.J.S.A. 2C:28-3, which makes it a crime of the fourth degree to provide false written statements.

Obligation of the Hiring School Employer. Once an applicant provides the required information for current and former employers, the law requires the hiring school or school district to conduct its own review by contacting the former employers to verify the applicant's dates of employment and to inquire about any past incidents of child abuse or sexual misconduct.

In addition to those requirements, the law also prohibits schools from entering into a contract or agreement that attempts to suppress or destroys information related to a report of allegations or findings of child abuse or sexual misconduct by a current or former employee.⁴ Information about

³ An applicant must also provide written authorization consenting to the disclosure of information from the prior employers, including the release of related records, and to liberate the employer from liability that may arise from their disclosure or release.

⁴ In October 2023, the Appellate Division determined in A.B. v. Hackensack Board of Education that this provision also invalidates contracts or agreements entered into before the law's enactment in June 2018.

allegations or findings of such misconduct may only be expunged if the claims were found to be false or not substantiated.

A school employer also has the authority to immediately terminate an individual's employment or to rescind an offer of employment if information regarding the applicant's history of sexual misconduct or child abuse is subsequently discovered. The law precludes an employee fired under those circumstances from seeking to appeal the decision or to file a grievance under a collectively bargained agreement.

Obligation of the Former Employer School District. No later than 20 days after receiving a request for information, a school employer is required to disclose the information requested about the former employee.⁵ The failure of the former employer to act within the time frame may be grounds for the application's automatic disqualification from employment.

School Employee Applicants Who Tried to Hide Past Misconduct

In the first instance, the law operates under the premise that all school employee applicants will accurately report all of their prior employers, honestly disclose all past allegations of misconduct and provide accurate contact information for their past employers. Indeed, full disclosure by a prospective hire about his or her background of child abuse or sexual misconduct, as well as the submission of reliable contact information for their former employers, is necessary to make the law work effectively. However, the SCI's investigation revealed that the self-reporting requirement was easily circumvented by educators seeking to hide their prior histories of child abuse or sexual or

⁵ N.J.S.A. 18A:6-7.9 4 (a)

indecent contact with a student by either failing to disclose the information or outright lying about it in a written statement required under the law. As a result, these educators were able to obtain positions in classrooms with school children despite their checkered backgrounds.

Illustrative of the problem of relying on the employee to disclose prior instances of suspected sexual misconduct is the case of an applicant for a teaching position, who in 2018, not long after the law's enactment, submitted "Pass the Trash" forms to a staffing agency that placed substitute teachers in New Jersey schools. Even though the teacher had twice resigned and was once fired from teaching jobs for inappropriate conduct and had been caught with pornography on his school computer, he answered "no" to all questions asking if he had been the subject of a sexual misconduct investigation by an employer or had been disciplined, discharged or resigned while an investigation was pending.

Not only did the teacher lie about his past misconduct, but the contact information he provided for his five former employers was incomplete, including missing email contacts for two of his prior school employers. While it is unclear how much due diligence was conducted by the staffing agency, which another firm acquired in January 2020, a review of their records showed none of the five schools responded to the initial request to complete the "Pass the Trash" forms.⁶ These failures to comply with the statutory requirements left the agency and any future employer unable to verify the teacher's history concerning child abuse or sexual misconduct. Despite this noncompliance, the staffing agency forwarded the educator's information to New Jersey school districts in need of substitute teachers.

A Middlesex County district subsequently hired the substitute teacher to fill in for a long-term teacher absence in October 2018, just a day after he had filled out the initial application with the

⁶ There was also no response to the follow-up reminders to submit the forms sent electronically to three schools.

staffing agency. Three weeks later, a district administrator learned the teacher had been the subject of media stories a year prior for leaving several teaching jobs amid allegations or investigations into sexual misconduct with students. District administrators subsequently contacted the staffing agency, which immediately removed the teacher from the school and the district’s hiring list. “He shouldn’t be in front of students,” the administrator told the Commission under sworn testimony. The administrator further testified that the district had relied on the staffing agency to vet substitute teachers appropriately, including their compliance with “Pass the Trash” provisions. He said, “We have on average, you know, we had over a hundred people out every day, [...] that’s a lot of moving parts [...] my expectation was that the company would provide candidates after resumes they had vetted that spoke to that certification in that specific area.” Soon after the situation with the substitute teacher, the district ended its relationship with the staffing firm.

* * *

An Essex County teacher who lost her job, and later, her teaching certification after the State Board of Examiners found she had engaged in “behavior which could only be described as ‘abusive’,” was able to get subsequent teaching jobs after the law’s enactment by providing inaccurate or incomplete information on her “Pass the Trash” forms.⁷ SCI investigators reviewed the state-mandated forms submitted by the educator in a public school district where she had sought work as a substitute and an Essex County charter school where she had applied for a full-time teaching position. In all the forms submitted to the hiring entities, the teacher answered “no” to every questions asking if she had ever been the subject of a child abuse investigation, been disciplined for those actions or had a

⁷ The State Board of Examiners is the educator licensing agency in New Jersey in accordance with *N.J.S.A. 18A:6-34 et seq.* and *N.J.A.C. 6A:9B-1 et seq.*

professional license suspended or revoked. Due to the failure to disclose her past misconduct, the hiring entities were unaware of the educator’s history and subsequent discipline for unbecoming conduct with second graders, which included yelling, withholding bathroom privileges and grabbing students by their shirts, according to the Department of Education (DOE) records.

Persistent allegations of abusive behavior followed the educator during her more recent employment in a Somerset County district where she worked as a substitute from 2018 to 2022. According to school records reviewed by SCI investigators, family members of two students complained separately to the district’s administrators in 2019 that the teacher had made bullying and disparaging comments to them. The school district’s records did not reveal if any follow-up action was pursued, but only that the educator denied the allegations. The educator’s deception caught up to her at the end of 2021. She was fired two months after her hiring at the Essex County charter school when its executive director learned the teacher’s teaching credentials had been revoked in 2019. Addressing the falsification of her background, the termination letter noted the educator “intentionally omitted or was otherwise untruthful regarding pertinent information from [her] employment history.” Meanwhile, the Commission discovered that the same educator had worked as a substitute in a Mercer County district between 2019 and 2021, but the district remained unaware of her history of child abuse.

* * *

In another instance, the Commission investigated the circumstances surrounding a male educator who had denied he had been under investigation for sexual misconduct at his prior teaching job when seeking work at a Monmouth County charter school in August 2020. Although he had been the subject of two sexual abuse investigations and had resigned from his previous school district amidst allegations of sexual abuse, the teacher falsely answered “no” on all three questions on the forms required under the law concerning sexual misconduct or child abuse. The educator’s past conduct was

only discovered when his previous employer informed the charter school about its investigation into the reports of sexual abuse on the “Pass the Trash” form. Following his former employer’s disclosure, the educator resigned from the charter school. The seriousness of the allegations would become public approximately six months later. In February 2021, the teacher’s misconduct at his prior school resulted in his arrest on charges of aggravated sexual assault and endangering the welfare of a child in connection with allegations of sexual abuse. As of January 2024, the teacher’s teaching certificate is currently suspended pending the outcome of the criminal case.

School District Circumvention of the Law

The Commission also found evidence that some school districts had covered up allegations or findings of sexual misconduct by one of their teachers by entering into certain agreements or making arrangements enabling them to resign while the district remained quiet about their past misdeeds, even though such agreements are explicitly prohibited under the “Pass the Trash” law.

A Bergen County school district was left completely in the dark when a male educator, with a long history of inappropriate behavior directed at female students at his prior school district, was hired for a position teaching physics in March 2022. The “Pass the Trash” forms submitted by the teacher and his previous school employer all had “no” answers to the questions about child abuse or sexual misconduct. There was nothing to indicate the multiple investigations undertaken by the prior district, the findings of misconduct or the imposition of discipline for his actions.

Unbeknownst to the new district, a month prior, in February 2022, the tenured teacher had entered into a confidential settlement agreement with his previous Warren County school employer that enabled him to resign without admitting any wrongdoing. Under the agreement, the school would

give the teacher a neutral employment reference and neither the district nor the teacher would disparage the other.

In the months prior to the settlement, the district had substantiated allegations against the teacher as part of a Harassment, Intimidation and Bullying investigation. The primary complaint in the case concerned the teacher's disrespect for a custom a female student was participating in as part of a cultural religious observation. Incredibly, there were additional serious allegations received by the school about the teacher's conduct – such as his engagement in sexual dialogue and making suggestive comments to students – that were largely unaddressed. Multiple students had come forward complaining the teacher had made comments that made them feel uncomfortable including commenting on female students' appearances by saying they were "cute." There also were allegations he purposely dropped a marker or pen in front of a female student wearing a short skirt and then instructed her to pick it up so he could watch her bend down. Similarly, as part of a physics experiment, students reported he would have a toy car drop or roll in front of female students for them to bend down and pick up while he watched.

A review of the teacher's personnel files during his employment at the Warren County school revealed the district had previously conducted investigations in 2015, 2017 and 2020 into allegations that he had made either inappropriate comments or had engaged in behavior that appeared consistent with the "Pass the Trash" law's definition of sexual misconduct. In 2015, he was disciplined for making an inappropriate remark to a female student in one of his classes about a mark on her neck that appeared to be a hickey. The remarks, deemed personal or sexual in nature by the district, were investigated by the school as a Harassment, Intimidation and Bullying case. After finding the teacher had acted improperly, the district required him to submit to a corrective action plan, including workshop training on appropriate, healthy interaction with students in and out of the classroom

setting. Two years later, in 2017, several students complained to district administrators that the teacher made comments during class about his sex life, including his experience with oral sex. This time, the district issued the teacher a letter of reprimand, noting his conduct was all the more egregious and unacceptable because it was not the first time the district had to address his inappropriate remarks and unprofessional behavior that had taken place in front of students. Yet, all the district required of him was to attend a mandatory professional development training session on establishing and maintaining appropriate boundaries with students.

When the teacher was the subject of an investigation for inappropriate conduct with students yet again in 2021 and was found in violation of its Harassment, Intimidation and Bullying policy, the Warren County district did not impose further discipline or terminate the teacher. Instead, it entered into a settlement with the teacher enabling him to resign and move on to a teaching position in the Bergen County school knowing that his prior employer would keep his past misconduct private.

The Commission identified another case at a school in Gloucester County where school officials enabled a science teacher to retire in 2021 amid a school investigation into allegations that he directed sexually inappropriate comments toward a female student. Multiple students told school administrators during the inquiry that the teacher had made females in his class feel uncomfortable and that he regularly singled out a certain student for special unwanted attention. The female student who was the subject of the teacher's attention reported that she found him "creepy." He held her hand and told her "love you" as she walked out of the classroom. Other students said the teacher inappropriately touched students by giving shoulder rubs. The school's investigation into the teacher concluded with findings that the teacher lacked professionalism but failed to address the sexually inappropriate nature of his conduct. Nine months later, the teacher applied for and was later hired for a teaching position at a private school in southern New Jersey. Both the forms submitted by the teacher

and his prior school checked the box for “no” to all the questions about allegations or findings of sexual misconduct or abuse on the “Pass the Trash” form.

These examples raise significant questions about how many other school employers are ignoring the prohibition on the use of confidential agreements with teachers investigated or found to have engaged in sexual misconduct with students, one of the central practices the “Pass the Trash” law was supposed to prevent.

A Lack of Administrative Guidance

When the “Pass the Trash” law was created it established no meaningful role for the New Jersey Department of Education (DOE), leaving school districts, school entities and contracted service providers that operate in the state responsible for its administration and practical application. The State does not provide any oversight to ensure schools are complying with the law’s provisions, nor does it maintain a central repository tracking school employees who were either accused of, or the subject of an investigation resulting in substantiated findings of either child abuse or sexual abuse by a former employer, law enforcement agency or the Department of Children and Families.

When the law was first enacted in June 2018, the DOE was supposed to conduct a public awareness campaign to ensure that applicants and employers were aware of its various requirements.⁸ As part of its implementation of the law, the DOE posted a list of frequently asked questions about the law. It also provided a sample form that school entities could use to collect the “Pass the Trash” information from job applicants, but the form was deemed optional, not mandatory. Some current and former superintendents interviewed by the Commission reported that the lack of detailed guidance

⁸ N.J.S.A. 18A:6-7.13

from DOE left them unmoored. According to one district administrator, “[t]here was no training from the state in terms of what you should be looking for or how that should be handled. ... I think everybody was left to their [sic] own devices.”

As a result, each of New Jersey’s nearly 600 school districts and the other school entities in the state has developed its own system for the implementation of the law’s requirements. The Commission found spotty compliance among the districts, with some closely adhering to the mandates and accurately collecting and responding to requests from other school districts, while other school districts failed to comply with the law, either in whole or in part. One former superintendent testified that some districts do not take the law seriously; instead, they hire and allow employees to work in schools without providing a complete employment history. The superintendent’s testimony supported findings made by the Commission in a limited sampling of school districts throughout New Jersey to check on each school’s compliance with the “Pass the Trash” law. The survey included the records collected by each school for 116 employees, who were among the most recent hires made by each district during the 2023-24 school year. The Commission also reviewed 37 personnel files for 17 individuals accused or convicted of sexual misconduct or child abuse as defined under the law.

The SCI’s review found the information applicants provided to prospective employers regarding their employment histories was often inconsistent or incomplete. Of the 92 applicants who, according to state records, had a New Jersey work history that included at least one position in a school or in close contact with minor children, approximately 61 percent of the applicants failed to disclose prior employment that seemingly should have been listed on their “Pass the Trash” forms. Of that same group, 39 percent did not disclose the prior employment on their school job applications.

Meanwhile, the review revealed that the level of compliance with the law’s requirements also varied widely among the schools, with some having well-organized files containing the appropriate

forms, while others were disorganized and missing forms. In several files examined for hires made in Paterson, handwritten notes were contained in the files instead of the “Pass the Trash” forms. Paterson was among the districts that elected to develop its own “Pass the Trash” form. The district’s form, however, did not quite conform to the law’s requirements. Instead, it included a question enabling applicants to choose whether to give a hiring entity permission to contact a prior employer, an option that does not exist in the statute.

It also was common for school districts to receive no or incomplete “Pass the Trash” form responses from job applicants’ prior employers. More than a third of the total employees who were hired – 44 people – were hired by the schools even though their prior employers never responded to the “Pass the Trash” form. The law gives a prior employer 20 days to provide a written response, but the Commission found the average response time was 36 days.

Recommendations

The Commission is obligated by law to present appropriate recommendations for statutory and regulatory reforms based on the results of its fact-finding investigations. In its latest inquiry, the SCI found New Jersey’s “Pass the Trash” law, which was created to protect students from teachers who move from school to school while their past sexual misconduct or abuse of students remains private, is rife with weaknesses and deficiencies.

The Commission found the “Pass the Trash” law was exploited in various ways by both school employees, who had failed to disclose past misconduct to prospective employers, as well as school entities that either did not follow specific requirements within the law or misclassified conduct that appeared to fall under it. The practical result was that the school employees were able to obtain jobs at new schools while keeping their past misdeeds quiet, a circumstance the law was enacted to prevent.

Numerous reforms are necessary to make the law more effective and less prone to abuse. Many sensible proposals were put forth in legislation first introduced in June 2018, soon after the enactment of the “Pass the Trash” law, which, if approved, would have helped to curtail or, at the very least, to address some of the shortcomings found during this investigation. For example, Senate Bill 2713/Assembly Bill 4407 from that session, would have required the Commissioner of the Department of Education (DOE) to collect annually specific data related to school employees separated from employment, either amid or as a result of investigations into allegations of child abuse, sexual misconduct, or sexual or other harassment. The bill, which was approved by the Senate but did not advance to a vote in the Assembly, also would have required yearly reporting of this information to the Legislature.

The Commission is aware that a teacher shortage in New Jersey has placed additional pressures on schools to expedite the hiring of teachers and to get them into the classroom.⁹ Schools must also contend with the daily need for substitute teachers to replace educators who may be absent for illness or other reasons. To assist in these efforts, school districts often contract with staffing agencies that supply substitute teachers and administer the paperwork requirements for school employees under the “Pass the Trash” law. Still, these circumstances do not diminish the need for proper due diligence or the responsibility of school administrators and outside contracting entities to comply with the law and to uphold its overall purpose of keeping schoolchildren safe from predators. To address these and other matters, the Commission makes the following recommendations for regulatory and statutory reforms.

1. Require the State Department of Education to Oversee the “Pass the Trash” Law

The law currently assigns responsibility for compliance with the law to the individual school districts with virtually no oversight by the State. This arrangement has resulted in inconsistent and haphazard application by individuals, schools and contracted service providers that failed to implement it properly with no evidence of documentation of any consequences for violations of the law. To ensure greater consistency, uniform application and less reliance on the flawed self-reporting mechanism for applicants to disclose their past misconduct, the Commission recommends the state DOE be charged with overseeing compliance with, and enforcement of, the “Pass the Trash” law. Among the reforms that the DOE should undertake to make the law more effective:

⁹ As of January 2024, the ten largest school districts in New Jersey had a total of approximately 440 teaching vacancies. In Newark alone, there were more than 190 vacancies.

- **Mandate Standardized Forms**

All New Jersey schools should be required to use the uniform “Pass the Trash” forms. The DOE provides a sample form for schools, but its use is optional, not mandatory. As a result, the forms the schools use are in a patchwork of formats, in some cases asking for information that is inconsistent with the law. In one district, the form asked a job applicant for permission to contact a prior employer, effectively negating the purpose of the law, which mandates such contacts. The standardization of forms will ensure that schools collect consistent, reliable and relevant information in compliance with the statutory requirements.

- **Create a Statewide Database to Collect “Pass the Trash” Information**

The State should create a centralized database consisting of information from every school district or school entity related to teachers and other school employees who are the subject of an investigation or have been found to have engaged in child abuse or sexual misconduct involving students.¹⁰ As part of this effort, every school in the state should be required to provide periodic updates to the DOE.

The DOE’s information collection will eliminate the school’s reliance on either a job applicant’s or their past employer’s disclosures to the hiring entity about a candidate’s past misconduct.

The database should also have the capacity to track employment histories and teacher certification status so a hiring school entity may cross-reference the information. While some information regarding teaching certifications is available online, it does not indicate if a certificate is

¹⁰ As part of this process, the DOE should have access to information collected by the Child Abuse Record Information Unit in the State of New Jersey Department of Children and Families. The unit conducts background checks for child care workers, employees and contracted workers for numerous state agencies who work in close contact with minor children and adoptive parent applicants, among others.

currently under review. It only lists if the certificate is active, inactive – i.e. expired, suspended or revoked.

- **Conduct School Audits to Promote Compliance with the Law**

The Commission found a significant disparity in how New Jersey’s schools complied, or in some cases failed to comply, with the “Pass the Trash” requirements concerning the collection of teacher information during the hiring process, as well as a school’s obligation to respond to requests from hiring entities for information about prior employees. To promote better compliance, the Commission recommends the DOE conduct audits to monitor school districts’ performance and create an appropriate set of consequences for school districts that fail to follow the law’s requirements.

- **Establish a Mechanism to File Teacher Misconduct Complaints with the State**

The Commission recommends the DOE create a uniform mechanism at the state level to enable a student, parent or guardian to report a complaint of child abuse, sexual misconduct or other harassment of a student by a teacher to the DOE rather than reporting it only to the school. Given the inherent conflict of interest associated with schools investigating their employees, the state’s oversight will promote the appropriate classification and investigation of all reports of misconduct. Moreover, it will also help deter instances in which schools have classified conduct that appears to fall under sexual misconduct or child abuse as “conduct unbecoming” or “bullying.”

2. Create Uniform Procedures for Child Abuse and Sexual Misconduct Investigations

The Commission recommends the DOE create uniform investigative procedures and the use of standardized investigation forms for the type of misconduct subject to the law. To balance the competing interests of protecting child safety in these matters, as well as safeguarding teachers from false allegations, school officials must be properly trained to carry out these investigations. The

development of standard operating procedures will instill fairness, reliability and consistency into the process.

During the investigation, the Commission found there was no uniformity in the methods used by schools to conduct investigations into allegations of child abuse and sexual misconduct. Some schools only notified criminal authorities without undertaking their own internal analysis. Others classified allegations as falling under conduct addressed by New Jersey’s Harassment, Intimidation, and Bullying (HIB) law and followed its policies and procedures. These varying methods meant it was sometimes difficult to determine if a teacher needed to provide disclosure about their past conduct with students as required under the “Pass the Trash” law. In some instances, SCI investigators had to undertake a thorough review of an employee’s personnel file to identify instances or conduct that may not have risen to criminal charges or termination but appeared to be violations of sexual misconduct under the current law warranting disclosure.

The Commission found the schools had far better recordkeeping systems for information related to HIB investigations. Aiding in this effort were clear directives on the DOE’s website concerning policies, investigative procedures, required forms and school obligations for reporting and preventing harassment and bullying. The Commission recommends that a similar effort be undertaken to establish more clearly defined policies and procedures for child abuse/sexual misconduct investigations.

3. Clarify Enforcement Responsibility and Increase Penalties for Violations of the Law

New Jersey imposes monetary penalties that are among the lowest of all the states for individuals found to have provided inaccurate or deceitful information on the “Pass the Trash” forms, with violators facing a maximum \$500 penalty and with no clear jurisdiction for enforcement.

The Commission recommends that the DOE be given clear jurisdiction for enforcement and imposition of penalties for all violators, including applicants, independent contractors, staffing agencies, schools, board officials and administrators. Further, New Jersey should implement penalties similar to those enacted in Pennsylvania’s statute governing disclosure of misconduct by educators, which imposes a maximum \$10,000 fine and the authority for the state DOE to take disciplinary action or revoke an employee’s teaching certificate.

Additionally, the Commission recommends establishing a reporting requirement for schools to alert the DOE about any applicant who was untruthful or misrepresented information on their employment application forms.

4. Remove the 20-year Limit on a School Job Applicant’s Employment History

The Commission recommends amending the law to remove the 20-year time limit on an employee’s work history. The SCI’s analysis of similar laws across the nation found that New Jersey is among one-third of the states that place a time limit or employment restriction on disclosure. This reform would put the State on par with states like Pennsylvania, considered to have among the strongest laws, and approximately ten other states that do not place a time limitation on the employment reporting requirement.



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