

ENGROSSED HOUSE
BILL NO. 2273

By: Coleman of the House

and

Wilcoxson of the Senate

(schools - applicant for employment - unprofessional
conduct - exceptions from immunity - expungement of
certain information - codification - effective
date - emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6-101.6 of Title 70, unless
there is created a duplication in numbering, reads as follows:

A. Before hiring an applicant for employment, a school district
shall request the applicant to sign a statement that does the
following:

1. Authorizes the current or former employer or employers of
the applicant to disclose to the school district any unprofessional
conduct by the applicant and to make available to the school
district copies of all documents in the personnel record of the
applicant maintained by the current or former employer relating to
the unprofessional conduct;

2. Releases the current or former employer and employees acting
on behalf of the current or former employer of the applicant, from
any liability for providing information as provided for in this
section;

3. Waives any other written notice requirements in law; and

4. States that the information on the application is true and that the applicant understands that any false statement shall be grounds for termination of employment.

B. Before hiring an applicant for employment, a school district shall request from the applicants current employer or, if the applicant is not currently employed, the immediately previous employer of the applicant the information described in subsection A of this section. The request shall include a copy of the statement signed by the applicant pursuant to subsection A of this section.

C. Within twenty (20) business days after receiving a request pursuant to this section, an employer shall provide:

1. A statement that the personnel record of the applicant contains no information related to unprofessional conduct; or

2. The information requested and make available to the requesting school district copies of all documents in the personnel record of the applicant relating to the unprofessional conduct.

D. An employer, or employee acting on behalf of the employer, is presumed to be acting in good faith at the time of a disclosure under this section unless a preponderance of the evidence establishes one or more of the following:

1. The employer or employee knew the information disclosed was false or misleading;

2. The employer or employee disclosed the information with a reckless disregard for the truth; or

3. The disclosure was specifically prohibited by a state or federal law.

E. The board of education of a school district shall not hire an applicant who does not sign the statement described in this section.

F. Information received pursuant to this section shall be used by a school district only for the purpose of evaluating the qualifications of an applicant for employment in the position for

which the applicant applied. Except as otherwise provided for by law, a board member or employee of a school district shall not disclose the information to any person, other than the applicant, who is not directly involved in the process of evaluating the qualifications of the applicant for employment. A person who violates this subsection upon conviction shall be guilty of a misdemeanor punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00).

G. The board of education or an official of a school district shall not enter into a collective bargaining agreement, individual employment contract, resignation agreement, severance agreement, or any other contract or agreement that has the effect of suppressing information about unprofessional conduct of an employee or former employee or of expunging information about unprofessional conduct from personnel records. Any provision of a contract or agreement that is contrary to this subsection is void and unenforceable. This subsection shall not apply to the expungement from a personnel file of information about alleged unprofessional conduct that has not been substantiated.

H. This section shall not prevent a school district from requesting or requiring an applicant for employment to provide additional information other than that described in this section.

I. As used in this section:

1. "Unprofessional conduct" means one or more acts of immorality, moral turpitude or commission of a crime involving a minor. A criminal conviction is not an essential element of determining whether or not a particular act constitutes unprofessional conduct; and

2. "Personnel records" means a record kept by the employer that identifies the employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional

compensation, or disciplinary action. A personnel record shall not include records limited to grievances or criminal investigations which are kept separately and did not result in disciplinary action.

SECTION 2. This act shall become effective July 1, 2002.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of February, 2002.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2002.

Presiding Officer of the Senate