

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1471

By: Wilcoxson of the Senate

and

Coleman of the House

AS INTRODUCED

An Act relating to schools; requiring an applicant for employment to sign statement authorizing disclosure of unprofessional conduct; stating type of disclosure; providing immunity from liability; requiring request for disclosure from certain employers; establishing time limit for disclosure; providing exceptions from immunity; prohibiting employment without a signed statement; stating purpose for disclosed information; prohibiting disclosure of information; making disclosure a misdemeanor; prohibiting certain agreements or contracts that suppress disclosure of information about unprofessional conduct; making certain contracts or agreements void and unenforceable; allowing the expungement of certain information; authorizing school districts to request further information; providing definitions; providing for codification; providing an effective date; and declaring an 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 initial hiring of an applicant for employment, a school district shall require the applicant to sign a statement that:

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 its employees acting on behalf of the current or former employer of the applicant, from any liability for providing information pursuant to this section;

3. Waives the right to other written notice that may be required by law; and

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

B. Before initial hiring of an applicant for employment, a school district shall request from the applicant's 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 applicant's record contains no information related to unprofessional conduct; or

2. The information requested and shall make available to the requesting school district copies of all documents in the personnel record of the applicant relating to any 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 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 grounds for dismissal or nonreemployment specified in subsection A of Section 6-101.22 of Title 70 of the Oklahoma Statutes. A criminal conviction is not an essential element of determining whether a particular act constitutes unprofessional conduct; and

2. "Personnel record" 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 grievance 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.

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