

Education Article

§6–113.2.

(a) (1) In this section the following words have the meanings indicated.

(2) “Child sexual abuse” has the meaning stated in § 6–113.1 of this subtitle.

(3) “Contracting agency” means an entity that, **AS A REGULAR PART OF ITS BUSINESS, SUPPLIES OTHER PERSONS TO PROVIDE A SERVICE DIRECTLY TO** [contracts with a county board or nonpublic school to provide a service to a school or the] students of a school.

(4) “Direct contact with minors” means the [possibility of] care, supervision, guidance, [or] control, [of a minor] or routine interaction with a minor.

**(5) “EMERGENT EMPLOYEE” MEANS AN EMPLOYEE WITHIN THE FIRST 60 DAYS OF EMPLOYMENT FOR WHOM THE COUNTY BOARD HAS NOT COMPLETED THE EMPLOYMENT HISTORY REVIEW REQUIRED UNDER THIS SECTION.**

(5) “School” means a public or nonpublic school.

(6) “Sexual misconduct” has the meaning stated in § 6–113.1 of this subtitle.

(b) A county board, nonpublic school, or contracting agency shall require an applicant for a position involving direct contact with minors to submit:

(1) The contact information of the following employers:

(i) The current employer;

(ii) All former school employers; and

(iii) All former employers of the applicant in which the applicant was employed in a position involving direct contact with minors **WITHIN THE PREVIOUS 10 YEARS;**

(2) A written consent form, signed by the applicant, authorizing an employer listed under item

(1) of this subsection to release all records relating to child sexual abuse or sexual misconduct; and

(3) A written statement of whether the applicant:

(i) Has been the subject of a child sexual abuse or sexual misconduct investigation by any employer, arbitrator, county board, State licensing agency, law

enforcement agency, or child protective services agency, unless the investigation resulted in a finding by:

1. The employer that allegations that the applicant engaged in sexual misconduct lacked sufficient evidence according to the policies of the county board or nonpublic school;

2. An arbitrator or a county board to reject any disciplinary action in response to allegations that the applicant engaged in sexual misconduct;

3. A State licensing agency that allegations that the applicant engaged in sexual misconduct lacked sufficient evidence according to:

A. State law; or

B. The policies of the county board or nonpublic school;

4. A law enforcement agency that allegations that the applicant engaged in child sexual abuse were unfounded; or

5. A child protective services agency that allegations that the applicant engaged in child sexual abuse were ruled out;

(ii) Has ever been disciplined, discharged, nonrenewed, or asked to resign from employment, or has ever resigned from or otherwise separated from any employment while allegations of child sexual abuse or sexual misconduct were pending or were under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct; or

(iii) Has ever had a license, professional license, or certificate suspended, surrendered, or revoked while allegations of child sexual abuse or sexual misconduct were pending or under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct.

(c) Before hiring an applicant for a position involving direct contact with minors, the county board, nonpublic school, or contracting agency shall:

(1) Review an applicant's employment history by contacting the employers listed by the applicant under subsection (b)(1) of this section and requesting the following information:

(i) The dates of employment of the applicant; and

(ii) Answers to the questions regarding child sexual abuse or sexual misconduct required under subsection (b)(3) of this section; and

(2) Request a report from the Department regarding the applicant's eligibility for employment or certification status to determine whether the applicant:

(i) Holds a valid and active certification appropriate for the position and is otherwise eligible for employment; and

(ii) Has been the subject of professional discipline related to child sexual abuse or sexual misconduct.

(d) (1) Not later than 20 days after receiving a request for information under subsection (c) of this section, an employer shall send to the county board, nonpublic school, or contracting agency the information requested on the form prescribed by the Department.

(2) If the information from an employer includes an affirmative response to the child sexual abuse or sexual misconduct questions under subsection (b)(3) of this section, and the county board, nonpublic school, or contracting agency makes a determination to further consider the applicant for employment, the county board, nonpublic school, or contracting agency shall request that the former employer provide additional information about the information provided, including all records related to child sexual abuse or sexual misconduct.

(3) An employer that receives a request for additional information under paragraph (1) of this subsection shall provide the additional information within 60 days of the date of the prospective employer's request to:

- (i) The requesting county board, nonpublic school, or contracting agency; and
- (ii) The applicant who is under consideration for employment.

**(E) (1) A COUNTY BOARD MAY HIRE AN APPLICANT AS AN EMERGENT EMPLOYEE FOR A PERIOD NOT TO EXCEED 60 DAYS PENDING THE REVIEW OF INFORMATION AND RECORDS RECEIVED UNDER THIS SECTION, IF THE FOLLOWING CRITERIA ARE SATISFIED:**

**(I) THE APPLICANT HAS PROVIDED ALL THE INFORMATION AND SUPPORTING DOCUMENTATION REQUIRED;**

**(II) THE EMPLOYER HAS NO KNOWLEDGE OF INFORMATION REGARDING THE APPLICANT THAT WOULD DISQUALIFY THE APPLICANT FROM EMPLOYMENT; AND**

**(III) THE APPLICANT SWEARS OR AFFIRMS THAT THE APPLICANT IS NOT DISQUALIFIED FROM EMPLOYMENT.**

**(2) BASED ON REVIEW OF INFORMATION AND RECORDS RECEIVED UNDER SUBSECTION (C) OF THIS SECTION, AT ANY TIME WITHIN 60 DAYS OF HIRING AN APPLICANT ON AN EMERGENT EMPLOYMENT BASIS, THE EMPLOYER MAY:**

- (I) RESCIND THE OFFER OF EMPLOYMENT;**

**(II) DISMISS THE EMPLOYEE; OR**

**(III) COMPLETE THE EMERGENT EMPLOYEE'S HIRING PROCESS, IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.**

**(3) WITHIN 60 DAYS OF HIRING AN APPLICANT ON AN EMERGENT EMPLOYMENT BASIS, A COUNTY BOARD DECISION TO DISMISS THE EMERGENT EMPLOYEE BASED ON THE EMPLOYMENT HISTORY REVIEW:**

**(I) MAY BE APPEALED IN ACCORDANCE WITH SECTION 4-205 OF THIS TITLE; AND**

**(II) MAY NOT BE A SUBJECT OF COLLECTIVE BARGAINING FOR CERTIFICATED EMPLOYEES UNDER TITLE 6, SUBTITLE 4 OF THIS ARTICLE OR NONCERTIFICATED EMPLOYEES UNDER TITLE 6, SUBTITLE 5 OF THIS ARTICLE.**

**(F) (1) A COUNTY BOARD MAY UTILIZE THE EMPLOYMENT HISTORY REVIEW COMPLETED BY THE CURRENT OR FORMER EMPLOYER IF THE CURRENT OR FORMER EMPLOYER IS A COUNTY BOARD IN MARYLAND WHICH HAS COMPLETED AN EMPLOYMENT HISTORY REVIEW IN ACCORDANCE WITH THIS SECTION; AND**

**(I) THE APPLICANT SWEARS OR AFFIRMS THAT THE COMPLETED EMPLOYMENT HISTORY REVIEW INCLUDES ALL PRIOR EMPLOYMENT REQUIRED TO BE REPORTED UNDER THIS SECTION.**

**(G) THE MARYLAND STATE DEPARTMENT OF EDUCATION SHALL ESTABLISH AND MAINTAIN AN EMPLOYMENT HISTORY REVIEW DATA BASE OF ALL EMPLOYMENT HISTORY REVIEWS COMPLETED UNDER THIS SECTION.**

**(H) COUNTY BOARDS ARE AUTHORIZED TO SHARE EMPLOYMENT HISTORY REVIEWS AND MAY ACCESS AND UTILIZE THE EMPLOYMENT HISTORY REVIEWS IN THE STATE DATA BASE.**

**[(e)] (I)** (1) (i) A county board, nonpublic school, or contracting agency shall conduct an employment history review of an applicant for a substitute position involving direct contact with minors as required under subsection (c) of this section before the initial hiring of the substitute employee or placement on the approved substitute employee list of the county board, nonpublic school, or contracting agency. (ii) An employment history review of a substitute employee shall remain valid as long as the substitute employee continues to be employed by the same county board or remains on the approved substitute employee list of the nonpublic school or contracting agency.

(2) If a substitute employee is seeking to be added to the substitute employee list of another county board, nonpublic school, or contracting agency, a new employment history review in accordance with subsection (c) of this section is required.

(3) The appearance of a substitute employee on the substitute employee list of one county board, nonpublic school, or contracting agency does not relieve another county board, nonpublic school, or contracting agency of the duty of compliance with this section.

(4) An employment history review conducted on the initial hiring of a substitute employee by a contracting agency, an intermediate unit, or any other entity that provides substitute staffing services to a county board or a nonpublic school shall satisfy the requirements of this section for all school entities using the services of that contracting agency, intermediate unit, or other entity.

(5) A contracting agency, an intermediate unit, or any other entity providing substitute staffing services to a school entity shall comply with the provisions of this section.