

Appendix E

Guide to Disclosure of Confidential Student Information and Criminal History and Child Abuse Background Checks for School Employees: Archdiocese of Philadelphia

TABLE OF CONTENTS

**GUIDE TO DISCLOSURE OF
CONFIDENTIAL STUDENT INFORMATION**

I. Confidentiality of Student Communications 4

II. Reporting Child Abuse..... 5

 a. Abuse by a Parent of Caregiver..... 5

 b. Abuse by a School Employee..... 8

 c. Immunity and Penalties..... 11

III. Confidentiality of Participation
 In Alcohol and Drug Abuse Treatment
 Programs..... 12

IV. Confidentiality of HIV
 Related Information..... 14

**CRIMINAL HISTORY AND CHILD
ABUSE BACKGROUND CHECKS
FOR SCHOOL EMPLOYEES**

I. Who Must Supply Background Checks?..... 16

II. What Information Must be Submitted?..... 16

III. Who Cannot be Hired as an Employee?..... 18

IV. Exceptions..... 18

GUIDE TO DISCLOSURE OF CONFIDENTIAL STUDENT INFORMATION

I. CONFIDENTIALITY OF STUDENT COMMUNICATIONS

Information Received by School Personnel

It is the law in Pennsylvania that if you are a:

- School Guidance counselor
- School Nurse
- School Psychologist
- Home and School visitor
- *or* a clerical worker for any of the above

and you obtain information from a student in confidence and in your official capacity, that information is confidential. This particular confidentiality law does not apply to teachers.

If this confidentiality law applies, you are not allowed, nor may you be compelled, to disclose this information in any legal proceeding, trial or investigation before any governmental unit without the parent's consent or that of the student if he or she is age eighteen or older.

You should note that this confidentiality law only applies to the above-listed individuals and only prohibits disclosure in a legal proceeding or government investigation. You remain free, upon the exercise of your professional judgment, to disclose such information in other situations.

There is an exception to this law that requires you to report suspected child abuse under the Child Protective Services Law, or CSPL. However, if the student is eighteen years of age or older, or the legal definition of abuse or abuser has not been satisfied, the CPSL exception does not apply.

Any school employee who participates in confidential discussions with students should advise them in advance that if information concerning criminal activities or situations involving danger to the student or others is conveyed to you, you may feel obliged to notify the student's parents and/or the appropriate school authorities. (Note: the disclosure of information related to a student's participation in a federally funded alcohol and drug abuse program is covered by a special provision of the law.)

Information Received by Ordained Members of the Clergy

In Pennsylvania, if you are an ordained member of the clergy and, in the course of your duties, you receive information in confidence from someone who is seeking spiritual direction or counseling, that information is privileged.

You are not allowed, nor may you be compelled, to disclose this information in any legal proceeding, trial or investigation before any government unit without the student's consent, or

that of his/her parent if he/she is under 18 years of age. Furthermore, if this privilege applies, you may **not** report suspected child abuse under CSPL.

This privilege does not apply, however, to communications made in confidence to a member of the clergy concerning secular matters where spiritual direction or counseling is not sought. In such an instance, suspected child abuse must be reported by the member of the clergy.

II. REPORTING CHILD ABUSE

Child abuse reporting in Pennsylvania is covered by the Child Protective Services Law, or CSPL.

As discussed above, certain individuals otherwise barred from disclosing certain information in a legal proceeding or government investigation can be required to report suspected child abuse in certain circumstances.

The CPSL determines who among school personnel must report suspected child abuse. The law provides a **specific definition of abuse** which depends upon both the identity of the alleged abuser and the nature of the abuse committed. Only the abuse of children *under the age of eighteen years* is reportable under this law. The law also tells you the steps that must be followed in making a report.

In addition, the legislature has recently broadened the CPSL to require certain school personnel to report suspected child abuse by other school employees. Where you have reason to believe that a school employee has committed abuse, you should consult Section II (B) of this booklet, "**Abuse by School Employee.**"

A. Abuse by a Parent or Other Caregiver

Who is the Alleged Abuser?

The initial step in determining whether CPSL applies is to identify the perpetrator. Except with respect to abuse by a school employee (see Section II (B)), the suspected abuser must be one of the following:

- One or both of the child's parents
- A person responsible for the child's welfare
- An individual who resides in the child's home
- The paramour of the child's parent

If the suspected abuser does not fit within one of the classes described by the CPSL, the incident is **not** reportable to CPS. In these cases, you should consult this

booklet under the heading “**What if CPSL Does Not Apply?**” founded later in this section.

How is Abuse Defined?

The **kind of abuse** that is to be reported to Child Protective Services, or CPS, is limited to the following:

- Any recent act or failure to act which causes nonaccidental serious physical injury
- Any act or failure to act which causes nonaccidental serious mental injury or sexual abuse or sexual exploitation
- Any recent act or failure to act or series of such acts or failures which creates an imminent risk of serious physical injury, sexual abuse or sexual exploitation
- Serious physical neglect

Serious Mental Injury – *a psychological condition, diagnosed by a physician or licensed psychologist, that renders the minor chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that his or her life or safety is threatened, or that seriously interferes with the minor’s ability to accomplish age-appropriate developmental and social tasks.*

Serious Physical Injury – *an injury that causes the minor severe pain, or significantly impairs the minor’s physical functioning, either temporarily or permanently.*

Sexual Abuse or Sexual Exploitation – *the employment, use, persuasion, inducement, enticement or coercion of a minor to engage in or assist another person to engage in any sexually explicit conduct or any simulation thereof for the purpose of producing any visual depiction of such conduct, or the rape, molestation, incest, prostitution or other form of sexual molestation of minors.*

Serious Physical Neglect – *the prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers the minor’s life or development or impairs the minor’s functioning.*

Certain conditions that appear to be signs of abuse are not reportable under CPSL. Abuse does not include situations in which the apparent abuse is attributable solely to environmental factors beyond the control of the minor’s care-giver (e.g., inadequate housing, furnishings, income, clothing or medical care).

If the nature of the suspected abuse does not fall into one of the above-boxed categories, the incident is **not** reportable to CPS. In these cases, you should consult this booklet under the heading “**What if CPSL Does Not Apply?**”.

Required Reporter: Who Must Make a Report?

If, in the course of your employment, you come into contact with minors and you have reasonable cause to suspect that a minor coming to you in your professional capacity has been abused by one of the perpetrators included under CSPL, you are a *required reporter*. You may be a school administrator, teacher, nurse, social services worker, guidance counselor, mental health professional, or home and school visitor.

Voluntary Reporter: Who May Make a Report?

Even if you do not fit the description of a “required reporter,” the law **permits** you to make a report if you have reasonable cause to suspect child abuse, as that term is defined above.

What is the Procedure for Making a Report?

If you are a required reporter, you or the person in charge of your institution must call the Pennsylvania Department of Public Welfare, of DPW, Child Line immediately at **(800) 932-0313**. Voluntary reporters should follow these same procedures.

It is also recommended that you call CPS in your county:

Bucks	(215) 348-6900
Chester	(610) 344-5800
Delaware	(610) 891-4800
Montgomery	(610) 278-5800
Philadelphia	(215) 686-6100

Within 48 hours after calling DPW, you must file a written report (**Form CY-47**) with CPS. The report must contain the following information, where available. (Note: CPS will typically request this information when you place your initial call to them.)

- Names/addresses of the child and parents
- County where suspected abuse occurred

- Child’s age and sex
- Nature and extent of suspected abuse, including evidence of prior abuse of child or sibling
- Reasons for suspecting abuse
- Name of alleged perpetrator of abuse, and evidence of prior abuse by that person
- Child’s family household composition
- Source of report
- Your name and where you can be reached
- Actions that you have taken, including:
 1. Photos/X-rays taken
 2. Protective custody taken
 3. Hospitalization of child

What if CPSL Does Not Apply?

There are three instances in which CPSL does not apply:

- The alleged abuser does not fall into one of the listed classes of perpetrators.
- The nature of the suspected abuse does not fit the statutory definition.
- The student is eighteen years of age or older.

When CPSL does not apply for one of the above reasons, your report will not be accepted by DPW or the county CPS. Nonetheless, it is important that you immediately report to the principal (or his or her designee) any mistreatment of a student that comes to your attention.

B. Abuse by a School Employee

The reporting of suspected abuse by a school employee against a student less than 18 years of age is now covered in Pennsylvania by the CPSL. The new section sets forth a narrower definition of the kinds of abuse perpetrated by school employees that must be reported. The law also provides the steps that must be followed in making such a report. (Note: The procedure for reporting abuse committed by a school employee differs from that involved in reporting other cases of suspected child abuse.)

Who Must Report Abuse Committed by a School Employee?

If you are a school employee who comes in direct contact with students who are *under the age of eighteen years*, and you have reasonable cause to suspect that a student coming to you in your professional capacity has been abused by another school

employee, you are required to report the abuse. Ordained members of the clergy should refer to pages 4 and 5 of this booklet.

Who Must Report Abuse Committed by a School Employee?

The kind of abuse committed by a school employee that is reportable under the new section of the law is narrower in scope than that reportable under the other section of CPSL, and is limited to the following:

- Serious bodily injury
- Sexual abuse
- Sexual Exploitation

Serious Bodily Injury – *a bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.*

Sexual Abuse and Sexual Exploitation – *the employment, use, persuasion, inducement, enticement or coercion of a minor to engage in or assist another person to engage in any sexually explicit conduct or any simulation thereof for the purpose of producing any visual depiction of such conduct, or the rape, molestation, incest, prostitution or other form of sexual molestation of minors.*

Certain injuries that are reportable abuse where the perpetrator is one of the child's parents, person responsible for the child's welfare, individual residing in the child's home or paramour of the child's parent, are **not** required to be reported where the injuries are caused by a school employee. For example, an injury that has caused a child severe pain, where committed by a school employee, would not be required by CPSL to be reported unless the injury met the definition of serious bodily injury, sexual abuse or sexual exploitation in the box above. If the nature of the suspected abuse does not fall into one of the above-boxed categories, the incident is not reportable. In these instances, you should consult this booklet under the heading, "**What if the CPSL Section for Reporting Abuse by a School Employee Does Not Apply?**"

Nonetheless, regardless of the requirements of CPSL, you should report **immediately** to the principal (or his or her designee) **any** misconduct by a school employee regarding the welfare of a student.

Who is the Alleged Abuser?

Abuse is only reported under the new section of CPSL if the suspected abuser is a school employee, which includes:

- Any individual employed by a public or private school
- The school's independent contractors and their employees

You should consider individuals who volunteer their services at your school as covered by this Section of CPSL. An individual who does not have direct contact with minor students is **not** a "School Employee," as that term is defined by this law.

If the suspected abuser is not a school employee, the abuse is **not** reportable under this section of CPSL and you should consult this booklet under the heading, "**What if the CPSL Section for Reporting Abuse by a School Employee Does Not Apply?**"

What is the Procedure for Making a Report?

If you are a school employee required to report suspected abuse committed by another school employee, you must immediately notify the principal of your school. The principal must then report the incident to the local police.

The principal also must telephone the District Attorney for the county in which the abuse occurred:

Bucks	(215) 348-6300
Chester	(610) 344-6801
Delaware	(610) 891-4161
Montgomery	(610) 278-3090
Philadelphia	(215) 686-8703

In those situations where the suspected abuser is the principal, the school employee must report the incident directly to the local police and the appropriate District Attorney.

The report must contain the following information:

- Name/address of the student
- Student's Age
- Student's School
- Name/address of student's parent or guardian
- Name/address of principal
- Name/work and home address of school employee suspected of perpetrating the abuse
- Nature of suspected abuse

- Specific comments/observations directly related to the suspected abuse

It is recommended that you file a written report with the local police and the District Attorney for the county in which the abuse occurred shortly after telephoning those authorities. You should retain a copy of this report.

*****May want to include this (Memo from Sean McAleer 11/3/08) somewhere in this document.**

CY-47Form:

When individuals suspect child abuse, the oral report must be made immediately to ChildLine at 1-88-923-0313 and the CY-47 form must be mailed to the County Children and Youth Office where the suspected abuse occurred.

CY-47D Form:

For student abuse, the oral report is made to the local law enforcement agency and the district attorney. The CY-47D Form must be completed and sent to the County Children and Youth Office within 48 hours.

Can Information be Disclosed to Other Persons?

The reporting school employee must not disclose the fact that a report of abuse has been made or any information contained in the report to anyone other than the school principal, the Office of Catholic Education, the local police and the District Attorney.

What if the CPSL Section for Reporting Abuse by a School Employee Does Not Apply?

There are three instances in which the CPSL section pertaining to abuse by a school employee does not apply:

- The nature of the suspected abuse does not fit within the specific definition of this Section.
- The alleged abuser is not a “school employee,” as that term is defined by the statute.
- The student is eighteen years of age or older.

When the CPSL section covering abuse by a school employee does not apply for one of the above reasons, your report will not be accepted by the local police or the District Attorney.

It is important, however, that you report **immediately** to the principal any mistreatment of a student that comes to your attention.

C. Immunity and Penalties

A person who in good faith reports child abuse under CPSL or cooperates with the investigation of such a report is immune from civil or criminal liability that might otherwise result by those actions.

A person required to make a report who willfully fails to do so commits a summary offense for the first violation and a third degree misdemeanor for a second or subsequent violation.

III. CONFIDENTIALITY OF PARTICIPATION IN ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS

The disclosure of participation in federally-funded alcohol and drug abuse programs by students is regulated by federal law. The law is meant to protect all information about a student if the student has applied for or received any alcohol or drug abuse related services.

What Programs are Covered by the Federal Law?

Any program specializing in providing *treatment, counseling, and/or assessment and referral services* for students with alcohol or drug abuse problems must comply with the federal law. In order for the law to apply, the program must be *federally funded* or *receive federal assistance*. Any program that conforms to these requirements is a *covered program*.

What Information is Protected?

Without the student's consent, no information that would identify the student as an alcohol or drug abuser can be disclosed to **anyone** (including the student's parents) other than under the exceptions listed below.

When May Information be Disclosed?

There are eight situations in which a covered program may disclose information regarding a participant's status as an alcohol or drug abuser.

Consent: If the student has signed a proper consent form, the program may disclose information about him or her unless the student subsequently revokes consent or until it expires. Because in Pennsylvania a minor may enter a program without his or her parent's consent, the minor need not also obtain his or her parent's consent for a program disclosure. Thus, the program must obtain the **minor's** consent even to disclose alcohol and drug related information to the child's parent.

Internal Program Communications: Communication of information among or between persons having a need for it arising from their duties in connection with the provision of diagnosis, treatment, or referral is exempt from the confidentiality law. The disclosure must be between programs or between a program and an entity having direct administrative control over the program. Information disclosed between programs is still protected by the federal confidentiality law.

Qualified Service Organization Agreements: If the program needs to share certain information with the school officials in order to facilitate the provision of services, it may enter into a written agreement with the service provider where under the parties acknowledge that they are bound by the confidentiality law.

Communications that do not Disclose Patient-Identifying Information: The program may report aggregate data about the client population without violating federal law. It may also communicate information about a student in a way that does not disclose the student's status as someone with an alcohol or drug related problem. A statement that a student is enrolled in the program would suggest that the student has a problem and would violate the law.

Child Abuse and Neglect Reporting: The federal confidentiality law permits programs to comply with CPSL and to make initial reports of child abuse and neglect. The program may not respond to follow-up requests for information unless the student consents or there is a court order.

Court Ordered Disclosures: A court may issue an order authorizing a program to make an otherwise forbidden disclosure. To release information, you must be presented with a court order. A search warrant, arrest warrant, or subpoena is not sufficient to permit disclosure, even when signed by a judge. If the court enters only an order authorizing disclosure, you may refuse to make the disclosure. You must disclose information, however, if you receive a subpoena in addition to a court order.

Medical Emergencies: In situations involving an immediate threat to health that requires immediate medical intervention, the program may disclose information about a student to medical personnel for purposes of treating him/her. The disclosure must be documented by recording the identity of the person disclosing the information, the name and/or affiliation of the recipient, the date and time of the disclosure, and the nature of the emergency.

Student Crimes on Program Premises of Against Program Personnel:

Programs may make disclosures to law enforcement officers so long as the disclosures are directly related to the student's commission of a crime or threat thereof on the program's premises or against program personnel and are limited to the circumstances of the incident.

Can Information be Disclosed to Parents?

Once a student has enrolled in a covered program, the program cannot disclose any information that would identify the student as an alcohol or drug abuser to his or her parents without the student's consent no matter how concerned the program personnel may be about the student. *Directors may wish to condition entry into their programs upon a prior written grant of consent by students to the release of certain information to their parents.* Such information might be limited to student's criminal activities, relapses and risky behavior.

When a student under the age of eighteen has applied to a program but *before he or she has enrolled*, a program director may disclose information to parents only if he or she believes that the disclosure is necessary to cope with a substantial threat to the well-being of the student or someone else. The director must also believe that the minor lacks capacity because of extreme youth or his/her mental or physical condition to make a rational decision on whether to consent to a disclosure.

What Information is Required for a Proper Consent Form?

A proper consent form *must* be in writing and contain each of the following items:

- *name (or general description) of the program making the disclosure*
- *name or title of the individual or organization that may receive the disclosed information*
- *name of the student*
- *purpose or need for the disclosure*
- *how much and what kind of information will be disclosed*
- *a statement that the student may revoke the consent at any time, except to the extent that the program has already acted in reliance on it*
- *the date, event or condition upon which the consent expires if not already revoked*
- *the student's signature*
- *the date that the consent is signed*

Disclosures of information must be limited in scope to that which is necessary. Any disclosure made by the program through a student's consent must be accompanied by a written statement that the disclosed information is protected by federal law. The recipient of the information is also subject to the requirements of this law.

The law permits a student to revoke his or her consent to disclosure at any time, either orally or in writing. Therefore, it is imperative that programs record any oral revocations of consent made by a student.

IV. CONFIDENTIALITY OF HIV-RELATED INFORMATION

The Pennsylvania Confidentiality of HIV-Related Information Act protects the confidentiality of HIV-related information which is received in certain situations.

Who is Covered by the Pennsylvania Law?

The law applies to all persons (as well as their employees and agents) who obtain confidential HIV-related information in the course of providing any health or social service or who receive this information pursuant to written consent of the subject under the law. For example, this law applies to school nurses, physicians and guidance counselors or other social services who obtain HIV-related information in their professional capacity.

If you are a school health care or social services provider and have received HIV-related information in the course of your duties, you must not share this information with anyone other than the persons listed in the exceptions below. You are urged to contact the Office of Catholic Education (without disclosing the subject's identity) before disclosing the information to anyone.

What Does the Pennsylvania Law Do?

The Pennsylvania Confidentiality of HIV-Related Information Act provides for the confidentiality of HIV-related information received by "covered persons" as defined above.

If you are covered by the Act, information about a subject's HIV status may **not** be disclosed without his or her consent or that of the parent if he or she is less than eighteen years of age, except to the following persons:

- *The subject*
- *The physician who ordered the test*
- *Any person specifically named in a written consent by the subject*
- *An agent, employee or medical staff member of a health care provider, when such provider has received information in the course of the diagnosis or treatment of subject*
- *Individual health care providers involved in the care of the subject (a school nurse involved in the care of the subject could receive HIV status*

- *A person allowed access to the information by a court order*

For information on the required elements of a proper consent form or for more information on which the HIV-related information may be disclosed, contact the Office of Catholic Education.

What if the Law Does Not Apply?

School personnel, including doctors, nurses and guidance counselors who receive the information in a non-official way, are not automatically permitted to release the HIV-related information. The state law on privilege and confidentiality limits the circumstances under which disclosure is appropriate.

As discussed in Section I, guidance counselors, school nurses, school psychologists, home and school visitors, any clerical workers for the above, or members of the clergy who have acquired information from a student in confidence may be covered by a separate confidentiality law.

When Privilege and Confidentiality Do Not Apply...

Not all school personnel who might come into contact with HIV-related information are covered by the Pennsylvania Confidentiality of HIV-Related Information Act or by one of the various privileges. Nonetheless, you should use your judgment and in most situations are cautioned to resist disclosing HIV-related information to anyone. If you have any questions about how to handle HIV-related information or whether a specific disclosure should be made, call the Office of Catholic Education (without disclosing the subject's identity).

CRIMINAL HISTORY AND CHILD ABUSE BACKGROUND CHECKS FOR SCHOOL EMPLOYEES

In Pennsylvania, prospective school employees must submit a criminal background check. In addition, beginning July 1, 1996, prospective school employees will be required to provide a child abuse background check. The law prohibits the employment of persons who have been convicted of certain offenses or been found to have perpetrated child abuse.

I. WHO MUST SUPPLY BACKGROUND CHECKS?

ALL individuals who seek employment with your school, and who will have direct contact with children in the course of their duties, *must* provide criminal history information, and effective July 1, 1996, information regarding any history of child abuse. This requirement extends to persons applying for positions as substitute teachers, as well as independent contractors and their employees.

II. WHAT INFORMATION MUST BE SUBMITTED?

The criminal history information that a prospective school employee must submit depends on whether the applicant is a Pennsylvania resident or a resident of another state.

Pennsylvania resident applicants must supply a report of criminal history record information from the Pennsylvania State Police, which record can be no more than one year old, or a statement from the Pennsylvania State Police that the applicant has no criminal record. A copy of the report may be submitted at the time that the individual applies for employment; however, the original document must be produced prior to employment. You must retain a copy of the original and should date the copy and record the identity of the person who saw the original. Out-of-state applicants must submit a report of FBI criminal history record information.

Additionally, beginning July 1, 1996, all applicants must supply an official clearance statement issued by the Pennsylvania Department of Public Welfare, or DPW, within the year immediately preceding their application for employment. The DPW clearance statement must indicate whether the individual is named as the perpetrator of child abuse in an indicated or a founded report, or as an individual responsible for abuse in an indicated or a founded report for a school employee, as those terms are defined below.

Indicated Report – *A child abuse report made under the Child Protective Services Law, or CPSL, where an investigation by DPW or the county agency determines that medical evidence, the investigation by Child Protective Services or the perpetrator’s admission to provide substantial evidence of the abuse.*

Founded Report – *A child abuse report made under CPSL where there has been an adjudication based on a finding that the child who is the subject of the report has been abused. A founded report includes the entry of a guilty plea or a nolo contendere plea, as well as a finding of guilt to a criminal charge involving the same factual circumstances involved in the child abuse.*

Indicated Report for School Employee – *A report made under the CPSL section covering abuse by a school employee where an investigation by DPW or the county agency determines that medical evidence, the investigation by Child Protective Services or the school employee’s admission provide substantial evidence of serious bodily injury or sexual abuse or exploitation.*

Founded Report for School Employee – *A report made under the CPSL section covering abuse by a school employee where there has been an adjudication based on a finding that the victim has suffered serious bodily injury or sexual abuse or exploitation. A founded*

III. WHO CANNOT BE HIRED AS AN EMPLOYEE?

If the applicant has been convicted of any of the following offenses within five years of the submitted report, you cannot, under *any* circumstance, hire the individual.

- *criminal homicide*
- *aggravated assault*
- *kidnapping*
- *unlawful restraint*
- *rape*
- *statutory rape*
- *involuntary deviate sexual intercourse*
- *indecent assault*
- *indecent exposure*
- *concealing death of a child born out of wedlock*
- *endangering welfare of children*
- *dealing in infant children*
- *promoting prostitution*
- *pandering of obscene/sexual materials*
- *corruption of a minor*
- *sexual abuse of children*

Moreover, if the applicant is named as the perpetrator in a founded report of child abuse or a founded report for a school employee, you **cannot**, under *any* circumstance, hire the individual. If the applicant is named as the perpetrator in an indicated report of child abuse or an indicated report for a school employee, you may hire the individual. Nonetheless, you are strongly cautioned against hiring any individual whose background check shows evidence of abusive behavior.

When Must Background Checks be Supplied?

An applicant must supply criminal history and child abuse background checks at the time that he/she initially applies for employment in your school. FBI fingerprint checks must be obtained for any new hire **on**/ after April 1, 2007 or for anyone whose place of residence is not PA for two or more consecutive years. If you are a principal, you may not hire an individual before receiving his/her background check information.

IV. EXCEPTIONS

An applicant who demonstrates that he/she has applied for, but has not yet received, the Pennsylvania State Police Report or FBI report or the DPW clearance statement can be hired on a provisional basis for no more than thirty days (Pennsylvania resident applicant) or ninety days (out-of-state applicant.)

If the applicant does not produce the required Pennsylvania State Police Report or FBI report and DPW clearance statement within thirty days (Pennsylvania resident applicant) or ninety days (out-of-state applicant), he/she must be terminated immediately upon expiration of the thirty day or ninety day period.

In addition,

- the provisional employee must attest in writing that he/she has not been convicted of any of the enumerated offenses or named as the perpetrator of a founded report of child abuse or founded report for school employee and is not disqualified from employment.
- the school principal must not possess any knowledge that the provisional employee has been convicted of any of the enumerated offenses or named as perpetrator of a founded report of child abuse or founded report for school employee.
- until you receive his/her criminal history background check and DPW clearance statement, the provisional employee cannot work alone with children, and must always work in the immediate vicinity of a permanent employee.
- if the criminal history background check shows that the provisional employee has been convicted of any of the enumerated offenses or names as a perpetrator of a founded report of child abuse or founded report for school employee, he/she **must** be dismissed immediately.

When are Background Checks Not Required?

There are several situations in which an individual is not required to supply his/her criminal history or child abuse background information to your school:

Existing Employees: If the individual has been employed by your school continuously since January 1, 1986, he/she does not need to provide his/her criminal history record to **continue** employment with your school. Those employed by the school as of July 1, 1996, need not provide DPW clearance statements to **continue** their employment.

Transfers Within a School District: Where an individual has previously supplied criminal history and child abuse background checks to your school, he/she can transfer to another position as a school employee within the same school district or same organization. No additional background checks are required prior to the transfer. Where a school employee transfers to *another* school district, new background checks would be required before making the transfer. (Note: the transfer of a lay employee from one parish

school to another parish school, or to a school of the Archdiocese, or vice versa, does **not** constitute a transfer within the same organization. In this circumstance, new background checks are required before the transfer can go into effect.)

Temporary Job Training Program Participants: Where an individual under the age of twenty-one years is participating in a job development or job training program offered by your school (e.g., student-teaching program) and is to be employed for no longer than ninety days, he/she does not have to supply a criminal history check or DPW clearance statement. However, once the length of the individual's service exceeds ninety days, he/she must provide these records to continue participation in the program.

It is recommended that you nonetheless require a criminal history check and DPW clearance statement for all of your job training program participants, regardless of age.

Can Information be Disclosed to Other Persons?

If you are a principal and receive criminal history or child abuse background information, you should not disclose it to anyone who does not have a genuine "need to know".