



February 13, 2019

NOTIFICATIONS TO SCHOOL ENTITIES OF PENDING CRIMINAL CHARGES

Background

The Pennsylvania Public School Code now requires the Pennsylvania Department of Education (PDE) to provide information to the education field and the public about educators who face pending criminal charges. PDE has begun to meet this requirement by including notice of pending criminal charges in the Teacher Information Management System (TIMS). Since its inception, TIMS has always contained information about educator certification status and public professional discipline. Beginning in December 2018, pending criminal charges against educators were added to the TIMS database.

How the Notification System Works

PDE staff receives notifications from a statewide electronic database called the Pennsylvania Justice Network (JNET) when an educator has pending misdemeanor or felony criminal charges filed against them. JNET contains charges within the state of Pennsylvania only.

Upon receiving a notification, PDE will now place a “pending criminal charges” indicator in the effected educator’s TIMS file and send an email message to the certifying officer and the chief school administrator of the employing school entity stating that a criminal charge against an educator is pending their review in TIMS.

Both the certifying officer and chief school administrator must log into TIMS to review details of the pending criminal charge and acknowledge their review of the pending criminal charge to PDE. School districts and other hiring entities will now be able to view information about pending criminal charges when they review an applicant’s certification information on the TIMS website.

These notifications are available only for certificated educators and not for other school personnel.

Timing

PDE typically receives employer data for individual educators in the fall for the previous school year. This means that if an educator starts employment at a new school entity in the middle of the school year and then becomes the subject of criminal charges shortly thereafter, notification to the new school entity will not be made until the start of the following school year, assuming the criminal charges are still pending.

Continuing School Responsibilities

This new criminal charge notification system is meant to be an additional tool for school entities, but it in no way replaces current background check and employment review requirements, or any other employment requirements, under the Pennsylvania School Code or other applicable law(s).

Implications for PSEA Members

PDE's new notification procedure will lead to notification of charges that may not ever result in a conviction. For example, PDE will notify employers of an arrest even if an employee's charges are ultimately expunged as a result of the employee successfully participating in an Accelerated Rehabilitation Disposition (ARD) Program. This undermines the purpose of the ARD program which allows individuals charged with a first offense to take appropriate action and obtain a clean slate. As long as the pending criminal action designation is on TIMS, it is unlikely that the individual will be able to get a job in a new district. In addition, PDE may be notifying employers about charges that would not result in disqualification for employment under Act 111. Arguably, if PDE includes such charges on TIMS, the Department may be exceeding its authority and, consequently, violating a teacher's constitutional right to reputation under Pennsylvania's Constitution.

While PSEA advises that members should always contact their UniServ whenever they face criminal charges, PDE's new notification procedures make it particularly important that they do so.

For More Information

PSEA members that have questions about this Advisory may contact Brad Hull (bhull@psea.org) in PSEA's Education Services Department. Members with specific concerns about notification of a pending criminal charge should contact their UniServ Representative.