

**School Employees Governed by the Public School Code**  
**Frequently Asked Questions**

**Who needs clearances?**

Pursuant to the provision of Act 153 of 2014, those categories of school employees which are required to obtain background checks pursuant to Section 111 of the Public School Code will continue to be required to obtain background checks prior to employment in accordance with that section and on the periodic basis required by Act 153. This fact sheet pertains to periodic checks for those employees which are governed by the School Code. For guidance with respect to additional employees covered by Act 153 (such as pertaining to school employees in higher education) please consult the fact sheet entitled School Employees Not Governed by the Public School Code.

The Act defines school employee as an individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children.

The definition of school is as follows:

"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

- (1) Any school of a school district.
- (2) An area vocational-technical school.
- (3) A joint school.
- (4) An intermediate unit.
- (5) A charter school or regional charter school.
- (6) A cyber charter school.
- (7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
- (8) A private school accredited by an accrediting association approved by the State Board of Education.
- (9) A nonpublic school.
- (10) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.
- (11) An independent institution of higher education which is an institution of higher education which is operated not for profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college" or "university" as provided for by standards and qualifications prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).
- (12) A State-owned university.
- (13) A State-related university.

- (14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
- (15) The Hiram G. Andrews Center.
- (16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

**What is the definition of child?**

For purposes of clearances, a child is an individual under 18 years of age.

**How is direct contact with children defined?**

Direct contact with children is defined in § 6303 (relating to definitions) as the care, supervision, guidance or control of children or routine interaction with children.

**How do I determine who in my agency needs clearances?**

In order to determine who in your agency is required to obtain clearances as a condition of hire you should carefully consider who within your agency, organization or institution has direct contact with children. To make this determination, think about the employee's role within your agency and the contact they have with children. This determination has two avenues to consider.

These avenues for consideration are whether the employee has direct contact with children because they provide care, supervision, guidance or control of children or have routine interaction with children. As these terms are not defined in the statute we suggest that the common meaning of these terms be used, with child safety serving as the paramount consideration. If you determine that they do not provide care, supervision, guidance or control of children, you then move on to the second consideration; whether they have routine interaction with children.

With regard to routine interaction, consideration should be given to what the employee's role is within the agency and based on that role determine if their contact with children is regular, ongoing contact that is integral to their day to day job responsibilities.

If a determination is made that the employee does not have direct contact with children, clearances are not required.

Please be sure to consult your legal counsel when making these determinations. You should also consult with your insurer regarding possible insurance coverage implications.

**Which clearances are needed?**

Employees having contact with children must obtain the following three clearances:

- Report of criminal history from the Pennsylvania State Police (PSP);
- Child Abuse History Clearance from the Department of Human Services (Child Abuse); and
- Fingerprint based federal criminal history submitted through the Pennsylvania State Police or its authorized agent (FBI).

### **When are clearances needed?**

Clearances must be submitted prior to the commencement of employment or service.

### **What is the renewal requirement for clearances?**

Beginning Dec. 31, 2014, clearances must be obtained every 36 months. Timelines for renewed clearances are based upon the date of each individual clearance. If an individual or agency elected to renew all clearances at the same time, the date of the oldest clearance rather than the most recent would be used.

Persons employed prior to Dec. 31, 2014, are required to obtain updated clearances as follows:

- Within 36 months of the date of the most recent clearance;
- By Dec. 31, 2015, if the clearance is older than 36 months; or
- By Dec. 31, 2015, if they have not received a clearance because they were employed in the same position and were not required to obtain a clearance under prior law (grandfathered).

For individuals that received clearances prior to 2008 and were not required to obtain the FBI clearance, the three required clearances would be obtained consistent with the timeframes above. Therefore, if either of the individual's Child Abuse and State Police Clearances were obtained within the past 36 months, all three clearances must be obtained within 36 months of the date of the most recent clearance. If all clearances were obtained more than 36 months ago, all three clearances must be obtained by December 31, 2015.

### **How do I obtain my clearances?**

The Child Abuse, PSP and FBI clearances can all be applied and paid for electronically. The FBI clearance also requires a fingerprint submission. All necessary instructions and links to apply for these clearances can be found at <http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>.

### **Is the use of a third-party vendor to process clearances acceptable?**

Third-party vendors may be used to process Child Abuse, PSP and FBI clearances using the steps established above. However, agencies are **not** permitted to conduct background checks or clearances through other databases in lieu of the steps outlined above. In addition, school administrators remain responsible for the employment decision based on the information obtained.

### **How much do the clearances cost?**

- The Pennsylvania State Police Criminal Record Check costs \$10.
- The Pennsylvania Child Abuse History Clearance costs \$10.
- The Federal Bureau of Investigation (FBI) Criminal Background Check costs \$28.75 through the Department of Education.



### **Who pays for clearances?**

The applicant or employee is responsible for paying the cost of the required clearances. However, some employers choose to pay for these clearances and are able to establish business accounts to pay for clearances. The only time an employer is required to bear the cost of the clearances is when there is reasonable belief that the employee was arrested or convicted of an offense that would deny employment or named as a perpetrator in an indicated or founded report. In these situations, the employer must immediately require the employee to obtain their clearances.

### **Can an agency or organization pay for clearances?**

#### **Child abuse clearances:**

Yes, employers, agencies and organizations can pay for child abuse history clearances by registering for a Business Partner User account using the "Organization Account access" link on the Child Welfare portal, [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis), which goes live on Dec. 31, 2014. The business account will allow organizations to purchase child abuse history clearance payment codes to be distributed to applicants or employees. Individual applicants or employees will then go onto the child welfare portal to apply for the clearance using the code. The pre-purchased codes can only be used once and allows the organization to have access to the applicant's child abuse history clearance results once those results are processed.

#### **FBI clearances:**

An agency pay agreement/business account can also be created between an organization and the FBI, or its authorized agent, for payment of FBI clearances. Information on creating an agency pay agreement for FBI clearances through the Department of Education can be found at [https://www.pa.cogentid.com/index\\_pdeNew.htm](https://www.pa.cogentid.com/index_pdeNew.htm).

#### **PSP Clearances:**

An agency business account can be requested from the Pennsylvania State Police to pay for clearances in bulk by calling the Criminal Records Section Supervisor at 717-787-9092. Organizations are, also able to pay for an applicant's PSP clearance on an individual basis by using a credit card if applying online or submitting a paper check if applying by mail.

### **Are there any other requirements?**

If an employee is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the employee must provide the administrator or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database.

An employee who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment.

**What is the provisional hiring period for employees?**

Individuals may be employed for a single period, not to exceed 90 days if all of the following conditions are met:

- The applicant has applied for the three required clearances and they provide a copy of the completed forms to their employer.
- The employer has no knowledge of information pertaining to the applicant which would disqualify him from employment.
- The applicant swears or affirms in writing that he is not disqualified from employment pursuant to the grounds for denying employment in § 111 (e) or (f.1) or has not been convicted of an offense of a similar nature to those crimes under the laws or former laws of the United States, or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of the Commonwealth.
- The applicant is not permitted to work alone with children and must work in the immediate vicinity of a permanent employee.

**Is my employer required to keep a copy of my clearances?**

Yes, pursuant to § 6344 (b.1), the employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity requiring clearances, shall maintain copies of the required information and require the individual to produce the original documents prior to employment or acceptance to serve in any such capacity, except provisional employees for limited periods as described in § 111 (e) or (f.1) and outlined above. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an applicant to submit the required clearance before the applicant's hiring commits a misdemeanor of the third degree.

School administrators are reminded that pursuant to Department of Education regulation, the commissioned officer or administrative head of each school entity is responsible for maintaining the confidentiality of the criminal history background check may not be made available to anyone not directly involved in making hiring decisions.

**Can an employer or organization institute additional standards?**

Yes, nothing prohibits the employer, program, activity or service from making employment, discipline or termination decisions or establishing additional clearance standards, provided such additional standards are legal. Administrators are urged to consult with legal counsel prior to instituting any such additional standards.



**Can my clearances be transferred?**

Any person who obtained their clearances may transfer or provide services to another subsidiary or branch established and supervised by the same organization during the length of time the person's clearances are current.

NOTE: when an employee begins employment with a new agency, institution, organization or other entity that is responsible for the care, supervision, guidance or control of children new clearances must be obtained.

**Volunteer**  
**Frequently Asked Questions**

**Who needs clearances?**

Beginning July 1, 2015, an **adult** applying for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children.

**What is the definition of child?**

For purposes of clearances, a child is an individual under 18 years of age.

**How is direct contact with children defined?**

Direct contact with children is defined in § 6303 (relating to definitions) as the care, supervision, guidance or control of children or routine interaction with children.

**How do I determine who in my agency or organization needs clearances?**

In order to determine who in your agency or organization is required to obtain clearances as a condition of volunteering with children, you must first confirm that the applicant is an adult, as only adult volunteers are required to obtain clearances.

You should then carefully consider whether the volunteer is responsible for the welfare of a child or has direct contact with children.

Determining whether a volunteer is responsible for the welfare of a child means that the volunteer is acting in lieu of or on behalf of a parent. If a determination is made that the volunteer is not responsible for the welfare of a child, you then move on to the second avenue for consideration; whether they have direct contact with children.

The second avenue for consideration is whether the volunteer has direct contact with children because they provide care, supervision, guidance or control of children or have routine interaction with children. As the terms are not defined in the statute we suggest that the common meaning of these terms be used, with child safety serving as the paramount consideration. If the answer to this question is that they do not provide care, guidance, supervision or control of children, you consider whether they have routine interaction with children.

With regard to routine interaction with children, consideration should be given to what the volunteer's role is within the agency and based on that role, is their contact with children regular, ongoing contact that is integral to their volunteer responsibilities?

If a determination is made that the volunteer is not responsible for the welfare of a child and does not have direct contact with children, clearances are not required. Please be sure to consult your legal counsel when making these determinations. You should also discuss with your insurers possible insurance coverage implications.

### **Which clearances are needed?**

All prospective volunteers must obtain the following clearances:

- Report of criminal history from the Pennsylvania State Police (PSP); and
- Child Abuse History Clearance from the Department of Human Services (Child Abuse).

Additionally, a fingerprint based federal criminal history (FBI) submitted through the Pennsylvania State Police or its authorized agent is required if:

- The position the volunteer is applying for is a paid position; and
- The volunteer has lived outside the Commonwealth of Pennsylvania in the last 10 years.

Volunteers who are not required to obtain the FBI Clearance because they are applying for an unpaid position and have been a continuous resident of Pennsylvania for the past 10 years must swear or affirm in writing that they are not disqualified from service based upon a conviction of an offense under §6344.

### **When are clearances needed?**

Beginning July 1, 2015, prospective volunteers must submit clearances prior to the commencement of service.

### **What is the renewal requirement for clearances?**

Beginning July 1, 2015, all volunteers will be required to obtain clearances every 36 months. Timelines for renewed clearances are based upon the date of each individual clearance. If an individual or agency elected to renew all clearances at the same time, the date of the oldest clearance rather than the most recent would be used.

Volunteers are required to obtain updated clearances as follows:

- Within 36 months of the date of the most recent clearance;
- By July 1, 2016, if the clearance is older than 36 months; or
- By July 1, 2016, if they were approved as a volunteer before July 1, 2015, and had not received a clearance because they previously were not required to obtain clearances.

### **How do I obtain my clearances?**

The Child Abuse, PSP and FBI clearances can all be applied and paid for electronically. The FBI clearance also requires a fingerprint submission. All necessary instructions and links to apply for these clearances can be found at <http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/index.htm>

### **Is the use of a third-party vendor to process clearances acceptable?**

Third-party vendors may be used to process Child Abuse, PSP and FBI clearances using the steps established above. They are **not** permitted to conduct background checks or clearances through other databases in lieu of the steps outlined above. In addition, persons responsible for the selection of volunteers remain responsible for selection decision based upon the information obtained.



### **How much do the clearances cost?**

- The Pennsylvania State Police Criminal Record Check costs \$10.
- The Pennsylvania Child Abuse History Clearance costs \$10.
- The Federal Bureau of Investigation (FBI) Criminal Background Check costs \$27.50 through the Department of Human Services.
- The Federal Bureau of Investigation (FBI) Criminal Background Check costs \$28.75 through the Department of Education.

### **Who pays for clearances?**

The volunteer is responsible for paying the cost of the required clearances. However, some agencies choose to pay for clearances for their volunteers and are able to establish business accounts to pay for clearances. The only time an agency is required to bear the cost of the clearance is when there is reasonable belief that the volunteer was arrested or convicted of an offense that would deny participation or named as a perpetrator in an indicated or founded report. In these situations, the agency must immediately require the volunteer to obtain their clearances.

### **Can an agency or organization pay for clearances?**

#### **Child abuse clearances:**

Yes, agencies and businesses can pay for child abuse history clearances by registering for a Business Partner User account using the "Organization Account access" link on the Child Welfare portal, [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis), which goes live on December 31, 2014. The business account will allow organizations to purchase child abuse history clearance payment codes to be distributed to applicants or employees. Individual applicants or employees will then go onto the child welfare portal to apply for the clearance using the code. The pre-purchased codes can only be used once and allows the organization to have access to the applicant's child abuse history clearance results once those results are processed.

#### **FBI clearances:**

An agency pay agreement/business account can also be created between an organization and the FBI, or its authorized agent, for payment of FBI clearances. Information on creating an agency pay agreement for FBI clearances through the Department of Human Services can be found at [https://www.pa.cogentid.com/index\\_dpwNew.htm](https://www.pa.cogentid.com/index_dpwNew.htm).

#### **PSP Clearances:**

An agency business account can be requested from the Pennsylvania State Police to pay for clearances in bulk by calling the Criminal Records Section Supervisor at 717-787-9092. Organizations are, also able to pay an for applicant's PSP clearance on an individual basis by using a credit card if applying online or submitting a paper check if applying by mail.

### **Do I still need to submit a copy of my PSP or FBI clearance results when applying for my child abuse clearance?**

Beginning December 31, 2014, volunteers are no longer required to submit a copy of their PSP or FBI clearances with their child abuse application. If the department receives copies attached to the child abuse application we will not return those

copies and they will be shredded due to the confidential nature of the information contained on the clearances.

**Are there any other requirements?**

If a volunteer is arrested for or convicted of an offense that would constitute grounds for denying participation in a program, activity or service, or is named as a perpetrator in a founded or indicated report, the volunteer must provide the administrator or their designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the statewide database.

A volunteer who willfully fails to disclose information as required above commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of a volunteer position.

**What is the provisional clearance requirement for volunteers?**

Volunteers may serve on a provisional basis for a single period not to exceed 30 days if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled.

**Is the person responsible for acceptance of volunteers required to keep a copy of my clearances?**

Yes, pursuant to § 6344 (b.1), the employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity requiring clearances, shall maintain copies of the required information and require the individual to produce the original documents prior to employment or acceptance to serve in any such capacity, except provisional employees for limited periods as described in § 6344.2 (f) and outlined above. An employer, administrator, supervisor or other person responsible for selection of volunteers that intentionally fails to require an applicant to submit the required clearance before the applicant's hiring commits a misdemeanor of the third degree. Agencies are reminded that the child abuse history clearance information is confidential and may not be release to other individuals.

**Can an agency or organization institute additional standards?**

Yes, nothing prohibits an organization from requiring additional information as part of the clearance process.

**Can my clearances be transferred?**

Yes, any person who obtained their clearances within the previous 36 months may serve in a volunteer capacity for any program, activity or service.

**As a volunteer, do I obtain my Federal Bureau of Investigation Criminal History check through the Department of Education or the Department of Human Services?**

The agency under which an applicant should submit their FBI clearance application is based on the agency or organization for which they intend to volunteer. If the



**pennsylvania**

DEPARTMENT OF HUMAN SERVICES

applicant intends to volunteer in a school or at a school related function, they would apply for their FBI clearance through the Department of Education. If the applicant intends to volunteer with children in any other capacity outside of a school setting or function, such as a group home for children, in a church, as a Little League or soccer coach, etc., they would apply for their FBI clearance through the Department of Human Services.