



Florida Educator Conduct Act Compliance Checklist for Private Schools

Under Florida's Educator Conduct Act, which amended Florida Statute §1002.421, private schools in Florida that receive state funding or participate in state educational scholarship programs (including the Opportunity Scholarship, the Gardiner Scholarship, the McKay Scholarship, the Family Empowerment Scholarship Program, the Florida Tax Credit Scholarship, or the Hope Scholarship) must comply with the Florida Department of Education's record keeping policies regarding disqualified school employees, background checks, training requirements, and standards of ethical conduct.

Note that if the Florida Department of Education determines that the private school that participates in state scholarship funds has violated the requirements outlined in s.1002.421 (as outlined below), the DOE shall suspend payment of funds for one fiscal year and may disqualify the school from future participation in the state scholarship program for further material violations.

To be in compliance with the Florida Educator Conduct Act, private schools receiving state scholarship funds have the following obligations:

Background Checks on Employees with Direct Contact (Unsupervised Access) with Students

Before employing a person in any position that requires direct contact with students:

Conduct employment history checks of previous employers and document the findings. If the school is unable to contact a previous employer, the school must document the efforts made to contact the employer.

Conduct a Level II fingerprint check pursuant to the standards set forth in s. 435.04 and repeat the fingerprint check every five years. (Note that s. 435.04 contains a listing of the disqualifying offenses. All persons who are disqualified under the standards must not be employed.

In addition to the disqualification standards in s. 435.04, the school may not employ any person who (1) has been arrested and is awaiting final disposition for, or has been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, or has been adjudicated delinquent for, and the record must not have been sealed or expunged for, any of the offenses outlined in s. 1002.421(1)(p)(5). Current employees who are arrested for one of the offenses listed must be removed.

Screen the person through the use of the state screening tools described in s.1001.10(5) (the state database that contains certified educator disqualification lists, disciplinary history, and other information) and document the findings.

School Policies/Procedures for Educational Support Employees, Instructional Personnel, and School Administrators ("All Employees")

Adopt and post policies (in English and Spanish) that apply to all employees that: (1) establish standards of ethical conduct (i.e. that outlines meaningfully the expectations of employees regarding interactions and communications with students); (2) establish an employee's duty to report, and the procedures for reporting, alleged misconduct by other employees of the school which affects the health, safety, or welfare of the student; and (3) explain the liability protections provided under Florida

law related to reporting such misconduct. Liability protections are contained in Florida Statutes §39.203 (immunity from liability for reporting child abuse in good faith) and §768.095 (employer immunity for disclosing truthful information to a potential new employer of an employee).

Post a notice both on the school's website and in areas where employees congregate that address child abuse reporting obligations, including how to report, cooperation with investigations, and penalties for failure to report.

Post posters for students in both English and Spanish that can be found on the FL DOE website that address how students can report educator conduct that impacts the student's health, welfare, or safety, including calling 911. See Fla. Stat. 1006.061.

Train all employees on the school's standards of ethical conduct. The training must include the employee's duty to report and the procedures for reporting, alleged misconduct by other employees of the school which affects the health, safety, or welfare of the student. This instruction must also explain the liability protections provided under Florida law related to reporting such misconduct.

A private school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed employees, or employees who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student. The school may not provide these employees with employment references or discuss the employee's performance with prospective employers in another educational setting, without disclosing the employee's misconduct. Any such provision in an agreement will be void and not enforceable.

A private school may not employ an employee in a position that requires direct contact with students if the person is ineligible for employment under Florida law or has been terminated or resigned in lieu of termination for sexual misconduct with a student.

Investigation and Reporting Obligations

Investigate all reports received from employees that indicate that another employee may have engaged in conduct that impacts the health, safety, or welfare of a student. Document the investigation.

Report to the Department of Education the name of any employee who has been terminated or resigned in lieu of termination for engaging in behavior that affects the health, safety, or welfare of a student, including sexual misconduct with a student. This information will be placed in the state's database for future employers to review.