

# LEGAL ALERT

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## “Pass the Trash” Legislation Imposes Stringent Requirements on Schools

*By: Matthew J. Donohue, Esq.*

New Jersey Governor Phil Murphy recently signed into law P.L. 2018, c. 5, commonly referred to as the “Pass the Trash” law. Under this new legislation, all school districts, charter and private schools and contracted service providers must obtain certain documentation and information from all applicants seeking a position which involves regular contact with students. The applicant will be required to:

1. Provide a list to the school district containing the applicant’s name, address, contact information, current employer, and all former employers from the past 20 years including all schools or employment that involved direct contact with children;
2. Prepare a written statement, including a written authorization that gives the applicant’s former employers consent to disclose information, as to whether the applicant was ever the subject of a child abuse/sexual misconduct investigation by any entity.

The hiring school district must then contact all of the former employers on the applicant’s list to verify the provided information. Regardless of whether the employee was disciplined, nonrenewed, or resigned in the middle of the investigation, the former employers and applicant must disclose if the applicant was under investigation for child abuse/sexual misconduct unless the investigation resulted in a finding that the allegations were false or the alleged incident of child abuse or sexual misconduct was not substantiated.

All school districts will need to draft authorization and verification forms to send to an applicant’s former employers. All employment application forms should include a notification that any applicant who provides false information or fails to disclose information may be subject to discipline, including immediate termination from the position, in addition to potential civil and criminal penalties. Further, all future agreements with service providers (*e.g.*, food service management, outsourced custodians and the like) should be amended to include a requirement that the vendor obtain the required information from any applicants seeking employment with the company prior to working in the school district.

**Florham Park**  
220 Park Avenue  
Florham Park, NJ 07932  
(973) 539-1000

**Paramus**  
115 West Century Road  
Suite 100  
Paramus, NJ 07652  
(201) 262-1600

**Sparta**  
351 Sparta Avenue  
Sparta, NJ 07871  
(973) 295-3670

**New York**  
116 West 23rd Street  
Suite 500  
New York, NY 10011  
(212) 386-7628

Any verification form sent to former employers should, at a minimum, ask the following questions:

1. Was the applicant the subject of any substantiated child abuse or sexual misconduct investigation conducted by your company, a State licensing agency, law enforcement agency, or the Division of Child Protection and Permanency in the Department of Children and Families?
2. Was the applicant disciplined, discharged, nonrenewed, asked to resign from employment, resigned from or otherwise separated from any employment while allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct?
3. Has the applicant ever had a license or certificate suspended, surrendered, or revoked while allegations of child abuse or sexual misconduct were pending or under investigation, or due to an adjudication or finding of child abuse or sexual misconduct?

If the applicant was the subject of a substantiated investigation, the school district has the option to automatically disqualify the applicant from consideration for the position. The school district may also automatically disqualify the applicant if the former employer fails to disclose this information within 20 days of receiving the request. Should the school district hire an applicant but later learns he or she was the subject of such an investigation, the school district can immediately terminate the employee upon discovery of this information.

If you have any questions regarding the effect of this new law, or would like assistance drafting a template form to submit to an applicant's current and former employers, please do not hesitate to contact the school law attorneys at SPSK.

*DISCLAIMER: This Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client.*