

Act 151 (Child Abuse) Background Checks

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION SCHOOL
SERVICES UNIT

April 15, 2009

SUBJECT: PA DEPARTMENT OF PUBLIC WELFARE CHILD ABUSE HISTORY
CLEARANCE

Required by Act 151 and by Act 114 of 2006, as amended, for all prospective employees of public schools, private schools and their contractors' employees who will work in direct contact with children. Also required for "student teacher candidates". This is one of three required background checks or clearances.

To be provided by the applicant and reviewed by the school (or higher education administrator) prior to the applicant working in a position in which he will have direct contact with children.

Child Abuse reports shall be no more than one {1} year old at the time of employment.

See Act 114 of 2006 for further detailed information on PA background check requirements.

Following are procedures for obtaining the PA Department of Public Welfare Child Abuse History Clearance.

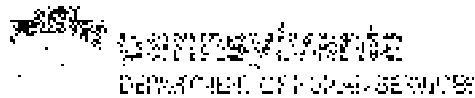
You may obtain forms from schools or the [Department of Public Welfare](#) website.

You may not submit this request on line. You must download the application, print it, complete the form and submit the form with your payment, by U.S. mail. Enclose a \$10.00 money order for each application. No cash or personal checks accepted. Agency or business checks are acceptable.

Clearance results will be mailed within 14 days from the date that the clearance is received. There will be no replacements after 90 days.

Indicate SCHOOL as the "Purpose of Clearance" \$10.00 fee.

For status of a request, please call the Department of Public Welfare, Childline and Abuse Registry at (717) 783-6211.



VOLUNTEER CLEARANCES

Who needs clearance?

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 clearance?

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 their 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 www.dhs.pa.gov/employment.

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.

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 any clearance?

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 require additional information?

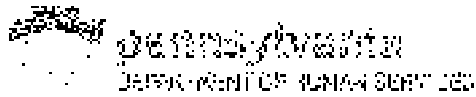
Yes, nothing prohibits an organization from requiring additional information as part of the clearance process.

Can my clearance 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 submit 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



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.