

## **Personnel -- Certified/Non-Certified**

### **Prior Employment Reference Checks**

In checking references, the following guidelines must be followed:

1. All reference inquiries must be directly related to the applicant's qualifications and ability to perform the position in question.
2. Inquiries, which are impermissible in the application/interview context, are equally impermissible when checking references.
3. Within the interview context, nothing is "off the record." Contents of reference checks are subject to discovery in litigation.
4. The use of an appropriate reference check form, specifically related to the qualifications for the position in question, is to be used consistently.
5. The statutory safeguards with respect to obtaining employment and educational references must be considered.

#### **Connecticut Personnel Files Act:**

Private employers may only verify dates of employment, position and salary.

Further disclosure of personnel information is prohibited unless:

- (i) the employee provides written consent for such disclosure; or
- (ii) one of the specific statutory exemptions applies such as a lawfully issued subpoena or response to a government audit/investigation.

#### **Connecticut Freedom of Information Act:**

- Applicable to all public employers.
- Personnel files and similar files are exempt from disclosure only if disclosure would result in an invasion of privacy. The "invasion of privacy" standard is construed strictly, favoring disclosure.
- A public employer is only required to produce existing public records upon request. It does not require a public employer to create records or to provide verbal comments regarding an employee.

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**Prior Employment Reference Checks (continued)**

- C.G.S. 10-151c exempts records of teacher performance from disclosure unless the teacher has provided written consent for such disclosure.

Family Educational Rights and Privacy Act ("FERPA")

- Applies to all educational institutions receiving federal aid.
- Prohibits disclosure of student records without written consent, unless a specific exemption applies.

(cf. 5125 - Student Records)

Legal References: Connecticut General Statutes

1-200 through 1-241 of the Freedom of Information Act.

5-193 through 5-269 -State Personnel Act

10-151c Records if teacher performance and evaluation not public Records.

10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissal.

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93 568, codified at 20 U.S.C.1232g.).

Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. provisions act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.

Regulation approved: 7/18/12