

CHAPTER 72

AN ACT concerning the qualifications of a member of a board of education or a charter school board of trustees, and amending and supplementing various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:12-1 is amended to read as follows:

Qualifications.

18A:12-1. Each member of any board of education shall be a citizen and resident of the district, or of such constituent district of a consolidated or regional district as may be required by law, and shall have been such for at least one year immediately preceding his appointment or election, he shall be able to read and write, shall be registered to vote in the district, and, notwithstanding the provisions of N.J.S.2C:51-1 or any other law to the contrary, he is not disqualified as a voter pursuant to R.S.19:4-1 and has not been convicted of:

any crime of the first or second degree;

an offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2;

an offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.;

a crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder;

a crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3 Perjury and false swearing
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5
Bias intimidation	N.J.S.2C:16-1;

any crime of the fourth degree involving a victim who is a minor; or
conspiracy to commit or an attempt to commit any of the aforesaid crimes.

For the purposes of this section, a conviction exists if the individual has been convicted, at any time, under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

2. N.J.S.18A:12-2.1 is amended to read as follows:

Oaths.

18A:12-2.1. Each member of a board of education shall, before entering upon the duties of his office, take and subscribe:

(1) An oath that he possesses the qualifications of membership prescribed by law, including a specific declaration that he is not disqualified as a voter pursuant to R.S.19:4-1 and a specific declaration that he is not disqualified due to conviction of a crime or offense listed in N.J.S.18A:12-1, and that he will faithfully discharge the duties of this office, and also

(2) The oath prescribed by R.S.41:1-3.

In the case of a Type I school district the oath shall be filed with the clerk of the municipality and in all other cases it shall be filed with the secretary of the board of education of the district.

3. Section 5 of P.L.1987, c.328 (C.18A:12-2.2) is amended to read as follows:

C.18A:12-2.2 False affirmation, disqualification, fourth degree crime.

5. Any member of a board of education who falsely affirms or declares that he is not disqualified as a voter pursuant to R.S.19:4-1, or that he is not disqualified from membership on the board due to conviction of a crime or offense listed in N.J.S.18A:12-1, is, in addition to immediate disqualification for office, guilty of a crime of the fourth degree.

4. N.J.S.18A:12-3 is amended to read as follows:

Cessation of membership.

18A:12-3. Whenever a member of a local or regional board of education shall cease to be a bona fide resident of the district, or of any constituent district of a consolidated or regional district which he represents, or shall become mayor or a member of the governing body of a municipality, his membership in the board shall immediately cease; and, any member who fails to attend three consecutive meetings of the board without good cause may be removed by it. Whenever a member of a county special service school district or a member of a county vocational school district shall cease to be a bona fide resident of the district, or shall hold office as a member of the governing body of a county, his membership on the board shall immediately cease.

Notwithstanding the provisions of N.J.S.2C:51-1 or any other law to the contrary, whenever a member of a board of education is disqualified as a voter pursuant to R.S.19:4-1, or is convicted of a crime or offense listed in N.J.S.18A:12-1, his membership on the board shall immediately cease.

C.18A:12-1.2 Criminal history background investigation for board of education members.

5. a. Each member of any board of education, within 30 days of election or appointment to that board, shall undergo a criminal history background investigation for the purpose of ensuring that the member is not disqualified from membership due to a conviction of a crime or offense listed in N.J.S.18A:12-1.

b. A member of a board of education shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the

commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. A member shall furnish his or her written consent to such a check as a condition of holding the office of school board member. The member shall bear the cost for the criminal history record check, including all costs for administering and processing the check, except that an elected member may use unexpended campaign funds to pay such costs. The board of education may reimburse the member for the cost of the criminal history record check, including all costs for administering and processing the check.

c. The Commissioner of Education is authorized to:

receive all criminal history data necessary to complete the criminal history records check as required pursuant to this section;

receive all data in accordance with this section on charges pending against a member of a board of education who has previously undergone a criminal history records check; and

adjust the fees set by the Department of Education for the criminal history records checks.

d. Upon receipt of the criminal history record information for a member of a board of education from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the member, in writing, of the member's qualification or disqualification from holding the office of member of a board of education. If the member is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the member. The member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the member's board of education that the member has been disqualified from membership on the board.

e. The commissioner is authorized to share all criminal history record information of a member received from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

f. Following qualification for membership on a board of education pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against a member. If the charge is for one of the crimes or offenses enumerated in N.J.S.18A:12-1, the commissioner shall notify the member's board of education, and the board shall take appropriate action. If the pending charge results in conviction, the member shall be disqualified for continued membership.

g. The Commissioner of Education shall permanently maintain the criminal record and application documents on a member of a board of education. All documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

6. Each member of a board of education holding office on the effective date of this act shall comply with the criminal history background investigation requirements of section 5 of P.L.2011, c.72 (C.18A:12-1.2) within 30 days of that effective date.

C.18A:36A-11.1 Requirements for member of board of trustees of a charter school.

7. a. A person may not serve as a member of the board of trustees of a charter school if he or she has been convicted of a crime or offense listed in N.J.S.18A:12-1.

b. Each member of a charter school board of trustees, within 30 days of appointment to that board, shall undergo a criminal history background investigation for the purpose of ensuring that the member is not disqualified from membership due to a conviction of a crime or offense listed in N.J.S.18A:12-1.

c. A member of a charter school board of trustees shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. A member shall furnish his or her written consent to such a check as a condition of holding the office of charter school board of trustees member. The member shall bear the cost for the criminal history record check, including all costs for administering and processing the check. The charter school may reimburse the member for the cost of the criminal history record check, including all costs for administering and processing the check.

d. The Commissioner of Education is authorized to:

receive all criminal history data necessary to complete the criminal history records check as required pursuant to this section;

receive all data in accordance with this section on charges pending against a member who has previously undergone a criminal history records check; and

adjust the fees set by the Department of Education for the criminal history records checks.

e. Upon receipt of the criminal history record information for a member of a charter school board of trustees from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the member, in writing, of the member's qualification or disqualification from holding the office of member of a board. If the member is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the member. The member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the member's board of trustees that the member has been disqualified from membership on the board.

f. The commissioner is authorized to share all criminal history record information of a member received from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

g. Following qualification for membership on a board of trustees pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against a member. If the charge is for one of the crimes or offenses enumerated in N.J.S.18A:12-1, the commissioner shall notify the member's board of trustees, and the board shall take appropriate action. If the pending charge results in conviction, the member shall be disqualified for continued membership.

h. The Commissioner of Education shall permanently maintain the criminal record and application documents on a member of a board of trustees. All documents submitted by a

candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

8. Each member of a board of trustees of a charter school holding office on the effective date of this act shall comply with the criminal history background investigation requirements of section 7 of P.L.2011, c.72 (C.18A:36A-11.1) within 30 days of that effective date.

9. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

C.18A:6-7.1 Criminal record check in public school employment, volunteer service.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person N.J.S.2C:12-2

Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5
Bias intimidation	N.J.S.2C:16-1;

or

(3) Any crime of the fourth degree involving a victim who is a minor; or

(4) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

10. This act shall take effect immediately.

Approved May 26, 2011.