

## Volunteers Having Contact with Children

Excerpt taken from;

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/23/00.063.044.002..HTM>

### Title 23

#### §6344.2.

##### **Volunteers having contact with children.**

**(a) Applicability.**--This section applies to an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service, as a person responsible for the child's welfare or having direct volunteer contact with children.

**(b) Investigation.**--Employers, administrators, supervisors or other persons responsible for selection of volunteers shall require an applicant to submit to all requirements set forth in section 6344(b) (relating to employees having contact with children; adoptive and foster parents) except as provided in subsection (b.1). An employer, administrator, supervisor or other person responsible for selection of volunteers regarding an applicable prospective volunteer under this section that intentionally fails to require the submissions before approving that individual commits a misdemeanor of the third degree.

##### **(b.1) Exception.**--

(1) A person responsible for the selection of volunteers under this chapter shall require an applicable prospective volunteer prior to the commencement of service to submit only the information under section 6344(b)(1) and (2), if the following apply:

- (i) The position the prospective volunteer is applying for is unpaid.
- (ii) The prospective volunteer has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under section 6344(b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the person responsible for the selection of volunteers.
- (iii) The prospective volunteer swears or affirms in writing that the prospective volunteer is not disqualified from service pursuant to section 6344(c) or has not been convicted of an offense similar in nature to those crimes listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(2) If the information obtained pursuant to section 6344(b) reveals that the prospective volunteer applicant is disqualified from service pursuant to section 6344(c), the applicant shall not be approved for service.

(3) If all of the following apply, an individual shall not be required to obtain the certifications required under subsection (b):

- (i) The individual is currently enrolled in a school.
- (ii) The individual is not a person responsible for the child's welfare.
- (iii) The individual is volunteering for an event that occurs on school grounds.
- (iv) The event is sponsored by the school in which the individual is enrolled as a student.
- (v) The event is not for children who are in the care of a child-care service.

**(c) Grounds for denial.**--Each prospective volunteer shall be subject to the requirements of section 6344(c).

**(d) Departmental treatment of information.**--Information provided and compiled under this section by the department shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation. The department may charge a fee to conduct a certification as required by section 6344(b)(2) in accordance with the provisions of section 6344(h). The department shall promulgate regulations necessary to carry out this subsection.

**(e) Construction.**--(Deleted by amendment).

**(f) Nonresident volunteer certification.**--Employers, administrators, supervisors or other persons responsible for selection of volunteers may allow a volunteer to serve on a provisional basis not to exceed a total of 30 days in a calendar year if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the

volunteer is domiciled. The nonresident volunteer must provide the employer, administrator, supervisor or other person responsible for selection of volunteers with documentation of certifications.

**(g) Waiver of fees for certain background certifications.**--The fees for certifications required under section 6344(b) (1) and (2) which a volunteer is required to submit under this section shall be waived, and the certifications shall be provided free of charge to the volunteer under the following conditions:

(1) The background certifications are necessary to comply with the requirements of subsection (b).

(2) The background certifications may not be used and shall not be valid to satisfy the requirements for employment under section 6344(b) or any other law for which a similar background check may be required.

(3) Background certifications shall only be provided free of charge to a volunteer once every 57 months.

(4) The volunteer swears or affirms, in writing, under penalty of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), the following:

(i) The background certifications are necessary to satisfy the requirements under subsection (b).

(ii) The volunteer has not received background certifications free of charge within the previous 57 months.

(iii) The volunteer understands that the certifications shall not be valid or used for any other purpose.

**(h) Presumption of good faith.**--For the purposes of criminal liability under this section, an employer, administrator, supervisor or other persons responsible for the selection of volunteers are presumed to have acted in good faith when identifying individuals required to submit certifications and maintain records as required by this section.

(Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

**2015 Amendment.** Act 15 amended subsecs. (a), (b), (b.1) and (f), added subsecs. (g) and (h) and deleted subsec. (e).

**2014 Amendments.** Act 45 amended subsec. (b) and added subsec. (a.1) and Act 153 amended the entire section.

**Cross References.** Section 6344.2 is referred to in sections 6335, 6344, 6344.3, 6344.4 of this title.