



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, NH 03301
TEL. (603) 271-6699
FAX (603) 271-3454

September 19, 2023

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

For submission on the Consent Calendar. Authorize the Department of Education, Division of Educator Support and Higher Education to enter into a Memorandum of Understanding (MOU) with the Massachusetts Department of Children & Families (MA DCF) (VC# TBD) in Boston, Massachusetts, to provide the Bureau of Credentialing within the New Hampshire Department of Education (Department) information from the MA DCF Central Registry when an individual applies for an initial New Hampshire educator credential, effective upon Governor and Council approval. No funding is required for the operation of this MOU.

EXPLANATION

Pursuant to the Department's authority to issue teaching credentials, the Department currently performs a check of applicant names against the New Hampshire Division of Children, Youth and Families (DCYF) Central Registry to determine if the applicant has had a finding of abuse against a child or children. RSA 21-N:9, II(s)(3), allows the Department to enter a memorandum of understanding with another state to access their respective central registry for purposes of checking applicant names for a finding of abuse in that specific state. This MOU allows the Bureau of Credentialing within the Department to provide applicant names to the MA DCF to check if an applicant for a New Hampshire teaching credential has a finding of abuse in Massachusetts.

This check is performed for first-time applicants only and is not done on a re-occurring basis. This check will be conducted at no cost to either state agency.

Respectfully submitted,

Frank Edelblut
Commissioner of Education

MEMORANDUM OF UNDERSTANDING
Between
The New Hampshire Department of Education
and
The Massachusetts Department of Children & Families

I. PARTIES

This Memorandum of Understanding (MOU) is established by and between the New Hampshire Department of Education (hereinafter "NHED") and the Commonwealth of Massachusetts Department of Children and Families (hereinafter "DCF").

NHED is the state educational agency for elementary and secondary education organized under New Hampshire statute. NHED is authorized pursuant to RSA 21-N:9(s) and applicable administrative rules to, among other responsibilities, issue educator credentials in New Hampshire, and to take action on said educator credentials pursuant to the statute set forth above and applicable administrative rules.

DCF is the state child welfare agency organized under M.G.L. c. 18B and is charged with the care and protection of children in the Commonwealth. Pursuant to its charge, and as set forth in M.G.L. 119, §§51A and 51B, DCF receives reports of child abuse and neglect from mandated and other reporters who have reasonable cause to believe that a child is suffering physical or emotional injury due to abuse or neglect (hereafter "51A Report"), and conducts investigations as necessary and appropriate. After investigation, DCF determines whether to support or not support (hereafter "unsupport") the report of abuse or neglect (hereafter "51B Report").

II. PURPOSE

DCF and NHED have a mutual interest in promoting and maintaining a safe, healthy, and supportive environment in publicly funded schools and programs so that students can learn and succeed without concern for personal safety.

Massachusetts General Laws ch. 119, §51E authorizes the Commissioner to release information regarding reports filed pursuant to M.G.L. ch. 119, §51A and the ensuing investigation completed under M.G.L. ch. 119, §51B.

It is the intention of DCF and NHED to clarify their respective roles and responsibilities for the ongoing sharing of information resulting from allegations of abuse or neglect of a child pursuant to M.G.L. c. 119, §51A and 51B when such report is supported.

In support of the agencies' mutual interest and authority, pursuant to G.L. c. 119, §51B(l) and 110 CMR 4.45, NHED shall initially obtain a release from individuals seeking to become credentialed educators which shall be available upon request to DCF. Said release shall authorize DCF to inform NHED if there is a substantiated finding of abuse contained within DCF's Central Registry. Such information shall include whether DCF has any investigative

reports whereby the individual has a finding of support and a copy of the report filed and investigated pursuant to M.G.L. ch. 119, §51A and 51B.

NHED shall review these reports and, if necessary, conduct its own investigation to determine whether any action should be taken to deny the individual applicant or to take action against the individual's educator credential.

Therefore, DCF and NHED agree to abide by the following criteria and procedures for the sharing of information.

III. CONSTRUCTION OF TERMS OF MOU

This MOU is intended to provide NHED information from the DCF Central Registry when an individual applies for an initial New Hampshire educator credential. NHED understands that the information contained within the DCF Central Registry is personal and confidential and as such, NHED will be respectful of the children and families contained within the DCF Central Registry and shall maintain strict confidentiality of any such information provided by DCF to NHED. The terms of this MOU should be read and interpreted in the spirit of that intent.

IV. DESIGNATION OF RESPONSIBILITY

In order to maximize the efficiency of information sharing between DCF and NHED and to minimize variation in the interpretation of the provisions regarding the data sharing of this MOU, there shall be designated in the Central Office of DCF and the Bureau of Credentialing at the NHED respectively, an individual(s) who shall be assigned primary responsibility for answering questions, as they arise, regarding the propriety of sharing information, handling any issues or difficulties that may arise, and for facilitating the implementation of this MOU.

DCF: Department of Children & Families
Deputy General Counsel or designee
600 Washington Street
6th floor
Boston, MA 02111

NHED: New Hampshire Department of Education
Division of Educator Support and Higher Education Director or designee
25 Hall Street
Concord, NH 03301

Based upon the commitment of the parties regarding this MOU, and based upon the need as determined by the parties, the parties agree that meetings may occur to review the progress of this agreement and to resolve any issues which may arise during the term of this MOU.

V. PRODUCTION OF DCF INFORMATION & DOCUMENTS

NHED will provide a list of credentialing applicant names to DCF in a spreadsheet format via encrypted email. DCF will check the names provided by NHED against the DCF Central Registry and inform NHED if an individual is listed on the Central Registry. If any individual is identified on the DCF Central Registry as having a substantiated (i.e., supported) history of abuse, DCF will provide NHED with an unredacted copy of each relevant 51B report. DCF anticipates that the response to NHED, including the sharing of any relevant 51B reports, will occur within 5 business days of receiving the names from NHED and at most, within 10 business days.

Relevant 51B Reports shall be provided to NHED electronically via encrypted email or through other secure means as agreed to by the Parties.

There will not be any cost associated with the transmission of information from DCF to NHED.

In the event the reports are provided electronically and there is a breach, NHED and DCF agree that they will cooperate in order for DCF to comply with the requirements of M.G.L. c. 93H, which governs security breaches of an agency or department of the Commonwealth of Massachusetts.

VI. NOTICE

Unless otherwise specified, any notice or approval required under this MOU shall be in writing and shall be deemed given when delivered to either party or deposited in the U.S. Mail, first class, postage pre-paid, and addressed as follows:

DCF: Department of Children and Families
Attn: Office of General Counsel
600 Washington Street
6th fl
Boston, MA 02111

NHED: New Hampshire Department of Education
Attn : Director Educator Support and Higher Education
25 Hall Street
Concord, NH 03301

VII. RESTRICTIONS ON FURTHER DISSEMINATION OF INFORMATION

DCF and NHED acknowledge that the information being shared is highly confidential. The information may be used by NHED or their agents only for the purpose of implementing the provisions of this MOU. NHED may further disseminate the information it receives from DCF pursuant to this MOU in an administrative action if an individual applicant challenges the NHED denial of a teaching credential. Prior to disseminating any 51B report to the individual or to any administrative body reviewing the challenge to the NHED denial, NHED shall, at a minimum, redact the name and any identifying information related to the Reporter (i.e., the

individual that reported the allegation of abuse or neglect to DCF). Furthermore, NHED will redact the names of any children or other adults identified in the 51B Report, as well as any criminal history record information that may be contained in the 51B Report, as applicable. NHED is otherwise prohibited from disclosing or sharing the information which it receives from DCF to any other third party, pursuant to NH RSA 91-A:5. The reports and later the data must be stored in the NHED electronic Educator Information System (EIS) as provided for and maintained by the NHED Bureau of Credentialing.

VIII. COMPLIANCE WITH LAW

NHED and DCF agree to comply with applicable provisions of Federal and respective New Hampshire (NHED) and Massachusetts (DCF) law governing any and all matters related to the subject of this MOU.

IX. CONFIDENTIALITY AND SECURITY

To ensure the required confidentiality and security of personal data, NHED agrees to:

- A. Use the personal data obtained under this MOU only for the purposes described herein;
- B. In order to limit access to the information to only those employees and agents authorized to access such data for purposes permitted under this MOU, ensure that such employees comply with all personal data protections contained herein with respect to the data;
- C. Implement administrative, physical, and technical safeguards which reasonably and appropriately protect the confidentiality, integrity, and availability of the transmitted personal data, and that prevent use or disclosure of such data other than as permitted under this MOU. Such safeguards shall also include restrictions upon transmitting the personal data, or any personal information derived from such data, in non-secure transmissions over the Internet or any wireless communication device; and
- D. The parties understand that the personally, identifiable information contained in the records is confidential pursuant to NH RSA 91-A:5.

X. CONTACT PERSON

NHED and DCF designate their respective attorneys as the individual agency's liaisons for purposes of questions or other communications regarding the terms of this MOU.

XI. MODIFICATION

This MOU may be modified from time to time upon mutual agreement, in writing, and execution of any such amendment or modification by the signatory authorities (or specified designee).

XII. TERM AND DISSEMINATION OF MOU

This MOU shall take effect upon execution by the authorized representatives of both of the named Parties and approval by the New Hampshire Governor and Executive Council pursuant to RSA 21-N:9, II(s)(3). Both DCF and NHED shall disseminate copies of this MOU to all of the necessary persons within thirty (30) calendar days of its execution.

XIII. PERIOD OF AGREEMENT

This MOU shall be effective upon its execution by the parties and shall remain in effect until:

- a) It is superseded by a successor memorandum or agreement; or
- b) Upon termination by either party as set forth under the conditions below.

Pursuant to Paragraph (b) above, this MOU is subject to termination by either party at any time by providing written notice to the other party at least thirty (30) calendar days prior to such termination. Notice must be in writing and delivered to the persons identified in Paragraph VI above of each respective agency. Neither this MOU nor any rights hereunder shall be assignable by the parties. Any attempt at assignment shall be null and void.

Notwithstanding the thirty days written notice requirement, either Party may terminate this MOU upon immediate verbal notice to the signatory or his or her General Counsel if in its sole judgment the other Party has violated any data protections or restrictions set forth herein. A written notice must follow any verbal notice within ten (10) business days. In its discretion, the Party executing an immediate termination for a data protection violation may provide the other Party with a cure period within which time the other Party may attempt to resolve the violation to the terminating Party's satisfaction.

XIV. WAIVERS

The Parties specifically agree that failure of either Party to insist upon compliance with any provision contained herein at any time shall not waive the requirement for performance of such provision at any other time.

No waiver by either Party of any default or breach hereunder by the other Party shall constitute a waiver of any subsequent default or breach.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be signed by a duly authorized representative on the date and year written below.

FOR THE MASSACHUSETTS DEPARTMENT OF CHILDREN & FAMILIES

By: Linda Spears Digitally signed by Linda Spears
Date: 2023.09.18 16:53:48
-04'00'

Title: Commissioner, Department of Children & Families Date: 9/18/2023

FOR THE STATE OF NEW HAMPSHIRE

By: Frank Edelblut Digitally signed by Frank Edelblut
Date: 2023.09.18 14:28:17 -04'00'

Title: Commissioner, Department of Education Date: 9-18-2023

APPROVED BY ATTORNEY GENERAL'S OFFICE FOR FORM & SUBSTANCE

By: Christopher Bond

Title: Associate Attorney General Date: 9/19/23

APPROVAL BY THE GOVERNOR & EXECUTIVE COUNCIL

Governor Christopher T. Sununu Date: _____

APPROVAL BY THE EXECUTIVE COUNCIL

_____ Date: _____