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Title: A Local Law to amend the New York city charter, in relation to requiring the Department of Education to provide personnel and disciplinary records to any nonpublic school that considers hiring a former or current Department of Education employee.

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Int. No. 250

By Council Members Gentile, Fidler, Foster, Gennaro, Gonzalez, Mark-Viverito, Recchia Jr., Seabrook, Weprin and White Jr.

A Local Law to amend the New York city charter, in relation to requiring the Department of Education to provide personnel and disciplinary records to any nonpublic school that considers hiring a former or current Department of Education employee.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. Education Law §549 declares that it is the State’s “primary responsibility to ensure the health, welfare and safety of children attending both public and nonpublic schools.” One way to help achieve this mandate is to ensure that all public school teachers, administrators and supervisors undergo a criminal background check. This procedure, mandatory for public school personnel, is designed to discover whether those with any criminal history, particularly with respect to sex offenses or other acts injurious to children, are applying for these sensitive positions of trust within our public school system.

Unfortunately, however, State law does not mandate the same type of criminal background check for nonpublic school personnel. As past incidents demonstrate, though, teachers and other school personnel who may prey on our students are not limited to public schools. In an incident in Brooklyn in March of 2004, a nonpublic schoolteacher was arrested on child pornography charges, and had previously been arrested for the same charge in 1999; however, the school was not aware of his criminality when he was hired. In fact, this teacher had been employed by the Department of Education and subsequently terminated after the initial 1999 charge.

This incident, and others like it, points not only to the importance of an amendment to State law to mandate that nonpublic school personnel be subject to the same criminal background checks as those who teach and work in our public schools, but also to the need to require the Department of Education to supply personnel records and other criminal background information to nonpublic schools that are considering hiring a current or former DOE employee. When it comes to the safety of our children, there should not be any hesitation in sharing this type of vital information. Until State law is changed, the Department of Education should provide this information to ensure the safety of all our schoolchildren.

§2. Chapter 20 of the New York city charter is amended to add a new section 530 to read as follows:

§530. Department of education to provide nonpublic schools with criminal background information on employees. The department of education shall, upon written request of a nonpublic school, provide such nonpublic school with any relevant personnel records, and the results of any criminal background check conducted by the department of education, with respect to current or former employees of the department. The written request shall only be made by a nonpublic school that has interviewed and is considering hiring a current or former employee of the department of education. All information requested by a nonpublic school shall remain strictly confidential, and the department of education may not take any adverse personnel action against any individual who seeks other employment. In addition, the department of education, in its discretion, may redact any portions of any records that it provides to the nonpublic school. The department of education

may also promulgate any rules and regulations it deems necessary to implement the provisions of this section and to ensure the confidentiality of personnel records. For the purposes of this section, “adverse personnel action” shall mean dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space or equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

§3. This local law shall take effect immediately.

SS/DB
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