



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

October 21, 2022

Edward Troiano, Chief
Bureau of Criminal Identification
Office of the Attorney General
4 Howard Avenue
Cranston, RI 02920

Dear Chief Troiano:

Our office recently received an inquiry from the Glocester School District about the procedures used by the Bureau of Criminal Identification in conducting criminal background checks for school volunteers pursuant to R.I.G.L. § 16-2-18.4. Because we believe that the process brought to our attention by the school district is deeply troubling and in apparent violation of the law, I'm writing to ask that the BCI take immediate steps to rectify the procedures currently in place for conducting these checks.

The state law cited above establishes a very specific process for a school and the BCI to follow in determining whether a prospective school volunteer has a criminal record that might disqualify them from offering their services. The process, which largely mirrors that in place for a number of other state law criminal background check requirements for employment and occupational licensing purposes, was designed to protect the privacy of applicants as much as possible and to limit the discretion available to officials in making decisions about a person's qualifications based solely on their past criminal record.

Under the process established by §16-2-18.4, the BCI is supposed to first determine whether a prospective volunteer has a criminal record that contains so-called "disqualifying information," a list of criminal offenses which call into question an applicant's potential fitness to volunteer at a school. §16-2-18.4(e). At that point, the BCI informs the applicant "in writing of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information will notify the school department in writing that disqualifying information has been discovered." §16-2-18.4(b). It is thereupon the prerogative of the individual to share their criminal background with the school department, which then can make an independent judgment to allow the applicant to volunteer notwithstanding their disqualifying criminal record. § 16-2-18.4(c).

Despite this very clear and specific process, we learned from the Glocester School District that your office instead requires school volunteers to fill out a generic "disclaimer" form authorizing the BCI to provide the school district the person's entire criminal record, including even records of any arrests. Enclosed is a copy of the form being used in Glocester,

which also appears on the BCI's website. Some school officials were understandably uncomfortable when they received BCI reports of volunteer applicants that contained potentially embarrassing information about minor past criminal offenses.

A spot check of other school district websites confirms that this disclaimer form, or a version similar to it, is routinely used by schools across the state. As a result, as happened in Gloucester, they are routinely obtaining sensitive information about volunteers that they have no need or right to obtain.

Because the BCI's current process and the waiver form used for conducting criminal record checks of school volunteers are patently inconsistent with the relevant state law and inappropriately infringe upon the privacy rights of parents, I am therefore writing to request that your office take immediate steps to comply with the procedures established by R.I.G.L. § 16-2-18.4, halt the current process in place for processing school volunteer criminal record checks, and advise all school districts to withdraw from use your Bureau's current "disclaimer" form, or any similar form based on the BCI's waiver document. I would also ask that you engage in a review of the BCI's practices to ensure that this flawed process is not in use for other employment, licensing or volunteer criminal record checks where state law has established procedures akin to §16-2-18.4 for those checks.

Thank you in advance for your prompt attention to this matter, and I look forward to hearing back from you about it at your earliest opportunity.

Sincerely,

A handwritten signature in black ink that reads "Steven Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Steven Brown
Executive Director

cc: The Hon. Peter Neronha
Adi Goldstein

Enclosure

Name: _____
(Print or Type)

Maiden Name: _____

D/O/B: _____

DISCLAIMER

I _____ hereby direct and authorize the Bureau of Criminal Identification and Investigation of the Office of the Attorney General for the State of Rhode Island to make available to _____ any State of Rhode Island criminal record, including a record of any State arrest, conviction, warrant, or a record of sexual offender registration, accessible by the Bureau of Criminal Identification and Investigation, in reference to me.

I hereby waive and release any and all manner of actions, cause of actions, and demands of every kind, nature and description, arising from any release of criminal records and requests therefrom, whatsoever against the State of Rhode Island, Bureau of Criminal Identification and Investigation, the Attorney General, and employees of the Office of the Attorney General in both law and equity which I may now have or in the future may have.

Signature of Applicant

Sworn to before me in the City of _____ State of _____
this _____ day of _____, 20__.

Notary Public

Commission Expires

NOTE: Copy of photo identification with date of birth must accompany this Disclaimer (front AND back).