



June 7, 2017

To: PWCS Professional Organizations

From: Amy White  
Director of Human Resources

RE: Addendum of Employment Contract or Change of Status Form with the Prince William County School Board: Criminal and Immigration Contingency Clauses

Attached with contracts and change of status forms for the 2017-18 school year, all PWCS employees (administrative, certificated, and classified) received a blue form, "Addendum of Employment Contract or Change of Status Form with the Prince William County School Board: Criminal and Immigration Contingency Clauses Acknowledgment of Receipt." We asked employees to acknowledge by signature that they had received information about these contingency clauses, which have been included in all employee contracts in order to assure compliance with federal and state law.

The Immigration Contingency Clause serves as notification that under federal law, all employees must be eligible to work in the United States. PWCS does not sponsor visas and there have been instances in the recent past where a teacher has been unable to serve the term of their contract due to the expiration of their work authorization/visa. This usually means the position must be filled with a temporary teacher or a series of temporary teachers unless a qualified candidate can be found after the school year begins.

The intent of this clause is to notify all employees *who are in the U.S. on a current visa* of their responsibility to notify the School Board in advance of any such ineligibility which may occur within the term of their contract.

The Criminal Contingency Clause references Section 22.1-296.1 of the Code of Virginia, which states the following:

*As a condition of employment for all of its public school employees, whether full-time or part-time, permanent or temporary, every school board must require on its application of employment certification (i) that the applicant has not been convicted of a felony*

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*or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child, and (ii) and whether the applicant has been convicted of a crime of moral turpitude. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and upon conviction, the fact of said conviction shall be grounds for the Board of Education to revoke such person's license to teach.*

In 2015, the Virginia Supreme Court ruled that public school employees who have been convicted of such offenses prior to their employment are not eligible for such employment and that their contracts are void ab initio. Employees who are convicted of such offenses after they are employed may be terminated by the School Board. The intent of this contingency clause is to bring to the attention of all employees their responsibility to disclose to the School Board any criminal conviction referenced in the Code prior to or during the term of their contract.

Principals and directors were tasked to ensure that each PWCS employee received and signed the form as part of the contract/Change of Status Form process by June 9, 2017, and return them to the Department of Human Resources to be included in personnel files. Complying with the contingency clauses is not an option for any PWCS employee, as a matter of law.

It is our intent to include this information in contracts and Change of Status forms beginning June 2018. In addition, the information will be added to new employees' online orientation (along with the Drug- Free and Alcohol-Free Workplace acknowledgement) as soon as possible.

These requirements are not new. Sections 22.1-296.1 and 22.1-307 of the Virginia Code are of long standing. This was a means to remind all employees that we are bound by federal and state law to adhere to these standards and to inform them that they may not contest through the grievance process the termination of their employment *for the above stated reasons*. In fact, every current employee has previously agreed (as part of the fingerprint process) to the following:

*I agree to notify the Director of Human Resources, Prince William County Public Schools within five working days of **any criminal statute convictions** including any drug or controlled substance statute conviction. I understand that within ten working days of that notice, the Director of Human Resources or designee shall advise any affected federal agency of that conviction. I understand that I may receive disciplinary sanctions up to and including dismissal for any such conviction, as well as for any other violation of the school system's regulation regarding controlled substances and alcohol abuse.*

Should you need additional information, please contact the Department of Human Resources at 703.791.8050 and we would be happy to assist you.