

The Brief: governor DBS check requirements



Created by TheSchoolBus

DfE amendments to The School Governance (Constitution) (England) Regulations 2012, which came into effect in March 2016, changed the criminal record checks required of school governors.

The changes to the legislation made it compulsory that all governors undergo DBS checks by April or September 2016, depending upon their particular start dates, and within 21 days of their appointment thereafter.

Governing bodies must apply for a DBS certificate by **1 September 2016** for governors appointed **prior to 1 April 2016**, if they have not already been subject to an enhanced DBS check.

For governors appointed **on or after 1 April 2016**, who do not possess an enhanced DBS certificate, governing bodies must apply for an enhanced DBS certificate **within 21 days** of the governor's appointment/election.

The DfE's rationale behind the amendments was to "improve the regulatory framework for maintained school governance" and bring "the maintained sector into line with requirements in place for trustees in academies and free schools". Under the previous system, disqualification relied upon a governors' self-declaration of criminal convictions, unless the clerk ensured otherwise. The DfE believes that the amended system will "provide reassurance to the governing body that an individual is not disqualified from holding office as a governor due to criminal conviction".

The relevant regulations from The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 read as follows:

"Amendment of the School Governance (Constitution) (England) Regulations 2012

2.— (1) The School Governance (Constitution) (England) Regulations 2012(1) are amended as follows.

(2) In regulation 5(1) (interpretation), in the appropriate place, insert—

““enhanced criminal record certificate” means an enhanced criminal record certificate issued under section 113B of the Police Act 1997, which includes, in such cases as are from time to time prescribed under section 113BA(1) of that Act, suitability information relating to children, and any relevant up-date information (as defined in section 116A(8) of the Act) where such a certificate is subject to up-date arrangements;”.

(3) After regulation 16 (notification of appointments), insert—

“Criminal record certificates

16A.—(1) Where a governor has been elected or appointed before 1st April 2016 and does not hold an enhanced criminal record certificate, the governing body must apply for such a certificate in respect of that governor by 1st September 2016.

(2) Where a governor is elected or appointed on or after 1st April 2016 and does not hold an enhanced criminal record certificate, the governing body must apply for such a certificate in respect of that governor within 21 days after his or her appointment or election.”

Bibliography

The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, Regulation 2

DfE (2016) Explanatory Memorandum to The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, para 7.1