

CREATING
OPPORTUNITIES
FOR STUDENTS TO
KEEP WYOMING
STRONG

MEMORANDUM NO. 2018-098

TO: School District Superintendents
Personnel Directors

FROM: Shelley Hamel, Chief Academic Officer

DATE: September 10, 2018

SUBJECT: Additional Federal Grant Assurance Requirements



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ADDITIONAL ASSURANCE AGREEMENT

The Wyoming Department of Education (WDE) reminds districts of an important provision of the Every Student Succeeds Act (ESSA) to help protect students from sexual abuse. That provision, in [section 8546](#) of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. § 7926), requires policies to be in place to prohibit the aiding and abetting of sexual abuse, and imposes an important requirement on States, State educational agencies (SEAs), and local educational agencies (LEAs) that receive ESEA funds.

The WDE has revised the Consolidated Grant Application Assurances Agreement to include this provision going forward, and is sending out an additional Assurances Agreement including this provision that is due on September 30, 2018. The additional agreement can be found [here](#).

This provision is meant to prevent teachers or other school staff who have engaged in sexual misconduct with a student or minor at one school from obtaining employment at another school, without that school's knowledge of the prior misconduct. This sometimes occurs because personnel from the employee's prior school provides a recommendation that helps the employee obtain new employment.

Under section 8546, every organization that receives ESEA

funds must have policies in place that prohibit the organization, as well as any associate of the organization, from providing a recommendation of employment for anyone that the organization knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law. The SEA, LEA, school, or individual acting on behalf of one of those entities would not be prohibited from following routine procedures regarding the transmission of administrative or personnel files, but would be prohibited from doing more than that to help the employee obtain new employment.

Section 8546 allows for certain exceptions. In particular, the prohibition does not apply if the alleged misconduct has been properly reported to law enforcement and any other authorities required by law and the matter has been officially closed, if the individual in question has been exonerated, or if the case remains open without an indictment (or additional charges haven't been brought) within the allotted time limit.

Significantly, section 8546 establishes the minimum requirements that must be met by an organization that receives federal funds. It does not prevent a State from adopting a law that establishes more rigorous protections for organizations in this regard.

For questions or to submit a signed additional assurance agreement electronically, contact Jessica Binning, Consolidated Grant/Grant Management System Supervisor, jess.binning@wyo.gov or 307-777-6208.