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Federal Bureau of Investigation 2000 JUN 16 PM 1:09

REVIEW COLLECTION

Clarksburg, WV 26306

June 2, 1999

Mr. Ferman B. Moody, D.Ed.  
Director  
Bureau of Vocational-Technical Education  
333 Market Street  
Harrisburg, Pennsylvania 17126-0333

Dear Mr. Moody:

Reference is made to your letter dated May 21, 1999, with enclosures requesting a review of Pennsylvania Act 5 of 1999 to determine if it meets the requirements of Public Law (Pub. L.) 92-544 to permit access to FBI criminal history record information (CHRI).

The Access Integrity Unit's (AIU) legal staff has completed its review of Pennsylvania Act 5 of 1999, which amends Act 14 of 1997 Section 4(a)(2), pertaining to national background checks of non-resident applicants applying for enrollment in a state approved nurse's aide training program. We have determined that § 4(a)(2) as amended qualifies for access to FBI CHRI under the standards of Pub. L. 92-544. As discussed in a telephone conversation between Ms. Jane Aciri of your staff and Ms. Marilyn Walton of the AIU, Act 14 of 1997 is codified at Pennsylvania Statutes (PS) 63 Sections 671 through 680. When you begin submitting your applicant fingerprint cards under this new authority, please ensure that the reason the applicants are being

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fingerprinted and the correct statutory authority are clearly indicated in the "Reason Fingerprinted" block on the applicant fingerprint card, to wit: "Nurse Aide Training Program, 63 PS §§ 671-680." REVIEW COMPLETION

We have verified that Originating Agency Identifier (ORI) number PA920970Z was assigned to the Pennsylvania State Board of Education, Bureau of Vocational-Technical Education, and that the preprinted applicant fingerprint cards bearing this information were sent to your agency for its use in submitting applicant fingerprints of non-resident applicants for enrollment in state-approved nurse aide training programs.

Please be reminded that access to FBI CHRI is subject to numerous restrictive laws and regulations. Dissemination of such information outside the receiving governmental department or related governmental agency to private entities is prohibited. Further, the exchange of CHRI is subject to cancellation if such unauthorized dissemination is made.

The AIU is also taking this opportunity to remind each State Identification Bureau, as a matter of information, that on October 9, 1998, Congress amended the National Child Protection Act (NCPA) by enacting the Volunteers for Children Act (VCA), Pub. L. 105-251, which specifically authorizes a "qualified entity" which has been "designated by the State" to "contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well being of children, the elderly, or individuals with disabilities." 42 United States Code (U.S.C.) § 5119a(a)(1). In addition to removing the NCPA's requirement that a state enact a statute acceptable under Pub. L. 92-544 [42 U.S.C. § 5119a(b)(5)], under the VCA, in contrast to Pub. L. 92-544's requirement that a background check be mandated, the qualified entity's decision to request a background check is discretionary. This is a significant departure from state statutes approved under Pub. L. 92-544.

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2000 JUN 16 PM 1:09

Sincerely yours,

1 - Corporal John Albring  
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Pennsylvania State Police  
1800 Elmerton Avenue  
Harrisburg, Pennsylvania 17110

1 - Major Ronald J. Hackenburg  
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Pennsylvania State Police  
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