

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Association of Pennsylvania State :
College and University Faculties, :
Petitioner :
v. :
Pennsylvania State System of :
Higher Education; Commonwealth :
of Pennsylvania, :
Respondents : No. 407 M.D. 2015

ORDER

AND NOW, this 13th day of January, 2016, it is hereby ordered as follows:

- With respect to library faculty employed by the Pennsylvania State System of Higher Education (PSSHE), those working at Bloomsburg, California, Clarion, Edinboro, IUP, Kutztown, and Shippensburg must submit criminal history record information, department certification, and report of federal criminal history record information in accordance with Section 6344(b) of the Child Protective Services Law, 23 Pa. C.S. § 6344(b) (hereinafter “the background checks”). Librarians at other institutions are not subject to the background checks.
- With respect to psychological counselors, none of the counselors employed by PSSHE are required to submit background checks.

However, in the event that non-matriculated minors seek treatment with psychological counselors at PSSHE institutions, PSSHE may petition this Court for reconsideration, provided that PSSHE can set forth evidence showing that the class of psychological counselors it seeks to subject to background checks will have “direct contact with children” in accordance with the definition set forth in 23 Pa. C.S. § 6303(a).

- With respect to academic course sections, each PSSHE employee teaching a 100-level course or the equivalent shall be subject to the background checks. Except as otherwise agreed to by the parties, non-matriculated minors may not enroll in an upper-level course unless a school employee who is subject to and has complied with the background checks is available to teach the course.
- The foregoing order shall remain in effect pending a contrary arbitration decision and/or a decision of the Pennsylvania Labor Relations Board determining whether the subject of background checks where not required by law is a managerial right.


DAN PELLEGRINI, Senior Judge

Certified from the Record

JAN 14 2016

And Order Exit