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Protect Kids

A Plan to Keep Sexual Offenders Out of North Carolina Schools

By: Lauren Schnepfer

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May 2019



“The author conducted this study as part of the program of professional education at the Frank Batten School of Leadership and Public Policy, University of Virginia. This paper is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by

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Executive Summary

Nearly 10% of American students will be the victims of sexual abuse by school personnel during their school careers. An estimated 90% of these cases will involve the student's teacher.

North Carolina is not exempt from this national problem. In the last three years, nearly half of the Professional Educators' licenses that have been revoked, suspended, or voluntarily surrendered were lost due to sexual misconduct towards students.

Although there is no way to predict which teacher candidates will commit a sexual offense against a student, the best indicator available is whether the potential teacher has committed a previous sexual offense. Keeping previous sexual offenders out of classrooms is likely to reduce the sexual abuse of students in schools. Consequently, background checks are the primary tool states use to prevent sexual abuse by school personnel.

Best practice background checks are conducted by the state, include a national and statewide check, are fingerprint-based, include a work history check, and are recurring. North Carolina's current educator background check policy does not require any of these best practices. Rather North Carolina requires only that its school districts have a policy. The majority of district background check policies adopted under this mandate are similarly vague. These district policies require only that there be some type of background check and that it comply with state law.

North Carolina's lax policy and the correspondingly weak district policies are insufficient to prevent sexual offenders from working in North Carolina's public schools.

In this report, I provide analysis and recommendations to Eric Snider, Agency General Counsel for the Department of Public Instruction, regarding options to improve North Carolina's educator background check policy and to prevent schools from employing known sexual offenders. I propose five policy options that address this problem:

1. Let Present Trends Continue
2. National, Fingerprint-based Criminal Records Checks Before Licensure



3. Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants
4. State Subsidization of National, Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants
5. Both Alternatives 2 and 3

I evaluated each policy alternative with respect to five evaluative criteria. I quantify outcomes for cost, and use qualitative estimates in all other cases. The final recommendation is the policy alternative that performs best in terms of: (1) Effectiveness at Reducing the Number of Sexual Offenders Obtaining Jobs in North Carolina Public Schools; (2) Cost; (3) Level of Administrative Burden; (4) Minimization of Equity Concerns; and (5) Political Feasibility.

My analysis demonstrates that Policy Alternative 2 has the greatest potential to effectively reduce the number of sexual offenders employed by North Carolina public schools, while also being politically feasible and requiring only a moderate administrative burden for implementation. Therefore, I conclude that **North Carolina can best improve educator background check policies and prevent public schools from employing sexual offenders by requiring national, fingerprint-based criminal records checks during the licensure application process.**



Problem Statement

In 2016, the North Carolina State Board of Education revoked, suspended, or accepted the voluntary surrender of 46 North Carolina Professional Educators' licenses (DPI, 2019a). Thirty-one of these teachers lost their licenses for offenses related to sexual misconduct, 20 of these offenders directed their sexual misconduct towards the students under their care (DPI, 2019a).

“[B]ackground checks [are] the primary tool states use[] to prevent sexual abuse and misconduct by school personnel” (U.S. Government Accountability Office, 2014, p. 16). In the same year that 20 North Carolina teachers lost their licenses for sexually abusing their students, USA Today completed a national evaluation of teacher background check policies. North Carolina's policy received an “F” (Reilly & Kelly, 2016b).

North Carolina currently lacks a mechanism to exclude known offenders from obtaining Professional Educators' licenses. There is no state policy mandating comprehensive background checks before teachers are hired to work in North Carolina public schools. *There is an opportunity to improve North Carolina's educator background check policies in order to prevent schools from employing known sexual offenders.*



Background

What is sexual abuse?

While researchers, policymakers, and politicians use inconsistent terminology when referring to adult-to-student sexual abuse in schools—e.g., molestation, rape, sexual exploitation, sexual harassment, sexual victimization—the most common term is sexual abuse (Shakeshaft, 2004, p. 2; Finkelhor, Turner, Shattuck, Hamby, & Kracke, 2015b). Literature analyzing the prevalence, consequences, and prevention of child sexual abuse generally define the term to include “any sexual activity involving a child that is a crime” (U.S. Government Accountability Office, 2014, p. 5). This can create confusion because sexual abuse is a legally defined term with a definition that varies from state to state (U.S. Government Accountability Office, 2014, p. 5). All state definitions must be consistent with the federal definition of sexual abuse included in the Child Abuse Prevention and Treatment Act (CAPTA) (U.S. Government Accountability Office, 2014, p. 12).¹ CAPTA defines sexual abuse as including:

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or (B) the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children. (42 U.S.C. § 5106g).

Consistent with CAPTA’s definition, North Carolina defines sexual abuse to mean “the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of the age of the student and regardless of the presence or absence of consent” (16 N.C.A.C. 6C.0312).

Much of the literature also use the term sexual misconduct when discussing the sexual abuse of

¹ State definitions of sexual abuse can expand the federal definition while remaining consistent (Government Accountability Office, 2014, p. 12).



children in schools. The definition of sexual misconduct includes “verbal or physical activity directed toward a child that is sexual in nature and designed to establish a romantic or sexual relationship with the child” (U.S. Government Accountability Office, 2014, p. 5).

The prevalence of child sexual abuse in schools

According to the most recent study, “nearly 9.6 percent of students are victims of sexual abuse by school personnel” (U.S. Government Accountability Office, 2014, p. 1). Assuming the data accurately reflects the experience of all students in kindergarten through twelfth grade, researchers estimate that more than 4.5 million students nationwide are sexually victimized verbally or physically by a school employee sometime during their school career (Shakeshaft, 2004, p. 18). The most common offenders are teachers, who account for 90 percent of school personnel sexual abuse cases (Shakeshaft, 2004, p. 22).

These statistics may not reflect the full extent of child sexual victimization. The main limitation is underreporting and, thus, prevalence estimations are likely too low (Finkelhor et al., 2015a, p. 753). “For many reasons, children may fail to disclose all their exposures, and parents in particular may have incentive to conceal their children’s exposure or may not know about all of them” (Finkelhor et al., 2015a, p. 753).

The prevalence of child sexual abuse in North Carolina schools

Since January 2016, the North Carolina State Board of Education has revoked, suspended, or accepted the voluntary surrender of 133 North Carolina Professional Educators’ licenses; representing approximately 0.14% of North Carolina teachers (Department of Public Instruction [DPI], 2019a; DPI, 2019b, p. 1). Eighty-one of these teachers lost their licenses for offenses related to sexual misconduct (DPI, 2019a). Of those 81 teachers, 80% lost their licenses for misconduct directed at children (DPI, 2019a). Due to underreporting, these numbers likely underestimate the prevalence of sexual abuse by teachers in North Carolina schools.

Preventing sexual abuse in schools: Don’t let them in

One way to prevent sexual abuse in schools is for schools not to hire sexual abusers. However, it



is difficult to predict whether an applicant will commit sexual abuse in the future (Matthews, 2017, p. 1). “Sexual perpetrators do not easily stand out in society . . .” (Swartout & White, 2010, p.1717). Alcohol use,² drug use,³ and interpersonal-skill deficits⁴ may be factors associated with sexual assault proclivity (Baker & Beech, 2004; Matthews, 2017, p. 2; Swartout & White, 2010). Unfortunately, school administrators making hiring decisions are unlikely to have access to applicant information regarding these factors.⁵

A more helpful indicator is whether the applicant has a history of sexual misconduct. “Past perpetration of sexual assault is one of the most consistent predictors of future perpetration” (Matthews, 2017, p. 2). Sexual offenders have higher recidivism rates than other criminals (H. Rep. No. 109-218). “[S]exual recidivism rates of sex offenders range from about 5 percent after 3 years to about 24 percent after 15 years” (Przybylski, 2015, p. 4). Running criminal history checks and using this information to screen out previous offenders is a potential way to reduce sexual abuse in schools.

According to the U.S. Government Accountability Office, “background checks [are] the primary tool states use[] to prevent sexual abuse and misconduct by school personnel” (2014, p. 16). Experts on child sexual victimization recommend that schools and districts incorporate

² “Most researchers in the field . . . agree that there is an association between male sexual aggression and a history that includes binge drinking” (Swartout & White, 2010, p. 1719). However, other researchers have found a null relationship (Swartout & White, 2010, p. 1719).

³ There are strong links between both distal and proximal drug use and sexually aggressive behaviors after controlling for the effects of alcohol use (Swartout & White, 2010, p. 1730).

⁴ “Sexual and violent offending may be related to attachment difficulties,” such as loneliness and fear of intimacy (Baker & Beech, 2004, p. 1131).

⁵ School administrators theoretically can use alcohol/drug testing, psychological testing, or psychiatric history checks as part of their screening process (Davis et al., 1998, p. 4). However, these screening practices are infrequently used (Davis et al., 1998, p. 4). Their infrequent use is likely due to cost constraints and privacy issues. Without these screening practices, school administrators must rely on applicant self-reporting and personal interviews to discover alcohol use, drug use, or interpersonal-skill deficits.



background checks as a way to make students safer in school (U.S. Government Accountability Office, 2014, p. 16).

Federal background check legislation

Congress recognized the importance of background checks in keeping schools safe and, thus, enacted the Adam Walsh Child Protection and Safety Act of 2006. The Act requires the Department of Justice (DOJ) to conduct a criminal history check for employees, such as teachers, at the request of a public or private school (Adam Walsh Child Protection and Safety Act of 2006). These checks are fingerprint-based criminal history searches of the FBI's National Crime Information Center database (U.S. Government Accountability Office, 2010, p. 23). However, the Act does not require schools to take advantage of this service (U.S. Government Accountability Office, 2010, p. 23).

State background check legislation

As of 2014, 46 states require some form of background check for school personnel applicants (U.S. Government Accountability Office, 2014). However, states vary as to the methods and sources used in the background check process (U.S. Government Accountability Act, 2010, p. 23; U.S. Government Accountability Office, 2014).

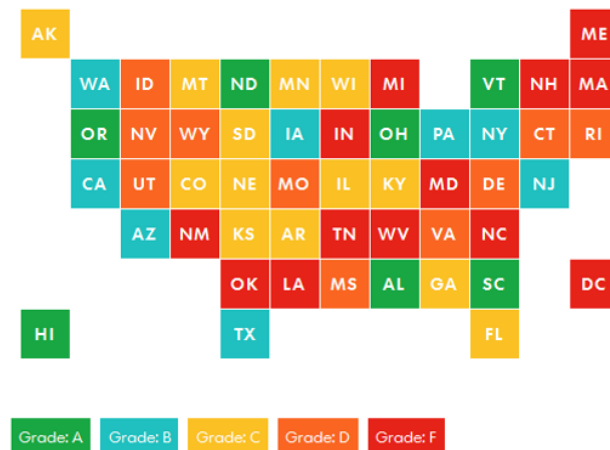
In 2016, journalists from USA Today completed a comprehensive year-long investigation of how states track teacher discipline (Reilly & Kelly, 2016a). The investigation focused on three main areas:

1. How thoroughly a state checks an applicant's background before issuing a teaching license . . .
2. Whether the state shares complete licensing and disciplinary information about sanctioned teachers publicly and whether it reports its own sanctions effectively to a nationwide database . . .
3. Whether the state has laws mandating that educators, schools and school districts report misconduct to the state . . . (Kelly, 2016).



The journalists graded each state based on its performance in these areas. North Carolina received an “F” (Kelly, 2016).

Figure 1: USA Today’s Background Check Policy Grades



Source: (Kelly, 2016)

States that received higher grades had at least three of the following: “[s]trong state-level screening before licensing,” “[d]etailed information online about teacher disciplinary actions,” “[s]trong mandatory reporting of teacher misconduct,” and “effective sharing of teacher misconduct with other states” (Reilly & Kelly, 2016b).

Current North Carolina Practice

USA Today gave North Carolina an “F” in tracking teacher discipline because: (1) North Carolina has a weak, district-level screening process; and (2) North Carolina does not consistently share teacher misconduct with other states (Reilly & Kelly, 2016b).⁶ North Carolina law states:

Each local board of education shall adopt a policy on whether and under what circumstances an applicant for a school personnel position shall be required to be

⁶ North Carolina does have “[d]etailed information online about teacher disciplinary action” and “[s]trong mandatory reporting of teacher misconduct” (Reilly & Kelly, 2016b). Reporting requirements and public disclosure will not be a focus of this report.



checked for a criminal history before the applicant is offered an unconditional job. . . .

A local board of education shall not require an applicant to pay for the criminal history checks authorized under this subsection. (N.C. Gen. Stat. § 115C-332).

Conducting background checks at the district-level (during hiring) rather than at the state-level (before licensure) is suboptimal. “Advocates and auditors who have reviewed problems [with background checks] over the decades have consistently flagged district-level checks as potential loopholes” (Kelly, 2016). Moreover, North Carolina is the only state that gives this level of discretion to its school districts (U.S. Government Accountability Office, 2010, p. 25).

The inadequacy of North Carolina’s current policy is highlighted by the policies North Carolina’s 115 school districts have adopted. Seventy-six percent of the districts require only that there must be a criminal history check and that the “criminal history checks must be conducted in accordance with state law” (District data, 2019; Alexander County School Board, 2019).⁷ These policies provide no guidance as to the quality or type of background check required before an applicant is hired.

Failed Legislative Reform

The General Assembly has twice tried to pass legislation improving North Carolina’s educator background check policy (H.B. 117, 2017; S. 867, 2015). These bills would have required Professional Educator’s License applicants to undergo both a state and national criminal history check (H.B. 117, 2017; S. 867, 2015). The applicant would have been responsible for the fees associated with these checks (H.B. 117, 2017; S. 867, 2015). Additionally, the bills would have required local boards of education to “uniformly require applicants to be checked for a criminal history either by a consumer reporting agency, the Department of Public Safety (DPS), or both” (H.B. 117, 2017; S. 867 2016). Both bills died in committee. (H.B. 117, 2017; S. 867, 2056).

The Generally Assembly failed to enact the background check bills for reasons unrelated to

⁷ All data regarding current district policies was collected by the author through a review of North Carolina’s school districts’ online school board policy manuals. The raw data is available upon request.



support for the bills (J. Champagne, Paralegal for the State Board of Education, personal communication, March 1, 2019; S. Walker, Chief of Staff and General Counsel for the Lieutenant Governor, personal communication, March 25, 2019). After the 2015 bill had passed the Senate and before the bill received its final vote in the House, the Senate received word that the House would not pass an unrelated regulatory reform bill and immediately adjourned. The background check bill was put back into the rules committee where it died. It is likely that lingering frustration has prevented any further forward progress on educator background check reform, although another attempt was made in 2017 (S. Walker, Chief of Staff and General Counsel for the Lieutenant Governor, personal communication, March 25, 2019).



Background check best practices

Broader Screening Context

Background checks—whether conducted at the licensure or the hiring stage—should be incorporated into a comprehensive screening process. Some basic practices that can form this broader process include employment reference checks, personal reference checks, personal interviews, confirmation of education, written applications, and on-the-job observations (Davis et al., 1998, pp. 4, 10). Not all future child sexual abuse offenders have prior reported misconduct; these basic screening practices could help exclude potentially dangerous applicants that would remain unidentified even by high quality background checks.

Best Practices

1. *Best practice background checks are conducted by the state licensing agency before the applicant receives his or her Professional Educator's License* (Kelly, 2016). District-level background checks “can be incomplete, inconsistent or even skipped” (Kelly, 2016).
2. *Background checks conducted against both the applicant's criminal history and work history are most effective* (Kelly, 2016). Reviewing work history catches misconduct that did not rise to the level of criminal charges. Work history should be reviewed by employment reference checks, checking gaps in employment history, and checking applicants against the nationwide NASDTEC Clearinghouse database.⁸
3. *The most effective level of background check is national; although best practice is to run both a statewide and a national criminal history check* (U.S. Government Accountability Office, 2010, p. 6; Kelly, 2016). Non-national criminal history checks only reveal offenses committed by the applicant in the state or community where the check is

⁸ The NASDTEC Clearinghouse databases is “a national database of disciplined teachers maintained by a non-profit organization that state educator credentialing agencies rely on to check the histories of teachers” (Reilly & Kelly, 2016a). However, the database is only as good as the information provided to it by the states.



conducted. Conducting a non-national background check makes it “highly likely” that the school will hire a teacher that committed an offense in another state (U.S. Government Accountability Office, 2010, p. 6).

4. *Fingerprint-based criminal history checks are more effective than name-based criminal history searches.* Name-based criminal history searches require the school official conducting the check to enter the precise name under which the individual’s criminal history is recorded. This name-based search will not provide all relevant information if the school official unintentionally uses a nickname instead of the applicant’s full name or makes a typo when entering the name. Fingerprint-based background checks eliminate this problem and, thus, are the most accurate (U.S. Government Accountability Office, 2010, p. 6).
5. *It is a best practice to conduct recurring background checks* (U.S. Government Accountability Office, 2010, p. 6). These checks are intended to identify school personnel who commit offenses after passing their initial background check. Conducting only pre-licensure or pre-employment background checks will not identify these offenders (U.S. Government Accountability Office, 2010, p. 6). A common rate of recurrence is every five years (Ind. Code Ann. § 20-26-5-10; 24 Pa. Cons. Stat. § 1-111). For further discussion on recurrence see Appendix C.

North Carolina does not have best practice background checks

1. *DPI does not conduct a background check before an applicant receives his or her Professional Educator’s License.* The extent to which the Professional Educator’s License application checks an applicant’s criminal and work history is by asking two questions: (1) Have you ever had allegations of professional misconduct or had a professional certificate or license revoked or suspended by any state or other governing body? (2) Have you ever been charged or convicted of a crime (excluding minor traffic violations)? (J. Champagne, Paralegal for the State Board of Education, personal communication, March 20, 2019). Thus, the only background check currently used is the applicants self-reporting previous misconduct.



2. *None of North Carolina's school districts require a NASDTEC search as part of the hiring process* (District data, 2019). However, a few districts require administrators to check an applicant's references before hiring the applicant (Asheville City School Board, 2013).
3. *Only 14 North Carolina school districts require a national background check* (District data, 2019). Only three of these districts require national background checks for all teacher applicants (District data, 2019).
4. *Only 17 North Carolina school districts require fingerprint-based background checks;*⁹ although several more allow for fingerprinting (District data, 2019).
5. *Only 5 districts require recurring background checks and only 24 explicitly permit them* (District data, 2019).

The problems with best practice background checks

Time and Money

Time and money are the most common reasons that schools fail to adopt best practice background checks.

School administrators argue that fingerprint-based national and state checks cost too much. The cost varies by state, but fingerprint-based checks generally cost between \$21 and \$99, and can be paid either by the applicant or the school (U.S. Government Accountability Office, 2010, p. 5). However, North Carolina's law states a "local board of education shall not require an applicant to pay for the criminal history checks" (N.C. Gen. Stat. § 115C-332).

School administrators also argue that best practice criminal history checks take too long. There are mixed accounts of how long running a fingerprint-based national check takes, but the range seems to be between six weeks and 90 days (U.S. Government Accountability Office, 2010, p. 5, 20). This timeframe is lengthened if the record is not complete due to missing disposition information (U.S. Government Accountability Office, 2015). If a background check is required

⁹ My assumption here is that if national or state checks are required they are fingerprint-based. If name based searches are allowed the number may actually be lower.



before a teacher can be hired, this delay will prevent school administrators from filling vacant positions quickly. The delay is particularly problematic when vacancies occur during the school year.

Limited Usefulness

The greatest criticism of background checks as a means of preventing student sexual abuse by school personnel is that only a small percentage of offenders have a prior sexual offense record (Finkelhor, 2009, p. 169). Best practice background checks do not guarantee that sexual abuse will not occur (Davis et al., 1998, p. 23). “The true benefits and costs of background checks have not been systematically researched” (Finkelhor, 2009, p. 175).

Equity Issues

A final criticism of using background checks to reduce sexual abuse in schools is that not all previous offenders will reoffend, but these offenders are kept out of schools anyway. An estimated 75% of sexual offenders do not reoffend (Przybylski, 2015, p. 4).



Evaluative Criteria

Each alternative below will be evaluated according to specific criteria. Each policy option has the goal of improving North Carolina's teacher background check requirements in order to prevent previous sexual offenders from obtaining jobs in North Carolina public schools and protect North Carolina children from sexual abuse by school personnel. For an alternative to be adopted, most importantly, it must be effective. However, the policy should also minimize initial and recurring costs, generate a low administrative burden, and have an equitable impact on the school districts implementing the policy and on the applicants affected by the policy. Finally, for a policy option to be successful it must garner support from school administrators, the State Board of Education (SBE), the Department of Public Instruction (DPI), and the General Assembly. I have defined five distinct criteria that address these most critical elements of the policy alternatives, evaluating each option on its:

1. Effectiveness at reducing the number of sexual offenders obtaining jobs in North Carolina public schools
2. Cost
3. Administrative Burden
4. Equity Concerns
5. Political Feasibility

I have quantified criteria where possible. However, for criteria where qualitative information is most relevant, each alternative is ranked on a given scale. The criteria are defined in detail below.

Effectiveness at reducing the number of sexual offenders obtaining jobs in North Carolina public schools:

This criterion attempts to estimate the effectiveness of each alternative at addressing the policy problem. The best indicator of effectiveness would be a quantitative measure of the projected decrease in instances of sexual abuse by school personnel. However, this is not a feasible measure. The data on reported instances of sexual abuse by school personnel are not available



and the majority of incidences of sexual abuse are not reported.

A proxy for measuring the reduction of sexual abuse in schools is measuring the reduction of previous sexual offenders obtaining jobs in North Carolina. Past perpetration of sexual offenses is our best predictor of future perpetration. Thus, I am assuming that a reduction in the number of previous sexual offenders hired should parallel a reduction in the incidence of sexual abuse by school personnel.

There is not sufficient data to create quantitative estimates of the reduction in sexual offenders hired. There is no way to know how many sexual offenders are hired by North Carolina public schools under the status quo and, thus, there is no way to give a numerical estimate of the reduction. The most relevant data available, the data describing license revocations, does not indicate whether those who lost their licenses due to sexual misconduct towards students were previous offenders. As a result, this criterion will be evaluated on a scale. Does the policy alternative in question create a *limited, moderate, or extensive reduction* in the number of previous sexual offenders hired by North Carolina public schools?

Cost

The following criteria address the cost of implementing each proposed background check policy over the cost of the status quo. To be successful policies must minimize both initial and recurring costs. This criterion addresses the costs to three stakeholders.

Costs to the State

Initial Costs: How much will the proposed policy alternative cost for North Carolina to implement? The most important cost here is the cost to upgrade relevant systems, such as the licensure application system. In 2017, this cost was estimated to be \$250,000 by the Fiscal Research Division of the General Assembly (Metayer, 2017). This criterion is quantified in dollars.

Recurring Costs: How much will the proposed policy alternative cost for North Carolina to maintain? The most important costs here are background check and fingerprinting fees, the



salaries of any necessary additional staff, and state funding provided to districts. This criterion is quantified in dollars.

- Fingerprinting fees are \$10 at local police and sheriff's offices.
- The background check fee is set by DPS to offset the cost incurred to conduct the criminal record checks. The State Bureau of Investigation estimated this fee to be \$35 per applicant in 2017 (Metayer, 2017).

Costs to Local School Districts

Initial Costs: How much does the proposed policy alternative cost local school districts to implement? The most important cost here is the cost to upgrade online employment applications. At a minimum a small district with paper applications will not need to upgrade any system, resulting in no additional cost. At the maximum a large district with an electronic application system could require an upgrade comparable to updating the state licensure system at a cost of \$250,000. This criterion is quantified in dollars.

Recurring Costs: How much does the proposed policy alternative cost for local school districts to maintain? The most important costs here are background check fees (\$35 per applicant), fingerprinting fees (\$10 per applicant), and the salaries of any necessary additional staff. This criterion is quantified in dollars.

Costs to Applicants

How much does the proposed policy alternative cost teacher applicants? This cost will reflect the financial burden that is shifted to applicants as well as the time costs. The most important costs here are background check fees (\$35 per applicant), fingerprinting fees (\$10 per applicant), and the time cost required to complete the process. Time cost is estimated based on the average teacher salary (\$48,373) divided by the estimated number of hours for which a teacher is paid



(1,720 hours)¹⁰ (DPI, 2019b). Therefore, the cost of a teacher's time is approximate \$28 per hour. The criterion will quantify the cost in dollars per applicant as well as dollars overall.

Administrative Burden

Does implementing the proposed policy alternative present additional administrative burdens? This criterion will consider the amount of time necessary to complete the background checks, the level of impact the delay has on the hiring process, and the level of administrative coordination between different state agencies and between local school districts and the state. The criterion will be evaluated on whether or not the proposed policy generates *limited, moderate, or extensive administrative burden*.

Equity Concerns

There are three dimensions to the equity concern. One addresses the equity among school districts in North Carolina. The second addresses equity concerns as they relate to sexual offenders. The third addresses the split of costs between teachers and the state.

District Equity

Does the distribution of an alternative's cost have inequitable outcomes for some communities (e.g., poorer districts that are unable to afford enhanced background checks)? This criterion will be evaluated on whether the proposed alternative generates *limited, moderate, or extensive district-level equity concerns*.

Offender Equity

This second dimension of equity is associated with protecting the rights of previous offenders. What will be the burden on these offenders? Will previous offenders who are highly unlikely of committing sexual abuse in the future be unfairly restricted from the teaching profession? This

¹⁰ Number of hours is calculated by 8 hours times the 215 days for which a teacher is paid, i.e., the number of school calendar days (North Carolina Board of Education, 2017).



criterion will be evaluated on whether the proposed alternative generates *limited, moderate, or extensive offender equity concerns*.

Teacher Equity

The final dimension of equity is concerned with whether teachers or the government will bear the burden of protecting students from previous sexual offenders. Who will bear the majority of the burden? Does the distribution of an alternative's cost have inequitable outcomes for some teachers (e.g., teachers who are poor)? This criterion will be evaluated on whether the proposed alternative generates *limited, moderate, or extensive teacher equity concerns*.

Political Feasibility

Is the proposed policy alternative likely to receive support from decision-making stakeholders? Stakeholders include the district-level school administrators, the State Board of Education/DPI, and, most importantly, the North Carolina General Assembly. This criterion will be evaluated on whether the proposed policy will obtain *unlikely, uncertain, or likely support*.



Policy Alternatives

Below are five policy alternatives, including “let present trends continue,” for improving North Carolina’s educator background check policy and preventing North Carolina public schools from employing known sexual offenders. The five policy alternatives are:

1. Let Present Trends Continue
2. National, Fingerprint-based Criminal Records Checks Before Licensure
3. Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants
4. State Subsidization of National, Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants
5. Both Alternatives 2 and 3

There are three overarching issues that are relevant to these alternatives but that are beyond the scope of this report: (1) How should background check information be used?; (2) Should national background checks be required for all applicants?; and (3) Should background checks be recurring? These issues are introduced and briefly discussed in Appendix C.



Policy Alternative 1: Let Present Trends Continue

Overview:

Local school districts create their own policies for who is subject to background checks and the level of background check required. These policies must be applied uniformly. Districts may not require applicants to pay background check fees. When a local school district conducts a background check for an applicant with a Professional Educator's License, the local board of education must provide the State Board of Education with the criminal history it receives on that applicant. Local Boards of Education are permitted to adopt a policy for periodic criminal background checks of employees, again employees must not be required to pay for these checks.

Description:

North Carolina does not currently require a background check before a teacher is licensed. Nor does the state have any requirements regarding when local school districts should conduct background checks or what type of background checks districts should conduct. All state law requires is that local school districts have a policy, that they follow it uniformly, and that they do not require applicants to pay for any criminal history checks that are conducted. North Carolina is the only state with this form of teacher background check policy (U.S. Government Accountability Office, 2010, p. 25).

North Carolina school districts have chosen to implement a variety of policies to satisfy the state law. Many of these policies are as vague as the state policy. Camden County's background check policy is illustrative:

A criminal history check and a check of sex offender registries must be conducted on all final candidates for employment with the school system. Criminal history checks must be conducted in accordance with state law and any procedures established by the superintendent. (Camden County Schools, 2016).¹¹

¹¹ Camden County Schools Policy Code 7105 does allow for, but does not mandate, criminal background checks of existing employees if there is cause.



This or very similar language is used in at least 76% of North Carolina’s school districts’ policies (District data, 2019). Although criminal background checks are required before a school hires a teacher, these vague policies do not mandate the quality of background check conducted.

Other North Carolina school districts have stronger background check policies. Harnett County Schools is an example. Harnett County requires a criminal records check before an applicant is hired and allows for recurring criminal records checks. Unlike Camden County, Harnett establishes a minimal level of background check that must be conducted for particular types of candidates

(a) In the case of applicants . . . who have lived and worked within the state of North Carolina for the five years before the date of application, the administration will conduct a statewide criminal record check.

(b) In the case of applicants . . . who have lived or worked outside of North Carolina during the five years before the date of application, the administration will conduct both federal and state record checks (Harnett County Schools, 2007).

Under the status quo this patchwork of district background check policies will remain. And, because of the additional resources required to conduct more intensive background checks—including the fact that applicants cannot be required to pay any of the associated fees—the baseline district policy will likely be similar to Camden County’s policy, vague.



Evaluation of Policy Alternative 1: Let Present Trends Continue

1. Effectiveness at reducing the number of sexual offenders obtaining jobs in

North Carolina public schools: *Limited.* The majority of North Carolina school district policies do not follow best practices. Only 14 of 115 districts require national fingerprint-based background checks for any applicants (with only four requiring these checks for all candidates), only 5 districts require recurring checks, and no districts require a NASDTEC check (District data, 2019). Due to the cost of improving background checks most districts will likely continue to have these vague background check policies.

2. Cost:

- a. **Costs to State:** *No change (currently \$0).* North Carolina does not currently require a background check at the licensure stage.
- b. **Costs to District:** *No change (currently an average of \$1,087.68 recurring costs per district).* If present trends continue, there is no need to update licensure application systems nor hire additional staff. The only cost is to those districts that require more comprehensive checks. These 17 districts currently pay approximately \$125,083 in total (Appendix B).
- c. **Cost to Applicants:** *No change (\$45 per applicant, \$178,965 total).* The only costs now are fingerprinting costs and time costs to those teachers in the 17 districts that require national or statewide background checks (District data, 2019). The fingerprinting costs will be \$10 per applicant and the time cost per applicant will be approximately \$35 (Appendix B). Therefore, the total cost per applicant is \$45 in districts that require fingerprint-based checks and the overall total cost to applicants will be \$178,965.



3. Administrative Burden: *Limited*. The current policy does not require that any of the districts conduct national or statewide fingerprint-based background checks and, thus, none of the districts are required to take on the time delay associated with these checks. The 14 districts that require national checks may have to wait up to 90 days per applicant to receive the requested information, although two weeks is more typical (District data, 2019; Task Force on Teacher Ethics and Licensure, 2017; U.S. Government Accountability Office, 2010, p. 5, 20). The 3 districts that only require state checks may have to wait up to 7 days per applicant (District data, 2019; North Carolina State Bureau of Criminal Investigation, n.d-a). These 17 districts have chosen to incorporate these delays into their hiring process. Additionally, the current law already provides a mechanism through which districts that choose to conduct these checks can request criminal histories from DPS, no additional coordination is necessary (N.C. Gen. Stat. § 115C-332).

4. Equity Concerns

- a. District Equity: *Extensive*.** Poor districts will be less likely to take on the additional costs associated with requiring best practice educator background checks. Therefore, the children in poorer districts will be less protected from previous sexual offenders than the children in wealthier districts.
- b. Offender Equity: *Moderate*.** Previous offenders who are highly unlikely of committing sexual abuse in the future may be unfairly restricted from teaching in some districts, particularly those with more stringent background check requirements. However, in at least 76% of the districts the requirements are less stringent and the district decision-makers are given discretion to decide whether an offenders crimes should disqualify them.
- c. Teacher Equity: *Limited*.** Under the current policy, districts cannot require applicants to pay for criminal history checks (N.C. Gen. Stat. §15C-332). Moreover, most districts do not require a fingerprint-based background check and, therefore, the additional fingerprinting fees do not affect most applicants.



5. Political Feasibility: *Likely.* Both previous attempts at educator background check reform have stalled in committee. Neither house of the General Assembly has renewed its reform attempt since the 2017-2018 session. While there are renewed rumblings for change, it is far from certain (S. Walker, Chief of Staff and General Counsel to the Lieutenant Governor, personal communication, March 25, 2019).



Policy Alternative 2: National, Fingerprint-based Criminal Records Checks Before Licensure

Overview:

North Carolina could add a mandatory background check to the Professional Educator's License application, including the applications for licensure renewal. This new prerequisite would require licensure applicants to undergo statewide and national, fingerprint-based background checks and a NASDTEC Clearinghouse database search. The cost of applying for a Professional Educator's License would increase by the amount of the background check and fingerprinting fees.

Description:

The states that received high grades from USA Today¹² for their background checks have strong state-level screening mechanisms (Kelly, 2016). To get the highest level of possible points a state had to have background checks (1) conducted at the state level; (2) completed before teaching licenses were issued; (3) that included both state and nationwide records; and (4) that checked every applicant against the NASDTEC Clearinghouse database (Kelly, 2016).

South Carolina is an example of one such high-ranking state (Reilly & Kelly, 2016b). South Carolina requires a "state criminal records check by South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints by the Federal Bureau of Investigation" before a person may receive a teacher's license (S.C. Code Ann. § 59-25-115). The cost of the national criminal records check is born by the applicant (S.C. Code Ann. § 59-25-115).

Similarly, Texas ranked high on the background check portion of USA Today's teacher discipline tracking audit (Reilly & Kelly, 2016b). Texas enacted their background check law in 2007 and required that "[t]he Board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a

¹² USA Today's year-long investigation is the most comprehensive and recent investigation publically available on the quality of state background checks.



national criminal history record information review” (Tex. Educ. Code § 22.0831). The Texas law applies to all teacher certificate applicants (Tex. Educ. Code § 22.0831).

North Carolina, under this alternative, would develop a similar policy to South Carolina and Texas. North Carolina would expand the Professional Educator’s License application to include a statewide background check, a national fingerprint-based background check, and a NASDTEC Clearinghouse check. All applicants for licensure, including individuals seeking renewal, would be checked. The State would create this policy through legislation passed by the General Assembly.

DPS would provide the criminal histories necessary for the completion of the statewide and national background checks. DPS already fills this role for background checks conducted at the request of local school districts (N.C. Gen. Stat. § 115C-332) as well as for background checks conducted at the request of DPI (N.C. Gen. Stat. § 143B-954). In order for DPS to provide these histories, applicants would need to be fingerprinted and would need to provide any additional information required to conduct the check. Applicants would also have to consent to the check and to the use of their fingerprints and information.

Under Policy Alternative 2, the cost of fingerprinting and the background check fee would be borne by the applicant. However, DPI would need to update their online licensure application system to add the background checks and NASDTEC check to the workflow. DPI already has access to the NASDTEC database. DPI and DPS would likely require additional staff to manage the increased workload.



Evaluation of Policy Alternative 2: National, Fingerprint-based Criminal Records Checks Before Licensure

- 1. Effectiveness at reducing the number of sexual offenders obtaining jobs in North Carolina public schools:** *Extensive.* Mandating national and statewide fingerprint-based background checks and NASDTEC checks for all licensure applicants would prevent all previous offenders, who have a criminal record or who have had action taken on their license by another state, from entering the North Carolina teaching profession. This would significantly reduce the number of previous sexual offenders entering North Carolina schools as teachers. However, offenders who commit their offense after they have obtained their license will not be excluded by the initial background check. Therefore, some offenders would still be able to enter schools. Nevertheless, if these offenders remain in North Carolina, they will eventually be weeded out by the licensure renewal background checks that will take place every five years under this alternative.
- 2. Cost:**
 - a. Costs to State:** *\$250,000 initial, \$140,000 recurring.* The Fiscal Research Division estimated in 2017 that it would cost approximately \$250,000 to reprogram the licensure system (Metayer, 2017). The \$250,000 would be used to “re-architect portions of the system in order to add criminal background checks to the workflow and to provide space sufficient to store any additional artifacts necessary to carry out the background check process” (Metayer, 2017, p. 3). The Fiscal Research Division also estimated that an additional attorney and paralegal would be needed at the state level to accommodate “the extensive volume of criminal checks that would now be required to be done at the state level” (Metayer, 2017, p. 3). These two additional recurring positions have an estimated cost of \$140,000 (Metayer, 2017).



- b. Costs to District:** *No Change.* This alternative would not add any costs to the districts beyond the current costs already in existence under the status quo.
 - c. Cost to Applicants:** *\$80 increase per applicant, \$3,440,000 overall increase.* In 2015-2016, there were 43,000 applications for teacher licensure, including renewals (Metayer, 2017). This number is still representative (S. Ruiz, Section Chief for Licensure, personal communication, April 10, 2019). The total cost per applicant is \$80, with \$35 per applicant in background check fees, \$10 per applicant in fingerprinting fees, and \$35 per applicant in time costs (as determined under Alternative 1). Therefore, the overall cost to applicants is \$3,440,000.
- 3. Administrative Burden:** *Moderate.* There will be delay added to the licensure process. All applicants for licensure could have to wait up to 90 days for their background checks, although most checks will take approximately 2 weeks. This delay can be mitigated by allowing for a conditional license until the background check and NASDTEC check are complete. Additionally, since most licensure applications occur during the summer when school is not in session, the delay has less of an impact on the hiring process. While there will be an increase in both the volume of fingerprints that must go to DPS from DPI and the volume of criminal histories sent from DPS to DPI, current law already provides for this agency cooperation (N.C. Gen. Stat. § 143B-954).
- 4. Equity Concerns**
- a. District Equity:** *Limited.* All districts will benefit from the increased screening done at the licensure stage.
 - b. Offender Equity:** *Extensive.* Requiring all licensure applicants to submit to national and statewide fingerprint-based criminal history checks and a NASDTEC check will prevent all previous offenders from entering the teaching profession. Offenders that are highly unlikely to reoffend are just as restricted from the profession as those who are likely to reoffend.



c. Teacher Equity: *Extensive.* The majority of the cost is borne by teacher applicants. While the cost is spread among 43,000 applicants, with each applicant bearing an individual burden of \$80, this can still result in inequitable outcomes for poor teachers who may be less able to cover the fee. The state and school districts are responsible for protecting the children under their care and should bear more of the cost.

5. Political Feasibility: *Likely.* The General Assembly almost passed a bill in 2015 that required Professional Educator's License applicants to submit to national and statewide background checks. This bill failed due to disagreement on an unrelated regulatory reform bill (S. Walker, Chief of Staff and General Counsel for the Lieutenant Governor, March 25, 2019). As recently as January 2019, there has been talk at DPI and the General Assembly of another reform attempt (Eric Snider, Agency General Counsel, personal communication, January 31, 2019). State Board of Education Chairman, Eric Davis, has expressed support for fingerprint background checks of educators prior to issuing professional educator licenses (Eric Snider, Agency General Counsel, personal communication, February 2, 2019). The districts will likely be supportive due to the lack of additional cost to them and the additional protection their students will receive.



Policy Alternative 3: Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants

Overview:

North Carolina could prohibit local school districts from hiring applicants for teaching positions unless a minimum level of screening has been completed. This minimum level of screening would include conducting a complete work history review and conducting both a statewide and a national, fingerprint-based background check. Under this alternative, applicants would pay the fees associated with fingerprinting and background checks.

Description:

North Carolina's current policy is for teacher background checks to be conducted at the district-level hiring stage. This alternative would not change the time at which the background check is conducted, but will standardize the strength of the background check required.

A growing number of states have “new legislation intended to ensure tougher background checks and vetting requirements for educators” (Fay, 2017). Connecticut is one of these states.

Connecticut law has long had strong teacher background check requirements at the hiring level: “Each local and regional board of education shall . . . require . . . each person hired by the board . . . to submit to state and national criminal history records checks within thirty days from the date of employment” (Conn. Gen. Stat. § 10-221d). However, in 2016, Connecticut passed a law that strengthened the background check requirements further (Fay, 2017). The new Connecticut law prohibits boards of education from hiring teachers unless the applicant provides (1) the full contact information of all their previous employers for jobs having contact with children; (2) written consent allowing the disclosure of any records or information related to those previous employments; and (3) a written statement that the applicant has not been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency, or police department (unless the investigation resulted in unsubstantiated allegations) (Conn. Gen. Stat. § 10-222c). The new law requires boards of education, before hiring the applicant, to contact all of the employers listed and request information regarding the applicant's employment, the presence of any abuse or sexual misconduct allegations against the applicant, the existence of any



disciplinary actions taken against the applicant, and the incidence of any negative actions taken against the applicant's license (Conn. Gen. Stat. § 10-222c).

Under this alternative, the North Carolina Department of Public Instruction would recommend a law modeled after Connecticut's background check laws.

Local school districts would be required to conduct state and national, fingerprint-based criminal background checks before hiring an applicant to a teaching position. Although some districts' hiring policies already include such a requirement, this alternative would require the modification of many districts' employment application process. Additionally, for those districts' that do not already require these types of background checks, additional personnel may be needed to accommodate the increased information management. The cost of fingerprinting and background check fees would be paid by the applicant.

DPS would provide the criminal histories necessary for the completion of the statewide and national background checks. DPS already fills this role for background checks conducted at the request of local school districts (N.C. Gen. Stat. § 115C-332). In order for DPS to provide these histories, applicants would need to be fingerprinted and would need to provide any additional information required to conduct the check. Applicants would also have to consent to the check and to the use of their fingerprints and information.

Local districts, under this alternative, would need to require applicants to submit the employment information and consents described in Connecticut's law with the rest of their application information. The districts must review all such information and contact all listed previous employers by phone or written communication. Additionally, the district should inquire about any noticeable employment history gaps. Due to its time-consuming nature, this work history check will likely be the last thing the hiring district does before hiring the applicant.

Any negative information discovered during either the criminal history checks or the employment history check will be reported to the State Board of Education.



Evaluation of Policy Alternative 3: Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants

1. Effectiveness at reducing the number of sexual offenders obtaining jobs in

North Carolina public schools: *Moderate.* This alternative would prevent previous criminal sexual offenders from being hired. Moreover, this alternative includes a work history check. A thorough reference check is likely to eliminate candidates who have been accused of sexual misconduct during a previous employment but who quietly resigned without criminal action or action on their license. This prevents a problem called “passing the trash,” where an offender is able to commit sexual misconduct, resign, and then move to a new district without consequence (S. Walker, Chief of Staff and General Counsel for the Lieutenant Governor, March 25, 2019). However, this alternative is not recurring and, therefore, may fail to catch teachers who offend after they are hired by a school district.

2. Cost:

- a. **Costs to State:** *No change.* Although DPS’s workload will increase by approximately 7,842 more checks (Appendix B), this is less than a fifth of the increase in workload resulting from Alternative 2. Alternative 2 only needed two additional employees; therefore, I am assuming no additional state level employees are needed.
- b. **Costs to District:** *\$0-\$250,000 per district initial, \$0- \$38,336.88 per district recurring.* At the low end, districts that already have a similar background check system in place will not need to update their application systems nor hire new employees to manage an increased workload. However, districts that currently do not have stringent background check requirements, but that have high turnover and electronic application systems, likely will have to update their application systems and hire an additional employee to manage the increased workload. See Appendix B for cost calculations.



c. Cost to Applicants: *\$35-\$80 increase per applicant, \$766,555 overall increase.* The applicant cost would include the \$35 per applicant background check fees, the \$10 per applicant fingerprinting fees, and the \$35 per applicant time cost (discussed under Alternative 1). Applicants will now be responsible for these fees, not the districts. Applicants in districts that already require fingerprint-based checks will see an increase of \$35 per applicant. Applicants in districts that do not currently require such checks will see an increase of \$80. Calculations for overall increase are found in Appendix B.

3. Administrative Burden: *Extensive.* This alternative would significantly increase the amount of time required to hire an applicant. Not only would applicants have to wait up to 90 days for their national fingerprint-based background checks, there would also be the increased delay associated with contacting all of an applicant's previous employers. While part of this problem could be solved by allowing for conditional employment while background checks are being completed, it would still be necessary for an administrator to complete the reference check before the applicant was hired. This delay is more impactful at the hiring stage than it is at the licensure stage. It is not uncommon for schools to need to make emergency hires during the school year to replace teachers who leave. A delay in this scenario would result in students being taught by long-term substitutes rather than licensed teachers. Finally, because each district would request background checks directly from DPS there would be a large increase in the amount of cooperation required between DPS and individual districts. Although, the current law provides for this type of arrangement (N.C. Gen. Stat. § 115C-332), only 17 districts take advantage of this arrangement presently.



4. Equity Concerns

- a. **District Equity:** *Extensive.* Poorer districts that are forced to update their application systems and hire additional personnel will have to make cuts to other critical areas to pay for these changes, potentially hurting the learning outcomes of students. Additionally, poorer districts tend to have smaller candidate pools and this alternative may narrow that pool further.
- b. **Offender Equity:** *Extensive.* This alternative prevents previous offenders from obtaining teaching jobs without distinguishing between offenders likely of reoffending and those who are not. Moreover, this alternative also excludes applicants who have not been formally charged or disciplined. This will increase the possibility that a wrongly accused applicant could be excluded.
- c. **Teacher Equity:** *Moderate.* Under this alternative teachers are still faced with bearing a significant portion of the cost of protecting students from sexual abuse. This cost arguably should be borne by the state and the districts. However, here the districts are bearing some of this cost.

- 5. **Political Feasibility:** *Uncertain.* To this alternative's advantage, previously attempted legislative reforms have required more stringent background check requirements (i.e., licensure background checks) and one of these bills only failed due to an unrelated regulatory reform bill conflict. However, these previous attempts did not require state and national fingerprint-based checks, but also allowed for background checks from consumer reporting agencies. Moreover, these previous reforms did not include work history checks. The state legislature would be invading district decision-making power and, thus, this alternative is unlikely to be supported by district decision makers. DPI and the State Board of Education have expressed neither support nor opposition to this type of policy.



Policy Alternative 4: State Subsidization of National, Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants

Overview:

The State could subsidize mandatory national and statewide fingerprint-based background checks at the district hiring level. Districts would pay for the background check fees but would receive a subsidy from the state. The General Assembly could do this by amending the school funding formula to include a funding allotment tied to the number of vacant teaching positions in each district.

Description:

Under this alternative, districts would be required to conduct statewide and national fingerprint-based criminal background checks before hiring an applicant. Districts would be prohibited from requiring applicants to pay for these checks, other than for the cost of fingerprinting. The state would subsidize these mandatory checks.

Subsidizing district-level state and national fingerprint-based background checks would require the General Assembly to amend the school funding formula. This alternative suggests that the formula be amended so that the State allots \$17.50 for every vacant teaching position in the district, for vacancies up to 15% percent of the total teaching positions.¹³ This allotment would cover half of an applicant's background check fees. The other half would be covered by the district. The applicant would cover the costs associated with the fingerprinting itself.

DPS would provide the criminal histories necessary for the completion of the statewide or national background checks subsidized by the state. DPS already fills this role for background checks conducted at the request of local school districts (N.C. Gen. Stat. § 115C-332). In order for DPS to provide these histories, applicants would need to be fingerprinted and would need to

¹³ A cap on the number of vacancies considered would prevent districts from being incentivized to report that they have more vacancies than they actually need filled.



provide any additional information required to conduct the check. Applicants would also have to consent to the check and to the use of their fingerprints and information.

Any school district that does not already require state and national fingerprint-based tests will need to update their employment application process and may need to hire additional personnel.



Evaluation of Policy Alternative 4: State Subsidization of National, Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants

1. Effectiveness at reducing the number of sexual offenders obtaining jobs in

North Carolina public schools: *Moderate.* This alternative would prevent previous criminal sexual offenders from being hired. However, this alternative is not recurring and, therefore, may fail to catch teachers who offend after they are hired by a school district. Moreover, this alternative does not address the “passing the trash” problem discussed under Alternative 3’s evaluation.

2. Cost:

- a. **Costs to State:** *\$199,115 recurring.* See Appendix B. The total subsidy is tied to the number of vacancies in each district. The subsidy is designed to cover half of the background check fees associated with these vacancies. However, because most districts will check more than one applicant per vacancy and some districts will have vacancies over the 15% cap, the subsidy is unlikely to cover half of the background check fees overall. There are no other additional costs to the state.
- b. **Costs to District:** *\$0 to \$250,000 per district initial costs, a reduction of \$56,770 in recurring costs per district to an increase of \$182,169.38 in recurring costs per district.* The additional cost associated with paying for background check fees will vary by district based on their current policy and how many vacancies they have over the 15% cap. However, the total cost to the districts will be \$89,497. The other district level costs (upgrading application systems and additional staff positions) will be the same as in Alternative 3. See Appendix B for calculations.
- c. **Cost to Applicants:** *\$45 per applicant, a total increase of \$352,890.* Only applicants from districts that do not currently require national and state fingerprint-based background checks will see an increase in their costs. See Appendix B.



3. Administrative Burden: *Extensive.* This alternative would increase the amount of time required to hire an applicant. Applicants may have to wait up to 90 days for national fingerprint-based background checks. Conditional employment could alleviate part of this concern. However, as discussed in Alternative 3, any delay created is more impactful at the hiring stage than it is at the licensure stage. Finally, because each district would request background checks directly from DPS there would be a large increase in the amount of cooperation required between DPS and individual districts. Districts already communicate their vacancy numbers to the state (DPI, 2019c).

4. Equity Concerns

- a. District Equity:** *Moderate.* Some of the district inequity present in Alternative 3 is relieved by the fact that the state is subsidizing the mandatory background checks, thereby making it easier for poor districts to comply. However, there may be inequity between small and large districts. Small districts in rural areas may have a high turnover and struggle to attract new teachers, but due to their small size losing even a few teachers could push them over the 15% cap.
- b. Offender Equity:** *Moderate.* This alternative prevents previous offenders from obtaining teaching jobs without distinguishing between offenders likely of reoffending and those who are not.
- c. Teacher Equity:** *Limited.* The costs in this alternative are more equally distributed among the teachers, districts, and state.

5. Political Feasibility: *Unlikely.* No one wants to touch the school funding formula making the political feasibility of this option low. Support from district stakeholders will likely depend on the current policy in the district and whether this alternative will increase their expenses. DPI's and the State School Board's position on this alternative is uncertain.



Policy Alternative 5: Both Policy Alternative 2 and Policy Alternative 3

Overview:

The North Carolina State Board of Education could add a mandatory background check to the Professional Educator's License application. This new prerequisite would require licensure applicants to undergo both a statewide background check and a national, fingerprint-based background check.

Additionally, The North Carolina General Assembly could prohibit local school districts from hiring applicants for a teaching position unless a minimum level of screening has been completed. This minimum level of screening would include conducting a complete work history review and conducting both a statewide and a national, fingerprint-based background check before hiring applicants for a teaching position.

The cost of the background check and fingerprinting fees would be borne by the applicants at both the licensure-level and hiring-level stages.

Description:

Refer to descriptions of Policy Alternatives 2 and 3.



Evaluation of Policy Alternative 5: Both Policy Alternative 2 and Policy Alternative 3.

- 1. Effectiveness at reducing the number of sexual offenders obtaining jobs in North Carolina public schools:** *Extensive.* This alternative would prevent previous criminal sexual offenders from being hired as well as licensed. Offenders who committed their offenses after licensing but before hiring would be weeded out. Additionally, due to the recurring nature of the licensure check, offenders who offended after hiring would still be removed eventually. This alternative also includes a thorough work history check, which is likely to weed out candidates who have been accused of sexual misconduct during a previous employment but who quietly resigned without criminal action or action on their license. This prevents “passing the trash.”
- 2. Cost:**
 - a. Costs to State:** \$250,000 initial, \$140,000 recurring. See description under Alternative 2.
 - b. Costs to District:** \$0-\$250,000 per district initial, \$0-approximately \$38,336.88 per district recurring. See description under Alternative 3.
 - c. Cost to Applicants:** \$80 per licensure applicant that is not also being hired by a district and \$115 per licensure applicant that is also an applicant for a district position; \$3,674,700 in total applicant costs. See Appendix B.
- 3. Administrative Burden:** *Extensive.* This alternative includes all the extensive administrative burdens that Alternative 3 did, as well as the moderate burdens resulting from Alternative 2.
- 4. Equity Concerns**
 - a. District Equity:** *Extensive.* This alternative results in the same extensive district equity concerns as Alternative 3.
 - b. Offender Equity:** *Extensive.* This alternative results in the same extensive offender equity concerns as Alternative 2 and 3.
 - c. Teacher Equity:** *Extensive.* This alternative results in the same extensive offender equity concerns as Alternative 2 and 3.



5. Political Feasibility: *Unlikely.* This alternative is unlikely because there are the same uncertainties that were present in Alternative 3, but now there is the additional costs to the state and the increased cost to teachers. These increased costs make this alternative unlikely to be instituted. However, there is some political will for extensive educator background check reform.



Outcomes Matrix

Evaluation Criteria	Impact Categories		Policy Alternatives				
			Let Present Trends Continue	National, Fingerprint-based Criminal Records Checks Before Licensure	Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants	State Subsidization of National, Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants	Both Policy Alternative 2 and Policy Alternative 3
Effectiveness at reducing the number of sexual offenders obtaining jobs in North Carolina public schools	Reduces number of previous sexual offenders hired by North Carolina public schools		Limited	Extensive	Moderate	Moderate	Extensive
Cost	Costs to the State	Initial Costs	No change	\$250,000 increase	No Change	No Change	\$250,000 increase
		Recurring Costs	No Change	\$140,000 increase	No Change	\$199,115 increase	\$140,000 increase
	Costs to the Districts	Initial Costs	No Change	No Change	\$0-\$250,000 increase	\$0-\$250,000 increase	\$0-\$250,000 increase
		Recurring Costs	No Change	No Change	\$0-\$38,336.88 increase	\$56,770 decrease - \$182,169.38 increase	\$0-\$38,336.88 increase
	Costs to the Applicants	Cost per Applicant	No Change	\$80 increase	\$35-\$80 increase	\$45 increase	\$80-\$115 increase
		Cost Overall	No Change	\$3,440,000 increase	\$766,555 overall increase	\$352,890 increase	\$3,674,700 increase
Administrative Burden	Level of Administrative Burden		Limited	Moderate	Extensive	Extensive	Extensive
Equity Concerns	Level of District Equity Concerns		Extensive	Limited	Extensive	Moderate	Extensive
	Level of Offender Equity Concerns		Moderate	Extensive	Extensive	Moderate	Extensive
	Level of Teacher Equity Concerns		Limited	Extensive	Moderate	Limited	Extensive
Political Feasibility	Likelihood of Successful Adoption		Likely	Likely	Uncertain	Unlikely	Unlikely

Recommendation

Policy Alternative 2: National Fingerprint-based Criminal Records Checks Before Licensure

North Carolina should add a background check requirement to the Professional Educator's License application. This background check requirement will incorporate best practices by requiring statewide and national, fingerprint-based background checks and a NADSTEC Clearinghouse database search. Additionally, this requirement will apply to license renewal applicants and will, thus, be recurring.

North Carolina can best improve educator background check policies and prevent public schools from employing sexual offenders by advocating for a background check requirement at the licensure level. In evaluating the options, consideration was given to the effectiveness of each option, potential costs, the level of administrative burden required for implementation, potential inequities, and political feasibility. I am recommending Policy Alternative 2, National Fingerprint-based Criminal Record Checks Before Licensure, because this alternative has the greatest potential to effectively reduce the number of sexual offenders employed by North Carolina public schools, while also being politically feasible and requiring only a moderate administrative burden for implementation.

I am not recommending Policy Alternative 1, Let Present Trends Continue, because it will not effectively reduce the number of sexual offender employed by North Carolina public schools. While the status quo does not introduce any additional costs and presents no administrative burdens, it also does not address the problem at issue. The status quo is not doing a sufficient job of protecting North Carolina public school children from sexual offenders. Moreover, there are still equity concerns associated with letting present trends continue. Most concerning is the district inequity associated with this option. Poor districts, under current policy, are less able to



protect their students from sexual offenders than wealthy districts. A child's safety at school should not depend on where they live.

I am not recommending Policy Alternative 3, Requiring Minimum Screening Procedures Before District-Level Hiring of Teacher Applicant's, because, although this option would reduce the number of sexual offenders hired by North Carolina public schools, there is no mechanism to exclude school employees who commit offenses after their hiring. Additionally, the implementation of Policy Alternative 3 is associated with a high administrative burden and extensive district equity concerns. Finally, this alternative's political feasibility is uncertain. If a policy alternative is not politically feasible, it will not be implemented and cannot improve North Carolina's educator background check system.

I am not recommending Policy Alternative 4, State Subsidization of National Fingerprint-based Criminal Records Checks Before District-level Hiring of Teacher Applicants, because it is not politically feasible. It is very unlikely that the stakeholders will wish to modify the school funding formula. Additionally, like Alternative 3, this alternative does not include a mechanism to exclude school employees who commit offenses after their hiring and its implementation is associated with a high administrative burden.

Finally, I am not recommending Policy Alternative 5, the combination of Policy Alternative 2 and Policy Alternative 3, because it not politically feasible and its implementation is associated with extensive administrative burdens. Moreover, this alternative would result in inequities across all three categories of equity concerns. Lastly, Alternative 5 increases costs at all three stakeholder levels and results in the highest cost to teachers, which is the group least responsible for protecting North Carolina students.

Based on my analysis, **I recommend that North Carolina add mandatory statewide and national fingerprint-based background checks and a mandatory NASDTEC Clearinghouse database search to the Professional Educator's License application process.**



Considerations for Implementation

The implementation considerations for instituting Policy Alternative 2, National Fingerprint-based Criminal Record Checks Before Licensure, are split into three categories. The first category involves advocating for new legislation. The second category involves how to efficiently conduct the required checks. The third category involves how decision-makers use the information from the checks.

Legislation Enactment

The first hurdle in implementing Policy Alternative 2 is advocating for the enactment of relevant legislation. Both the State Board of Education Chairman and the Lieutenant Governor have already expressed support for legislation similar to what is contemplated by Policy Alternative 2. These two political figures should be approached to help build support for new legislation.

The sponsors of the two previous background check reform bills should also be approached to help build coalitions within their respective houses. There are seven representatives that are still members of the House who sponsored the 2017 failed reform bill: Henry Warren, John Faircloth, D. Craig Horn, Holly Grange, Frank Iler, Pat Mcelraft, and John Szoka. There are also seven senators that are still members of the Senate who sponsored the 2015 failed reform bill: Harry Brown, Warren Daniel, Ralph Hise, Joyce Krawiec, Tom Mcinnis, Norman W. Sanderson, and Jerry W. Tillman.

Advocacy for this bill should focus on the protection of children and the improvement of student learning outcomes. These are bipartisan issues. Moreover, the price tag for the state is relatively small considering the benefit of improving student safety.¹⁴ A persuasive technique that aligns with this strategy is finding students who have been sexually abused by school personnel that are willing to speak about their experience. An emotional appeal is likely to be an effective strategy.

¹⁴ In 2016-2017 total expenditures on education were \$13.1 billion, the state provided 63% of that funding (Schlemmer & Debruyn, 2018).



There will be some pushback regarding offender equity concerns. These concerns are valid and the best way to combat them is to place them in the context of protecting children. General Assembly members are unlikely to be as concerned about offender equity while listening to an appeal from a harmed child.

Efficiently Conducting Checks

The overall implementation of the background check licensure requirement should be straightforward. DPI will need to update their application system as contemplated by the Fiscal Research Division of the General Assembly. Once the system is updated, it should operate similarly to the way it does now. Applicants will provide the relevant information and consents through the online application system. The one major change will be that fingerprint cards will have to be mailed to DPI by candidates and then forwarded to DPS. DPI may want to consider opening a separate post office box dedicated to collecting these fingerprint cards.

There is already a channel open between DPS and DPI, but the volume of communication will increase significantly. Besides hiring additional employees as contemplated by Alternative 2, one strategy to smooth this transition is to communicate to DPS when demand will be at its highest, i.e., during the summer, when most initial license applications arrive. This will allow DPS to manage its staffing accordingly.

Using the Information

This last category is a decision point discussed in Appendix C. The adopted policy should indicate how the background check information is used.

Having a disqualifying list of crimes is the most straightforward way to use the information from the background checks. Once a criminal history check or the NASDTEC search come back with an offense, the candidate's application will be denied. However, having a discretionary system or waiver system would likely be fairer to offenders. If either of the latter two options are chosen, then training for the licensure decision-makers would be necessary to ensure as much uniformity as possible.



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Appendix A: Current Background Check Law

115C-332. School personnel criminal history checks

(a) As used in this section:

(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subparagraph, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

- a. Employee of a local board of education whether full-time or part-time, or
- b. Independent contractor or employee of an independent contractor of a local board of education, if the independent contractor carries out duties customarily performed by school personnel,

whether paid with federal, State, local, or other funds, who has significant access to students. School personnel includes substitute teachers, driver training teachers, bus drivers, clerical staff, and custodians.



(b) Each local board of education shall adopt a policy on whether and under what circumstances an applicant for a school personnel position shall be required to be checked for a criminal history before the applicant is offered an unconditional job. Each local board of education shall apply its policy uniformly in requiring applicants for school personnel positions to be checked for a criminal history. A local board of education that requires a criminal history check for an applicant may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check.

A local board of education shall not require an applicant to pay for the criminal history check authorized under this subsection.

(c) The Department of Public Safety shall provide to the local board of education the criminal history from the State and National Repositories of Criminal Histories of any applicant for a school personnel position in the local school administrative unit for which a local board of education requires a criminal history check. The local board of education shall require the person to be checked by the Department of Public Safety to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the local board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The local board of education shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors.

The local board of education shall not require an applicant to pay for being fingerprinted.

(d) The local board of education shall review the criminal history it receives on a person. The local board shall determine whether the results of the review indicate that the applicant or employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The local board shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors. The local board may delegate any of the duties in this subsection to the superintendent.

(e) The local board of education, or the superintendent if designated by the local board of education, shall provide to the State Board of Education the criminal history it receives on a person who is certificated, certified, or licensed by the State Board of Education. The State



Board of Education shall review the criminal history and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

(f) All the information received by the local board of education through the checking of the criminal history or by the State Board of Education in accordance with this section is privileged information and is not a public record but is for the exclusive use of the local board of education or the State Board of Education. The local board of education or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of a local board of education, or its employees, or the State Board of Education, the Superintendent of Public Instruction, or any of their members or employees, individually or collectively, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Chapter 31 of Chapter 143 of the General Statutes.

(h) Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(i) The local board of education may adopt a policy providing for periodic checks of criminal history of employees. Local boards of education shall not require employees to pay for the criminal history check authorized under this subsection. A local board of education shall indicate, upon inquiry by any other local board of education, charter school, or regional school in the State as to the reason for an employee's resignation or dismissal, if an employee's criminal history was relevant to the employee's resignation or dismissal.



Appendix B: Cost Calculations

Policy Alternative 1: Let Present Trends Continue

Cost to Districts

Seventeen districts currently require either a statewide background check, a national background check, or both. I am assuming that all of these required checks are fingerprint-based. Eleven districts have a mixed system, requiring a statewide check for applicants who have lived or worked in the state for the last five years and requiring both a statewide and a national check for applicants who have not. Three districts require both a national and a statewide check for all applicants. Three districts require only a statewide check. Since under the current law districts cannot require applicants to pay for the fees associated with these checks, the districts must bear the costs themselves (District data, 2019).

Mixed System District Maximum Costs

For the mixed system districts, I am obtaining a maximum cost by assuming that all applicants require the more thorough national and statewide checks (DPI, 2019c).

Table 1a: Alternative 1 Mixed System District Maximum Costs

District	Number of Teachers Who Left the District in 2017-2018 (Proxy for Number of Applicants)	Cost of Background Check Fees (\$35 per applicant as discussed under Cost in criteria section)
Alamance-Burlington	195	\$6,825
Beaufort	71	\$2,485
Bertie	32	\$1,120
Cartaret	68	\$2,380
Edenton-Chowan	14	\$490
Cleveland	92	\$3,220
Harnett	205	\$7,175
Johnston	231	\$8,085
Stanly	61	\$2,135



Vance	103	\$3,605
Wake	1,054	\$36,890
Total	2,126	\$74,410

Source: (DPI, 2019c)

Districts that Require both National and Statewide Checks

Table 2a: Alternative 1 National and State Check Districts Maximum Costs

District	Number of Teachers Who Left the District in 2017-2018 (Proxy for Number of Applicants)	Cost of Background Check Fees (\$35 per applicant as discussed under Cost in criteria section)
Currituck	37	\$1,295
Lincoln	63	\$2,205
Charlotte-Mecklenburg	1,079	\$37,765
Total	1,179	\$41,265

Source: (DPI, 2019c)

Districts that Require only Statewide Checks

According to the North Carolina State Bureau of Investigation, the Department of Public Safety charges \$14 per person for statewide checks (North Carolina State Bureau of Investigation, n.d.-b).

Table 3a: Alternative 1 State Check Districts Maximum Costs

District	Number of Teachers Who Left the District in 2017-2018 (Proxy for Number of Applicants)	Cost of Background Check Fees (\$14 per applicant)
Granville	75	\$1,050
Guilford	576	\$8,064
Madison	21	\$294
Total	672	\$9,408

Source: (DPI, 2019c)



Total Costs

The total cost is \$125,083 ($\$74,410 + \$41,265 + \$9,408$). This is an average of \$1,087.68 recurring costs per district.

Cost to Applicants

Again I am assuming that all the districts that require a national or statewide check require these checks to be fingerprint-based.

The main cost to applicants under current law is time costs. The time costs for these teachers is the cost of going to the local police sheriff's office to get fingerprinting done. Each appointment is for 15 minute slots and I have assumed that all teachers are within a maximum of 30 minutes from a police or sheriff's office. Therefore, the maximum amount of time spent would be an hour and 15 minutes at a cost of \$35 based on the \$28 per hour rate calculated in the Evaluative Criteria section. In 2017-2018, 3,977 teachers left the 17 districts that require fingerprint-based checks and would have to be replaced. This will be a low estimate since it is likely that districts want checks from more than one applicant per position. Additionally, vacancies do not account for new positions that will have to be filled. So at a minimum the total time cost would be \$139,195 (DPI, 2019c).

The other cost to applicants is the \$10 fingerprint fee.¹⁵ Again using the 3,977 teachers that left these districts as a proxy for the number applicants who require checks, fingerprinting fees would total \$39,770.

Thus, the total cost to applicants would be \$45 per applicant or \$178,965 overall.

¹⁵ There is the option to work with a private vendor in order to fingerprint applicants. This would transfer the cost from the applicant to the district. This was the approach that Charlotte-Mecklenburg was taking in 2010 (Task Force on Teacher Ethics and Licensure, 2010).



Policy Alternative 3: Requiring Minimum Screening Procedures Before District-level Hiring of Teacher Applicants

Cost to State

Three districts currently require both national and state checks. Eleven districts require a mixed check—both national and state checks if the applicant has lived, worked, or attended school out of the state in the last five years and only a statewide check if not. Three districts require only statewide checks. I am assuming for this calculation that DPS will not see an increase in workload for this alternative from these 17 districts. Thus, I only need to consider the increased workload caused by the other 98 districts. The other 98 districts had a total of 7,842 teachers leave their districts in 2017-2018 (DPI, 2019c). I am using this number as a proxy for the minimum number of applicants that would have to undergo a background check, assuming districts only hire to replace these lost teachers and only the final candidate is checked. This would add 7,842 additional checks to DPS’s workload. Considering that only two additional employees were need for an additional 43,000 checks under Alternative 2, I am estimating that no additional employees will be needed for a workload increase that is less a fifth of Alternative 2’s increase. Thus the state will not see any additional costs under Alternative 3.

Cost to District

Table 4a: Alternative 3 Cost to District Estimates

	District Type	Initial Cost	Recurring Cost
Low Estimate	District that already requires both national and state fingerprint-based check as well as additional screening procedures (e.g., Lincoln County)	\$0 – Such a district will not need modify their application system.	\$0 – Such a district would not need to hire additional personnel because there would be no increased workflow.
High Estimate	Larger districts with an electronic application system and high turnover that do not require national and state	\$250,000 – This estimate is likely too high, but with no other information regarding the cost	\$38,336.88 – A new employee will likely need to be hired to manage the background check process. I am estimating one employee because Charlotte-Mecklenburg requires one staff member to manage a similar



	fingerprint-based checks (e.g., Winston Salem-Forsyth Schools)	to update application systems the estimate from the 2017 Fiscal Note is the best estimate available (Fiscal Research Division, 2017).	background check process (Task Force on Teacher Ethics and Licensure Report, 2010). Charlotte-Mecklenburg is also a large district with high turnover. The salary estimate assumes that the new employee will be paid similarly to a Student Data Manager. Such a data manager is paid between \$2,399.40 and \$3,990.08 per month for 12 months (DPI, 2019c). I took the midpoint of this range and multiplied by 12 to obtain the estimated yearly salary of \$38,336.88.
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Cost to Applicants

Looking at the increase in cost to applicants from the status quo. The applicants in the districts that already require fingerprint-based checks will only see any increase of \$35 per applicant. This \$35 accounts for the background check fees, these applicants were already paying for the fingerprinting fees and time costs. There are 3,977 of these applicants (again I am using the number of teachers who left the district as a proxy for the number of applicants requiring checks). The overall increase in cost to applicants from these districts will be \$139,195.

The applicants in districts that do not already require fingerprint-based background checks, 7,842 applicants, will have an increase in cost of the full \$80 (background check fees, fingerprinting fees, and time cost). The total increase from these districts will be \$627,360.

Therefore, the total overall increase in applicant cost is \$766,555. This likely underestimates the total increase because my proxy for the number of applicants subject to background checks almost certainly underestimates the number of background checks required.



Policy Alternative 4: State Subsidization of National Fingerprint-based Criminal Record Checks Before District-level Hiring of Teacher Applicants

State Cost on Subsidy and District Costs on Background Check Fees

In 2017-2018, 11,819 teachers left North Carolina's 115 districts, this number is a proxy for the number of hiring level background checks required. 3,305 of these vacancies came from districts that already required both national and state background checks. 672 of these vacancies came from districts that required only state checks. The remaining 7,842 came from districts that required neither.

Table 5a: Alternative 4 Districts with Vacancies over the 15% Cap

Districts with attrition >15%	Difference between number of teachers who left and 15% of teaching positions	District Type (n&s, s only, neither)	Increase in district cost due to background check fees for difference
Anson County	7	neither	\$245
Asheboro City	1	Neither	\$35
Bertie County	11	N&s	\$0 (already pay for this)
Caswell County	5	Neither	\$175
Craven County	17	Neither	\$595
Cumberland County	14	Neither	\$490
Duplin County	1	Neither	\$35
Durham Public Schools	28	Neither	\$980
Edgecombe County	29	Neither	\$1,015
Elizabeth City-Pasquotank	28	Neither	\$980
Franklin County	23	Neither	\$805
Granville County	3	S only	\$63 (\$21 per applicant in addition to \$14 already pay for state only)
Greene County	6	Neither	\$210
Halifax County	26	Neither	\$910
Harnett County	14	N&S	\$0 already pay for full amount
Hertford County	5	Neither	\$175
Hickory City	7	Neither	\$245
Hoke County	34	Neither	\$1,190



Kannapolis City	3	Neither	\$105
Lee County	2	Neither	\$70
Lenoir County	3	Neither	\$105
Lexington City	14	Neither	\$490
Moore County	9	Neither	\$315
Mount Airy City	5	Neither	\$175
Northampton County	14	Neither	\$490
Onslow County	11	Neither	\$385
Perquimans County	7	Neither	\$245
Richmond County Schools	1	Neither	\$35
Scotland County	9	Neither	\$315
Thomasville City	17	Neither	\$595
Vance County	36	N&S	\$0 already pay full amount
Warren County	27	Neither	\$945
Washington County	4	Neither	\$140
Wilson County	20	Neither	\$700
Total	441	N&S = 61 S only = 3 Neither = 377	\$13,258 District cost increase for vacancies over 15% attrition

Source: (DPI, 2019c)

Out of the 3,305 vacancies that are from the 14 districts that currently require a national and state background check, 61 will not be used in the subsidies. Therefore, the district will be responsible for the entire fee cost of these background checks. However, this will not result in an increase in costs for these districts since they already pay for these checks. For the remaining 3,244 vacancies the state will subsidize half of the cost (\$17.50 per applicant). So these districts will actually pay \$56,770 less than they do now for these background checks. The state's total subsidy will be \$56,770 for these districts.

Out of the 672 vacancies that came from districts that currently require only a state cost, only three will not be used in the subsidy. These districts will be responsible for the full cost of these checks. These districts already pay approximately \$14 per statewide check, the increase in cost will be \$21 per applicant. Thus, these three vacancies will result in \$63 of increased cost. For the remaining 669 vacancies, the state will subsidize half the cost (\$17.50 per applicant), leaving the district responsible for the other half. However, since these districts already pay \$14 per applicant this is only an increase of \$3.50 per applicant or \$2,341.50 overall. Therefore, districts



that currently require state only checks will see an increase of \$2,404.50 total under this alternative. The states total subsidy for these districts will be \$11,707.50.

Finally, out of the 7,842 vacancies that came from districts that currently do not require any fingerprint-based background checks, 377 will not be used in the subsidy. These districts will be responsible for the full \$35 per applicant for these vacancies, or \$13,195 total. However, for the remaining 7,465 vacancies the state will subsidize half of the background check fees (per applicant). The district will be responsible for the other half, this will be an increase of \$17.50 per applicant or a total of \$130,637.50. Therefore, districts that currently do not require fingerprint-based checks will see an increase of \$143,832.5. The states total subsidy for these districts will be \$130,637.50.

Therefore, the total state subsidy will be \$199,115 and the total change in district cost due to background check fees for the 115 districts will be \$89,467 increase (an average increase of \$777.97 per district).

Total District Costs

The initial costs associated with Alternative 4 are the same as those in Alternative 3. However, the recurring costs are affected by the change in background check fee expenses. The range in Alternative 3 was \$0-\$38,336.88. Now, at the low end, for the districts that already require national and state checks, there is a reduction of cost of \$56,770 as well as no need to hire new personnel. While at the high end, for large districts with high turnover that do not currently require national or state background checks, there is the need to hire additional personnel at \$38,336.88 per year plus the additional \$143,832.5 in background check fees. Therefore, the range is a reduction of \$56,770 to an increase of \$182,169.38.

Cost to Applicants

The 3,977 applicants that require background checks in districts that already have policies requiring national and state background checks will not see an increase in their costs since they already pay for the fingerprinting fees and bear the time costs. However, the remaining 7,842 will have an increased costs of \$45 per applicant (\$10 fingerprinting fee and \$35 time cost). This is a total increased cost for applicants of \$352,890.



Policy Alternative 5: Both Policy Alternative 2 and Policy Alternative 3:

Cost to Applicant

Assuming that the same fingerprints can be used for both the licensure and the hiring checks (you get two fingerprinting cards), fingerprint costs (fee and time costs) must be borne only once. This is \$45 per applicant. There are at least 43,000 applicants¹⁶ and 3,977 already have to pay this cost because they are in districts that require fingerprints. Therefore, the total cost for the remaining 39,023 applicants is \$1,756,035. All licensure applicants now also have to pay the \$35 background check fees for an additional cost of \$1,505,000. The 11,819 licensure applicants that are also being hired by a district have to pay the \$35 background check fee again for an additional cost of \$413,665.

Thus the total cost is \$3,674,700

¹⁶ This uses the higher licensure number and assumes that all vacancies in the districts are filled with either initial licensees or applicants that were on their renewal cycle.



Appendix C: Additional Issues to Consider

How Should Background Check Information be Used?

All the alternatives considered above involve instituting best practices background checks before teacher applicants are hired. However, none of the alternatives above address how the information obtained from these checks should be used. Three options for how this information can be used and their tradeoffs are discussed here, but which option is best is beyond the scope of this project.

A List of Disqualifying Crimes

The first approach is listing crimes that automatically result in an applicant being disqualified. A workable list of crimes is already present in the definition of “criminal history” in North Carolina’s current educator background check law (See Appendix A) (N.C. Gen. Stat. § 115C-332). The listed crimes demonstrate that the applicant poses a threat to the safety of students or demonstrate a lack of integrity or honesty (N.C. Gen. Stat. § 115C-332). This list includes crimes as diverse as driving while impaired to embezzlement to homicide (N.C. Gen. State. § 115C-332).

The advantage of this approach is that it is clear and uniform. The disqualifying crimes would be clearly communicated to applicants through the law and application materials, creating clear expectations and minimizing litigation. The disadvantage is that good applicants may be excluded without further discussion or investigation of mitigating circumstances. Moreover, this option does not allow for the possibility of offender rehabilitation. Thus, an equity issue would be created.

Decision-maker Discretion

A second approach is allowing the decision-maker (either at the district hiring level or the licensure stage) discretion. At least 76% of the North Carolina’s school districts have policies that already include this type of language (District data, 2019).



[T]he superintendent shall determine whether the individual is qualified for employment despite the criminal history by considering . . . whether the individual poses a threat to the safety of students or personnel or has demonstrated that he or she does not have the integrity or honesty to fulfill the duties of the position. The following factors will be considered in making this determination: (1) the nature and gravity of the offense or conduct; (2) the time that has passed since the offense or conduct and/or completion of the sentence; and (3) the nature of the job sought. Before the superintendent may exclude a final candidate based on his or her past criminal convictions, the superintendent must give the candidate the opportunity to demonstrate that the exclusion does not properly apply to him or her. (Alexander County School Board, 2019)

The advantage of this approach is that, although decision-makers still have guidance in making the disqualification decision, these decision-makers have the discretion to consider mitigating factors and to listen to applicant explanations. This minimizes the equity concerns discussed in the previous option. The disadvantage to this approach is a lack of uniformity, not all applicants will be treated alike. Different districts (if background checks are done at the district level) may vary in their leniency. This creates a different set of equity concerns, where applicants in certain districts may be disadvantaged.

A Waiver Process

A third option is to have a list of disqualifying crimes as discussed in the first option, but to have a waiver process, through which an applicant or a district administrator can appeal to a decision-maker at DPI. The waiver process would allow the appellants an opportunity to argue why the automatic disqualification should not apply to the applicant in question.

The advantage of this option is that the disqualifying crimes are clear but there is room for discretion, which mitigates some of the equity concerns that arose from the first option. Another advantage is that there is a centralized decision-maker, which mitigates the equity concerns that arose from the second option. However, the main disadvantage is that the centralized decision-



maker may become overloaded with more waiver requests than it can address in a timely manner, slowing down the hiring process.

Should National Checks be Required for all Applicants?

All of the alternatives above involve instituting national and statewide educator background checks before hiring. However, 11 North Carolina districts present an alternative to requiring both types of checks for all candidates (District data, 2019). These districts instead determine the type of check required based on whether a candidate has lived or worked within North Carolina for the last five years. If the applicant has lived or worked in North Carolina for the previous five years, only a statewide check is required (Alamance-Burlington School Board, 2013). If the applicant has lived, worked, or gone to school outside of North Carolina during the five previous years, both a statewide and a national check are required (Alamance-Burlington School Board, 2013).

The advantage of this option is that the background check fees and the time taken to complete the checks are reduced for some candidates. The disadvantage is that the lower cost and shorter time favor only those who have been in North Carolina for the last five years, creating an equity issue for those who have not.

Should Background Checks Be Recurring?

Although having recurring background checks is a best practice, only two of the alternatives contemplate instituting recurring checks. There are three ways for background check policies to address the recurrence issue. Each option and its advantages and disadvantages are discussed here. However, recommending the correct approach on the recurrence issue is beyond the scope of this report.

No Recurrence Requirement

Having no recurrence requirement is currently the approach of 75% of the North Carolina's school districts (District data, 2019). Recurrence is not addressed at all in these districts. The advantage to a policy that does not require recurrence is it is less expensive and the



administrative burden is lower and, therefore, the option has more political feasibility. The disadvantage is any convictions occurring after the initial check may not be discovered, which will result in offenders continuing to work in North Carolina's schools.

Permit Recurring Background Checks

Twenty-one percent of North Carolina's school districts permit, but do not require, recurring criminal background checks (District data, 2019). The key advantage to an alternative that incorporates such a policy towards recurrence is that some districts will have recurring background checks and more offenders will be kept out of North Carolina Schools. The main disadvantage is that poorer districts are less likely to be able to afford recurring checks and, thus, there will be an equity concern.

Require Recurring Background Checks

Only 5 districts, approximately 4%, currently require recurring background checks (District data, 2019). The advantage to a policy that requires recurring background checks is that this option follows best practices and keeps the most offenders out of schools. The disadvantages to such a policy is that it is expensive, puts additional pressure on poor districts, and will have a heavier administrative burden.



Appendix D: Honor Pledge

On my honor, I have neither given nor received aid on this assignment beyond what is allowed.

L. Schneyn

