

TITLE: CRIMINAL BACKGROUND SCREENING FOR CONTRACTOR ACCESS**POLICY:**

The safety of students is of paramount importance to LWCS. Consistent with this concern for student safety, and in compliance with Florida law, LWCS requires that all contractual personnel who are permitted access on school grounds when students are present, who have direct access to students, or who have access to or control of school funds must meet the screening requirements of F.S. 1012.32. Further, contractors who have direct contact with students must, upon engagement to provide services, undergo a background screening as required under F.S. 435.12 as well as F.S. 1012.465 or F.S. 1012.56 (whichever is applicable).

Noninstructional contractors who are permitted access to school grounds when students are present, whose performance of the contract with the school or Board is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent and incidental shall be required to submit to a fingerprint-based criminal history check using the process described in F.S. 1012.32 (3).

The Board is a registered employer with the Care Provider Background Screening Clearinghouse. Criminal history checks through the Care Provider Background Screening will be conducted before referring an employee or potential employee or a person with a current or potential affiliation with the District for electronic fingerprint submission to the Florida Department of Law Enforcement. For purposes of this policy, "affiliation" means the status of a person employed or serving as a volunteer or contractor, or seeking to be employed or to serve as a volunteer or contractor, with the District in a position for which screening is not required by law but is authorized under the National Child Protection Act. Additionally, as it relates to Care Provider Background Screening, the following shall further apply:

- A. Before January 1, 2024, initial status and any changes in status must be reported within ten (10) business days after a person receives his or her initial status or after a change in the person's status has been made.
- B. Effective January 1, 2024, initial status and any changes in status must be reported within five (5) business days after a person receives his or her initial status or after a change in the person's status has been made.

For purposes of this policy, a "contractor" shall mean any vendor, individual, or entity under contract with a school or with the School Board who receives remuneration for services performed for the LWCS or a school, but who is not otherwise considered an employee of the LWCS. The term also includes any employee of a contractor who

performs services for the LWCS or school under the contract, as well as any subcontractor and employees of that subcontractor. This policy applies to both instructional and non-instructional contractors.

All contractors shall be informed that they are subject to a criminal background screening. Records received by the LWCS as part of a criminal background screening shall be retained in accordance with State and Federal law.

A contractor who has a criminal history records check and meets the screening requirements set forth in State law shall be permitted to have access on school grounds when students are present, to have direct contact with students, or to have access to or control of school funds as required by the scope of their employment.

Exemptions for Non-Instructional Contractors

The following non-instructional contractors shall be exempt from the screening requirements set forth in State law:

- A. Non-instructional contractors who are under the direct supervision of an LWCS employee are exempt from the screening requirements set forth in State law. Pursuant to State law, "direct supervision" means that an LWCS employee or contractor, who has had a criminal history records check and has met the screening requirements, is physically present with a non-instructional contractor when the non-instructional contractor has access to a student and the access remains in the LWCS employee's or the qualified contractor's line of sight.

However, if a non-instructional contractor was exempt, because s/he is under the direct supervision of an LWCS employee or a contractor who has met the criminal history records, check screening requirements are no longer under the direct supervision of that employee or contractor who has met the criminal history records check screening requirement, said non-instructional contractor shall not be permitted on school grounds when students are present until (s)he meets the screening requirements set forth in State law or until such direct supervision can be assured.

- B. A non-instructional contractor who is required by law to undergo a Level 2 background screening pursuant to F.S. 435.04 for licensure, certification, employment, or other purposes and who submits evidence of meeting the following criteria:
 - 1. The contractor meets the screening standards in F.S. 435.04.
 - 2. The contractor's license or certificate is active and in good standing if the contractor is a licensee or certificate holder.

3. The contractor completed the criminal history check within five (5) years prior to seeking access to school grounds when students are present.
- C. A law enforcement officer, as defined in F.S. 943.10, who is assigned or dispatched to school grounds by his/her employer.
 - D. An employee or medical director of an ambulance provider, licensed pursuant to Chapter 401 of State law, who is providing services within the scope of part III of Chapter 401 of State law on behalf of such ambulance provider.
 - E. Non-instructional contractors who remain at a site where students are not permitted if the site is separated from the remainder of the school grounds by a single chain-link fence of six (6) feet in height.
 - F. A non-instructional contractor who provides pickup or delivery services and those services involve brief visits on school grounds when students are present.

The LWCS will not subject a contractor who meets the requirements set forth in State law to an additional criminal history check. Upon submission of evidence and verification by the PCSB (our sponsor district), LWCS will accept the results of the criminal history check for the contractor.

A non-instructional contractor who is exempt under this policy from the screening requirements set forth in State law is subject to a search of his/her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under F.S. 943.043 and the National Sex Offender Public Registry maintained by the United States Department of Justice. The District will conduct the search required under this subsection without charge or fee to the contractor.

Disqualifying Offenses for Non-Instructional Contractors

A non-instructional contractor for whom a criminal history check is required under this policy may not have been convicted of any of the following offenses designated in the Florida statutes, any similar offense in another jurisdiction, or any similar offense committed in this State which has been redesignated from a former provision of the Florida statutes to one (1) of the following:

- A. Any offense listed in F.S. 943.0435(1)(a)1. relating to the registration of an individual as a sexual offender.
- B. Any offense under F.S. 393.135 relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.

- C. Any offense under F.S. 394.4593 relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.
- D. Any offense under F.S. 775.30 relating to terrorism.
- E. Any offense under F.S. 782.04 relating to murder.
- F. Any offense under F.S. 787.01 relating to kidnapping.
- G. Any offense under Chapter 800 of State law relating to lewdness and indecent exposure.
- H. Any offense under F.S. 826.04 relating to incest.
- I. Any offense under F.S. 827.03 relating to child abuse, aggravated child abuse, or neglect of a child.

For purposes of this policy, "convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in F.S. 943.0435. Additionally, "conviction of a similar offense" includes, but is not limited to, a conviction by a Federal or military tribunal, including court-martials conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any State of the United States or other jurisdiction. Further, a "sanction" includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a State prison, Federal prison, private correctional facility, or local detention facility.

Disqualifying Offenses for Instructional Contractors

An instructional contractor may not have been convicted of any of the offenses listed in F.S. 1012.315.

Duty to Inform

Under penalty of perjury, each person who is under contract in a capacity described in this policy must agree to inform his/her employer or the party with whom s/he is under contract within forty-eight (48) hours if convicted of any disqualifying offense while s/he is under contract in that capacity. A contractor who willfully fails to comply with this subsection commits a felony of the third degree, punishable as provided in F.S. 775.082 or 775.083. If the employer of a non-instructional contractor or the party to whom the non-instructional contractor is under contract knows the non-instructional contractor has been arrested for any of the disqualifying offenses listed above, and authorizes the non-instructional contractor to be present on school grounds when students are present,

such employer or such party commits a felony of the third degree, punishable as provided in F.S. 775.082 or 775.083.

Failure to Meet Screening Requirements

If it is found that a person who is under contract in a capacity described in this policy does not meet the screening requirements, and/or has been convicted of any of the offenses listed above, the person shall be immediately suspended from working in the capacity of a contractor and having access to school grounds, and shall remain suspended until final resolution of any appeals and/or the conviction is set aside in any post-conviction proceeding.

Sexual Predators

A contractor who is identified as a sexual predator or sexual offender in the registry search shall not be permitted on school grounds when students are present. Upon determining that a contractor shall not be permitted on school grounds because of his/her status as a sexual predator or sexual offender, the District will notify the vendor, individual, or entity under contract within three (3) business days.

Board's Duty to Notify Contractor of Denial of Access

If LWCS has reasonable cause to believe that grounds exist for the denial of a contractor's access to school grounds when students are present, it shall notify the contractor in writing, stating the specific record that indicates noncompliance with the standards set forth in this policy. It is the responsibility of the affected contractor to contest his/her denial. The only basis for contesting the denial is proof of mistaken identity or that an offense from another jurisdiction is not disqualifying under those offenses listed above.

Identification Badges

State law requires the Department of Education (DOE) to create a uniform, Statewide identification badge to be worn by contractors. This badge signifies that a contractor has met the statutory background screening requirements. The District must issue an identification badge to the contractor, which must bear a photograph of the contractor, if the contractor:

- A. is a resident and citizen of the United States or a permanent resident alien of the United States as determined by the United States Citizenship and Immigration Services;
- B. is eighteen (18) years of age or older; and

C. meets the statutory background screening requirements pursuant to State law and this policy.

The uniform, Statewide identification badge will be recognized by the LWCS and must be visible at all times that a contractor is on school grounds. The identification badge is valid for a period of five (5) years. A contractor who is arrested for any disqualifying offense is required to inform his/her employer or the party to whom s/he is under contract within forty-eight (48) hours. If a contractor provides such notification, the contractor must, within forty-eight (48) hours, return the identification badge to the school district that issued the badge.

State law requires the FLDOE to determine a uniform cost that a school district may charge a contractor for receipt of the identification badge, which must be borne by the recipient of the badge. These provisions do not apply to non-instructional contractors who are exempt from background screening requirements.

Penalty for Violation

A contractor who is present on school grounds in violation of this section commits a felony of the third degree, punishable as provided in F.S. 775.082 or 775.083.

SPECIFIC AUTHORITY:

F.S. 435.12

F.S. 775.083

F.S. 1012.32

F.S. 1012.465

F.S. 1012.467

F.S. 1012.468

F.S. 775.082

F.S. 1012.56

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ADOPTED: 7/11/2024-Pending board approval