

BACKGROUND INVESTIGATION AND CRIMINAL HISTORY RECORDS CHECK

Category: P

See Also: Policies GBCE, GDF & IJOC

A. Background Investigation. The Superintendent, or his/her designee, will conduct a thorough investigation into the past employment history, criminal history records, and other appropriate background of any applicant as defined in this policy. This investigation shall be completed prior to making a final offer of employment, approving the contract with an individual contracting directly with the District, or approving the assignment of an employee of a contractor, a student teacher, or “designated volunteer” (as defined in policy IJOC) to work or serve within the District. *All decisions regarding employment and the pre-employment process shall conform to the District’s Anti-Discrimination and Equal Opportunity policy, AC.*

As part of the application process, each applicant shall be asked whether he/she has ever been convicted of any crime and whether there are any criminal charges pending against him/her at the time of application. The applicant will also be directed to report any criminal charges brought against him or her after the application is submitted and until either hired or notified that he or she will not be hired.

Record of background investigations (not necessarily source documentation) shall be retained pursuant to the District’s Record Retention Schedule EHB-R.

B. False Information. The falsification or omission of any information on a job application, during the pendency of the application, or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment, withdrawal of any offer of employment, or immediate discharge from employment.

C. “Covered Person” and “Applicant” Defined. Except as otherwise provided in this Policy, the term “Covered Person” shall mean employee, coaches, trainers, designated volunteer, whether direct or through a volunteer organization, including but not limited to cafeteria workers, school bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district.

The term “**applicant**” as used in this policy shall include an applicant for employment or any person seeking to serve in any position falling with the term “covered person” as defined above.

D. Criminal History Records Check. As part of the District’s background check, each covered person/applicant must submit to a criminal history records check through the State of New Hampshire in full compliance with RSA 189:13-a. No covered person shall be employed, extended a conditional offer of employment (as described below), or begin service

in the District, until the Superintendent, or his/her designee, has initiated the formal State and FBI criminal history records check process and a background investigation.

The applicant shall provide the District with a criminal history records release form as provided by the New Hampshire State Police along with a full set of fingerprints taken according to that statute. The release form generally authorizes the State Police to conduct a criminal history records check through its state and records of the Federal Bureau of Investigation, and to release a report of any misdemeanors and/or felony convictions, as well as any charges pending disposition for any crimes listed in the then current paragraph V of RSA 189:13-a (“*Section V Offenses*”). Refusal to provide the required criminal history records release form (with fingerprints) and any other required releases to authorize the criminal history records check will result in immediate disqualification of the applicant and no further consideration for the position.

E. Exceptions for, Substitute Teachers, Bus Drivers & Bus Monitors. The following exceptions apply only to the State Police/FBI criminal history records check provisions of this policy. The Superintendent shall, nonetheless, require a full background investigation for the excepted employees, and for applicants for school bus drivers or monitors employed directly by the District, the background check shall include a full background check, including a state criminal record release from an applicant for a bus driver or monitor for district positions.

1. Substitute Teachers and Other Non-“Applicant” Educational Staff. Pursuant to RSA 189:13-a, IX(a), substitute teachers and other staff who do not meet the definition of “applicant” above, may initiate a criminal history records check with the Superintendent as described above. The State Police, however, shall issue its report directly to the potential substitute teacher/staff person. The report shall be valid for 30 days from the date of issuance and constitutes satisfactory proof of compliance with RSA 189:13-a.

2. Bus Drivers and Bus Monitors. Pursuant to RSA 189:13-a, VI and RSA 189:13-b, criminal history records checks for bus drivers and bus monitors shall be processed through the New Hampshire Department of Education.

F. Results of Criminal History Records Check. The results of the criminal history records check shall be delivered to the Superintendent or designee who shall be responsible for maintaining their confidentiality.

As used in this Section F, a “**designee**” of the Superintendent or Human Resources (HR) authorized to receive and inspect results of the criminal history records check, may only be an assistant superintendent, head of human resources, the personnel director, the business administrator or the finance director.

If the results of the records check disclose no criminal record, the results and information shall be destroyed immediately following review by the Superintendent or designee. If the results indicate criminal conviction or indicate any charge pending disposition of a Section V Offense, then the Superintendent or designee shall review the information for a hiring decision but shall destroy the records within 60 days of receiving the information.

Section V Offense. If the results of the record check disclose that the Applicant or Covered Person has either been convicted or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment.

Non-Section V Offenses. In addition to disqualification based upon conviction or pending charges for a Section V Offense, the District may deny a final offer of employment or permit service/work in the schools based upon convictions or charges of other misdemeanors or felonies, provided the basis for disqualifying the candidate is job related for the position in question and is consistent with business necessity and the best interests of the students and the District. Such determination will be made by the Superintendent or designee in accordance with the established protocol and on a case-by-case basis. For non-Section V Offenses, which the applicant discloses, or which come to light during the background check, the presumption of innocence shall apply, however, the Superintendent or designee shall consider all reliable information in assessing the applicant's suitability. The Superintendent or designee shall assess whether, in light of the totality of the circumstances, the pending charges or convictions raise reasonable cause to doubt the applicant's suitability for the position.

If the Superintendent chooses to nominate an applicant who has a history of conviction or pending charges of a crime (non-Section V Offense), then the final hiring decision must be approved by the School Board, who shall be informed generally of that history in non-public session.

G. Conditional Offer of Employment. Persons who have been selected for employment may be given a conditional offer of employment, with the final offer subject to the successful completion of the background check, the State Police and FBI criminal history records check, and a determination that there are no disqualifying pending charges or convictions.

Any person who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her employment or approval to work within the District as a contractor or employee of a contractor is entirely conditioned upon the results of a criminal history records check and background check being satisfactory to the District.

H. Final Offer of Employment. No applicant shall be extended a final offer of employment or be allowed to serve in the District if such person has charges pending or has been convicted of any Section V Offense; or where such person has been convicted of the same conduct in another state, territory, or possession of the United States; or where such person has been convicted of the same conduct in a foreign country.

An applicant may only be extended a final offer of employment or final approval to work/serve within the District's schools upon the satisfactory completion and results of criminal history records check and background check,

I. Fees for Criminal History Records Check. Any applicant for whom the Board requires a criminal history records check, or, in the instance of third party contractors, the applicant's employer, shall pay the actual fees and costs associated with the fingerprinting process and/or

the submission or processing of the requests for the criminal history records check, unless otherwise determined by the Board.

- J. Administrative Protocols/Procedures.** The Superintendent is authorized to establish written protocols for background investigations, which protocols may vary depending on the nature of the position(s) (e.g., verification of academic records and achievements for certified professionals, credit checks for personnel with fiscal responsibilities). The written protocols may include additional disqualifying misdemeanor or felony convictions or charges in addition to the Section V Offenses.
- K. Contractor and Vendor Provisions.** The Superintendent shall take such steps as are necessary to assure third party agreements which involve covered personnel to include a provision for such personnel to complete criminal history records checks as required under this policy, as well as training and information required under policy GBCE.
- L. Additional Criminal Records Checks.** The Superintendent may require a state criminal history records check of any covered person at any time to the extent permitted by law.
- M. Reports of Post-Employment/Service Section V Offenses.** When the District receives a notification of a covered person being charged with or convicted of a Section V Offense or other crime which is evidence of the individual's unsuitability to continue in their role, the Superintendent shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to and immediately discharged. The Superintendent will then take appropriate employment or other action, consistent with law and any applicable employment contract or collective bargaining agreement to address the individual's ongoing relationship with the District. If the person charged/convicted of a Section V Offense is a credential holder as defined in the New Hampshire Code of Conduct for Educators, the Superintendent shall make report to the Department of Education pursuant to section 510.05 of the Code and Board policy GBEAB.

Legal References:

RSA 189:13-a, School Employee and Designated School Volunteer Criminal History Records Check
RSA 189:13-b, School Bus Driver and Transportation Monitor Criminal History Records Check
Code of Conduct for New Hampshire Educators