

Definitions

~~The following words and phrases, as used in this Policy, shall have the following meanings:~~

~~Being in "Contact" with pupils means providing educational or other services to the District in an area where pupils are present.~~

~~"Regular Contact" with pupils means being in Contact with pupils: (1) on a daily basis for any period of time; or (2) regularly, once or twice a week, including but not limited to an art, music, or physical education teacher; or (3) as a substitute teacher being in Contact with pupils on a limited basis)~~

~~"Unsupervised Contact" with pupils means being in Contact with pupils when there are no other District employees present.~~

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, (2401) 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 all source documentation) shall be retained pursuant to the District's Record Retention Schedule (5030) 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 driver or monitor 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 FBI.

F. Results of Criminal History Records Check. The results of the criminal history records check shall be delivered to the Superintendent who shall be responsible for maintaining their confidentiality. If the results of the records check disclose no criminal record, the results and information shall be destroyed immediately following review by the Superintendent. If the results indicate criminal conviction or indicate any charge pending disposition of a Section V Offense, then the Superintendent shall review the information for a hiring decision, but shall destroy the records within 60 days of receiving the information.

Non-Section V Offenses. In addition to disqualification based upon conviction or pending charges for a Section V Offense, the Superintendent may deny a final offer of employment or serve/work in the schools for 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 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 shall consider all reliable information in assessing the applicant's suitability. The Superintendent 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 person, with the exception of unpaid volunteers and Milford School District students, for whom the Board requires a criminal history records checks shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the criminal history records checks, 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 (5090) JLF.

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 of Conduct.

Background Investigation

~~Per RSA 189:13-a, the Superintendent shall conduct a thorough investigation into the past employment history and other applicable background of any person considered for employment with the District. This investigation shall be completed prior to making an offer of employment.~~

~~The Superintendent shall develop a background investigation protocol for use in conducting a background investigation and shall keep a written record of all background investigations which have been conducted.~~

~~As part of the application process, each applicant for a position shall be asked whether he/she has ever been convicted of a crime and whether there are any criminal charges pending against him/her at the time of the application. The falsification or omission of any information on a job 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 or immediate discharge from employment.~~

~~Criminal Records Check~~

~~Per RSA 189:13-a, each person age 18 or older considered for employment by the District shall submit to a criminal history records check. This includes, but is not limited to, former District employees who had previously resigned a position and are returning to the same or a different position.~~

~~Volunteers who will be in Unsupervised Contact with students shall also submit to a criminal history records check.~~

~~Contractors shall submit to the Superintendent a written verification that a background investigation and a successful criminal history records check has been conducted for all personnel who are in Unsupervised, Regular Contact with pupils.~~

~~The Superintendent is responsible to establish all necessary internal procedures relative to the initiation and completion of the criminal history records check.~~

~~Any person, with the exception of unpaid volunteers and Milford School District students, for whom the Board requires a criminal history records checks shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the criminal history records checks, unless otherwise determined by the Board.~~

~~**Should any person be required to comply with an additional background check as may be determined by the Superintendent because of a misdemeanor conviction – the person will be responsible for the cost associated with this background check.**~~

~~Conditional Employment~~

~~Any person who is offered conditional employment, as described in RSA 189:13-a, 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 contract and continuation of employment is entirely conditioned upon the completion of a criminal history records check which is satisfactory to the District.~~

~~All persons employed under a conditional offer of employment may be covered under the District's health insurance and benefits programs. However, any such coverage will immediately cease and will not be subject to extension under COBRA, if the Board does not tender the person a final offer of employment by reason of application of this Policy.~~

Final Offer of Employment

~~A person who has been extended a conditional offer of employment, as outlined above, may be extended a final offer of employment upon the successful completion of a criminal history records check. When this final offer is accepted, the person shall be entitled to membership in applicable collective bargaining units subject to the requirements of RSA 273-A and shall immediately be covered by the terms and conditions of the collective bargaining agreement.~~

~~No person with a conditional offer of employment shall be extended a final offer of employment if such person has been convicted of any of the offenses, listed in RSA 189:13-a, V, or any of the following offenses: manufacturing, selling, administering, dispensing or distributing any controlled substance(s); or sexual misconduct.~~

~~In addition to the items listed above, a person may be denied a final offer of employment if he/she has been convicted of ANY felony. Such determination will be made by the Board on a case-by-case basis.~~

~~When the District receives a criminal history records check on a particular person which it finds unsatisfactory, the Superintendent shall dismiss said person within twenty-four (24) hours of the receipt of such report, excluding Saturdays, Sundays, or legally recognized holidays.~~

~~Additionally, a person may be denied a final offer of employment if the Superintendent becomes aware of other conduct which he or she determines would render the person unsuitable to perform the responsibilities of the position involved. Such determinations shall be made on a case-by-case basis.~~

Additional Criminal Records Checks

~~The Board may require a Criminal Records Check of any employee at any time.~~

References:

~~RSA 189:13-a~~

~~RSA 273-A~~

~~RSA 189:13-b~~

Adopted: November 1997

Revised: October 1998, November 1998, December 1998, June 2002, June 2007

Presented for first read: April 5, 2021