

Personnel — Certified/Non-Certified

Criminal History Inquiries, Employment Reference Checks and Disclosure of Employee Information to Prospective Employers

I. Definitions

1. "Sexual misconduct" means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student.
2. "Abuse of a child or youth" means (a) inflicting physical injury or non-accidental injuries; (b) inflicting injuries that do not match the story associated with their origin; or (c) maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment.
3. "Neglect of a child or youth" means (a) abandonment; (b) denial of proper care and attention physically, educationally, emotionally, or morally; or (c) allowing the child to live under conditions, circumstances, or associations injurious to the child's well-being.
4. "Abuse and neglect" also means sexual assault as defined in the Connecticut General Statutes (Conn. Gen. Stat. §§ 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a).
5. "Former employer" means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty years prior to applying for a position with the Board of Education.

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I. Background Checks

The New Milford Public School System requires all applicants for employment to: 1. State in writing whether they have ever been convicted of a crime or whether criminal charges are pending against them at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending; 2. submit to a records check of the Department of Children and Families ("DCF") child abuse and neglect registry before hire and; 3. submit to satisfactory state and national criminal history records checks within thirty days from the date of initial employment. Additionally, applicants for positions involving direct student contact must provide the Board with information, authorizations and releases allowing the Board to investigate an applicant's abuse, neglect or sexual misconduct history prior to hire.

A. Criminal History Checks

When stating whether they have ever been convicted of a crime or whether criminal charges are pending against them, applicants must disclose convictions and charges inside or outside the State of Connecticut. Applicants must specify the relevant jurisdiction, approximate date, location and nature of each conviction or charge.

Applicants must also state if they are enrolled in a program of deferred adjudication (e.g., accelerated rehabilitation, pre-trial drug or alcohol education pursuant to C.G.S. §54-56g), and, if so, identify the jurisdiction in which such program is pending and provide an explanation of the nature of such program.

Applicants are not required to disclose the existence of criminal charges or convictions if the records have been erased and the school system will not automatically refuse employment to an applicant because such applicant had a prior arrest, criminal charge or conviction, the records of which were erased. Specifically, applicants will not be required to disclose the existence of any arrests, criminal charges or convictions that have been erased pursuant to Connecticut General Statutes §§ 46b-146, 54-76o, or 54-142a which includes erasure of (a) a finding of delinquency or that a child was a member of a family with service needs, (b) an adjudication as a youthful offender, (c) a criminal charge that has been dismissed or nulled, (d) a criminal charge for which the applicant had been found not guilty, and (e) a conviction for which the applicant received an absolute pardon.

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All applicants are required to submit to satisfactory state and national criminal history records checks within thirty days from their date of employment. Such checks will include fingerprinting or any other method of positive identification required by the State Police Bureau of Identification and the Federal Bureau of Investigation and will be at the expense of the employee. Fingerprinting and submission to state and national records checks do not apply to New Milford Public Schools' students employed by the district or persons employed as teachers for noncredit adult classes or adult education activities who are not required to hold teaching certificates for their positions. Security check and fingerprinting activities shall be performed by Board personnel in accordance with applicable administrative regulations. Additionally, criminal justice information accessed or maintained by the New Milford Public Schools shall be maintained in accordance with applicable administrative regulations.

A copy of any notice of a conviction of a crime by a person holding a certificate, authorization or permit issued by the State Department of Education or a person employed by a provider of supplemental services shall be sent to the State Board of Education.

Criminal history records checks notifying the school system of a conviction previously not disclosed by the employee or a conviction that is related to the employee's fitness for the job are grounds for termination of employment. When a certified employee's contract of employment is terminated for such reason, the termination will be conducted in accordance with the statutory provisions governing certified-employee terminations found in section 10-151 of the Connecticut General Statutes. When a non-certified employee is dismissed for such reason, the employee will be notified of the reason for dismissal.

B. Abuse, Neglect or Sexual Misconduct Inquiries

In addition to criminal background investigations, the school system performs employment reference checks before hiring applicants. Prior to offering employment to any applicant the Board shall make a documented good faith effort to contact each current and any former employer of the applicant that was a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or if such employment otherwise caused the applicant to have contact with children. The Board shall not offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact without first performing the activities described in this section.

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1. List of Prior School Employers: At the outset of the application process the Board shall require applicants for positions having direct student contact to provide the Board with a list of the name, address and telephone number of each current or former employer, if such current or former employer was a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or if such employment otherwise caused the applicant to have contact with children.

2. Contact Authorization: In addition to providing the Board with a list of current and prior school employers, applicants for positions having direct student contact must also provide the Board with written authorization that consents to and authorizes the disclosure of certain information by the employers identified in the list of school employers described above. Such authorization must authorize the identified employers to provide the Board with the following information:
 - a. The dates of employment of the applicant;

 - b. A statement as to whether the employer has knowledge that the applicant:
 - (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated;

 - (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or

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(iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct.

3. State Department of Education Authorization: Additionally, applicants for positions having direct student contact must provide the Board with written authorization that consents to and authorizes disclosure by the State Department of Education ("SDE") of information and related records concerning:
 - a. The applicant's eligibility status for employment for a position requiring a certificate, authorization or permit issued by the State Board of Education;
 - b. Whether the SDE has knowledge that a finding of abuse or neglect or of sexual molestation has been substantiated by DCF against the applicant and any information concerning such a finding; and
 - c. Whether the SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.
4. Release: Applicants for positions having direct student contact must further provide the Board with written authorization that releases the employers identified in the applicant's current and former employer list as described above and the SDE from liability that may arise from such disclosure or release of records pursuant to the preceding paragraphs.
5. Written Statement Concerning Abuse or Neglect or Sexual Misconduct: Finally applicants for positions having direct student contact must provide the Board with a written statement of whether he or she:

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- a. Has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
 - b. Has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to Section 17a-101g of the Connecticut General Statutes of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or
 - c. Has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the SDE or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the SDE of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.
6. Prior Employer Contact: Board personnel shall conduct a review of the employment history of the applicant by making a good faith effort to contact those employers listed by the applicant as required above. Such review shall be conducted using a form developed by the SDE. Such review may be conducted by Board personnel either telephonically or through written communication. A good faith effort requires that Board personnel make at least three telephonic requests of listed prior employers on three separate days.
7. State Department of Education Contact: Board personnel shall request that the SDE provide the Board with information concerning:
 - a. The eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit issued by the State Board of Education;

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- b. Whether the SDE has knowledge that a finding has been substantiated by DCF of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding; and
- c. Whether the SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

The Board shall not offer employment to any applicant who had any previous employment contract terminated by a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator or who resigned from such employment if such person has been convicted of a violation of Connecticut General Statutes section 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

C. Student Teachers

The Board shall require each student who is enrolled in a teacher preparation program and who seeks to complete his or her student teaching experience with the district to 1. State in writing whether they have ever been convicted of a crime or whether criminal charges are pending against them at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending; 2. submit to a records check of the DCF child abuse and neglect registry before such student begins his or her student teaching experience and; 3. submit to satisfactory state and national criminal history records checks within sixty days from the date of such student begins his or her student teaching experience.

D. Service Providers

The Board shall require any person who will perform a service involving direct contact with students to: 1. State in writing whether they have ever been convicted of a crime or whether criminal charges are pending against them at the time of such application and, if charges are pending, to state the charges and the court in which such charges are pending; 2. submit to a records check of the DCF child abuse and neglect registry before such person performs a service involving direct contact with students, and; 3. submit to satisfactory state and national criminal history records checks before such person performs a service involving direct contact with students.

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II. State Department of Education Notification

Should the Board receive information that an applicant for a position with the Board or an employee of the Board has been disciplined for a finding of abuse or neglect or sexual misconduct it shall notify the SDE of such information.

III. Temporary Employment Pending Background Check Inquiry

A. The Board may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's review of requested information as described above, provided that prior to the commencement of employment:

1. The applicant has provided the Board with all requested information, authorizations and releases;
2. The Board has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the Board; and
3. The applicant affirms that the applicant is not disqualified from employment with the Board.

IV. Board Responses to Background Check Inquiries

A. Background Check Inquiries From Local and Regional Boards of Education, Charter and Magnet Schools

The Board authorizes and directs its human resources personnel to provide the following information concerning a current or former Board employee to representatives of a local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator if such information is requested pursuant to a pre-employment background check inquiry:

1. Dates of employment;
2. Positions held with the Board;
3. Salary or rate of pay;

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4. A statement as to whether the Board has knowledge that the current or former employee:
 - (a) has been the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated;
 - (b) has been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct;
 - (c) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct;
5. Any other information that the Board has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.

B. Background Check Inquiries From Contractors

The Board authorizes and directs its human resources personnel to provide any information the Board has concerning whether there was a finding of abuse or neglect or sexual misconduct against a current or former Board employee to representatives of a contractor that places applicants in positions involving direct student contact if such information is requested pursuant to a pre-employment background check inquiry conducted by the contractor.

V. Substitute Teachers

A. Criminal History Checks

Substitute teachers may satisfy the requirement for state and national criminal history investigations by submitting to the Board the results of state and national criminal history records checks

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completed within the year prior to employment with the Board. The Board considers substitute teachers to be continuously employed for purposes of criminal history records check requirements as long as the Board employs him or her at least one day of each school year. Notwithstanding their continuous employment, all substitute teachers must submit to state and national criminal history record checks at least once every five years.

B. Abuse, Neglect or Sexual Misconduct Inquiries

The Board shall not offer employment to a person as a substitute teacher unless such person and the Board have complied with the abuse, neglect and sexual misconduct investigation requirements set forth in Section I.B. of this policy. The Board shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The Board shall only hire persons as substitute teachers who are listed on such list. Such person shall remain on such list as long as such person is continuously employed by the Board and as long as the Board does not have any knowledge as to why a person should be removed from such list.

VI. Prohibitions on Employment

The Board shall NOT employ a person whose employment contract was previously terminated by a board of education, governing council of a state or local charter school, interdistrict magnet school operator or other school employer or who resigned from such employment if such person:

Has been convicted of a crime involving an act of child abuse or neglect as described in Conn. Gen. Stat. § 46b-120 or sexual assault against a student being educated by a local or regional board of education or technical high school other than as part of an adult education program as described in Conn. Gen. Stat. §§53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a; or has been convicted of the crime of failing to make a mandated report in a timely manner or intentionally and unreasonably interfering with or preventing the making of a mandated report in violation of Conn. Gen. Stat. §17a-101a regardless of whether the allegation of abuse or neglect or sexual assault has been substantiated.

Legal References: Connecticut General Statutes:

29-17a. Criminal history records checks. Procedure. Fees

31-51i Erased Criminal Records

10-221d Criminal history and child abuse and neglect registry records checks of school personnel. Fingerprinting. Termination or dismissal.

4112.5(k)
4212.5(k)

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Denial of application for and revocation of certification.

10-222c Hiring Policy

Public Act 19-91 An Act Concerning Various Revisions and Additions to the Education Statutes

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New Milford, Connecticut