

BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK

Category: P

See Also: Policy IJOC

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 to work within the District.

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations which have been done. For the purposes of this policy the term "applicant" shall include an applicant for employment by the District, an individual with whom the District may contract to provide services directly to students, any person identified by a contractor with the District whom the contractor proposes to assign to provide services directly to students, student teachers who are proposed to be placed in a District school, and designated volunteers. All applicants will be subject to a criminal records history check meeting the minimum requirements of law, however, the Superintendent's protocol may specify additional background check steps for specific groups of employees, such as verifying the educational achievements and employment history of an applicant for a teaching position. The Superintendent's protocol shall include a list of felonies and misdemeanors, in addition to those specified in RSA 189:13-a, V, convictions of which shall be disqualifying. The protocol shall require that an analysis be conducted of any pending charges or convictions for crimes not on the statutory list of disqualifying offenses to determine whether the applicant should be disqualified. The protocol shall take into consideration the time which has passed since the conviction, the facts and circumstances of the charge or conviction, evidence of successful rehabilitation and an extended period of lawful behavior. For charges pending disposition for offenses not on the statutory list of disqualifying 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.

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. 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 or immediate discharge from employment.

Any applicant for whom the Board requires a criminal history records check or their employer in the case of an employee of a contractor 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 check, unless otherwise determined by the Board.

Criminal History Records Check

Each applicant must submit to a background check and a criminal history records check with the State of New Hampshire, including FBI national records. Refusal to provide the required criminal history records release form and any other required releases to authorize a background check will result in immediate disqualification and no further consideration for the position.

Volunteers

Designated Volunteers are subject to a background investigation/criminal records check and the provisions of this policy. "Designated Volunteers" are defined and so designated pursuant to Policy IJOC. Volunteers not categorized as "Designated Volunteers" per Policy IJOC will not be subject to a background investigation or criminal records check.

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 and FBI criminal history records check, and a determination that there are no disqualifying pending charges or convictions.

No applicant selected for employment shall be extended a conditional offer of employment until the Superintendent, or his/her designee, has initiated the formal State and FBI criminal history records check process and a background investigation.

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.

Final Offer of Employment

A person who has been extended a conditional offer of employment or conditional approval to work within the District as a contractor or employee of a contractor may be extended a final offer of employment or final approval upon the completion of a criminal history records check and a background check which is satisfactory to the Board.

No person with a conditional offer of employment shall be extended a final offer of employment if such person has charges pending or has been convicted of any crime listed in RSA 189:13-a, V; 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.

In addition to the felonies listed as disqualifying in pertinent and applicable law, a person may be denied a final offer of employment if he/she has charges pending or has been convicted of any crime, either a misdemeanor or felony, provided the basis for disqualifying the candidate is job related for the position in question and is consistent with business necessity. Such determination will be made by the Superintendent in accordance with the established protocol and on a case-by-case basis. If the Superintendent chooses to nominate an applicant who has a history of conviction of a crime or with pending charges for a position that must be approved by the School Board, the School Board shall be informed of that history in non-public session.

The Superintendent, or designee, will transmit each applicant's Criminal Record Release Authorization Form and, where inked cards are used, the applicant's fingerprint cards to the State Police. The State Police will then conduct the criminal history records check and will provide the Superintendent with the applicant's criminal history record or confirmation that the individual does not have a record of being charged with or convicted of a crime. In accordance with RSA 189:13-a, III, only the Superintendent will review the criminal history record received from the State Police and shall destroy that document as required by law.

When the District receives a notification of an employee, contractor, contractor's employee, or volunteer being charged with or convicted of a disqualifying offense under RSA 189:13-a, the Superintendent's protocol, 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 agreement or contract to address the individual's ongoing relationship with the District.

Additionally, a person may be denied a final offer of employment if the Superintendent becomes aware of other conduct which he/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 history records check of any employee, an individual with whom the District has contracted to provide services directly to students, any person identified by a contractor with the District who has been assigned to provide services directly to students, student teachers who are placed in a District school, and designated volunteers at any time.

Legal References:

RSA 189:13-a, School Employee and Volunteer Background Investigations

Appendix GBCD-R: Sample Background Check, Criminal History Records Check Protocol

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SAU #7 Policy Committee: Recommended for Adoption – June 21, 2018

Colebrook School Board: Adopted – August 7, 2018

Pittsburg School Board: Adopted – July 9, 2018

Stewartstown School Board: Adopted – August 6, 2018