

Section: Personnel-Certified/Non-Certified

**Subject: Employment/Reference/Background and
Criminal Record Checks**

P-4112.51/4212.51

**Board Policy
Milford Public Schools
Milford, CT**

Employment/Reference/Background and Criminal Record Checks

The Board of Education (Board) believes that it is critical that references on an application be checked prior to an offer of employment. Also, in order to create a safe and orderly environment for students, all offers of employment will be conditional upon the successful outcome of a criminal record check. In addition, any person applying for employment with the Board shall submit to a record check of the Department of Children and Families Child Abuse and Neglect Registry before the person may be hired.

Requirements for Applicants

The Board/District shall not offer employment to an applicant for a position, including any contracted position for, if such applicant would have direct student contact, prior to the applicant providing:

1. Contact information for current and former employers if they were education employers or the employment otherwise involved contact with children. The contact information must include the name, address and telephone number of each current or former employer.
2. Written authorization that consents to and authorizes such current or former employers to disclose information and related records about him or her that is requested on the Connecticut State Department of Education (CSDE) designated standardized form that prospective employers send to current and former employers. The authorization also must consent to and authorize the CSDE to disclose information and related records to the Board/District upon request and release such former employees and the CSDE from any liability that may arise as a result of such disclosure or release.

"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 (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

3. A written statement of whether he or she:
 - a. was 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. was 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 the Department of Children and Families (DCF), or an allegation of

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sexual misconduct was pending or under investigation or due to an allegation substantiated by DCF 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 one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.

Reference Checking Procedures

The Board/District shall conduct a review of the applicant's employment history by contacting those employers listed in the required information provided by the applicant. Such review shall be conducted using the CSDE form that requests:

1. the dates of employment of the applicant;
2. a statement as to whether the employer has knowledge that the applicant:
 - a. 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;
 - b. 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;
 - c. has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked;
 - d. 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.

Such review may be conducted by telephone or through written communication, not later than five business days after any such current or former employer of the applicant receives a request for such information, and responds with such information. The Board/District may request more information concerning any response made by a current or former employer. Such employer shall respond not later than five business days after receiving such request; and

The Board/District shall also request information from the CSDE concerning:

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1. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit;
2. whether SDE has knowledge that a finding has been substantiated by the Department of Children and Families of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding;
3. whether the CSDE 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/District shall notify the CSDE if it receives information that an applicant for a position with the District or a current employee has been disciplined for a finding of abuse or neglect or sexual misconduct.

The Board/District will not employ an applicant for a position involving direct student contact who does not comply with the provisions of this policy.

Temporary Hires

The Board/District may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's/District's review of the required and submitted applicant information provided:

1. The applicant has submitted to the District the three required disclosures;
2. The Board/District, has no knowledge of information pertaining to the applicant that would disqualify him/her from employment; and
3. The applicant affirms that he or she is not disqualified from employment with the Board/District.

Employment Agreements

The Board shall not enter into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement or any other contract or agreement or take any action that:

1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
2. Affects the ability of the local or regional Board of Education, council or operator to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or

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3. Requires the Board/District to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the Board, unless after investigation such allegation is dismissed or found to be false.

Substitute Teachers

The Board/District shall only hire applicants for substitute teaching positions who comply with this policy and who fulfill the disclosure requirements and after requesting information from the applicant's prior employers and the CSDE. The Board/District shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The Board/District shall hire only substitutes who are on such list.

Approved substitutes shall remain on such list as long as he or she is continuously employed by the Board/District as a substitute teacher, provided the Board does not have any knowledge of a reason that such person should be removed from the list.

Adult Education Teachers

Persons employed by the Board/District as a teacher for a non-credit adult class or adult education activity, as defined in C.G.S. 10-67, who is not required to hold a teaching certificate for his/her position shall not undergo state and national criminal history records checks.

Contractors and Their Employees

In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to the contractor all information required of any applicant for a position in the Board/District as previously described in this policy. The contractor shall contact any current or former employer of such employee that was a Board of Education, council or operator, or if such employment caused the employee to have contact with children, and request, either by telephone or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee.

Such employer shall report to the contractor any such finding, either by telephone or through written communication. If the contractor receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, immediately forward such information to the Board of Education with which the contractor is under contract, either by telephone or through written communication.

Any Board of Education that receives such information shall determine whether such employee may work in a position involving direct student contact at any school under the Board's jurisdiction. No determination by a Board of Education that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

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Falsification of Records/Information

Any applicant who knowingly provides false information or knowingly fails to disclose information required by this policy in compliance with applicable statutes shall be subject to discipline by the Board. Such discipline may include denial of employment, or termination of the contract of a certified employee.

It is understood that any employer and CSDE who provide information to the Board/District and in accordance with this policy shall be immune from criminal and civil liability, provided the employer or SDE did not knowingly supply false information.

Communication

The Board/District, as required, shall communicate with other education employers and also between an education employer and the CSDE, about findings of abuse or sexual misconduct by applicants or employees. The Superintendent or Director of Human Resources will notify the CSDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct. In addition, the Superintendent or Director of Human Resources will provide, upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of an education employer or a contractor's employee.

Definitions

"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;

"Abuse of a child or youth" is defined as (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; and

"Neglect of a child or youth" is defined as (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.

"Abuse and neglect" also includes sexual assault as defined in the statutes. (C.G.S. 46b-120, and includes any violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a).

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"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 (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

Offer of Employment

Prior to offering employment to an applicant, the Board/District shall make a documented good faith effort to contact each current and any former employer that was a Board of Education, council or operator, or if such employment otherwise caused the applicant to have contact with children of the applicant in order to obtain information and recommendations which may be relevant to the applicant's fitness for employment, provided such effort shall not be construed to require more than three telephone requests made on three separate days.

The Board/District shall not offer employment to any applicant who had any previous employment contract terminated by a Board/District, council or operator or who resigned from such employment, if such person has been convicted of abuse or neglect or sexual misconduct.

Employment Assistance Prohibited

Pursuant to the federal Every Student Succeeds Act (ESSA), the Board/District prohibits the Board, individual Board members, and any individual or entity who is a Board/District employee, contractor or agent of the Board/District from assisting a Board/District employee, contractor, or agent in obtaining a new job/position if the Board, individual, or entity knows, or has probable cause to believe, that such Board/District employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative file does not violate this prohibition.

This prohibition does not apply under certain conditions specified by ESSA such as:

1. The matter has been reported to law enforcement authorities and it has been officially closed or the school officials have been notified by the prosecutor or police after an investigation that there is insufficient information to establish probable cause, or;
2. The individual has been acquitted or otherwise cleared of the alleged misconduct, or;
3. The case remains open without charges for more than four (4) years after the information was reported to a law enforcement agency.

(cf. 4112.5 – Security Check/Fingerprinting)

Legal References: Connecticut General Statutes

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1-200 through 1-241 of the Freedom of Information Act.

5-193 through 5-269 State Personnel Act.

10-151c Records of teacher performance and evaluation not public records.

10-221d Criminal history records checks of school personnel. Fingerprinting.
Termination or dismissal.

10-222c Hiring policy. (as amended by PA 16-67 and PA 17-220)

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the
General Education Provisions Act, as amended, added by section 513 of P.L. 93
568, codified at 20 U.S.C. 1232g)

Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs.
implementing FERPA enacted as part of 438 of General Educ. Provisions Act
(20 U.S.C. 1232g) parent and student privacy and other rights with respect to
educational records, as amended 11/21/96.

PA 16-67 An Act Concerning the Disclosure of Certain Educational Personnel
Records

20 U.S.C. 7926 Prohibition on aiding and abetting sexual abuse

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