

<i>Policy</i>	<i>Title</i> CHRI and CORI BACKGROUND CHECKS	<i>Code</i> ADDA
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HOLLISTON

GENERAL STATEMENT OF POLICY - CHRI

It shall be the policy of the Holliston Public Schools (HPS) that, as required by law, a state and national fingerprint-based Criminal History Record Information (CHRI) check be conducted to determine the initial and on-going employment suitability of full or part time current and prospective school employees, who may have direct and unmonitored contact with children. School employees shall include, but not be limited to any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with children. The School Committee shall only obtain a CHRI check for current and prospective employees for whom the School Committee has direct hiring authority. In the case of an individual directly hired by a School Committee, the Chair of the School Committee shall review the results of the CHRI check. The Superintendent shall also obtain a CHRI check for any individual, who regularly provides school related transportation to children, including any employee of a taxicab company which has contracted to provide transportation to students.

The Superintendent may obtain a CHRI check for any volunteer, subcontractor or laborer commissioned by the school or employed by the city or town to perform work on school grounds, who may have direct and unmonitored contact with children. When deciding to require a CHRI check of a volunteer, subcontractor or laborer commissioned by the school or employed by the city or town, the Superintendent should consider factors such as: whether the individual will be working in proximity with students, the amount of time the individual will spend on school grounds, and whether the individual will be working independently or with others. An individual shall not be considered to have the potential for direct and unmonitored contact with children if he or she has only the potential for incidental unsupervised contact in commonly used areas of the school grounds.

GENERAL STATEMENT OF POLICY - CORI

It shall be the policy of the Holliston Public Schools (HPS) to obtain all available Criminal Offender Record Information (CORI) from the Massachusetts Criminal History Systems Board (CHSB) on any person whose services are to be utilized in any of the following capacities:

1. Prospective employees or volunteers of the HPS, including any individual who regularly provides school related transportation to children, who may have direct and unmonitored contact with children prior to their hiring or acceptance as a volunteer.
2. Current employees, individuals who regularly provide school related transportation, and volunteers who may have direct and unmonitored contact with children
3. Any employee of a taxicab company, which has contracted to provide transportation to students, who may have direct and unmonitored contact with children prior to their hiring or acceptance as a volunteer.

HPS shall continue to obtain periodically, but not less than every 3 years, all available CORI information for any of the persons described above.

DEFINITIONS

Direct and unmonitored contact with children is defined in the Massachusetts Department of Elementary and Secondary Education (DESE) regulations as contact with a student when no other employee who has received a suitability determination by the school or district is present.

Contact refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION (CHRI) CHECKS

Requesting CHRI Checks

Fingerprint-based CHRI checks will only be conducted as authorized by state and federal law, in accordance with all applicable state and federal rules and regulations. If an applicant, employee, contractor or volunteer is required to submit to a fingerprint-based CHRI check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Federal law and regulations provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

Storage of CHRI

CHRI shall only be stored for extended period of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent DCJIS Security Policy, should be implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards. In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

Retention and Destruction of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal HPS documents for the following purposes *only*:

- o Historical reference and/or comparison with future CHRI requests
- o Dispute of the accuracy of the record
- o Evidence for any subsequent proceedings based on information contained in the CHRI

CHRI will be kept for the above purposes in a secure location in the Office of the Superintendent. When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of the HPS.

CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the HPS will review and become familiar with the educational and relevant training materials regarding the Statewide Applicant Fingerprint Identification Services (SAFIS) and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

Determining Suitability

In determining an individual's suitability, several factors shall be considered. These factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof, and any other factors deemed relevant by the HPS.

A record of the suitability determination will be retained. The following information will be included in determination:

- o The name and date of birth of the employee or applicant;
- o The date on which the school employer received the National Criminal History Check results;
- o The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

Relying on Previous Suitability Determination

The school employer may obtain and may rely on a favorable suitability determination from a prior employer, if the following criteria are met:

- o The suitability determination was made within the last seven years; and
- o The individual has not resided outside of Massachusetts for any period longer than three years since the suitability determination was made; and either
 - o The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; or
 - o If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination. Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.

Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the HPS will take the following steps prior to making a final adverse determination:

- o Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- o Provide the individual with a copy of this CHRI Policy;
- o Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI;
- o Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time, depending on the particular circumstances but not to exceed thirty days, to correct or complete the CHRI.

Secondary Dissemination of CHRI

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI. The following information will be recorded in the log:

- o Subject Name;
- o Subject Date of Birth;
- o Date and Time of the dissemination;
- o Name of the individual to whom the information was provided;
- o Name of the agency for which the requestor works;
- o Contact information for the requestor; and
- o The specific reason for the request.

Reporting to Commissioner of Elementary and Secondary Education

Pursuant to state law and regulation, if the HPS dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the HPS shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by the DESE and shall include the reason for the action or resignation as well as a copy of the criminal record checks results. The Superintendent shall notify the employee or applicant that it has made a report pursuant to the regulations to the Commissioner.

Pursuant to state law and regulation, if the HPS discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to regulations, the Superintendent shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether the HPS retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to regulations to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant

CRIMINAL OFFENDER RECORD INFORMATION (CORI) CHECKS

In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school related transportation to children of the HPS shall sign a request form authorizing receipt by the HPS of all available CORI data from the Criminal History Systems Board (CHSB). In the event that a current employee has questions concerning the signing of the request form, he/she may meet with the Superintendent; however, failure to sign the CORI request form will result in disciplinary action, up to and including termination of employment. Completed request forms will be kept in secure files in the Office of the Superintendent. As part of the CORI process, all applicants shall provide HPS with a government-issued photographic form of identification that allows HPS to verify the applicant's identity. HPS shall maintain a copy of any such photographic identification to document the verification process

Storage and Access to CORI

CORI is not subject to the public records law and must be kept in a secure location in the Office of the Superintendent, separate from personnel files and may be retained for not more than three years. CORI may be shared with the individual to whom it pertains by application submitted with 24-hour notice to the Superintendent. Applicants challenging the accuracy of the report shall be provided a copy of CHSB's *Information Concerning the Process in Correcting Criminal Record*.

Access to CORI must be restricted to the Superintendent, Assistant Superintendent (or their certified designees) and their Executive Assistant. Only the Superintendent and Assistant Superintendent shall be agents of the HPS authorized to request CORI from the CHSB. In order to provide an informed review of a criminal record, the Superintendent and Assistant Superintendent will be thoroughly familiar with the educational materials made available by CHSB. The Executive Assistant is authorized to process forms and maintain CORI files.

The School Committee shall have the authority to request and review CORI for the Superintendent. If confidentiality is breached by any of these individuals, disciplinary action will result. In the case of prospective employees or volunteers, CORI material should be obtained only where the Superintendent or Assistant Superintendent has determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

Determining Suitability

The hiring authority, subject to applicable law, reserves the exclusive right concerning any employment decision made pursuant to Chapter 385 of the Acts of 2002. Ultimate decisions regarding employment are fully within the executive prerogative of the Superintendent and will be based on an assessment whether the individual poses a threat to themselves or others. If the Superintendent deems adverse action on employment must be taken, then the individual will be afforded all contractual and legal rights available to them.

Where CORI checks are part of a general background check for employment, volunteer work or licensing purposes, the following practices and procedures will generally be followed.

1. CORI checks will only be conducted as authorized by CHSB. All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy
2. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI in the decision-making process will be thoroughly familiar with the educational materials made available by CHSB
3. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determination of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations
4. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.
5. If the Superintendent is inclined to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the organization's CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the CORI record.
6. Applicants challenging the accuracy of the policy shall be provided a copy of CHSB's Information **Concerning the Process in Correcting a Criminal Record**. If the CORI record provided does not exactly match the identification information provided by the applicant, the Superintendent will make
7. If the Superintendent reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in section 6 above, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but are not limited to the following:

- (a) Relevance of the crime to the position sought;
 - (b) The nature of the work to be performed;
 - (c) Time since the conviction;
 - (d) Age of the candidate at the time of the offense;
 - (e) Seriousness and specific circumstances of the offense;
 - (f) The number of offenses;
 - (g) Whether the applicant has pending charges;
 - (h) Any relevant evidence of rehabilitation or lack thereof;
 - (i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.
8. The Superintendent will notify the applicant of the decision and the basis of the decision in a timely manner.

General CORI Check Provisions

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of employment or volunteer service HPS is required by law to obtain CORI for any employee, individual who regularly provides school related transportation, or volunteer who may have direct and unmonitored contact with children. Current employees, persons regularly providing school related transportation and volunteers shall also be informed in writing by the Superintendent prior to the periodic obtaining of their CORI.

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all the legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.

As soon as possible after the HPS obtains the certification from the CHSB to receive CORI data, the Superintendent shall obtain such data for any person then providing volunteer service, as a condition of continued service.

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Policy Cross Reference:	FBI Criminal Justice Information Services Security Policy
Procedure Reference:	Procedure for correcting a criminal record
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