

Lower Merion School District

ADMINISTRATIVE REGULATIONS

No.: 330  
Section: EMPLOYEES  
Title: REQUIRED CERTIFICATIONS/CLEARANCES  
Date Adopted: 12/11/15; 2/17/15  
Date Revised: 5/7/21

R330 REQUIRED CERTIFICATIONS/CLEARANCES

I. Definitions

**Direct contact with children** means the care, supervision, guidance or control of children or routine interaction with children.

**Person responsible for a/the child's welfare** means a person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training, or control of a child in lieu of parental care, supervision, and control. This includes any person who has direct or regular contact with a child through any school-sponsored program, activity or service.

**Immediate vicinity** means an area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

**Program, activity or service** means any of the following in which children participate: youth camps or programs, recreational camps or programs, sports or athletic programs, community or social outreach programs, enrichment or educational programs, and troops, clubs, or similar organizations.

II. Requirement to Obtain Certifications

Pursuant to recently enacted amendments to the Child Protective Services Law, effective December 31, 2014, all District employees, except those administrative and other support personnel who do not have direct contact with children, must comply with certain background certification requirements, including FBI, State Police, and Department of Human Services (DHS) certifications. Employees are required to obtain certifications every sixty (60) months. If a person has a current certification issued before December 31, 2014, he or she must obtain renewed certifications within sixty (60) months of the date of his or her oldest certification or, if the current certification is older than sixty (60) months as of December 31, 2014, no later than December 31, 2015.

In accordance with Pennsylvania law, the District may not accept certifications for employment purposes that were obtained for volunteering purposes.

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An individual between 14 and 17 years of age who applies for or holds a paid position as an employee who is a person responsible for a child’s welfare or a person with direct contact with children through a program, activity or service prior to the commencement of employment or relating to the renewal of certifications shall be required only to submit the State Police and DHS certifications to an employer, administrator, supervisor or other person responsible for employment decisions, if the following apply:

1. The individual has been a resident of the Commonwealth during the entirety of the previous 10-year period or, if not a resident of the Commonwealth during the entirety of the previous 10-year period, has, since establishing residency in the Commonwealth, obtained a report of Federal criminal history record information, and provides a copy of this certification to the employer; and
2. The individual and the individual’s parent or legal guardian swears or affirms in writing that the individual is not disqualified from service and has not been convicted of a prohibited offense listed in existing law or an offense similar in nature to those disqualifying offenses listed in existing law under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, or a foreign nation, or under a former law of the Commonwealth.

**III. Other Guidelines / Reporting Requirements**

If an applicant’s or current employee’s criminal history record indicates conviction of a felony offense under the Controlled Substances, Drug, Device and Cosmetic Act within the five-year period immediately preceding verification, in no case shall an employer, administrator, supervisor, or other person responsible for employment decisions hire or approve the applicant.

An employee will be required to report new arrests or convictions for an offense that would create a ban on employment with children to an administrator in writing within 72 hours.

If an administrator designated by the Superintendent as responsible for the selection of employees has a reasonable belief that an employee was (1) arrested or convicted for an offense

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that would constitute grounds for denying employment,<sup>1</sup> (2) or was named as a perpetrator<sup>2</sup> in a founded<sup>3</sup> or indicated<sup>4</sup> report of child abuse under 23 Pa. C.S. Ch. 63, or the employee has

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<sup>1</sup> The following offenses under 18 Pa.C.S. (relating to crimes and offenses): Section 908 (relating to prohibited offensive weapons); Section 912 (relating to possession of weapon on school property); Chapter 25 (relating to criminal homicide); Section 2702 (relating to aggravated assault); Section 2709.1 (relating to stalking); Section 2901 (relating to kidnapping); Section 2902 (relating to unlawful restraint); Section 3121 (relating to rape); Section 3122.1 (relating to statutory sexual assault); Section 3123 (relating to involuntary deviate sexual intercourse); Section 3124.1 (relating to sexual assault); Section 3124.2 (relating to institutional sexual assault); Section 3125 (relating to aggravated indecent assault); Section 3126 (relating to indecent assault); Section 3301 (relating to arson and related offenses); Section 3307 (relating to institutional vandalism) when the penalty is a felony of the third degree; Section 3502 (relating to burglary); Section 3503(a) and (b)(1)(v) (relating to criminal trespass); Section 5501 (relating to riot); Section 6110.1 (relating to possession of firearm by minor); The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act"; Attempts, solicitation or conspiracy to commit any of the offenses listed above for which registration is required under 42 Pa.C.S. § 9795.1 (relating to registration). Any attempt, solicitation or conspiracy to commit any of these offenses: Section 2701 (relating to simple assault); Section 2705 (relating to recklessly endangering another person); Section 2706 (relating to terroristic threats); Section 2709 (relating to harassment); Section 3127 (relating to indecent exposure); Section 3307 (relating to institutional vandalism) when the penalty is a misdemeanor of the second degree; Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2) (relating to criminal trespass); Chapter 39 (relating to theft and related offenses); Section 5502 (relating to failure of disorderly persons to disperse upon official order); Section 5503 (relating to disorderly conduct); Section 6305 (relating to sale of tobacco); Section 6306.1 (relating to use of tobacco in schools prohibited); Section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

<sup>2</sup> Perpetrator - a person who has committed child abuse and is a parent/guardian of the child, a spouse or former spouse of the child's parent/guardian, a paramour or former paramour of the child's parent/guardian, a person responsible for the child's welfare, an individual residing in the same home as the child, an individual fourteen (14) years of age or older who is responsible for the child's welfare or who resides in the same home as the child, or an individual eighteen (18) years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

<sup>3</sup> Founded report - A child abuse report involving a perpetrator that is made pursuant to the Child Protective Services Law, if any of the following applies:

(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

(i) The entry of a plea of guilty or nolo contendere.

(ii) A finding of guilt to a criminal charge.

(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.

(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.

(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.

(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms

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provided notice as required under the bill, the administrator must immediately require that individual to submit current FBI, State Police, and DHS certifications.

If an employee does not disclose arrests or convictions as required, he or she will be subject to possible termination.

Furthermore, pursuant to Act 168 of 2014, before a District may offer employment to a person who would be in direct contact with children, the District must:

1. require the applicant to provide:
  - a. all relevant contact information for his or her current employer and former employers that were school entities or where a position involved direct contact with children;
  - b. written authorization from the applicant consenting to disclosure of any items set forth in 1 (c) below by current and former employers and releasing them from liability stemming from disclosure;

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and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.

(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:

- (i) only one individual is charged with the abuse in the protection from abuse action;
- (ii) only that individual defends against the charge;
- (iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and
- (iv) the protection from abuse adjudication finds that the child abuse occurred.

<sup>4</sup> Indicated report -(1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to the Child Protective Services Law if an investigation by the department or county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on any of the following:

- (i) Available medical evidence.
- (ii) The child protective service investigation.
- (iii) An admission of the acts of abuse by the perpetrator.

(2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is the victim of child abuse, regardless of the number of alleged perpetrators.

(3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator as "unknown" if substantial evidence of abuse by a perpetrator exists, but the department or county agency is unable to identify the specific perpetrator.

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- c. a written statement indicating whether the applicant (1) has been the subject of any abuse or sexual misconduct investigation unless the investigation resulted in a finding of false allegations; (2) ever has been disciplined, discharged, non-renewed, asked to resign from, or otherwise separated from employment while allegations of abuse or sexual misconduct were pending or under investigation, or due to an adjudication or findings of abuse or sexual misconduct; or (3) ever has had a license, professional license, or certificate suspended, surrendered, or revoked while such allegations were pending or under investigation, or due to an adjudication or findings of abuse or sexual misconduct.
2. review the applicant’s employment history by contacting previous and current employers to request dates of employment and a statement as to whether the applicant was the subject of any actions specified in paragraph 1(c) above.
3. check the applicant’s eligibility for employment, confirm he or she holds a valid and active certification, and determine through inquiry to PDE in the manner directed by PDE as to whether PDE has received notification of any pending criminal charges against the applicant.

Information received by a District may be used to evaluate an applicant’s fitness for employment or continued employment, and may be reported as appropriate.

The District may not hire an individual who does not provide the requested information, although it may make a provisional-basis hire for up to ninety (90) days pending review of the requested information, so long as the District has no knowledge that could disqualify the applicant and the applicant swears or affirms in writing that he or she is not disqualified from employment. Employees hired on this provisional basis may not work alone with children and must work in the immediate vicinity of a permanent employee if children are also present.

An applicant for transfer or reassignment shall be required to submit an official child abuse certification statement unless the applicant is applying for a transfer from one position as a District employee to another position as a District employee and the applicant’s official child abuse certification statement is current.

An applicant for transfer or reassignment from a position without direct contact with students to a position with direct contact shall be required to submit criminal background checks as required by law. Such applicants shall report, on the designated form, arrests and convictions as specified

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on the form. Failure to accurately report such arrests and convictions may subject the individual to disciplinary action up to and including termination and criminal prosecution.

The District may not enter into a collective bargaining agreement, employment contract, agreement for resignation/termination, severance agreement, or any contract after the effective date of this provision that suppresses information related to a report of suspected abuse or sexual misconduct; affects the District's ability to report suspected abuse or sexual misconduct; or requires the District to expunge information from any documents unless the allegations are determined to be false.

Substitute employees must undergo the employment review only upon their initial hire or placement. These reviews remain valid so long as they continue to be employed by the District.

Applicants who provide false information or willfully fail to disclose required information may be terminated, denied employment, prosecuted criminally and/or civilly, and subject to professional discipline.

In the absence of specific Board action to the contrary, applicants are required to assume the costs of obtaining certifications.

Nothing in this Regulation or accompanying Policy prevents the District from establishing additional criteria for making hiring decisions. The District reserves the right not to hire an individual with criminal conduct not stated in footnote 1, but that the District deems to be significant depending on the requirements of the open position.