Employment Checks

As set forth below, each applicant for a position within the Bethany Public School District (District) and each student who is enrolled in a teacher preparation program, as defined in Section 10-10a of the Connecticut General Statutes and completing the applicant's student teaching experience in the District shall be asked to provide in writing: 1.) whether the applicant has ever been convicted of a crime; 2.) whether there are any criminal charges pending against the applicant at the time of the applicant and if charges are pending, to state the charges and the court in which such charges are pending; and 3.) whether the applicant is included in the Abuse and Neglect Registry (Registry) of the Connecticut Department of Children and Families (DCF). Applicants shall not be required to disclose any arrest, criminal charge, or conviction that has been erased.

In addition, the District shall conduct an employment history check for each applicant for a position, as set forth below.

For the purposes of this regulation:

"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 or neglect" means abuse or neglect as described in Connecticut General Statutes § 46b-120, and includes any violation of Connecticut General Statutes §§ 53a-70 (sexual assault in the first degree), 53a-70a (aggravated sexual assault in the first degree), 53a-71 (sexual assault in the second degree), 53a-72a (sexual assault in the third degree), 53a-72b (sexual assault in the third degree with a firearm), or 53a-73a (sexual assault in the fourth degree).

"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 the previous twenty (20) years prior to applying for a position with a local board of education.

I. Employment History Check Procedures

A. The District shall not offer employment to an applicant for a position, including any position that is contracted for, if such applicant would have direct student contact, prior to the District:

1. requiring the applicant:

a. to list the name, address, and telephone number of each current or former employer (please note the definition of "former employer" above, including the applicable twenty (20) year reporting period) during any of the previous twenty (20) years, if:

i. such current or former employer is/was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, and/or

ii. the applicant's employment with such current or former employer caused the applicant to have contact with children.

b. to submit a written authorization that

i. consents to and authorizes disclosure by the employers listed under paragraph I.A.1.a. of this policy of the information requested under paragraph I.A.2. of this policy and the release of related records by such employers,

ii. consents to and authorizes disclosure by the Department of Education of the information requested under paragraph I.A.3. of this policy and the release of related records by the department, and

iii. releases those employers and the Department of Education from liability that may arise from such disclosure or release of records pursuant to paragraphs I.A.2. or I.A.3. of this policy; and

c. to submit a written statement of whether the applicant

i. 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,

ii. 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 Connecticut General Statutes § 17a-101g or abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct, or

iii. 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 DCF or an investigation of 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;

2. conducting a review of the employment history of the applicant by contacting those employers listed by the applicant under paragraph I.A.1.a. of this regulation. Such review shall be conducted using a form developed by the Department of Education, which shall request the following:

a. the dates of employment of the applicant, and

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

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. Such review may be conducted telephonically or through written communication. Notwithstanding the provisions of subsection (f) of Connecticut General Statutes § 31-51i, not later than five (5) business days after the District receives a request for such information about an employee or former employee, the District shall respond with such information. The District may request more information concerning any response made by a current or former employer for information about an applicant, and, notwithstanding subsection (f), such employer shall respond not later than five (5) business days after receiving such request.

3. requesting information from the Department of Education concerning:

   a. the eligibility status for employment of any applicant for a position requiring a certificate, authorization, or permit,

   b. whether the Department of Education has knowledge that a finding has been substantiated by DCF pursuant to Connecticut General Statutes § 17a-101g of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and

   c. whether the Department of Education 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.

B. Notwithstanding the provisions of subsection (f) of Connecticut General Statutes § 31-51i, if the District receives information that an applicant for a position with or an employee of the Board has been disciplined for a finding of abuse or neglect or sexual misconduct, it shall notify the Department of Education of such information.

C. The District shall not employ an applicant for a position involving direct student contact who does not comply with the provisions of paragraph I.A.1. of this policy.

D. The District may employ or contract with an applicant on a temporary basis for a period not to exceed ninety (90) days, pending the District's review of information received under this section, provided:

1. the applicant complied with paragraph I.A.1. of this policy;

2. the District has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the District; and

3. the applicant affirms that the applicant is not disqualified from employment with the District.

E. The District shall not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a 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 District to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or

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

F. The District shall not offer employment to a person as a substitute unless such person and the District comply with the provisions of paragraph I.A. of this regulation. The District shall determine which such persons are employable as a substitute and maintain a list of such persons. The District shall not hire any person as a substitute who is not on such list. Such person shall remain on such list as long as such person is continuously employed by the District as a substitute as described in paragraph III.B.2. of this regulation, provided the District does not have any knowledge of a reason that such person should be removed from such list.

G. In the case of an applicant who is a contractor, the contractor shall require any employee of such contractor who would be in a position involving direct student contact to supply to such contractor all the information required of an applicant under paragraphs I.A.1.a. and I.A.1.c. of this regulation and a written authorization under paragraph I.A.1.b. of this policy. Such contractor shall contact any current or former employer (please note the definition of "former employer" above, including the applicable twenty (20) year report period) of such employee that was a local or regional board of education, council, or operator or if such employment caused the employee to have contact with children, and request, either telephonically or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee. Notwithstanding the provisions of subsection (f) of Connecticut General Statutes § 31-51i, such employer shall report to the contractor any such finding, either telephonically or through written communication. If the contractor receives any information indicating such a finding or otherwise receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, notwithstanding the provisions of subsection (f) of Connecticut General Statutes § 31-51i, immediately forward such information to the District, either telephonically or through written communication. If the District receives such information, it shall determine whether such employee may work in a position involving direct student contact at the school. No determination by the District that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

H. Any applicant who knowingly provides false information or knowingly fails to disclose information required by paragraph I.A.1. shall be subject to discipline by the District that may include:

1. denial of employment, or

2. termination of the contract of a certified employee, in accordance with the provisions of Connecticut General Statutes § 10-151.

I. If the District provides information in accordance with paragraph I.A.2. or I.G. of this policy, the District shall be immune from criminal and civil liability, provided the District did not knowingly supply false information.

J. Notwithstanding the provisions of Connecticut General Statutes § 10-151c and subsection (f) of Connecticut General Statutes § 31-51i, the District shall provide, upon request by another local or regional board of education, governing council of a state or local charter school or interdistrict magnet school operator for the purposes of an inquiry pursuant to paragraphs I.A.2. or I.G. of this policy or to the Commissioner of Education pursuant to paragraph I.B. of this policy any information that the District has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.

K. Prior to offering employment to an applicant, the District shall make a documented good faith effort to contact each current and any former employer (please note the definition of "former employer" above, including the applicable twenty (20) year report period) 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 in order to obtain information and recommendations that may be relevant to the applicant's fitness for employment. Such effort, however, shall not be construed to require more than three (3) telephonic requests made on three (3) separate days.

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

II. DCF Registry Checks

Prior to hiring any person for a position within the District and before a student who is enrolled in a teacher preparation program, as defined in Section 10-10a of the Connecticut General Statutes and completing the applicant's student teaching experience with the District, begins such student teaching experience, the District shall require such applicant or student to submit to a records check of information maintained on the Registry concerning the applicant.

The District shall request information from the Registry and in any case no later than thirty (30) days from the date of employment. Registry checks will be processed according to the following procedure:

A. No later than ten (10) calendar days after the Superintendent or designee has notified a job applicant of a decision to offer employment to the applicant, or as soon thereafter as practicable, the Superintendent or designee will either obtain the information from the Registry or, if the applicant's consent is required to access the information, will supply the applicant with the release form utilized by DCF, or the out of state equivalent when available, for obtaining information from the Registry.

B. If consent is required to access the Registry, no later than ten (10) calendar days after the Superintendent or designee has provided the successful job applicant with the form, the applicant must submit the signed form to the Superintendent or designee. Failure of the applicant to submit the signed form to the Superintendent or designee within such ten (10) calendar day period, without good cause, will be grounds for the withdrawal of the offer of employment.

C. Upon receipt of Registry or out-of-state registry information indicating previously undisclosed information concerning abuse or neglect investigations concerning the successful job applicant/employee, the Superintendent or designee will notify the affected applicant/employee in writing of the results of the Registry check and will provide an opportunity for the affected applicant/employee to respond to the results of the Registry check.

D. If notification is received by the Superintendent or designee that the applicant is listed as a perpetrator of abuse or neglect on the Registry, the Superintendent or designee shall provide the applicant with an opportunity to be heard regarding the results of the Registry check. If warranted by the results of the Registry check and any additional information provided by the applicant, the Superintendent or designee shall revoke the offer of employment and/or terminate the applicant's employment if he or she has already commenced working for the District.

III. Criminal Records Check Procedure

A. Each person hired by the District shall be required to submit to state and national criminal record checks within thirty (30) days from the date of employment. Each student who is enrolled in a teacher preparation program, as defined in Section 10-10a of the Connecticut General Statutes and completing the applicant's student teaching experience in the District, shall be required to submit to state and national criminal record checks within sixty (60) calendar days from the date such student begins to perform such student teaching experience. Record checks will be processed according to the following procedure:

1. No later than five (5) calendar days after the Superintendent or designee has notified a job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or designee will provide the applicant with all documents and materials necessary for the applicant to be fingerprinted by a local or state police department or authorized agency. The Superintendent or designee will also provide each applicant with the following notifications before the applicant obtains the applicant's fingerprints: (1) Agency Privacy Requirements for Noncriminal Justice Applicants; (2) Noncriminal Justice Applicant's Privacy Rights; (3) and the Federal Bureau of Investigation, United States Department of Justice Privacy Act Statement.

2. No later than ten (10) calendar days after the Superintendent or designee has provided the successful job applicant with the fingerprinting documents and materials, the applicant must arrange to be fingerprinted by a local or state police department or authorized agency. Failure of the applicant to have the applicant's fingerprints taken within such ten (10) day period, without good cause, will be grounds for the withdrawal of the offer of employment.

3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks. Fees and costs associated with the fingerprinting process and the submission and process of requests are waived for student teachers, in accordance with state law.

4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or designee will notify the affected applicant/employee in writing of the results of the record check and will provide an opportunity for the affected applicant/employee to respond to the results of the criminal record check. The affected applicant/employee may notify the Superintendent or designee in writing within five (5) calendar days that the affected/employee will challenge the applicant's criminal history record check. Upon written notification to the Superintendent or his/her designee of such a challenge, the affected applicant/employee shall have ten (10) calendar days to provide the Superintendent or designee with necessary documentation regarding the affected applicant/employee's record challenge. The Superintendent or designee may grant an extension to the preceding ten (10) day period during which the affected applicant/employee may provide such documentation for good cause shown.

5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, the falsification or omission of any information on a job 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 discharge from employment.

6. Notwithstanding anything in paragraph III.E. of this policy, above, no decision to deny employment or withdraw an offer of employment on the basis of an applicant/employee's criminal history record shall be made without affording the applicant/employee the opportunities set forth in paragraph III.D. of this policy, above.

B. Criminal Records Check for Substitutes

A substitute who is hired by the District must submit to state and national criminal history record checks according to the procedures outlined above. If a substitute submitted to state and national criminal history record checks upon being hired by the District, then the substitute will not be required to submit to another criminal history record check so long as the substitute is continuously employed by the District, that is, employed for at least one (1) day of each school year, by the District, provided a substitute is subjected to such checks at least once every five (5) years.

IV. Sex Offender Registry Checks

District personnel shall cross-reference the Connecticut Department of Public Safety's sexual offender registry prior to hiring any new employee and before a student who is enrolled in a teacher preparation program, as defined in Section 10-10a of the Connecticut General Statutes and completing the applicant's student teaching experience in the District, begins such teaching experience. Registration as a sexual offender constitutes grounds for denial of employment opportunities and opportunities to perform student teaching experiences in the District.

V. Credit Checks

The District may also ask a prospective employee for a credit report for employment for certain District positions, where the District's receipt of a credit report is substantially related to the employee's potential job. Substantially related is defined to mean "the information contained in the credit report is related to the position for which the employee or prospective employee who is the subject of the report is being evaluated." Prior to asking for a credit report, the District will determine whether the position falls within one of the categories as described in this paragraph. The position must 1) be a managerial position which involves setting the direction or control of the District; 2) involve access to employees' personal or financial information; 3) involve a fiduciary responsibility to the District, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; 4) provide an expense account or District debit or credit card; or 5) involve access to the District's nonfinancial assets valued at two thousand five dollars or more.

When a credit report will be requested as part of the employment process, the District will provide written notification to the prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the District may use the information in the consumer credit report to make decisions related to the individual's employment.

The District will obtain consent before performing the credit or other background checks. If the District intends to take an action adverse to a potential employee based on the results of a credit report, the District must provide the prospective employee with a copy of the report on which the District relied in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," which should be provided by the company that provides the results of the credit check. The District will notify the prospective employee either orally, in writing, or via electronic means that the adverse action was taken based on the information in the consumer report. That notice must include the name, address, and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the District's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) days.

VI. Notice of Conviction

If at any time, the District receives notice of a conviction of a crime by a person holding a certificate, authorization, or permit issued by the State Board of Education, the District shall send such notice to the State Board of Education. In complying with this requirement, the District shall not disseminate the results of any national criminal history records check.

VII. School Nurses

School nurses or nurse practitioners appointed by, or under contract with, the District shall also be required to submit to a criminal history records check in accordance with the procedures outlined above.

VIII. Personal Online Accounts

For purposes of this policy, "personal online account" means any online account that is used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of the District, including, but not limited to, electronic mail, social media, and retail-based Internet websites. "Personal online account" does not include any account created, maintained, used, or accessed by an employee or applicant for a business purpose of the District.

A. During the course of an employment check, the District may not:

1. request or require that an applicant provides the District with a username and password, password or any other authentication means for accessing a personal online account;

2. request or require that an applicant authenticates or access a personal online account in the presence of the District; or
3. require that an applicant invites a supervisor employed by the District or accept an invitation from a supervisor employed by the District to join a group affiliated with any personal online account of the applicant.

B. The District may request or require that an applicant provide the District with a username and password, password or any other authentication means for accessing:

1. any account or service provided by the District or by virtue of the applicant's employment relationship with the District or that the applicant uses for the District's business purposes, or
2. any electronic communications device supplied or paid for, in whole or in part, by the District.

C. In accordance with applicable law, the District maintains the right to require an applicant to allow the District to access his or her personal online account, without disclosing the username and password, password or other authentication means for accessing such personal online account, for the purpose of:

1. conducting an investigation for the purpose of ensuring compliance with applicable state or federal laws, regulatory requirements, or prohibitions against work-related employee misconduct based on the receipt of specific information about activity on an applicant's personal online account; or
2. conducting an investigation based on the receipt of specific information about an applicant's unauthorized transfer of the District's proprietary information, confidential information, or financial data to or from a personal online account operated by an applicant or other source.

IX. Falsification of Records

Notwithstanding any other provisions of this regulation, the falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning abuse or neglect investigations or pending criminal applications, shall be grounds for disqualification from consideration for employment or discharge from employment.

Legal References: Connecticut General Statutes § 10-212
Connecticut General Statutes § 10-221d
Connecticut General Statutes § 10-222c
Connecticut General Statutes § 31-40x
Connecticut General Statutes § 31-51i
Connecticut General Statutes § 31-51tt
Public Act 19-91
Public Law 114-95 codified at 20 U.S.C. § 1001 et seq.
Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

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