

Policy #: 404
Title: EMPLOYMENT BACKGROUND CHECKS
Date of Initial Approval: 01-22-2009
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Reviewers: MSA Human Resources; MSA Superintendent

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment at the Minnesota State Academies (MSA) in order to promote the physical, social, and psychological well-being of its students. To that end, MSA will seek a criminal history background check for applicants who receive an offer of employment at MSA, including intermittent employees, and all individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, regardless of whether any compensation is paid.

MSA may also require background checks for volunteers (MSA Policy# 450); independent contractors performing services on our campuses; and student volunteers/employees at MSA. MSA may accept criminal history background checks performed by other entities if the check was performed within the last 12 months.

II. GENERAL STATEMENT OF POLICY

- A. The Minnesota State Academies shall require that applicants for MSA positions, including intermittent employees, who receive an offer of employment and all individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, regardless of whether any compensation is paid, submit to a criminal history background check. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by MSA that an individual's criminal history does not preclude the individual from employment with, or provision of services to MSA.
- B. The Minnesota State Academies specifically reserves any and all rights it may have to conduct background checks regarding current employees, applicants, or service providers without the consent of such individuals.
- C. Adherence to this policy by MSA shall in no way limit MSA's right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, service providers, independent contractors, and student volunteers/employees.

III. PROCEDURES

- A. Normally, an individual will not commence employment or provide services until MSA receives the results of the criminal history background check. MSA may conditionally hire an applicant or allow an individual to provide services, pending completion of the background check, but shall notify the individual that the individual's employment or opportunity to provide services may be terminated based on the result of the background check. Background checks will be performed by the Minnesota Bureau of Criminal Apprehension (hereinafter "the BCA"). MSA reserves the right to also have criminal history background checks conducted by other organizations or agencies.

- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, the individual must sign a criminal history consent form (Appendix 404A), which provides permission for MSA to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the Minnesota State Academies, in an amount equal to the actual cost to the BCA and MSA of conducting the criminal history background check. If the individual fails to provide MSA with a signed Informed Consent Form and fee at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.

- C. MSA, in its discretion, may elect not to perform a criminal history background check on an individual who holds an initial teacher license from the state of Minnesota issued within the 12 months preceding an offer of employment or permission to provide services. However, MSA must have a copy of the individual's most recent criminal background check performed within 12 months prior to employment at MSA on file.

- D. MSA may use the results of a criminal background check conducted at the request of another school or hiring authority if:
 - 1. the results of the criminal background check are on file with the other school or hiring authority or otherwise accessible;
 - 2. the other school or hiring authority conducted a criminal background check within the previous 12 months;
 - 3. the individual executes a written consent form giving MSA access to the results of the check; and
 - 4. there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment or provision of services.

- E. For all non-Minnesota state residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, MSA shall request a criminal history background check on such individuals from the superintendent of the BCA and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by MSA that an individual's criminal history does not preclude the individual from employment with, or provision of services to MSA. Such individuals must provide an executed criminal history consent form.
- F. When required, individuals must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.
- G. The need to submit to a criminal history background check will be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law. If the criminal history background check precludes employment with or provision of services to MSA, the individual will be so advised.
- I. Each MSA employee must report to the Superintendent in writing within seven days of when the employee becomes aware of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any misdemeanor or felony offense of which the employee has not previously notified MSA or the Superintendent through written notification, records or employment application.
- J. This policy will be posted on the MSA website so that parents and families are aware of our procedures and expectations in relation to criminal history background checks.

Legal References:

- Minn. Stat. § 13.04, Subd. 4 (Inaccurate or Incomplete Data)*
- Minn. Stat. § 123B.03 (Background Check)*
- Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child Protection Background Check Act)*
- Minn. Stat. § 364.09(b) (Exception for School Districts)*

Appendix:

- Appendix 404A – Criminal History Consent Form*