

Adopted: 4/7/04

MSBA/MASA Model Policy 404 Charter
Orig. 1995 (as ISD Policy)
Orig. 2022 (as Charter Policy)

Revised: 5/17/23

404 EMPLOYMENT BACKGROUND CHECKS

[Note: The provisions of this policy substantially reflect statutory requirements.]

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment in the charter school in order to promote the physical, social, and psychological well-being of its students. To that end, the charter school will seek a criminal history background check for applicants who receive an offer of employment with the charter school and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the charter school, regardless of whether any compensation is paid, or such other background checks as provided by this policy. The charter school may also elect to do background checks of other volunteers, independent contractors, and student employees in the charter school.

II. GENERAL STATEMENT OF POLICY

- A. The charter school shall require that applicants for charter school positions who receive an offer of employment and all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the charter school, 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 the charter school that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the charter school.
- B. The charter school 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 the charter school shall in no way limit the charter school'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 employees.

III. PROCEDURES

- A. Normally an individual will not commence employment or provide services until the charter school receives the results of the criminal history background check. The charter school 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 (BCA). The BCA shall conduct the background check by retrieving criminal history data as defined in Minnesota Statutes section 13.87. The charter school 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 services to the school, except for an enrolled student volunteer, the individual must sign a criminal history consent form, which provides permission for the school to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the school, at the election of the school, in an amount equal to the actual cost to the BCA and the school of conducting the criminal history background check. The cost of the criminal history background check is the responsibility of the individual, unless the charter school decides to pay the costs for a volunteer, an independent contractor, or a student employee. If the individual fails to provide the charter school 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.

[Note: If the charter school elects to receive payment, it may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and then pay the executive director of the BCA directly to conduct the background check.]

- C. The charter school, in its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the Minnesota Professional Educator Licensing and Standards Board or the Minnesota Commissioner of Education within the 12 months preceding an offer of employment or permission to provide services.
- D. The charter school may use the results of a criminal background check conducted at the request of another school hiring authority if:
1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 2. the other school hiring authority conducted a criminal background check within the previous 12 months;
 3. the individual executes a written consent form giving the charter school 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 nonstate residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school, the school shall request a criminal history background check on such individuals from the executive director 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 the charter school that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school. 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. Copies of this policy shall be available in the charter school's employment office and will be distributed to applicants for employment and individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services upon request. The need to submit to a criminal history background check may 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.
- I. If the criminal history background check precludes employment with, or provision of services to, the charter school, the individual will be so advised.
- J. The charter school may apply these procedures to other volunteers, independent contractors, or student employees.
- K. At the beginning of each school year or when a student enrolls, the charter school will notify parents and guardians about this policy and identify those positions subject to a background check and the extent of the charter school's discretion in requiring a background check. The charter school may include this notice in its student handbook, a school policy guide, or other similar communication. A form notice for this purpose is included with this policy.

IV. CRIMINAL HISTORY CONSENT FORM

A form to obtain consent for a criminal history background check is included with this policy.

Legal References: Minn. Stat. § 13.04, Subd. 4 (Rights of Subjects of Data)
Minn. Stat. § 13.87, Subd. 1 (Criminal History Data)
Minn. Stat. § 123B.03 (Background Check)
Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child, Elder, and Individuals with Disabilities Protection Background Check Act)
Minn. Stat. § 364.09(b) (Exceptions)

Cross References: None