

BACKGROUND CHECKS AND FINGERPRINTING**Background Checks – Pre-Employment**

Each applicant for a position within the Fargo Public School system shall be asked whether he/she has ever been convicted of a felony and whether there are any criminal charges pending against him/her at the time of application. Each person hired by the school system shall be required to submit to local and national criminal history record checks. In order to process such record checks, the following procedure will be followed:

1. No later than ten calendar days after the hiring authority has notified a job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Human Capital office will supply the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted by the district's contracted background checking agency, the regional service center, or Fargo Police. This packet shall also contain all documents and materials necessary for submission of the completed fingerprints to the Bureau of Criminal Investigation for the processing of national criminal record checks.
2. No later than ten calendar days after being provided with the fingerprinting packet, the applicant must arrange to be fingerprinted. Failure of the applicant to have their fingerprints taken within the ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment and/or termination of employment.
3. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Human Capital office or a district designee will determine whether the conviction would pose a direct threat to the safety of district students, staff or operations, conflict with the mission of the district, or could substantially disrupt district operations.
4. 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.

The District is not obligated to utilize the services of any final applicant who, in the adjudicator's judgment, exhibits qualities inconsistent with the district's mission, potentially disruptive to district operations, or potentially threatening to district safety. Legal Reference: P.L. 103-209 National Child Protection Act of 1993, as amended NDCC 34-02-18

Policy and Procedures for Criminal History Information

Purpose:

This policy is intended to provide the Fargo Public Schools and all authorized personnel with a basic understanding of their responsibilities to protect and safeguard the confidential information to which they have access as a result of their board positions.

Access:

The Officer of Human Capital, acting as the NAC (Noncriminal Agency Contact), and designated staff are authorized to receive, evaluate, and discuss in executive session any questionable CHRI (Criminal History Record Information) as relating to the application for employment.

The Human Capital Department will maintain a list of current Authorized Personnel, which will be kept on file at the District Office and with ND BCI (North Dakota Criminal Investigations.) Access to CHRI will be limited to authorized personnel.

Use:

NDCC 15.1-13-14 and NDCC 15.1-13-20 covering criminal history record checks both explains the purpose, in this case, to deem suitability or fitness to be granted a North Dakota teaching license and or employment in a North Dakota Public School. Use is restricted to the specific purpose of licensing and employment.

Handling:

When an offer of employment has been extended by Fargo Public Schools, the NAC will ensure the applicant is fingerprinted in accordance with ESPB/BCI regulations. Fargo Public Schools employs the use of an authorized outside agency for this purpose.

The outside agency ensures the application has been authenticated via the Fingerprint Verification Form. Two fingerprint cards marked with the N.D.C.C. authority and purpose in a sealed envelope from the Fingerprint Technician will be sent by the agency to the BCI office, along with the completed BCI Criminal History Record Check Request form and BCI Fingerprint Verification Form, and appropriate fees as noted on the BCI Fingerprinting Instructions. The outside agency will then send the fingerprint cards and forms to NDBCI via USPS. When the results of the criminal history check are received from NDBCI in the Fargo Public Schools District Office, the NAC or designated staff will review the results for any information or concerns that should be addressed. If there are none, the results will be placed in a file in a locked drawer and/or filed in our secure servers. FPS has a document destruction system to destroy documents after three years. CHRI results of concern will be hand delivered to the Officer of Human Capital who can bring any questions or concerns to the general counsel for FPS. Concerns will be discussed with the applicant and the applicant will be given opportunity to discuss or refute the CHRI. CHRI is not public record and will not be released to any unauthorized persons. Once the concerns/issues have been resolved, the criminal history check results, as well as any other documentation generated through the review and final determination, will be placed in a file in a locked drawer and/or filed in our secure servers. FPS has a documented destruction system to destroy documents after three years.

Prevention of Unauthorized Disclosure:

The NAC will have all documents placed in a file in a locked drawer and/or filed in our secure servers. CHRI will never be left unattended when not in the locked drawer. Any documents that need to be sent to another authorized person will be sent via USPS or hand delivered in an envelope marked “Confidential.”

Any authorized personnel that leaves FPS for any reason will be removed from the Authorized Personnel List immediately, and will be unable to receive or review documents or engage in any discussions that involve CHRI. Should an authorized person violate the terms of confidentiality and unauthorized disclosure, that person will be removed from the authorized list immediately and will no longer have access to CHRI information or discussions or decision making.

Training:

Authorized Personnel will have accounts on CJIS (Criminal Justice Information Services) online for the purpose of training, including the local agency admin account for the NAC. Once authorized personnel have completed the training and received the certificate, copies of the certificate will be placed in the CHRI file, as well as training logs generated by the local agency admin site, and a Noncriminal Justice Agency Training Documentation Form.

The authorized personnel will receive notices via email when the next training is due. When an authorized person leaves FPS, that account on CJIS Online will be immediately deleted. Training will consist of the online Security Awareness Training, as well as authorized personnel becoming familiar with the policies and procedures to prevent unauthorized disclosure. Authorized personnel will engage in a conversation regarding certain points in the online training, such as social engineering, and other situations that require awareness. Authorized personnel will be given a copy of the Administrative Policy 5090 and an Acknowledgment Statement of Misuse.

Abuse or Misuse of CHRI:

Examples of suspected abuse include, but are not limited to, using CHRI for any purpose other than intended and authorized, sharing CHRI with unauthorized personnel, sending a fax to an unauthorized person or sending a fax without the proper ORI (Operating Agency Identifiers) on both ends. In the event shredding and/or burning materials isn't feasible, failing to sanitize any media or failure to overwrite media can be suspected misuse and result in the loss of authorization and access to records.

Failure to prevent unauthorized persons from entering a secure perimeter or failure to escort persons into secure perimeters may be grounds for investigating and reporting. Safeguards will be taken against shoulder surfing. Although the district will not be transmitting any CHRI via email and will not be storing any CHRI by electronic means at this time, the district will be aware of technical safeguards over digital or electronic storage, use of encryption or passwords, and social engineering concerns.

Suspected misuse will be investigated and reported and could result in an authorized person being removed from the Authorized Personnel list and any access to CHRI. Suspected

unauthorized use or misuse of CHRI could result in termination of employment or prosecution. This is recorded and reported on the Security Incident Response Form.

Communication:

Communication may take place between the designated FPS staff to initially view and discuss CHRI, if needed. The authorized personnel will communicate with the applicant should any further information or explanations be requested. The Fargo Public Schools will refer to the NDBCI Noncriminal Justice Agency Guide (<https://attorneygeneral.nd.gov/public-safety/criminal-history-records/noncriminal-justiceagency-guide>) and the FBI CJIS Security Policy (<https://www.fbi.gov/services/cjis/cjis-securitypolicy-resource-center/view>) for additional information and forms.

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