

CRIMINAL HISTORY  
REVIEW

The District will conduct a criminal history record review for a final candidate for employment and will determine through the individualized assessment procedures described below whether the individual should be excluded from employment. [See DBAA(LOCAL)]

Only District employee(s) authorized to view criminal history records will be involved in conducting an individualized criminal history record review.

NOTICE TO  
CANDIDATE FOR  
EMPLOYMENT

A candidate for employment who has a criminal history record will be notified that he or she may be excluded from employment due to criminal history. The candidate will be given an opportunity to provide additional information concerning his or her criminal history record to be considered as part of the individualized assessment process.

Additional information may include:

- Documentation showing inaccuracies in the criminal record;
- Any evidence related to the factors for individualized assessment listed at DBAA(LOCAL);
- Evidence that he or she has performed the same type of work, since the incident(s) noted on the criminal history record, with no known incidents of criminal conduct;
- Rehabilitation efforts, including education and training;
- Employment or character references; and
- Whether or not he or she is bonded (if a bond is required for the job position with the District).

If the individual does not provide additional information in a timely manner, the District will proceed with an individualized determination with the information available to the District.

CLAIM OF ERROR IN  
RECORDS

A candidate for employment who claims that the reported criminal history record is erroneous may efforts to correct the record.

INDIVIDUALIZED  
ASSESSMENT

In conducting the individualized assessment, the District will consider both the factors set out in DBAA(LOCAL) and any additional information provided by the individual. The District may obtain court records, if needed, to validate the information provided.

Using the available information, the District will determine whether or not exclusion from employment is consistent with business necessity.

OFFENSES FOR WHICH EXCLUSION IS LIKELY

A record of certain offenses carries a high likelihood that the District will exclude the individual from employment. Subject to an individualized assessment, the following classes of offense will likely preclude employment with the District:

- Any offense requiring exclusion pursuant to Education Code 22.085.
- Any offense for which employment of the individual places the safety of both students and other employees at risk regardless of the date of the offense, its relation to the employee's job, or the age of the victim. Such offenses include: homicide, murder, capital murder, unlawful transport, false imprisonment, trafficking of persons, improper relationship between educator and student, sexual assault, aggravated sexual assault, rape, child abuse, sale or purchase of a child, arson, robbery, aggravated robbery, prostitution or solicitation of prostitution, child pornography, and sexual solicitation of a child.
- Any offense that, because of the relationship between the offense and the duties and responsibilities of the position in question, creates a risk to the best interests of the District. For example, a person who has committed a property offense will not normally be eligible for a position with financial duties or responsibilities.
- Any felony conviction that occurred within the ten years prior to application for employment with the District.
- Any Class C misdemeanor conviction involving moral turpitude within the ten years prior to application for employment with the District. [For the purposes of this regulation and related procedures, the definition of moral turpitude is found at DH(LOCAL).]

ADJUDICATION OF OFFENSES

In considering the adjudication of the offense, the following standards apply.

CONVICTION

The District will ordinarily treat a conviction as proof of guilt. A conviction record constitutes reliable evidence that a person engaged in the criminal conduct "beyond a reasonable doubt."

ARREST

An arrest record alone does not establish criminal conduct. Before the District makes an employment decision based on an arrest, the District will examine the circumstances surrounding the arrest and will make any necessary inquiries. The District is not required to conduct an extensive investigation to determine the individual's guilt or innocence but need only make inquiries that could shed

	<p>light on the likelihood of the individual's guilt in committing the underlying offense.</p> <p>An arrest will be treated as a conviction when inquiries suggest a high likelihood that the individual committed the underlying offense. Where such a determination is not found, the arrest will not be used to take an adverse employment action against the individual.</p>
DEFERRED ADJUDICATION	<p>A grant of deferred adjudication resulting from a no contest or guilty plea will ordinarily be treated as an admission of guilt. However, the District will make inquiries similar to the inquiries made when an arrest is reported.</p> <p>When such inquiries suggest a high likelihood that the individual committed the underlying offense, deferred adjudication will be treated as a conviction. Where such a determination is not found, deferred adjudication will not be used to take an adverse employment action against the individual.</p>
NOT GUILTY, WITHDRAWN, OR DISMISSED CHARGES	<p>For a not guilty, withdrawn, or dismissed adjudication, the individual maybe asked to explain the circumstances and may provide a certified copy of the court paperwork showing the final disposition of every charge. The District may make additional inquiries into the surrounding circumstances.</p> <p>The charges will be treated as a conviction when such inquiries suggest a high likelihood that the individual committed the underlying offense. Where such a determination is not found, the criminal history in question will not be used to take an adverse employment action against the individual.</p>
TYPES OF CONVICTIONS	<p>If the criminal history record shows a conviction, or if inquiries made during the record review indicate a high likelihood of guilt and/or recurrence, then the following employment restrictions will apply.</p>
FELONY	<p>For a felony offense committed within the ten years before application for employment, see OFFENSES FOR WHICH EXCLUSION IS LIKELY, above.</p> <p>If the individual committed a felony offense more than ten years before application for employment, the District will determine whether the conviction was for an offense that generally requires exclusion by law or by policy or, if not, whether the underlying offense relates to the duties and responsibilities of the desired position.</p> <p>The following guidelines will apply:</p>

- If the offense does not relate to the duties and responsibilities of the position, and was not for an offense that would otherwise preclude employment, the individual may be considered for employment or continued employment.
- If the offense does relate to the duties and responsibilities of the position, the District will consider the likelihood of recurrence of the criminal behavior. A determination that the behavior is unlikely to recur will result in the individual being eligible for employment; a finding to the contrary will result in the individual being ineligible for employment.

CLASS A AND B  
MISDEMEANORS

An individual may be eligible for employment if the conviction for a Class A or Class B misdemeanor is not related to the duties and responsibilities of the position and/or has occurred more than five years prior.

If the conviction occurred in the past five years and does relate to the duties and responsibilities of the position, the employee is ineligible for employment in the District if it is determined there is a high degree of likelihood for the recurrence of the behavior.

CLASS C  
MISDEMEANORS

For a Class C misdemeanor offense involving moral turpitude committed within the ten years before application for employment, as applicable, see OFFENSES FOR WHICH EXCLUSION IS LIKELY, above.

If convicted of a Class C misdemeanor that does not involve moral turpitude or that occurred more than ten years prior, the District will determine whether the underlying offense relates to the duties and responsibilities of the desired position.

The following guidelines will apply:

- If the offense does not relate to the duties and responsibilities of the position, and was not for an offense that would otherwise preclude employment, the individual may be considered for employment.
- If the offense does relate to the duties and responsibilities of the position, the District will consider the likelihood of recurrence of the criminal behavior. A determination that the behavior is unlikely to recur will result in the individual being eligible for employment; a finding to the contrary will result in the individual being ineligible for employment.

MULTIPLE  
OFFENSES

An individual with multiple offenses that individually do not make him or her ineligible for employment may be deemed ineligible for continued employment when repetitious criminal behavior indicates a high degree of likelihood for recurrence of the behavior.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(REGULATION)

UNLISTED  
CRIMINAL HISTORY

If a criminal history record does not list an event reported by the candidate for employment, he or she will be asked to explain the circumstances for each reported incident. A certified copy of pertinent court paperwork showing final disposition of the charge may be included. The District may make additional inquiries.

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