

**ORANGE COUNTY
BOARD OF EDUCATION
AGENDA ITEM ABSTRACT**

Meeting Date: February 7, 2011

**AGENDA
ITEM No.** 11-02-09

ACTION ITEM: (Y/N) Y

SUBJECT: Criminal Records Check Policy # 7121 Revised – 2nd Reading Approval

INFO. CONTACT Ms. Marcie Holland **PHONE:** 919-732-8126

ATTACHMENT: 1. Criminal Records Check Policy # 7121.

PURPOSE: To revise the Criminal Records Check Policy # 7121.

BACKGROUND: Revised policy # 7121 provides school system expectations regarding applicants' and current employees' responsibilities to report any past criminal convictions or current pending charges of criminal activity. It also clarifies that the school system may use a third party vendor (private contractor) to conduct the criminal background checks and that all procedures comply with the Fair Credit Reporting Act. Finally, it clarifies that the school system may take disciplinary action for any employee who fails to notify the Human Resources Department that he/she has been charged with a crime.

This policy has been reviewed by counsel. It was presented for first reading and approved by the Board on January 18, 2011 and is being presented for second reading approval.

FINANCIAL IMPACT: None.

RECOMMENDATION: The Superintendent recommends the Board of Education approve the revised Criminal Records Check Policy # 7121 for second reading approval.

Rescinds Policy Number:

Issued: 10/07/1996, 04/19/2004

Effective January 1, 1997, applicants will be asked to consent to a criminal records check. Failure to consent to said check will prevent further consideration of the application for employment in the Orange County Schools.

All applicants who have begun their employment will be temporary employees pending the review of the criminal records check. Decisions whether to deny employment based on criminal records review will be made on a case-by-case basis by an Associate Superintendent and the Superintendent.

A safe and secure learning and working environment should be provided for all students and staff. Employees should be exemplary role models for students and positively represent the schools in the community. These beliefs reflect the fundamental principle that anyone who directly or indirectly comes in contact with children is in a unique position of trust in our society.

A criminal records check will be conducted of applicants and/or newly hired employees, student teachers/interns, and substitutes. Applicants hired prior to the completion of the criminal records check shall be considered employed conditionally pending a review of the results of the check.

Applicants shall be required to answer completely and accurately questions on their application with regard to previous criminal history. Failure to do so will subject the applicant to not being hired and an employee to being dismissed. Applicants also shall consent in writing to an initial criminal record check and post employment criminal record checks and to providing identifying information relied upon by any relevant repositories of criminal information. Failure to consent or provide relevant information will result in rejection of an applicant or dismissal of a newly hired employee. Applicants have an ongoing duty to promptly update their application to assure accuracy.

The applicant or conditional employee will be rejected for employment if the criminal record check and supporting records reveal a "criminal history," defined as the conviction of a crime, whether a misdemeanor or felony, that indicates the employee (1) poses a threat to the physical safety of students or personnel, or (2) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as a public school employee. Conviction of a crime, as used in this policy, includes the entry of (1) a plea of guilty, nolo contendere, no contest or the equivalent; or (2) a verdict or finding of guilty in a court of law or military tribunal. The school system shall consult with legal counsel or obtain a certified copy of an applicant's or conditional employee's conviction notice prior to any final employment decision based on the criminal history.

If the school system considers criminal history in making a decision adverse to an applicant or conditional employee, the superintendent or designee shall make written findings with regard to how it used such information.

The school system shall provide to the State Board of Education information on where to obtain the record of conviction, including the person's name, criminal case number, and the county of conviction of a person who is certificated, certified or licensed by the State Board of Education where the school system discovers the "criminal history" through an employment criminal history check.

If a criminal record check reveals that an applicant or conditional employee was charged with but not convicted of a crime, whether a misdemeanor or felony, that suggests that the employee may not meet the employment standards of the Board, the administration may conduct a further investigation into the person's conduct and the circumstances surrounding the charge to determine the person's fitness for employment.

Applicants and current employees shall immediately notify the Assistant Superintendent for Human Resources if they are charged with or convicted of a criminal offense (including entering a plea of guilty or nolo contendere) except minor traffic infractions.

It is the employee's responsibility to keep his/her appropriate administrator apprised of the judicial process in any charges pending in the courts. Upon final disposition of a pending charge, the employee must report the disposition and pertinent facts, in writing, to the administrator no later than the next scheduled business day following disposition. Following receipt by the site administrator, the confidential written report along with any recommendations will be presented (delivered) as soon as possible, but no later than one business day, to the Assistant Superintendent for Human Resources or administrative designee who shall carefully review the situation along with any recommendations from the administrator as to what action, if any, is appropriate at that time.

The Human Resources Department may conduct criminal history checks using private contractors on current employees reporting on a regular basis any employee who is arrested, charged and/or convicted of a crime provided the procedure complies with the Fair Credit Reporting Act.

As employees of the Orange County Schools, all staff members are expected to observe and obey all laws and ordinances, in addition to all policies and procedures of our Board of Education. As exemplary role models for students, their behavior should reflect positively on the schools at all times.

A criminal records check also may be conducted on a for-cause basis for current employees.

Information obtained during the implementation of this policy shall be kept confidential to the extent required by law. Procedures for implementing this policy will be developed and administered by the Superintendent.

Legal Reference: G.S. 115C-276(l), 115C-325(b)