

FINGERPRINTING AND CRIMINAL HISTORY RECORD  
CHECKS FOR PROSPECTIVE EMPLOYEES

I. Statement of Policy

- A. The District shall not employ or utilize a prospective school employee unless that person has been granted a clearance for employment by the State Education Department (SED), or an emergency conditional appointment has been made in a manner consistent with this Policy and applicable Regulations of the Commissioner.
- B. The term “prospective school employee” means any individual who is reasonably expected to provide services that will involve direct contact with students under the age of 21 and who is:
  - 1. seeking a compensated position with the District and is not currently employed by the District or a student enrolled in the instructional program of a grade level in such covered school;
  - 2. an employee of a provider of contracted services to the District who is to be placed within the District; or
  - 3. a worker who is to be placed within the District under a public assistance employment program pursuant to title 9-B of article V of the Social Services Law, directly or through contract.
- C. The term “prospective school employee” does not include any individual who:
  - 1. is seeking a position as a school bus driver or school bus attendant and is cleared for employment pursuant to sections 509-cc, 509-d and/or 1229-d of the Vehicle and Traffic Law after fingerprinting and a criminal history record check and whose fingerprints remain on file with DCJS;
  - 2. has provided services for the District in the previous school year either: in a compensated position, or as an employee of a provider of contracted services to such covered school, or as a worker placed within the covered school under a public assistance employment program pursuant to title 9-B of article V of the Social Services Law directly or through contract; or
  - 3. is reasonably expected to provide services for the District on no more than five days in the school year in which services are to be performed, provided that the District will be providing in-person supervision of such individual while that individual is providing such services. Individuals

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providing such time-limited and supervised services may include but shall not be limited to: artists, guest lecturers and speakers, and sports officials.

#### II. Procedure For Clearance

- A. In situations where a prospective school employee has been previously fingerprinted and entered into the State Education Department's (SED) criminal history file, the individual shall notify the District that a file exists at SED, and the District shall notify SED of that fact and request clearance.
- B. In situations where a prospective school employee has not previously been fingerprinted and entered into the SED records, the District shall notify the prospective school employee of the fingerprinting requirement, and provide instructions regarding how and when the individual may arrange to complete the fingerprinting, including providing copies of necessary forms.
- C. In situations where a prospective school employee has not previously been fingerprinted and entered into the SED records, the individual shall be advised of the amount of the fee associated with the fingerprint clearance process, and the procedure for paying that fee to SED or any authorized State vendor, and shall also be advised that:
  1. the fee may not be charged if:
    - a. the fee is associated with the employee's participation in an authorized public assistance employment program, or
    - b. the individual is receiving certain employment services through the Federal Temporary Assistance for Needed Families Block Grant.
  2. the individual may submit a request to the Board of Education, on a form provided by SED, for a waiver of the fee based on financial hardship.

#### III. Notification of Employment/Separation from Employment

When a prospective employee who was fingerprinted and cleared for employment is initially employed or leaves employment the District is required to notify SED on the mandated forms.

#### IV. Employment Based on Conditional Clearance

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- A. To the extent permitted by law, the Superintendent may recommend that the Board make a conditional appointment pending notification from SED of clearance. Before making such a recommendation, the Superintendent shall insure that the prospective school employee has signed a statement indicating whether to the best of their knowledge they are the subject of a pending criminal charge or a conviction in any jurisdiction outside New York State, and shall submit a request for conditional clearance to the Commissioner.
- B. If the Board makes a conditional appointment, the appointment shall not be effective until the Commissioner has notified the District that conditional clearance has been granted.
- C. If a conditional appointment becomes effective, it shall terminate 45 days later, or when the Commissioner notifies the District as to whether clearance has been granted, whichever is earlier. If the Commissioner notifies the District that clearance for employment has been granted, the conditional appointment shall continue as a regular appointment.
- V. Employment Based on Emergency Conditional Appointment
- A. To the extent permitted by law, the Superintendent may recommend that the Board make an emergency conditional appointment when the following conditions exist:
- a vacancy occurred less than ten (10) business days before the start of school or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; and
  - no other qualified person is available to fill the vacancy temporarily; and
  - to maintain services which the District is legally required to provide or services necessary to protect the health, education or safety of students or staff.
- B. Before making such a recommendation, the Superintendent shall insure that the prospective school employee has signed a statement indicating whether to the best of their knowledge they are the subject of a pending criminal charge or a conviction in any jurisdiction, including New York State. The Superintendent shall also insure that a request for conditional clearance is promptly submitted to the Commissioner.
- C. If the Board makes a conditional appointment, the appointment may be made effective prior to notice from the Commissioner of conditional clearance.

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- D. If a conditional appointment becomes effective, it shall terminate 20 business days later, or when the Commissioner notifies the District as to whether conditional clearance or clearance has been granted, whichever is earlier. If the Commissioner notifies the District that conditional clearance for employment has been granted, the emergency conditional appointment shall terminate and the appointment shall continue as a conditional appointment.
- VI. Safety of Students who have Contact with Conditionally Employed Employees
- A. The District affirms its commitment to the safety of students who have contact with an employee holding a conditional or emergency conditional appointment.
  - B. Supervisors of any employee holding a conditional or emergency conditional appointment shall be informed of the basis of such appointment and be directed to supervise such employee closely. If feasible, supervisors shall be asked to assign conditionally employed individuals in a manner where they do not work alone with children.

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Waterville Central School District

Legal Ref: Chapter 179 of the Laws of 2009, 8 NYCRR 80-1.1 and 87; Correction Law Sections 752 and 753; and Executive Law Section 296(16).

Adopted: 10/23/01

Revised: 08/26/03, 02/28/06, 08/28/07, 01/26/16