

## **EMPLOYMENT AND COMPENSATION**

The Lyon County School District desires to maintain a productive, efficient, effective, healthy, and safe work environment and, as a result, will conduct pre-employment reference checks, background checks, and/or other investigations of employees as necessary. Because the District is committed to ensuring that information upon which employment decisions are based is accurate and complete, it is the policy of the District to verify employment information prior to making an offer of employment.

Moreover, the District is committed to responding in a consistent manner whenever inquiries are received requesting information regarding current or former employees of the District.

The District shall not enter into an agreement that:

- Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.
- Affects the ability of the District to report suspected abuse or sexual misconduct to the appropriate authorities.
- Requires the District to expunge information about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the District unless, after investigating the alleged violation, the District determines that the allegations were false, unfounded, unsubstantiated or inconclusive.

The Superintendent/designee will develop procedures for acquiring and providing employment references.

**Reference:** NRS 179A, 239.012, 239B, 391, 425, 613, the Fair Credit Reporting Act (FCRA), and the Fair and Accurate Credit Transactions Act (FACTA)

*EMPLOYMENT AND COMPENSATION - ADMINISTRATIVE REGULATIONS*

*Acquiring and Providing Employment References*

1. Acquiring References

Reference and background checks are conducted to assist the Lyon County School District in assessing an applicant's fitness for employment with the District. Only those employees designated by the Human Resources Director/designee may acquire employment references. Any employee of the District who attempts to acquire reference information on an applicant must comply with the following:

- a. Obtain a District employment application that is signed and dated by the applicant. The applicant must have completed all relevant sections of the application.
- b. All applicants for employment with the District must provide:
  - i. The name, address and telephone number for the applicant's current employer, any former employer that was a school or school district, and any other former employer with whom the applicant was employed in a position that involved direct contact with children;
  - ii. Any other contact information for an employer or former employer requested by the District;
  - iii. Written authorization for an employer or former employer to release information; and
  - iv. A written statement indicating whether the applicant has:
    - Been the subject of an investigation concerning an alleged sexual offense conducted by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services, or a similar agency. The applicant is not required to provide this information if, after investigating the alleged violation, the employer or agency determined that the allegations were false, unfounded, unsubstantiated or inconclusive.
    - Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found to have committed the sexual offense.
    - Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an

alleged sexual offense was pending or upon conclusion of such an investigation and was found to have committed the sexual offense.

v. Any applicant for employment who knowingly provides false information or willfully fails to disclose any information:

- Is subject to discipline, including, without limitation, suspension or revocation of the person's license, termination of employment or a civil penalty; and
- Is guilty of a misdemeanor.

c. Upon receipt of the information set forth above, the District may:

i. Contact each employer and former employer provided and request that the employer provide:

- The dates of employment of the applicant; and
- A written statement indicating whether the applicant has:
  - Been the subject of an investigation concerning an alleged sexual offense conducted by the employer. An employer or former employer is not required to provide this information if, after investigating the alleged violation, the employer determined the allegations were false, unfounded, unsubstantiated or inconclusive.
  - Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found to have committed the sexual offense.
  - Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found to have committed the sexual offense.

ii. Ensure the applicant has a license authorizing the applicant to teach or perform other educational functions at the level and in the field for which the applicant is applying for employment, if a license is required, and that the applicant is otherwise eligible for employment.

iii. Verify that the Department of Education (DOE) has not received notice that the applicant is a defendant in a criminal case.

iv. An employer or former employer contacted by District:

- Shall provide the information requested not later than 20 days after the date of request.

- Is immune from civil and criminal liability for any act relating to the provision of such information, unless the employer or former employer knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

v. Except as otherwise prohibited by federal or state law, an employer or former employer who willfully fails to disclose any information required is subject to discipline, including, without limitation, a civil penalty.

vi. The District shall request the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed the employee or asked the employee to resign from employment to provide additional information concerning the matter and all records related to the matter, including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.

vii. An employer contacted by the District:

- Shall provide the information requested not later than 60 days after the request is made.
- Is not required to disclose any information or records held by the school police of the school district.
- Is immune from civil and criminal liability.

viii. Except as otherwise prohibited by federal or state law, an employer who willfully fails to disclose any information required is subject to discipline, including, without limitation, a civil penalty.

ix. The District may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to the requirements set forth in this policy if the District determines the applicant is otherwise qualified and:

- The applicant provided the required statement;
- The District has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment;
- The applicant swears or affirms that they are not disqualified from employment; and
- The applicant is directly supervised by a permanent employee in any duties that involve direct contact with students.

x. The District:

- Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for

information or any inaccuracy of omission in the information submitted to the District.

- Is immune from civil or criminal liability for considering the information submitted when deciding whether to employ an applicant or continue to employ a person.

*Note: For positions that require a Commercial Driver's License (CDL) or otherwise defined as safety-sensitive positions by 42 CFR Part 382 and U.S. Department of Transportation (DOT) regulations, the District shall obtain, pursuant to an applicant's written consent, information on the applicant's alcohol tests and/or verified positive controlled substance test results, and refusals to be tested within the preceding two years from date of application which are maintained by the previous employers.*

The District will maintain strict confidentiality of all reference information. Only employees, supervisors, or management officials of the District who have a demonstrable work-related need-to-know should be accorded access to such information.

## 2. Providing References

All requests for employment information shall be referred to the Executive Director of Human Resources or designee. Only those personnel designated by the Executive Director of Human Resources are authorized to release employment information to third parties.

The District has a *Neutral Reference* stance, as well as an LCSD Board Policy GAC: *Confidential Information* for employers who are not school districts, private schools, charter schools, university schools for profoundly gifted students, or contractors or agents who work at schools in this state. Only the following personnel information and employment records that the District maintains concerning current and former employees shall be provided upon request:

- Name
- Class/Job Title
- Dates of Employment
- Rate of pay

Information regarding an employee terminated for violent actions in the workplace or who may have demonstrated dangerous behavior in the workplace will be provided only after consultation with the District's legal counsel.

In addition, the District will:

- Provide information requested by public schools, private schools, charter schools, university schools for profoundly gifted students, and/or contractors or agents who work at schools in this state not later than 30 days after the date of request and will include the following information:
  - The dates of employment of the applicant; and
  - A written statement indicating whether the applicant has:

- Been the subject of an investigation concerning an alleged sexual offense conducted by the district. This information will not be provided if after investigating the alleged violation, it was determined the allegations were false, unfounded, unsubstantiated or inconclusive.
- Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found to have committed the sexual offense.
- Had a license or certificate suspended or revoked or had been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found to have committed the sexual offense.

The District is immune from civil and criminal liability for any act relating to the release of such information, unless the District knowingly provides false information.

Except as otherwise prohibited by federal or state law, if an employee who is responsible for providing this information willfully fails to disclose any information required, the employee is subject to discipline, including, without limitation, a civil penalty.

Upon request, the District shall provide, not later than 60 days after the request is made, additional information including, without limitation, all documents and records concerning an alleged sexual offense or documents and records relating to discharge, discipline or dismissal of the employee, as well as any documents used by the District in requesting an employee to resign from employment.

The District is not required to disclose any information or records held by the school police of the District.

Employment information and opinions regarding the character, honesty, and potential for violence of the District's employees may be provided to governmental employers, including, but not limited to, any federal, state, county, municipality or city employers; or any other private (non-governmental) employer where the employee's character, honesty, and potential for violence are relevant issues. Examples include, but are not limited to, jobs which involve public safety, entrustment for the care or safety of children, the elderly, or health care patients; or positions having access to money and/or valuables. Information in this section may be provided after consultation with the District's legal counsel.

The District must provide information requested by public safety agencies in accordance with NRS 239B.

Records that are required for employees in safety-sensitive positions, as defined in 42 CFR Part 382 and DOT regulations, shall be made available to subsequent employers upon receipt of written request from the employee or former employee.

In accordance with NRS 239.012, a public officer or employee who acts in good faith in disclosing or refusing to disclose information and the District, are immune from liability for damages, either to the requester or to the person whom the information concerns.

***Background Checks on Applicants/Employees***

1. Background Checks

The District desires to maintain a productive, efficient, effective, healthy, and safe work environment and, as a result, will conduct pre-employment background checks of applicants, and current employees as necessary. Background checks may include verification of employment, educational background, criminal/court history records check; credit report check; military records check; drug test for safety-sensitive positions; character references, and other publicly available information deemed to be job related. In addition, if the position requires driving a vehicle, a Department of Motor Vehicles (DMV) search may be conducted. If the position involves contact with minors or with any persons having diminished capacity to care for themselves, a search of government sex offender registries will be conducted per NRS 391. If the position requires licensing or certification, the institution and/or licensing authority may be contacted to verify possession of education, licenses, and/or certificates.

***NOTE:** If these investigations are conducted by external third parties (also called “consumer reporting agencies” (CRA)), they will be governed by relevant provisions of the Fair Credit Reporting Act (FCRA) and the Fair and Accurate Credit Transactions Act (FACTA). FCRA and FACTA cover background checks and other investigations for prospective employees, and current employees in certain situations, such as a promotion to a position requiring additional information. FCRA and FACTA specifically do not apply to investigations of alleged misconduct, such as unlawful harassment charges. Nevada law (NRS 613) restricts the use of consumer credit information to limited positions.*

Unless, pursuant to a specific provision of state or federal law, the criminal history of an applicant for employment may be considered only after the earlier of:

- The final interview; or
- A bona fide conditional job offer of employment has been made.

This provision does not apply to an applicant for a position that is a peace officer or firefighter, or one that has physical access to a computer or other equipment used for access to the Nevada Criminal Justice Information System or the National Crime Information System, or other positions exempted by state or federal law.

*\*NRS 179A requires organizations which provide care or care placement services to children, elderly persons, or persons with disabilities to conduct background checks through the Central Repository for Nevada Records of Criminal History to determine fitness of employees, volunteers, and persons applying to be an employee or volunteer, independent contractors, and*

*vendors who have supervised or unsupervised access to children, elderly persons, or persons with disabilities.*

## 2. Consumer Reporting Agencies Reports

The types of reports that may be requested from consumer reporting agencies under this policy include, but are not limited to credit reports, criminal records checks, court records checks, driving records, and/or summaries of educational and employment records and histories. These reports or checks are also called “consumer reports.” The information contained in these reports may be obtained by a consumer reporting agency from public record sources or through personal interviews with the applicant’s or employee’s coworkers, neighbors, friends, associates, current or former employers, or other personal acquaintances. These are sometimes referred to as “investigative consumer reports.” Any information contained in such reports may be taken into consideration in evaluating an applicant’s or employee’s suitability for employment, promotion, reassignment, or retention.

## 3. Disqualification for Hire

If the District secures documented information that a candidate selected for employment has been convicted of a felony involving physical violence or moral turpitude, that candidate may not be hired, and any contingent offer of employment may be withdrawn. The District will communicate this requirement to all applicants prior to hire.

### ***Licensure/Occupational Certification***

The District mandates that, if required by the current job, all employees obtain and maintain a valid license, certificate, permit, or other occupational certification issued by the state, county, city, or other applicable authority.

If an employee receives notice that one’s own license, certificate, permit, or occupational certification has not been renewed, has been revoked, or has expired the employee must immediately notify the administrator or manager/supervisor of such revocation. The employee shall not perform any task or function for which the license, certificate, permit, or occupational certification is required after the employee has received notice of revocation, non-renewal, or expiration of such license, permit, etc.

Employees who do not have a required license, certificate, permit, or occupational certification will not meet the job requirements. Failure to meet the job requirements may result in termination.

The District may conduct a review of driver’s license records annually for those employees required to drive as a part of their duties.

Each employee whose job duties require the use of an automobile for transportation is required to possess current in force vehicle liability insurance or provide an alternate means of transportation. If at any time current in force vehicle liability insurance is not in effect, the

employee must notify the direct supervisor within one working day. The following minimum vehicle liability insurance limits are recommended for all drivers: \$100,000.00 bodily injury liability per person, \$300,000.00 bodily injury liability per accident, and \$50,000.00 property damage liability.

***Salaries/Compensation***

1. Hiring Rate of Pay

The normal hiring rate is the first step of the pay range for the position's classification. Advanced step appointments and accelerated step advancement may occur only upon authorization by the Superintendent/designee.

2. Job Offers

Offers for employment and commitments for pay on hire are made in the job offer letter. Hiring appointment placement on the pay schedule is governed by the applicable collectively bargained agreement and policy under the direction of the Executive Director of Human Resources and/or Superintendent when disputes arise.

Orientation time will not be paid for employees.

3. Pay Rate Reviews and Increases

The District periodically reviews the pay ranges, which consist of a series of pay steps for each position. This review includes an evaluation of the ranges and steps and, when appropriate, an adjustment of these ranges. Employees who are not paid at the maximum of the pay range for their position are eligible to be considered for a pay increase according to the applicable collectively bargained agreement, contract, or policy.

4. Payroll Distribution

Employees will be paid on the 20th day of each month. When the 20th falls during a holiday or weekend, payday will be the last working day preceding the holiday or weekend. All staff will be paid on the current month basis in twelve equal installments.

5. Fractional Pay or Deductions

For the purpose of figuring additions to pay, fractional year contracts, and deductions, the number of actual work days will be used to determine the daily rate of pay. For

employees other than teachers, the number of workdays will be determined according to contractual arrangement for each category.

6. Rates of Pay/Compensation

The Board of Trustees shall determine pay rates and related benefits for all personnel not covered by a negotiated agreement.

7. Non-Discrimination

NRS 613.330 states it is unlawful to discriminate against an employee for inquiring about, discussing, or voluntarily disclosing information about their own or another person's wages. This does not apply to any employee who has access to or information about the wages of other employees as part of their essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is ordered by the Labor Commissioner or court.