

404 EMPLOYMENT BACKGROUND CHECKS

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment in the school district in order to promote the physical, social, and psychological well-being of its students. To that end, the school district will seek a criminal history background check for applicants who receive an offer of employment with the school district and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, or such other background checks as provided by this policy. The school district may also elect to do background checks of other volunteers, independent contractors and student employees in the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district shall require that applicants for school district positions who are offered employment in the school and all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, submit to a criminal history background check. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district.
- B. The school district specifically reserves any and all rights it may have to conduct background checks regarding current employees, applicants, or service providers without the consent of such individuals.
- C. Adherence to this policy by the school district shall in no way limit the school district's right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, service providers, independent contractors and student employees.

III. PROCEDURES

- A. Normally an individual will not commence employment or provide

services until the school district receives the results of the criminal history background check. The school district may hire or otherwise allow an individual to provide a service to a school pending completion of a background check under Minnesota Statutes, section 123B.03, subdivision 1 or obtaining notice of a Professional Educator Licensing and Standards Board action under subdivision 1a but shall notify the individual that the individual's employment or other service may be terminated based on the result of the background check or Professional Educator Licensing and Standards Board action. The school district is not liable for failing to hire or for terminating an individual's employment or other service based on the result of a background check or Professional Educator Licensing and Standards Board action.

Background checks will be from the Minnesota Bureau of Criminal Apprehension (hereinafter "the BCA"). The BCA shall conduct the background check by retrieving criminal history data as defined in Minnesota Statutes section 13.87. The school district reserves the right to also have criminal history background checks conducted by other organizations or agencies.

- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching services to the school district, the individual, except for an enrolled student volunteer, must sign a criminal history consent form, which provides permission for the school district to conduct a criminal history background check, and provide payment to either the BCA or to the school district or its vendor, at the election of the school district, in an amount the district sets prior to the start of each fiscal year. The cost of the criminal history background check is the responsibility of the individual, unless the school district decides to pay the cost of a volunteer, an independent contractor, or a student employee. If the individual fails to provide the school district with a signed Informed Consent Form at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.
- C. The school district, in its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the Minnesota Professional Educator Licensing and Standards Board or the Commissioner of the Minnesota Department of Education within the 12 months preceding an offer of employment or permission to provide services.
- D. The school district may use the results of a criminal background check conducted at the request of another school hiring authority if:

1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 2. the other school hiring authority conducted a criminal background check within the previous 12 months;
 3. the individual executes a written consent form giving the school district access to the results of the check; and
 4. there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment or provision of services.
- E. For all non state residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, the school district shall request a criminal history background check on such individuals from the superintendent of the BCA and from the government agency performing the same function in the resident state, or if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district. Such individuals must provide an executed criminal history consent form.
- F. When required, individuals must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.
- G. Copies of this policy shall be available in the school district's employment office and will be distributed to applicants for employment and individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services upon request. The need to submit to a criminal history background check may be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law.
- I. If the criminal history background check precludes employment with, or provision of services to, the school district, the individual will be so advised.

- J. The school district may apply these procedures to other volunteers, independent contractors or student employees as though they were applicants for employment or providing athletic coaching services or other extracurricular academic coaching services.
- K. If, after a person is employed by, or begins to provide athletic coaching services or other extracurricular academic coaching services to the school district, whether compensated or not, the school district determines or has reason to believe that a person is or has engaged in criminal activity or has failed to disclose a previous criminal conviction, the person shall submit to an additional criminal background check.
- L. Any employee, independent contractor, athletic coach, or extracurricular academic coach, except for an enrolled student volunteer, who is convicted of a crime or charged with a felony or gross misdemeanor, or who has been so convicted or charged since March 21, 2016 must disclose that fact to the Director of Human Resources within five days of the conviction or charge, or if charged or convicted subsequent to employment with the School District but prior to March 21, 2016, within thirty days of the effective date of this policy. Failure to do so shall subject the employee to discipline, up to and including termination, and shall subject the independent contractor, athletic coach, or extracurricular academic coach to termination.
- M. At the beginning of each school year or when a student enrolls, the school district will notify parents and guardians about this policy and identify those positions subject to a background check and the extent of the school district's discretion in requiring a background check. The school district may include this notice in its student handbook, a school policy guide, or other similar communication. A form notice for this purpose is included with this policy.

IV. CRIMINAL HISTORY CONSENT FORM

A form to obtain consent for a criminal history background check is available in the Human Resources Office.

Legal References:

Minn. Stat. § 13.04, Subd. 4 (Rights of Subjects of Data)

Minn. Stat. § 13.87, Subd. 1 (Criminal Justice Data)

Minn. Stat. § 123B.03 (Background Check)

Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child, Elder, and Individuals with Disabilities Protection Background Check Act)

Minn. Stat. § 364.09(b) (Exception for School Districts)

Cross References: None