

No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC _____ First Reading of Revised Policy DC (LOCAL): Employment Practices _____

SUBMITTED BY: _____ Juan A. Molina & Ricardo Molina _____ **OF:** _____ Board Members _____

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____ June 20, 2007 _____

RECOMMENDATION:

RATIONALE:

BUDGETARY INFORMATION

BOARD POLICY REFERENCE AND COMPLIANCE

EMPLOYMENT PRACTICES

DC
(LOCAL)

PERSONNEL DUTIES The Superintendent shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

FILLING VACANCIES The guidelines that follow for advertising employment opportunities and posting notices of vacancies shall advance the Board's commitment to equal opportunity employment and to recruiting well qualified candidates. Current District employees are eligible to apply for any vacancy.

The continuing need to improve the educational quality of the District makes it imperative that the best qualified person, as determined by the District, fill each position. [See DC(LEGAL)]

APPLICATIONS All applicants shall complete the application form supplied by the District. Information in applications for contractual positions shall be verified before a contract is offered, and information in applications for noncontractual positions shall be verified before hiring.

**SELECTION OF
PERSONNEL**

**CONTRACTUAL
CERTIFIED** The Superintendent has sole authority to make recommendations to the Board regarding the selection of contractual personnel. If the Board rejects the Superintendent's recommendation, the Superintendent shall make alternative recommendations for the Board's consideration at the next regular Board meeting, unless otherwise directed by the Board.

Final authority for selection and employment of certified contractual personnel who shall hold the position of principal, director, or above shall be retained by the Board. [See (LEGAL) policies at DCA, DCB, and DCC as appropriate]

The Board delegates to the Superintendent final authority to hire all other contractual professional employees.

OTHER PERSONNEL	The Board also delegates to the Superintendent final authority to hire noncontractual employees on an at-will basis. [See DCD (LOCAL)]
APPLICANT'S FORMER EMPLOYMENT	An applicant seeking employment shall not be considered for employment by the District if he or she has been terminated or non-renewed by any previous employer, was asked to resign, resigned due to employee misconduct, has negative references or has a "do not hire" recommendation from a prior employer or supervisor.
CRIMINAL HISTORY RECORD CHECK - APPLICANTS	Under authority of the Education Code, the District shall obtain the criminal history record for each applicant for employment with the District who, in the opinion of the District, is a serious candidate and who may be offered a position.
	The District may obtain the information from any law enforcement agency or other background agency, including, but not limited to, a police department, the Department of Public Safety, or the Texas Department of Corrections at least once a year.
	The District shall not issue any applicant a written contract of employment until it has obtained a criminal history record and reviewed it under the guidelines of this policy.
	For the purposes of this policy, "conviction" shall include probation, deferred adjudication, a finding of guilt, or acceptance by the court of a plea of guilty or nolo contendere.
	A person shall not be denied employment solely on the basis of the deferred adjudication. Rather, the underlying facts that led to the deferred adjudication shall be examined prior to any recommendation to employ.
CONFIDENTIALITY REQUIREMENT	Criminal history information is privileged and for the use by the District and the State Board for Educator Certification. No District employee shall release or disclose such information to a person other than the applicant, the legal review committee, or the Superintendent or designee, under penalty of law and/or discharge.
CRIMINAL HISTORY RESTRICTIONS	If a person has been charged with a criminal offense that has been dismissed through deferred adjudication, that person shall be considered for employment with the District except when the charge was for capital murder; attempted murder; murder; voluntary manslaughter; involuntary manslaughter; indecency with a child; any felony theft offense, injury to a child, the elderly, or a person with a disability; kidnapping; aggravated kidnapping; aggravated sexual assault of a child; aggravated

robbery; any felony where a deadly weapon was used or exhibited; any felony related to the manufacture, delivery, or possession of marijuana, a controlled substance, or dangerous drug; or any other crime that adversely affects the mission of the District.

MORAL
TURPITUDE

No one convicted of a felony or any misdemeanor involving moral turpitude shall be considered for employment in the District. Moral turpitude is an act of baseness, vileness, or depravity in the private or social duties outside the accepted standards of decency that shocks the conscience of an ordinary person.

No one charged with any felony or misdemeanor involving moral turpitude shall be considered for employment in the District until there is a final disposition of the charge, except as may be allowed by the legal review committee, in accordance with the provisions below. [See DH(LOCAL)]

Examples, but not by way of limitation, of offenses that involve moral turpitude are:

1. Public lewdness;
2. Prostitution;
3. Theft;
4. Swindling.

No one currently on probation, including deferred adjudication probation, for any offense shall be considered for employment, unless allowed by the legal review committee, in accordance with provisions below.

LEGAL REVIEW
COMMITTEE

The application of a person who has a criminal record that would preclude employment with the District using the criteria listed above shall be reviewed by the legal review committee made up of the criminal history check officer, assistant superintendent for human resources or designee, and director of employee relations. The school attorney shall serve in an advisory capacity.

The committee shall assess the records of potential employees. The legal review committee shall not review applications of persons whose criminal record includes a conviction, deferred adjudication, or plea of guilt, or nolo contendere for the offense of capital murder; attempted murder; murder; indecency with a child; injury to a child, an elderly person, or disabled individual; aggravated kidnapping; aggravated sexual assault;

GOVERNING
CRITERIA FOR
EMPLOYMENT
DECISIONS

sexual assault of a child; aggravated robbery; any felony where a deadly weapon was used or exhibited; or any felony related to the manufacture, delivery, or possession of marijuana, a controlled substance, or a dangerous drug.

The following criteria shall be used by the legal review committee in determining whether or not to recommend a waiver of the criminal history restrictions to employment:

1. The nature and seriousness of the crime.
2. The relationship of the crime to the purpose of the District.
3. The extent to which employment might offer an opportunity to engage in further criminal activity of the same type as that in which the person had previously been involved.
4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and the responsibilities of the position with the District..
5. The age of the person at the time of the commission of the crime.
6. The time elapsed since the person's last criminal activity.
7. The evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.
8. If the person holds a professional license, the results of any action taken by the licensing authority.
9. The other evidence of the person's present fitness, including letter(s) of recommendation from:
 - a. Prosecutors or law enforcement or correctional officers involved in the prosecution, arrest, or custody of the person.
 - b. The law enforcement officers in the community where the person resides.
 - c. Any other persons in contact with the convicted person.
10. The individual's patterns of habitual criminal activity.
11. The publicity surrounding the actual crime.

12. The person's clear and present danger to other staff, students, or the general public.

13. Any extenuating circumstances.

**LEGAL REVIEW
COMMITTEE
RECOMMENDATION**

If, after applying the criteria outlined above, the legal review committee believes that the applicant should be considered for employment, the committee shall jointly sign a recommendation to the Superintendent or designee that such applicant is eligible for hire.

**SUPERINTENDENT'S
DECISION**

If the Superintendent approves the recommendation, the applicant shall be considered eligible for hire.

**FAILURE TO
DISCLOSE
INFORMATION ON
APPLICATION**

An applicant shall not be employed by the District if he or she fails to disclose information on the employment application or during questioning regarding any criminal conviction, crime, deferred adjudication, or similar type of decree, or if he or she misrepresents any information regarding such conviction, crime, or deferred adjudication, or similar type of decree.

**CRIMINAL HISTORY
BACKGROUND
CHECK -
EMPLOYEES**

At least once annually, the District shall obtain criminal history records of Webb County and the counties contiguous to Webb County. The District may obtain this information from any other county when it has reason to believe that an employee has been convicted of a crime in such county or from a police department, the Department of Public Safety, or the Texas Department of Corrections.

The District may suspend or terminate the employment of any person convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the individual or directly relates to, or adversely affects, the mission of the District.

**PENALTIES FOR
FAILING TO
DISCLOSE CRIMINAL
INFORMATION**

The Legal Review Committee shall assess the records of employees found to have criminal records that would bar them from employment with the District. The committee will use the following guidelines to determine if an employee should be recommended for termination based on his or her criminal record:

1. The omission by the employee to not disclose a prior criminal conviction when requested at the time of employment shall be presumed to be intentional. The District; however, shall have the burden of proof.
2. If the employee was not asked to divulge any previous convictions as a prerequisite to employment, a recommendation for termination will be based on the

- same criteria as required for applicants.
3. If a conviction involving a felony or misdemeanor involving moral turpitude is discovered subsequent to employment, a recommendation for termination will be based on the same criteria as required for applicants as found at GOVERNING CRITERIA FOR EMPLOYMENT DECISIONS, above.

Employees shall notify the District within three workdays if they are charged with, convicted of, granted deferred adjudication, or if they have entered a plea of *nolo contendere* to any felony or any misdemeanor involving moral turpitude. This notification shall be made in writing to the employee's immediate supervisor or principal. Failure to make such notification may result in termination of employment.

Any employee placed on deferred adjudication may be recommended for termination based upon the underlying facts that led to the deferred adjudication. For the purposes of any termination hearing, the facts to which the individual pleaded in order to obtain the deferred adjudication shall be presumed to exist and be true and correct.

The District may suspend or terminate the employment of any person convicted of felony or misdemeanor if the crime directly relates to the duties and responsibilities of the individual or directly relates to, or adversely affects, the mission of the District.

Employees under felony indictment that adversely affects the mission of the District shall be recommended for suspension without pay pending adjudication of their cases.

After notification of a proposed suspension without pay or employment termination, a contract employee may request a hearing in accordance with the DF series.

CONTRACTUAL VACANCIES

Subject to the provisions for campus-based administrative positions and Section 11.163 of the Texas Education Code, notice of vacancies for contractual positions shall be advertised by posting public notices for not fewer than ten school days. Posting shall be in the District's administrative offices, in each school campus, and the District's Internet Web site. Each principal/director shall further ensure posting in locations available to employees. For purposes of retaining and promoting current employees, employment opportunities for all

professional vacancies for principal/director and above shall be advertised in the District's human resources department, local and regional Web sites, and the District's administrative offices and school campuses. ~~When necessary, professional vacancies shall be advertised within the District first. If a District employee is not recommended, then advertisement shall be placed in local and out of town news media, as necessary.~~

The posting of vacancies for contractual positions shall include a current copy of the job description for the posted position. Any changes made to current job descriptions prior to posting, must be approved by the Superintendent.

School employees shall be permitted to apply for any vacancy; however, the needs of the District, as determined by the District, shall prevail over any assignment or reassignment.

Interested candidates shall complete an application provided by the District and file it with appropriate documents in the office of human resources no later than the posted closing date in the announcement.

ADMINISTRATIVE
VACANCIES:
PRINCIPAL /
DIRECTOR AND
ABOVE

The following procedures shall be followed for administrative vacancies for the director and above:

1. All applications shall be reviewed by the human resources department to ensure that all required materials have been submitted. ~~For the purpose of retaining and promoting current employees, employment opportunities for all professional vacancies for principal/director and above shall be advertised within the District first.~~ Subject to the provisions for campus-based administrative positions and Section 11.163 of the Texas Education Code, notice of vacancies for contractual positions shall be advertised by posting public notices for not fewer than ten school days. Posting shall be in the District's administrative offices, in each school campus, and the District's Internet Web site, **and local and out-of-town news media, as necessary.** Each principal/director shall further ensure posting in locations available to employees. ~~If a District employee is not recommended, then advertisement shall be placed in local and out of town news media, as necessary.~~
2. Selection of finalists: A committee comprised of central office and/or campus personnel shall prescreen

qualified personnel. Once the applications have been prescreened, the committee shall interview selected candidates, and a list of finalists shall be established for the appropriate central office supervisor.

3. Final selection: The appropriate central office supervisor shall conduct the interviews of finalists and make a recommendation to the Superintendent.
4. The Superintendent shall make recommendations to the Board until a recommendation is accepted.
5. Any exception to these provisions in employment must be specifically approved by the Board.

CAMPUS-BASED
VACANCIES

The Superintendent shall develop an administrative regulation for the hiring of campus based administrators and shall annually inform the Board of such procedure.

CLASSROOM
TEACHER
VACANCIES

The following procedures shall be followed for classroom teacher vacancies:

1. All applications shall be reviewed by the human resources department to ensure that the applicant meets the District's criteria.
2. Once the applicant meets the criteria, he or she becomes part of the District's pool of qualified applicants.
3. Final selection shall be conducted as follows:
 - a. An interview committee comprised of the campus principal, SBDM committee representatives, and other appropriate persons shall interview from the District's pool of qualified applicants.
 - b. The interview committee shall recommend a list of finalists to the campus principal.
 - c. The principal shall make a recommendation to the Superintendent or designee.
 - d. If the vacancy is for the following academic year, the principal may approve a teacher transfer (intra- or intercampus) to fill the vacant position pursuant to DK (LOCAL).
4. When a teaching vacancy occurs for summer school classroom teaching positions, the human resources

department shall review and determine the pool of qualified applicants from current District teachers for the specific vacancy. From the pool of qualified applicants, the campus or summer school principal may proceed to interview candidates from the pool. If the principal chooses not to make a recommendation from the pool of qualified applicants, the vacancy shall be advertised according to established procedures and selection shall be made as detailed in this paragraph.

PARAPROFESSIONAL / AUXILIARY POSITIONS Notice of vacancies for all paraprofessional/auxiliary positions shall be advertised for five working days by posting a public notice in the District's administrative offices and school campuses. Each principal/director shall further ensure posting in locations available to employees. When necessary, all employment opportunities shall periodically be advertised through local and out-of-town news media.

Current employees shall be permitted to apply for a vacancy; however, the needs of the District, as determined by the District, shall prevail over any assignment or reassignment.

Interested candidates shall complete an application provided by the District and file it with appropriate documents in the office of human resources no later than the posted closing date.

The following procedures shall be followed for paraprofessional/auxiliary vacancies:

1. All applications shall be reviewed by the human resources department to ensure that the applicant meets the District's criteria.
2. Applicants who meet the District's criteria shall become part of the District's pool of qualified applicants.
3. The campus principals and/or central office administrators shall interview from the District's pool of qualified applicants and make a recommendation to the human resources department.

DISTRICT SUPERVISION PROHIBITION

No person shall be hired by or supervised by a member of his or her own family who is related by blood (consanguinity) within the third degree, or by marriage (affinity) within the second degree. [See DBE(LEGAL) and (EXHIBIT)] Adopted or foster relationships shall be treated as natural relationships.

For the purposes of this policy, the term “supervised” shall mean to evaluate an employee’s performance under the District’s employee performance appraisal system.

**EXIT INTERVIEWS
AND TERMINATION
REPORTS**

An exit interview shall be conducted if possible, for every employee who leaves employment with the District. These interviews shall be conducted in accordance with administrative regulations.

DATE ISSUED: 06/12/2006 revised 12/06 approved 12/20/06
LDU-24-06
DC(LOCAL)-X

This online presentation of your district's policy is an electronic representation of TASB's record of the district's currently adopted policy manual. It does not reflect updating activities in progress. The official, authoritative manual is available for inspection in the office of the Superintendent. [See BF (LOCAL) for further information.]