

# BOARD POLICY

GBRB

## PERSONNEL CRIMINAL HISTORY RECORD CHECK POLICY

January 2014

Prior to employing any individual, either full-time or part-time, or permitting an individual to continuously and regularly work in the schools under contract, the District shall request and obtain a criminal history records check of the individual in accordance with applicable state and federal laws. As used in this policy, the phrase “continuously and regularly work under contract” shall apply to individuals, including owners and employees of entities, that contract directly with the District to provide instructional services to students or related and auxiliary services to special education students, custodial services, transportation services, counseling services, food services, administrative services, or any other services on more than an intermittent or sporadic basis.

The District may determine it necessary to conditionally hire an individual or to conditionally allow an individual to continuously and regularly work under contract, prior to receiving an individual’s criminal history records check, provided that:

- The criminal history records check has been requested prior to conditionally employing the individual or conditionally allowing the individual to continuously and regularly work under contract;
- The individual signs a statement disclosing all crimes for which he or she has been convicted, if any, and acknowledges that his or her employment contract or assignment with the District may be terminated if there are discrepancies between the individual’s disclosure and the criminal history records check; and
- The individual is hired or allowed to continuously and regularly work under contract for a particular school year during that school year or not more than 30 days before the beginning of that school year.

An applicant for employment with the District shall give written consent at the time of application for the criminal history records check. The applicant must submit his or her fingerprints to the Michigan State Police for the purpose of the criminal history records checks at the time the applicant initially applies for employment with the District or is initially employed by the District or is initially assigned to continuously and regularly work under contract.

The District shall ensure that criminal history checks have been completed as to each individual assigned to provide continuous and regular services, including substitute teachers, by contract.

For individuals working in more than one school district, either through direct employment by the school districts or by continuously and regularly working under contract in the school districts, the District may, in lieu of requesting a criminal history records check, use a records check

previously obtained by another school district, provided that the individual has agreed in writing to allow the other school district to share the results of the records check.

If an individual's criminal history records check has already been completed by and reported to another school district, intermediate school district, public school academy or nonpublic school, the District need not obtain another records check for the individual, provided that the individual remains employed or remains continuously and regularly working under contract with the same employer, with no separation from service by any school district, intermediate school district, public school academy, or nonpublic school in this state. Upon receipt of an individual's criminal history records check from another school district, intermediate school district, public school academy or nonpublic school, the District must confirm that the records check belongs to that individual and whether there have been any additional convictions by processing the individual's name, sex, and date of birth through the Internet Criminal History Access Tool (ICHAT).

For purposes of the preceding paragraph, the phrase "no separation from service" means:

- The employee was laid off or placed on a leave of absence and returned to active employment with the same employer within one year; or
- The employee transferred without a break in service to another school district, intermediate school district, public school academy, or nonpublic school and remains continuously employed.

When the District receives a criminal history records check that discloses that an individual has been convicted of a listed offense, as defined under MCLA 28.722, or any felony, as defined under MCLA 761.1, the District shall take steps to verify that information using public records. If the District verifies that an individual was convicted of a listed offense, as defined under MCLA 28.722, the District shall not employ the individual in any capacity and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the District verifies that an individual was convicted of a felony, as defined under MCLA 761.1, other than a listed offense, the District shall not employ the individual in any capacity and shall not allow the individual to continuously and regularly work under contract in any of its schools, unless the Superintendent and Board of Education each specifically approve the employment or work assignment of the individual in writing.

Within 60 days of receiving a criminal history records check that discloses a conviction as described in the preceding paragraph, the District shall submit to the Michigan Department of Education a report detailing the information and any action taken as a result by the District.

Upon receipt of an individual's criminal history records check, the District shall retain the records check in the individual's employment records. Information obtained through a criminal history records check, and the records check itself, are confidential. With the exception of certain circumstances enumerated herein, employees of the District and members of the Board of Education are prohibited from disclosing or disseminating information obtained through a criminal history records check or the records check itself to any person who is not directly involved in evaluating the applicant's qualifications for employment or assignment. Employees and Board members may, however, disclose the following:

- A misdemeanor conviction involving sexual or physical abuse;

- Any felony conviction;
- A District employee or Board member may confirm to an employee of another school district either that a criminal history records check has revealed that an individual does not have any criminal history or that no criminal history records check was received for the individual;
- A District employee or Board member may provide a copy of the criminal history records check obtained for an individual to a representative of another school district, provided that the individual has agreed, in writing, to share the results of the criminal history records check.

Any criminal history records check received from the Michigan Department of Education or Michigan State Police regarding District employees with criminal convictions shall be exempt from disclosure under the Freedom of Information Act (FOIA) for the first fifteen (15) days after receipt of the records check. If the information is determined to be inaccurate during the first fifteen (15) days, the information is exempt from disclosure under FOIA. If the information is determined to be accurate during the first fifteen (15) days, the District must disclose the information in accordance with applicable state laws. Criminal history records checks may be released with the written authorization of the individual.

The District may only use information received through a criminal history records check for the purpose of evaluating an individual's qualifications for employment or assignment in the position for which he or she has applied or been assigned.

All individuals who, as of December 1, 2005, were employed by the District, either full-time or part-time, or were assigned to continuously and regularly work under contract, must undergo a criminal history records check by July 1, 2008 under the policies and procedures described herein. Such individuals shall give written consent for the criminal history records check and shall submit his or her fingerprints to the Michigan State Police for the purpose of the records check. Individuals who fail to consent to the criminal history records check, fail to submit his or her fingerprints, or otherwise fail to cooperate with the District's attempt to obtain the individual's criminal history record check shall have their employment terminated or their work assignment ended.

The District need not obtain a criminal history records check for individuals that the District directly employs or individuals that are assigned to continuously and regularly work under contract, provided that:

- The individual is 19 years of age or younger and is enrolled as a general education student of a school district, intermediate school district, public school academy or non public school;
- The individual is 26 years of age or younger and is enrolled in special education programs or services in a school district, intermediate school district, public school academy, or nonpublic school.

Before employing such individuals or assigning them to continuously and regularly work under contract, the District shall perform a criminal history check on that individual using the Internet Criminal History Access Tool (ICHAT). If the ICHAT search discloses that an individual has been

convicted of a listed offense, as defined under MCLA 28.722, or any felony, as defined under MCLA 761.1, the District shall take steps to verify that information using public records. If the District verifies that an individual was convicted of a listed offense, as defined under MCLA 28.722, the District shall not employ the individual in any capacity and shall not allow the individual to continuously and regularly work under contract in any of its schools. If the District verifies that an individual was convicted of a felony, as defined under MCLA 761.1, other than a listed offense, the District shall not employ the individual in any capacity and shall not allow the individual to regularly and continuously work under contract in any of its schools, unless the Superintendent and Board of Education each specifically approve the employment or work assignment of the individual in writing.

The District shall establish the necessary administrative procedures for obtaining from the Criminal Records Division of the State Police any criminal history on the applicant maintained by the State Police and the Federal Bureau of Investigations. In addition, the District shall request the State Police to obtain a criminal history records check from the Federal Bureau of Investigation.