

****402 – Criminal History Checks for Employees, Volunteers and Contractors:** This policy is amended to reflect a 2017 statutory change relating to when a record of background checks for a school district will be provided to the district or the job applicant by the Idaho State Department of Education. The amended law now provides that the SDE will provide a copy of the background check records to the district if requested by the district at the time of application or within six (6) months following the performance of the criminal history check. We have also updated the policy to reflect the inclusion of certain definitions provided in regulations of the SDE. The legal reference for the regulation is also included.

DEFINITIONS

For the purposes of this policy, the following definitions apply:

“Contractor” means an agency, company/business, or individual that has signed a contract or agreement to provide services for the district.

“Employee” means those individuals hired by the district and paid a salary or wages from which federal and state income taxes are withheld.

“Substitute Teachers” any individual who temporarily replaces a certificated classroom educator and is paid a substituted teacher wage for one (1) day or more during a school year.

“Unsupervised contact” means direct contact or interaction with students not under the direct supervision of a district employee. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours.

EMPLOYEES

All certificated and non-certificated employees, including substitute staff and individuals involved in student training such as practicums and internships, hired after July 1, 2008, shall undergo a criminal history check as required by Idaho Code § 33-130.

Employees are required to submit a completed ten (10) finger fingerprint card or scan to the Idaho State Department of Education no later than five (5) days after the employees’ first day of employment with the school district or unsupervised contact with students in a K-12 setting, whichever is sooner.

The employee or individual involved in student training will be responsible for the cost of the criminal history check.

A record of all background checks will be maintained by the Idaho State Department of Education in a data bank for all employees of this district, with a copy going to **the district, when requested at the time of the application or within six (6) months following the performance of the criminal history check. A copy will also be provided to the** employee if so requested. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in Idaho Code §33-1208, the district will review such results to determine whether the employee shall be terminated, dismissed or subject to other personnel action of the district. The district retains the right to evaluate whether an individual convicted of one of the crimes so enumerated, and having been incarcerated for that crime, shall be hired.

The district will not hire individuals, and will terminate or dismiss employees who **plead guilty to or** have been convicted of any of the following felony offenses **(whether under federal, Idaho or other state law)** against a child, **notwithstanding the form of the judgment or withheld judgment:**

1. The aggravated assault of a child, or the assault with intent to commit a serious felony against a child;
2. The aggravated battery of a child, or the battery with intent to commit a serious felony against a child;
3. The injury or death of a child;
4. The sexual abuse of a child under sixteen (16) years of age;
5. The ritualized abuse of a child under eighteen (18) years of age;
6. The sexual exploitation of a child;
7. Lewd conduct with a child under the age of sixteen (16);
8. Sexual battery of a minor child sixteen (16) or seventeen (17) years of age;
9. The sale or barter of a child for adoption or other purposes;
10. The murder of a child, or the voluntary manslaughter of a child;
11. The kidnapping of a child;
12. The importation or exportation of a juvenile for immoral purposes;

13. The abduction of a person under eighteen (18) years of age for prostitution;
14. The rape of a child.

SUBSTITUTE TEACHERS

A substitute teacher employed by this district will not be required to undergo additional criminal history checks if he or she has obtained a criminal history check within the previous five (5) years, related to employment for another school district. If this district elects to require another criminal history check within the five (5) year period, it will pay the cost or reimburse the teacher for such cost.

VOLUNTEERS AND CONTRACTORS

All volunteers will be required to submit proof of identification, alias names, and other necessary identifying information, when applying to act as a volunteer. All contractors will be required to provide a list of all employees of the contractor, and proof of identification of those individuals, who are reasonably anticipated to be on the school premises for the purpose of carrying out the terms of the contract. Contractors and subcontractors, and their employees, will be required to submit proof of identification, alias names, and other necessary identifying information.

Unsupervised Contact with Students. All individuals who have unsupervised contact with students, including parent and community volunteers, contractors and subcontractors as well as their employees, will be required to undergo a criminal history background check. The individual is required to submit a completed ten (10) finger fingerprint card or scan to the Idaho State Department of Education no later than (5) days after the individual's first unsupervised contact with students in a K-12 setting. *The district will pay for criminal history checks of volunteers; contractors and subcontractors will be required to pay for their criminal history checks.*

Irregular Contact with Students. *The superintendent or designee will cross-check the names of all other individuals who have irregular contact with students, including volunteers, contractors, and subcontractors, with the State of Idaho sex offender registry no later than five (5) days following the first day that the individual is present in a K-12 setting for purposes of volunteering or fulfilling a contract. The individual will be required to provide proof of identification, alias names, and any other identifying information deemed necessary to complete the cross-check. If determined necessary by the superintendent or designee to ensure a safe environment for all students, any such individual may be required to undergo a criminal history check. The district will pay for criminal history checks of volunteers; contractors and subcontractors will be required to pay for their criminal history checks.*

The State of Idaho sex offender registry will be reviewed at least annually thereafter for volunteers or contractors who continue to be present on the school premises. Those individuals who are on the sexual offender registry will not be allowed to volunteer and/or work as contractors, or employees of a contractor, for the district.



LEGAL REFERENCE:

Idaho Code Sections

- 33-130 (Criminal History Checks for School District Employees)
- 33-512 *et seq.* (Governance of Schools)
- 33-1201 *et seq.* (Teachers)
- 18-901 *et seq.* (Assault and Battery)
- 18-501 *et seq.* (Children and Vulnerable Adults)
- 18-4001 *et seq.* (Homicide)
- 18-4502 (First Degree Kidnapping)
- 18-5601 *et seq.* (Prostitution)
- 18-6101 *et seq.* (Rape)
- 18-8301 *et seq.* (Sexual Offender Registration Notification and Community Right-to-Know Act)
- 18-8401 *et seq.* (Juvenile Sex Offender Registration Notification and Community Right-to-Know Act)

IDAPA 08.02.02.75

ADOPTED:

AMENDED:

**Language in text set forth in italics is optional.*