

BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK

**Background Investigation**

The Superintendent, or his/her designee, ~~shall~~ **will** conduct a thorough investigation into the past employment history, **criminal history records**, and other ~~applicable~~ **appropriate** background, ~~of any person considered for employment with the District~~ **of any applicant as defined in this policy**. This investigation shall be completed prior to making an offer of **final** employment, **approving the contract with an individual contracting directly with the District, or approving the assignment of an employee of a contractor, a student teacher, or designated volunteer to work within the District.**

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations that have been done. **For the purposes of this policy, the term “applicant” shall include a selected applicant for employment by the District, an individual or entity with whom the District contracts to provide services directly to students, any employee of a contractor with whom the District contracts to provide services directly to students, student teachers who are proposed to be placed in a District school, and designated volunteers. All applicants will be subject to a criminal records history check meeting the minimum requirements of law, however, the Superintendent’s protocol may specify additional background check steps for specific groups of employees, such as verifying the educational achievements and employment history of an applicant for a teaching position. The Superintendent’s protocol shall include a list of felonies and misdemeanors, in addition to those specified in RSA 189:13-a,V, convictions of which shall be disqualifying. The protocol shall require that an analysis be conducted of any pending charges or convictions for crimes not on the statutory list of disqualifying offenses to determine whether the applicant should be disqualified. The protocol shall take into consideration the time which has passed since the conviction, the facts and circumstances of the charge or conviction, evidence of successful rehabilitation and an extended period of lawful behavior. For charges pending disposition for offenses not on the statutory list of disqualifying offenses, which the applicant discloses or which come to light during the background check, the presumption of innocence shall apply, however, the Superintendent shall consider all reliable information in assessing the applicant’s suitability. The Superintendent shall assess whether, in light of the totality of the circumstances, the pending charges or convictions raise reasonable cause to doubt the applicant’s suitability for the position.**

As part of the application process, each applicant ~~for a position~~ shall be asked whether he/she has ever been convicted of any crime, and whether there are any criminal charges pending against him/her at the time of application. **The applicant will also be directed to report any criminal charges brought against him or her after the application is submitted and until either hired or notified that he or she will not be hired.** The falsification or omission of any information on a job application or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment or immediate discharge from employment.

**The fee and costs associated with the fingerprinting process and/or submission or processing of the criminal history records checks for a contractor or for employees of a contractor who provides services directly to students shall be borne by the contractor. Any other applicant for whom the Board requires a criminal history records check shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the criminal history records check, unless otherwise determined by the Board.**

### **Criminal History Records Check**

**Each applicant must submit to a State and FBI Criminal Records Check.**

~~Each person considered for employment by the Board whose duties require regular contact with students must submit to a State and FBI Criminal Records Check.~~

~~Persons "regularly in contact with students" means a person or persons who, in the performance of his/her duties: (1) comes in direct contact with students on a daily basis for any period of time; (2) meets regularly, e.g., once or twice a week, with students, including, but not limited to, an art, music, or physical education teacher; (3) a substitute teacher who comes in direct contact with students on a limited basis; or (4) any other persons who the Superintendent believes, by virtue of their duties and contact with students, should appropriately undergo a Criminal Records Check.~~

~~The Superintendent is responsible for establishing all necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check.~~

### **Volunteers**

Designated Volunteers are subject to a background investigation/criminal records check and the provisions of this policy. "Designated Volunteers" are defined and so designated pursuant to Policy IJOC. Volunteers not categorized as "Designated Volunteers" per Policy IJOC will generally not be subject to a background investigation or criminal records check. However, the Board may require a Criminal Records Check of any Volunteer at any time.

### **Student Teachers**

**The District will not accept the services of student teachers who would be disqualified from employment under this policy.**

### **Contractors**

~~Any contractor and employees of the contractor whose duties require regular contact with students are subject to State and FBI Criminal Records Check in accordance with this policy.~~

**Any contractor and employees of the contractor who provide services directly to students are subject to State and FBI Criminal Records Check in accordance with this policy.**

### **Conditional and Final Offers of Employment**

~~Persons who have been selected for employment may be hired on a conditional basis, pending a successful completion of the State and FBI Criminal Records Check.~~

**Persons who have been selected for employment may be given a conditional offer of employment, with the final offer subject to the successful completion of the State and FBI criminal history records check.**

No selected applicant for employment shall be extended a conditional offer of employment until the Superintendent, or his/her designee, has initiated the formal State and FBI Criminal Records Check process and ~~has completed a background investigation.~~

Any person who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her contract and continuation of employment is entirely conditioned upon the completion of a ~~Criminal Records Check that is satisfactory to the District~~ **criminal history records check that is satisfactory to the District.**

All persons employed under a conditional offer of employment may be covered under the District's health insurance program at the sole discretion of the School Board, and in accordance with Board policies and/or collective bargaining agreements, if applicable. However, any such coverage will immediately cease and will not be subject to extension under COBRA if the Board does not tender the person a final offer of employment by reason of application of this Policy.

A person who has been extended a conditional offer of employment may be extended a final offer of employment upon the completion of a ~~Criminal Records Check~~ **criminal history records check** that is satisfactory to the Board.

### **Felonies and Misdemeanors Final Offer of Employment**

~~No person with a conditional offer of employment shall be extended a final offer of employment if such person has been convicted of the following offenses, as referenced in RSA 189:13-a, V: (1) murder; (2) child pornography; (3) aggravated felonious sexual assault; (4) felonious sexual assault; (5) kidnapping; (6) manufacturing, selling, administering, dispensing, or distributing any controlled substance(s) on School property; or (7) sexual misconduct within an education setting in this State, or where such person has been convicted of the same conduct in another state, territory, or possession of the United States, or where such person has been convicted of the same conduct in a foreign country.~~

**No person shall be extended a final offer of employment, and no person will work within the District, if such person has charges pending or has been convicted of any crime listed in RSA 189:13-a, V; or where such person has been convicted of the same conduct in another state, territory, or possession of the United States; or were such person has been convicted of the same conduct in a foreign country.**

In addition to the felonies listed **as disqualifying** in pertinent and applicable law **RSA 189:13-a, V**, a person may be denied a final offer of employment **an applicant will not work within the District** if he/she has charges pending or has been convicted of any crime, either a misdemeanor or felony. Such determination will be made by the School Board, on a case-by-case basis. **For misdemeanors, an**

**applicant will not work within the District if he/she has charges pending or has been convicted of a misdemeanor for any of the offenses listed in RSA 189:13-a, V, or for any offenses involving sexual offenses, child abuse or domestic violence.**

**The Superintendent shall assess the other misdemeanors on a case-by-case basis on the following factors:**

- **Time which has passed since the charge of conviction**
- **Age of person at time of the charge of conviction**
- **Number of charges or convictions**
- **Type of charge of conviction in light of the person's possible position/responsibilities**
- **Facts and circumstances of the charge or conviction**
- **Successful rehabilitation**
- **Extended period of lawful behavior**

~~The Superintendent, or designee, will transmit this policy to the State Police, who will then screen the Criminal Records Check for any selected applicant for employment, or designated volunteer, and will notify the District whether the record of said selected applicant or volunteer contains any felony convictions.~~

~~When the District receives a notification of a felony conviction from the State Police on a particular person that it finds unsatisfactory, the Superintendent shall dismiss said person within twenty-four hours (24) of the receipt of such report, excluding Saturdays, Sundays, or legally recognized holidays.~~

**The Superintendent is responsible to establish all necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check. In accordance with RSA 189:13-a, III, only the Superintendent will review the criminal history record received from the State Police and shall destroy that document as required by law.**

**When the District receives notification of an employee, contractor, contractor's employee, or volunteer being charged with or convicted of a disqualifying offense under RSA 189:13-a, the Superintendent's protocol, or other crime which is evidence of the individual's unsuitability to continue in their role, the Superintendent shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to and immediately discharged. The Superintendent will then take appropriate employment or other action, consistent with law and any applicable employment agreement or contract to address the individual's ongoing relationship with the District.**

Additionally, a person may be denied a final offer of employment if the Superintendent becomes aware of other conduct that he/she determines would render the person unsuitable to perform the responsibilities of the position involved. Such determinations shall be made on a case-by-case basis.

### **Additional Criminal Records Checks**

~~The Board may require a Criminal Records Check of any employee at any time.~~

**The Board may require a criminal history records check of any employee, an individual with whom the District has contracted to provide services directly to students, a contractor or employee of a contractor with the District who has been assigned to provide services directly to students, student teachers who are placed in a District school, and designated volunteers at any time.**

Statutory Reference:

*RSA 189:13-a*

*See Appendixes: GBCD-R N.H. Department of Education, School Employee Background Investigation, Including A Criminal History Records Check*

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