

Criminal History Checks

Upon an offer of initial employment by the Board or upon learning that an individual has been assigned to regularly and continuously work under contract ***or as a volunteer*** in any of the District's schools, the individual (***optional "and any volunteers – the new laws do NOT require a criminal history check for volunteers!***) shall have undergone both a criminal history and records check performed by the State Police and FBI. The results shall have been received before the individual is employed (***or placed as a volunteer***) unless, under the guidelines in current law, the person may be employed prior to the results being received. (***No volunteer will be placed, however, until the results have been received.***)

No later than July 1, 2008, the Board shall have requested both a criminal history and records check through the State Police and the FBI for all individuals, as of January 1, 2006, employed by the District or assigned to work under contract regularly and continuously (***or serving as a volunteer***) in any of the District's schools.

Only those persons who have been offered a position or contract ***or offered a volunteer assignment***) by the Board and/or Superintendent must undergo a criminal history and records check, not all applicants.

(Optional, not mandatory) "The Board shall bear the full cost of the criminal history check for all staff members." ("and school volunteers. ")

No individual shall be employed, in any capacity, (***or allowed to serve as a volunteer in any capacity***) who has been convicted of a listed offense under the Michigan Sex Offenders Registration Act.¹ An individual shall not be employed, in any capacity, who has been convicted of a felony, unless the

¹ A listed offense includes any of the following:

- 1) Accosting or soliciting a child for immoral purposes (MCL 750.145a-c);
- 2) Sodomy if the victim is an individual less than 18 years of age (MCL 750.158);
- 3) A third or subsequent violation of any combination of the following:
 - a. Being engaged in indecent or obscene conduct in a public place (MCL 750.167(1)(f))
 - b. Indecent exposure (MCL 750.335a)
 - c. A local ordinance of a municipality substantially corresponding to the above;
- 4) Except for a juvenile disposition or adjudication, gross indecency between males, females, or between a male and female, if the victim was under 18 years of age (MCL 750.338-338b);

Superintendent and the Board specifically approve the work (*or volunteer*) assignment in writing.

If the District obtains notice from an authoritative source that an individual has been convicted of a listed offense, the individual shall not be employed, in any capacity, or allowed to work under contract regularly and continuously (*or allowed to volunteer in any capacity*) in any of the District's schools.

If the District is notified or learns that a teacher employed with the District has been convicted of a crime listed in MCL 380.1535a(1)-(2), the Superintendent or Board President shall notify the superintendent of public instruction within 15 days after learning of the conviction.²

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- 5) Kidnapping (MCL 750.349);
 - 6) Kidnapping under age 14 (MCL 750.350);
 - 7) Soliciting and accosting (MCL 750.448);
 - 8) Pandering (MCL 750.455);
 - 9) 1st, 2nd, 3rd and 4th degree criminal sexual assault, and second or subsequent offenses (MCL 520b-e);
 - 10) Assault with intent to commit criminal sexual assault (MCL 750.520g);
 - 11) Sexually delinquent persons (MCL 750.10a);
 - 12) The attempt or conspiracy to commit any of the above offenses;
 - 13) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age; and (Continued next page)
 - 14) Any offense substantially similar to the above offenses under a law of the United States, any state, or any country or under tribal or military law.

² MCL 380.1535a(1) includes a conviction for *any felony* and any of the following misdemeanors: 1) criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree; 2) child abuse in the third or fourth degree, or any attempt to commit child abuse in the third or fourth degree; 3) a misdemeanor involving cruelty, torture, or indecent exposure involving a child; 4) a misdemeanor violation of Section 7410 of the Public Health Code (concerning distribution of marijuana to minors near school property); 5) a violation of section 115, 141a, 145a, 335a, or 359 of the Michigan Penal Code (concerning breaking and entering; consumption or possession of alcohol by minors, or controlled substances at social gatherings; soliciting a child for immoral purposes; indecent exposure; and damage to vacant buildings); or a misdemeanor violation of section 81, 81a, or 145d of the Michigan Penal Code (including assault and battery; domestic assault; assault and infliction of serious injury; and using the Internet to commit a crime against a minor); 6) a misdemeanor violation of Section 701 of the Michigan Liquor Control Act (concerning the prohibition of liquor sales to minors); 7) any misdemeanor that is a listed offense; and 8) a violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States – as amended by 2005 PA 130.

MCL 380.1535a(2) includes the following offenses:

- a) Criminal sexual conduct in any degree, assault with the intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree;
- b) Felonious assault on a child², child abuse in the first degree, or an attempt to commit child abuse in the first degree;
- c) Cruelty, torture, or indecent exposure involving a child;
- d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the Public Health Code (concerning unlawful manufacture, delivery, or possession of controlled substances or controlled substance analogues; distribution of marijuana to minors near school property; and recruiting or inducing a minor to commit a felony);

Criminal history and records checks shall be used for employment (*or volunteer placement*) purposes only. No Board member or employee shall disclose the report or its content, except a felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person other than those directly involved in evaluating the applicant's (*or volunteer's*) qualifications for employment (*or volunteer placement*).³

Background Checks - Employment History - Unprofessional Conduct

Upon an offer of initial employment by the Board, (*or offer of placement in a volunteer position*) all persons shall have undergone an unprofessional conduct background check. A staff person may be hired (*or volunteer placed*) prior to the results of the unprofessional conduct background check following the guidelines in current law.

The Superintendent will promulgate appropriate administrative rules regarding the procedures to be followed in obtaining criminal history and background checks.

Approved: MASB Rec. and *Optional*

LEGAL REF: MCL 380.1230; 380.1230a; 380.1230b; 380.1230c; 380.1535a(9)

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- e) A violation of section 83, 89, 91, 145a-c, 316-17, 350, 448, 455, or 529 of the Michigan Penal Code (concerning assault with intent to commit murder or to steal while armed; attempt to murder; consumption or possession of alcohol by minors, or controlled substances at social gatherings; first and second degree murder; armed robbery; and using the Internet when committing a crime against a minor);
 - f) A violation of section 158 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning crimes against nature or sodomy);
 - g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning gross indecency between males, females, and between males and females);
 - h) A violation of section 349 of the Michigan Penal Code if the victim was an individual less than 18 years of age (concerning kidnapping);
 - i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person – any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16;
 - j) An attempt or conspiracy to commit an offense listed in (a) or (e-i);
 - k) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States; Any crime listed in 1535(1), if the superintendent of public instruction determines the public health, safety or welfare requires emergency action based on the circumstances underlying the conviction.

³ Any person that violates this policy may be found guilty of a crime.

All applicants, employees, and individuals assigned to work under contract regularly and continuously (*or assigned as a volunteer*) in any of the District's schools shall give written consent for the District to request a criminal history and records check from both the State Police and the FBI.

The Superintendent shall make all requests for criminal records checks on a form and in a manner prescribed by the State Police.

If it is necessary to hire an individual during the school year or within 30 days before the beginning of that school year, the District may employ the individual without first receiving a criminal history or records check from the State Police if:

1. A criminal records check is requested before employing the individual conditionally; and
2. The individual signs a statement identifying all crimes for which he or she has been convicted, and agreeing that if the criminal history and records check is not consistent with the statement, the employment contract is voidable.

(No volunteers will be placed, however, until the results of the background check have been received.)

No later than July 1, 2008, the Superintendent shall do both of the following for each individual who, as of January 1, 2006, is either a full- or part-time employee of the District, (*is serving as a volunteer,*) or is assigned to work under contract regularly and continuously in any of its schools:

1. Request a criminal history check on the individual from the State Police.
2. Request a criminal records check through the FBI.

An individual shall be required to submit his or her fingerprints to the State Police for purposes of obtaining these reports. The State Police may charge a fee for conducting the criminal records check.

If a District applicant is a substitute teacher, a criminal records report received by another District, ISD, Public School Academy, or nonpublic school or a report maintained by the Department of Education may be used. If no such report is available, a report shall be requested from the State Police.

If a District applicant is being considered for employment by more than one district and the applicant agrees in writing to allow the District to share his or her criminal records report with another District, ISD, Public School Academy, or nonpublic school, the District may satisfy its requirement by obtaining a copy of the report from another institution. If no such report is available, one shall be requested from the State Police.

Adopted: October 18, 2007