

PELHAM SCHOOL DISTRICT POLICY

GBCD – BACKGROUND INVESTIGATION AND CRIMINAL HISTORY RECORDS CHECK

Category: Priority

Related Policies: EEAE, EEAEA, EHB, GADA, GBCE, GDF & IJOC

To help ensure the safety of District students, it is the policy of the School Board that before any person is employed by the School District, or is otherwise placed into a position involving frequent close contact with, or supervision of students, that the administration conduct proper investigation into such person's background, including, without limitation, a criminal history records check under RSA 189:13-a - 189:13-c.

A. Definitions

As used in this policy:

1. "Applicant" shall mean and include an applicant for employment or any person seeking to serve in any position falling within the term "Covered Person" as defined below, who is selected by the District for further consideration for such position.
2. "Background investigation" means an investigation into the past employment and other background of an Applicant with the intent of determining whether:
 - a. The applicant/covered person is qualified for the position for which he/she has applied, will/would be assigned, or will/would perform, and
 - b. The applicant has been found guilty of any criminal activity or conduct that would make him/her ineligible or unsuitable for employment or service in the district.
3. "Conditional offer of employment" means an offer of employment extended to a selected Applicant subject to a successful completed criminal history record check (defined below) which is satisfactory to the district.
4. "Contractor" means a private business or agency or an employee or employees of the contractor which contracts with a SAU, school district, or charter school to provide services including but not limited to:
 - a. cafeteria workers,
 - b. school bus drivers,
 - c. custodial personnel,
 - d. any other direct service or services to students of the district or charter school.
5. "Covered Person" shall mean every employee, stipended position (e.g., coach, trainer, drama coach, etc.), candidate, designated volunteer (whether direct or through a volunteer organization), or any other service where the contractor or employees of the contractor provide services directly to students of the District, or any applicant/person seeking to serve in any of those positions. NOTE: Only those volunteers who meet the definition of "Designated Volunteer" below are considered "Covered Employees". See Board policy IJOC for additional provisions relating to all volunteers. All Covered Persons are required to undergo training as provided in Board policy GBCE.
6. "Criminal History Records Check" or "CHRC" means a criminal history records inquiry under RSA 189:13-a - 13-c, conducted by the New Hampshire State Police through its records and through the Federal Bureau of Investigation.

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7. "Designated Volunteer" is any volunteer who:
- a. Comes in direct contact with students on a predictable basis (e.g., library volunteer, overnight field trip chaperone);
 - b. Meets regularly with students (e.g., community mentor, volunteer assistant coach);
 - c. Meets with students on a one-on-one basis without the presence of a teacher or other such professional staff member; or
 - d. Any other volunteer so designated by the School Board or Superintendent.

The administrative supervisor for the applicable activity or program (e.g., building principal, athletic director), shall have the responsibility of determining whether a volunteer position is a "Designated Volunteer", subject to any additional rules or procedures established by the Superintendent.

8. "Educator Candidate" means a student at an institution of higher education in New Hampshire who has been selected to participate in a K-12 educator preparation program (RSA 189:13-c, I(b)). This definition includes both Educator Candidates who are placed as student teachers in the district, and those who might be in the District for a different purpose (e.g., Methods, etc.).
9. "Section V Offense(s)" are those criminal offenses listed in RSA 189:13-a, V, as that list may be amended by the Legislature from time to time. The current of offenses may be accessed at <http://www.gencourt.state.nh.us/rsa/html/XV/189/189-13-a.htm> "Non-Section V Offenses" are all other crimes offenses, whether felonies or misdemeanors.
10. "Designee" shall mean, a person designated by the Superintendent to receive and inspect results of the Criminal History Records Check. Under RSA 189:13-a, II, the Designee for purposes of CHRC may only be an assistant superintendent, head of human resources, the personnel director, the business administrator or the finance director.

B. Background Investigation

1. General Requirements

The Superintendent, or his/her designee, will require a background investigation of any applicant/covered person as defined in this policy, including but not limited to reviewing the most recent NHED List of Revoked & Suspended Credentials. This investigation shall be completed prior to making a final offer of 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, a designated volunteer to work or serve within the District. For covered persons who are employed by a third-party contractor or assigned as a designated volunteer by a volunteer agency, the Superintendent or designee may waive the background investigation and instead rely on suitable assurances from the contracting company or agency regarding a background investigation. The requirement for a criminal history records check under paragraph D, below, however, may not be waived.

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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 which have been done.

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. Failure to report will be treated in the same manner as falsification of information under the section on Falsification, below.

General record of completion of a background investigation (but not copies of the results of a CHRC) shall be retained pursuant to the District's Record Retention Schedule EHB-R.

2. Prohibition against hiring/appointment of individuals with revoked or suspended credentials.

The District will not hire any individual whose education license, certification or other credential ("credential") issued by the Department of Education is currently revoked or suspended, unless: (1) the individual's prospective employment would begin after the reinstatement of that individual's credential; or, (2) the individual retains an active endorsement in one or more areas in which the individual remains eligible for employment, even though the endorsement in another area is under revocation or suspension.

No person whose credential issued by the Department of Education has been revoked or is under current suspension, may be appointed as, or serve as, a volunteer for any district service or activity, designated or otherwise.

In the instance of a person with no current endorsement, the suspension or revocation would preclude hiring or appointing that person to any position within the district. This means, for example, that a former science teacher whose credentials are revoked may not be appointed as a volunteer soccer coach.

Notwithstanding the prohibitions and limitations imposed by this paragraph, educators whose credentials have been revoked or are currently suspended, retain all the rights afforded members of the public to enter onto school grounds and attend school events in accordance with applicable laws and School Board policies. Similarly, such individuals who are parents or guardians of district students shall maintain all the rights afforded all parents and guardians under law and School Board policies – but may not serve in volunteer positions.

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C. False Information

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 by a court or pending criminal charges, shall be grounds for disqualification from consideration for employment, withdrawal of any offer of employment, or immediate discharge from employment.

D. Criminal History Records Check

1. **General:** Each applicant/covered person must submit to a criminal history records check through the State of New Hampshire in full compliance with RSA 189:13-a. No applicant/covered person shall be employed, extend a conditional offer of employment (as described below), or begin service in the District, until the Superintendent, or his/her designee, has initiated the criminal history records check.

The applicant shall provide the District with a criminal history records release form as provided by the New Hampshire State Police along with a full set of fingerprints taken according to that statute. Refusal to provide the required criminal history records release form (with fingerprints) and any other required releases to authorize the criminal history records check will result in immediate disqualification of the applicant/covered person and will not be considered for the position.

2. Special Provisions

- a. **Educator Candidate.** Educator Candidates who are placed in the District as a student teacher shall undergo a criminal history records check prior to beginning in the District. For Educator Candidates in the District under a status other than student teacher (e.g, observation, Methods Course or Practicum student), the Superintendent or Designee will determine whether to require a criminal history records check using the same parameters included in the Designated Volunteer definition, above.
 - b. **Bus Drivers and Bus Monitors.** Pursuant to RSA 189:13-a, VI and RSA 189:13-b, criminal history records checks for bus drivers and bus monitors shall be processed through the New Hampshire Department of Education NHDOE. Although NHDOE will conduct the CHRC, the Superintendent or designee shall require a Background Investigation in accordance with Section B - Falsification.
 - c. **Substitute Teachers and Other Non-“Applicant” Educational Staff.** Pursuant to RSA 189:13-a, IX(a), substitute teachers and other staff who do not meet the definition of “applicant” above, may initiate a criminal history records check with the Superintendent as described above. The State Police, however, shall issue its report directly to the potential substitute teacher/staff person. The report shall be valid for 30 days from the date of issuance and constitutes satisfactory proof of compliance with RSA 189:13-a.
3. **Results of Criminal History Records Check.** The results of the criminal history records check shall be delivered to the Superintendent or designee who shall be responsible for maintaining their confidentiality. The Superintendent or Designee shall destroy all results and reports of any CHRC within sixty (60) days of receiving said information.

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4. **Section V Offenses.** If the results of the record check disclose that the applicant/covered person has either been convicted or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment. Additionally, the Superintendent (not the Superintendent's Designee), shall notify NHDOE through its Investigator or the Chief of the Governance Unit or as otherwise directed by NHDOE.

5. **Non-Section V Offenses, Past Charges of Section V Offenses, or Reports of Post-Employment/Service Section V Offenses.** In addition to disqualification based upon conviction or pending charges for a Section V Offense, the Superintendent may deny a final offer of employment or serve/work in the schools for convictions or charges of other misdemeanors or felonies, provided the basis for disqualifying the candidate is job-related for the position in question and is consistent with business necessity and the best interests of the students and the District. Such determination will be made by the Superintendent in accordance with the established protocol and on a case-by-case basis. For non-Section V 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/covered person's suitability for the position.

If the Superintendent chooses to nominate, appoint or assign an Applicant who has a history of conviction or pending charges of a Non-Section V Offense, or of past concluded charges of Section V Offenses that did not result in a conviction, then the final hiring decision or appointment of another Covered Person must be approved by the School Board. Pursuant to regulations of the United States Dept. of Justice, and RSA 189:13-a, the Superintendent may NOT share with the Board information directly gleaned from the CHRC regarding specific criminal charges, arrests, convictions etc., but may share the fact that s/he is nominating a person whose background investigation revealed information requiring the Superintendent to apply the criteria established by the Board.

6. **Fees for Criminal History Records Check.** Any applicant for whom the Board requires a Criminal Records check or, in the instance of third party contractors, the applicant's employer, shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the Criminal Records Check, unless otherwise determined by the Board. The District will pay fees for "designated volunteers."

7. **Additional Criminal Records Checks.** The Superintendent may require a criminal history records check of any covered person at any time to the extent permitted by law. In the case that the covered person is the Superintendent, the Board may require a criminal history records check at any time to the extent permitted by law.

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E. Conditional Employment

Persons who have been selected for employment may be hired on a conditional basis, subject to the successful completion of the background investigation and criminal history records check and a determination that there are no disqualifying pending charges or convictions.

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 history records check that is satisfactory to the District.

F. Final Offer of Employment

An applicant may only be extended a final offer of employment or final approval to work/serve within the District's schools upon the satisfactory completion of criminal history records check and background investigation.

No person with a conditional offer of employment shall be extended a final offer of employment 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 where such person has been convicted of the same conduct in a foreign country.

In addition to the felonies listed in RSA 189:13-a, V, a person may be denied a final offer of employment 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 Superintendent, on a case-by-case basis.

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.

G. Administrative Protocols/Procedures

The Superintendent is responsible for establishing all necessary internal procedures related to background investigations, which protocols may vary depending on the nature of the position(s) (e.g., verification of academic records and achievements for certified professionals, credit checks for personnel with fiscal responsibilities). The written protocols may include additional disqualifying misdemeanor or felony convictions or charges in addition to the Section V Offenses.

H. Contractor and Vendor Provisions

The Superintendent shall take such steps as are necessary to assure third party agreements which involve covered personnel to include a provision for such personnel to complete CHRCs and Background Investigations as required under this policy.

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I. Training of Superintendent/Designee

The Superintendent or any Designee shall complete such training relative to the reading and interpretation of criminal records as required by NHED.

J. Reports of Criminal Offenses Post-Hire or Commencement of Service

When the District receives a notification of a covered person being charged with or convicted of a Section V Offense 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 contract or collective bargaining agreement to address the individual's ongoing relationship with the District. If the person charged/convicted of a Section V Offense is a credential holder as defined in the New Hampshire Code of Conduct for Educators, the Superintendent shall make a report to the Department of Education pursuant to section 510.05 of the Code.

District Policy History:

Adopted: January 4, 2016

Revised: May 5, 2021

Revised: December 2, 2021

Revised: October 19, 2022

Revised: January 3, 2024

Legal Reference:

RSA 189:13-a, School Employee and Designated School Volunteer Criminal History Records Check

RSA 189:13-b, School Bus Driver and Transportation Monitor Criminal History Records Check

Code of Conduct for New Hampshire Educators

RSA 189:13-c, Credentialing Applicant and Candidate Criminal History Records Check