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Background Screening

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1. Initial Employment Background Screening. Any offer of employment with the School District is conditioned on submission of fingerprints as required by Florida statutes and a criminal background investigation by the Agency for Health Care Administration, and an employment background investigation by the Superintendent or designee(s). After a job offer, but prior to beginning employment with the District, all candidates for all positions must undergo a criminal and employment background check to determine suitability for employment. Failure to be truthful on the application about prior criminal history will be grounds for disqualification or dismissal from employment. The application for employment shall inform applicants they are subject to criminal background checks, and that failure to be truthful about their criminal history will subject them to disqualification or dismissal. The District maintains the authority to make the final hiring decision, based on all available information, for all applicants who successfully pass their criminal background checks performed by the Agency for Health Care Administration.
2. Submission of Fingerprints. As a condition of employment and prior to beginning work, an applicant who has received a conditional job offer must file a complete set of fingerprints for processing in accordance with Florida Statute 435.04 and 1012.315. The applicant shall be required to pay for full costs of processing at the time of fingerprinting or authorize appropriate payroll deductions. Applicants may be required to be reprinted when required by applicable law or District process.
3. Standards. Pursuant to Florida Statutes 1012.315, a person is ineligible for educator certification or employment in any position that requires direct contact with students in the District if the person:
 - a. Is ineligible based on a security background investigation under Florida Statute 435.04(2) (Level 2 Screening Standard);
 - b. Is on the disqualification list maintained by the Florida Department of Education under Florida Statute 1001.10(4)(b);
 - c. Is registered as a sex offender as described in 42 U.S.C. § 9858f(c)(1)(C);
 - d. Would be ineligible for an exemption under Florida Statute 435.07(4)(c); or
 - e. Has been convicted of:

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- i. Any criminal act committed in another state or under federal law which, if committed in this state, constitutes a disqualifying offense under Florida Statute 435.04(2).
 - ii. Any delinquent act committed in this state or any delinquent or criminal act committed in another state or under federal law which, if committed in this state, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under Florida Statute 943.0435(1)(h)1.d.
4. Review Process. The Human Resources Department ("Department") shall review the criminal history of all applicants and/or persons nominated for initial employment. The Department shall obtain criminal background information for applicants through the Florida Care Provider Background Screening Clearinghouse ("Clearinghouse").
 - a. Once the Clearinghouse makes a determination of eligibility, the Department shall review both the application and the Clearinghouse Results Website reports concerning the new employee. The Department will compare the information provided by the new employee with the information received from the Clearinghouse. If an applicant has failed to disclose a material conviction on his or her application, the Department reserves the right to reject the application.
 - b. As defined by Rule 6A-10.084, Florida Administrative Code, and used in this rule, the term "conviction" means a finding of guilt, an adjudication of guilt; a verdict of guilty; or a plea of guilty or *nolo contendere*, including (i) where a person is found guilty, pleads guilty or pleads *nolo contendere*, and (ii) adjudication of guilt is withheld. A person has been "convicted" when a criminal charge against that person results in a conviction.
 - c. If the Clearinghouse determines an applicant is ineligible for employment, the Department shall reject the application unless the Department finds that the Clearinghouse determination was erroneous.
 - d. In cases where the Clearinghouse does not determine that an applicant is ineligible, the District reserves the right to disqualify an applicant based upon the facts of an application, criminal background check or other valid or reliable data sources, pursuant to paragraphs 5 and 6.

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- e. Pursuant to Florida Statutes 943.059(4)(a)6 and 943.0585(4)(a)6, an applicant whose criminal history record has been sealed or expunged may not deny or fail to acknowledge the arrests or convictions covered by the expunged or sealed record.
 - f. For purpose of paragraphs 4-9, reference to a felony, misdemeanor or other offense contemplates not only a violation of Florida law, but also a violation of federal law or the law of another state or nation, which, if committed in this state, would constitute a disqualifying offense.
 - g. No applicant who has received a conditional job offer shall begin work before his/her fingerprints are processed, the criminal and pre-employment investigation is completed, and a determination is rendered as to suitability for employment.
5. Other Disqualifying Circumstances. To be eligible for appointment in any position within the District, a person must be of good moral character. Regardless of a Clearinghouse determination of eligibility, the following circumstances will disqualify an applicant from employment by the District:
- a. Conviction of an offense involving cruelty to animals.
 - b. Conviction of a crime of moral turpitude as defined by Rule 6A-5.056 of the Florida Administrative Code.
 - c. Dishonorable discharge from any branch of the Armed Services.
 - d. Any applicant who, upon date of application, is currently serving a court ordered probation or any other court ordered requirement for any criminal offense.
 - e. Any applicant who, upon date of application, has been arrested and/or charged with any criminal or serious traffic offense(s) and a final disposition in the matter is pending for the charged offense(s).
6. Other Offenses. Regardless of a Clearinghouse determination of eligibility, an applicant shall be considered on a case by case basis for disqualification for conviction of the following offense(s):
- a. Any felony not listed elsewhere in this rule.
 - b. Any offense regardless of level related to prostitution or lewd and lascivious criminal conduct not listed elsewhere in this rule.
 - c. Domestic violence.

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- d. Disorderly conduct.
- e. Petty theft or shoplifting.
- f. Furnishing alcohol to minors.
- g. Two or more DUI offenses.
- h. Misdemeanor drug and/paraphernalia possession.
- i. Possession of a concealed weapon – misdemeanor.
- j. Other misdemeanors.
- k. Any criminal offense(s) to the extent that the nature of the offense for which the applicant was charged and convicted is deemed to conflict with the expectations of employment by the District or pose any risk to student safety.

If the Department concludes that the circumstances of such a conviction, or other information derived from the pre-employment investigation, conflict with the expectations of employment or pose any risk to student or work place safety, the application will be denied.

- 7. Department Committee. The case by case determination of eligibility as contemplated by paragraph 6 shall be conducted by a committee composed of the head of the Department, the Directors of Instructional and Non-instructional Personnel, the Director of District Benefits and Salaries, and Director of Position Contracts and Applications. The head of the Department is authorized to appoint other staff to serve in the place of a designated member to accommodate scheduling or workload. In determining whether an applicant should be disqualified under those provisions, the Committee shall determine whether the conviction or circumstances conflict with the expectations of employment, raise substantial questions about the applicant's character or judgment, or pose any risk to student safety.
- 8. Contract Personnel. Any instructional or non-instructional persons under contract to the School District to operate student programs and persons participating in short-term teacher assistance experiences or field experiences who have direct contact with students must meet the requirements of paragraphs 1-7 above. Such persons may not be in direct contact with students if ineligible under Florida Statute 1012.315, or the other provisions of this rule.

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9. Other Positions. Adjunct athletic coaches, substitute teachers, practicum students, interns, intern supervisors, part-time as-needed employees and at-will employees must meet the requirements of paragraphs 1 – 7 above.
10. Reconsideration and Appeal. Applicants who have been denied employment, and probationary employees who have been denied permanent employment, on the basis of their criminal record and/or background check, may request reconsideration by the Human Resources Department only if they present new information not previously available to the Department. They may also request an exemption under Florida Statute 435.07.
11. Rescreening. Employees are subject to periodic rescreening as required by Florida Statute 435.12. Such rescreening shall be conducted at District expense in accordance with the standards and procedures for pre-employment screening under this rule.

**STATUTORY
AUTHORITY:**

1001.41, 1012.22, 1012.23, F.S.

LAW(S) IMPLEMENTED:

**435.04; 435.12; 1012.315; and 1001.36,
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HISTORY:

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