

CHAPTER 7.00 – BUSINESS SERVICES

Background Screening of Noninstructional Contractors

7.142

1. Introduction. This rule governs the criminal background screening of contractors who provide noninstructional services or goods to the St. Johns County School District and its schools. It does not apply to screening of District employees and instructional contractors, which is governed by Rule 6.104.
2. Definitions. The following definitions apply for purpose of this rule:
 - a. “Noninstructional Contractor” means any vendor, individual, or entity under contract with the School Board or a District school who receives remuneration for noninstructional services, but who is not otherwise considered an employee of the District. The term also includes any employee of a vendor or contractor who performs the noninstructional services for the District or a school and any subcontractor and its employees.
 - b. “Contract Administrator” means the School Board administrator who is responsible for the processing of the contract for noninstructional services. Accordingly, for contracts processed by the Purchasing Department, the Contract Administrator would be the Purchasing Director; for contracts processed by other departments, it would be the director in charge of that department; and for school-based contracts, it would be the school principal.
3. Background Screening – Direct Student Contact. Noninstructional Contractors (a) who are permitted access to school grounds when students are present and who are anticipated to have direct contact with students, and (b) charter bus drivers and other Contractors who are anticipated to have direct contact with students off-campus, shall undergo background screening as required by Florida Statute 1012.465, and paragraphs 5(a)-(h) of this rule. All competitive solicitations and proposed contracts for noninstructional services shall be evaluated by the Contract Administrator to determine whether the Noninstructional Contractors under that contract should be anticipated to come into direct contact with students. In the paramount interest of assuring student safety, direct contact should be anticipated whenever the Noninstructional Contractor will work in, or have access to, areas at the school where students are present, including but not limited to classrooms, corridors, bathrooms, cafeteria, gymnasium and locker rooms, media center, and playground facilities. Consistent with the District’s high standards of student safety, any doubt in this evaluation should be resolved in favor of anticipating direct contact with students and requiring the more stringent screening under paragraph 4 of this rule.

CHAPTER 7.00 – BUSINESS SERVICES

4. Standards – Direct Student Contact. Pursuant to Florida Statutes 1012.465 and 1012.32, a Noninstructional Contractor who will have direct contact with students must not be ineligible for employment under the standards of Florida Statute 1012.315. Under these statutes, a Contractor is disqualified when such Contractor:
 - 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:
 - 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.
5. Screening Procedure – Direct Student Contact. If it is determined in accordance with Paragraph 3 that a Noninstructional Contractor is anticipated to have direct contact with students, the Contractor shall undergo background screening as provided in subparagraphs (a)-(h) below:
 - a. Submission to Fingerprints. Prior to beginning work, the Noninstructional Contractor must file a complete set of fingerprints for processing in accordance with Florida Statutes 435.04 and 1012.465. The Contractor shall be required to pay for full costs of processing at the time of fingerprinting or authorize appropriate payroll deductions.
 - b. Review Process. The Human Resources Department (“Department”) shall review the criminal history of all Noninstructional Contractors who are anticipated to have direct

CHAPTER 7.00 – BUSINESS SERVICES

contact with students. The Department shall obtain criminal background information on applicants through the Florida Case Provider Background Screening Clearinghouse (“Clearinghouse”).

- i. No Noninstructional Contractor shall begin work before his/her fingerprints are processed, the criminal and pre-employment investigation is completed, and the Contractor has been cleared.
 - ii. Once the Clearinghouse makes a determination of eligibility, the Department shall review both the application and the Clearinghouse Results Website reports concerning the Noninstructional Contractor. The Department will compare the information provided by the Noninstructional Contractor with the information received from the Clearinghouse. If a Contractor has failed to disclose a material conviction on his or her application, the Department reserves the right to reject the application.
 - iii. If the Clearinghouse determines an applicant is ineligible for clearance, the Department shall reject the application unless the Department finds that the Clearinghouse determination was erroneous.
 - iv. In cases where the Clearinghouse does not determine that an applicant is ineligible, the District reserves the right to disqualify the applicant based upon the facts of an application, criminal background check or other valid or reliable data sources, pursuant to paragraphs 5(c) – (h).
- c. Statutory Disqualification. A Noninstructional Contractor shall be denied clearance for any work that is anticipated to involve direct contact with students by reason of conviction of any of the listed offenses in Florida Statutes 1012.315 or 435.04, or the equivalent offense under federal law or the law of another state or nation. 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.
- d. Other Disqualifying Circumstances. Regardless of a Clearinghouse determination of eligibility, the following circumstances will also

CHAPTER 7.00 – BUSINESS SERVICES

disqualify a Noninstructional Contractor who is anticipated to have direct contact with students:

- i. Conviction of an offense involving cruelty to animals.
 - ii. Conviction of a crime determined to be related to a crime or crimes of moral turpitude as defined by Rule 6A-5.05b of the Florida Administrative Code
 - iii. Dishonorable discharge from any branch of the Armed Services.
 - iv. Any Contractor who, upon date of application, is currently serving a court ordered probation or any other court ordered requirement for any criminal offense.
 - v. Any Contractor who, upon date of application, has been arrested and/or charged with any potentially disqualifying criminal offense(s) and a final disposition in the matter is pending for the charged offense(s).
- e. Other Offenses – Within 10 Years. Regardless of a Clearinghouse determination of eligibility, a Noninstructional Contractor who will have direct contact with students must not have been convicted of the following offense(s) within 10 years of application date:
- i. Any felony offense not listed elsewhere in this rule.
 - ii. Any offense regardless of level related to prostitution or lewd and lascivious criminal conduct not listed elsewhere in this rule.
- f. Other Offenses – Case by Case Determination. Regardless of a Clearinghouse determination of eligibility, a Noninstructional Contractor who is anticipated to have direct contact with students will be screened on a case by case basis by reason of conviction of the following offense(s):
- i. Relating to misdemeanor domestic violence.
 - ii. Relating to disorderly conduct.
 - iii. Relating to petty theft shoplifting.
 - iv. Furnishing alcohol to minors.

CHAPTER 7.00 – BUSINESS SERVICES

- v. Misdemeanor offenses.
- vi. Relating to two or more DUI offenses.
- vii. Relating to misdemeanor drug and/paraphernalia possession or use.
- viii. Possession of a concealed weapon – misdemeanor.
- ix. Any criminal offense(s) to the extent that the nature of the offense for which the Contractor was charged and convicted is deemed to conflict with the expectations of the contract with the District or pose a risk to student safety.

Other information derived about the Contractor, which indicates the Contractor may not be suitable to work on school grounds when students are present, may be grounds for denying clearance, if in the judgment of the Department, such investigatory findings conflict with contractual expectations or pose any risk to student safety.

- g. Department Committee. The case by case determination of eligibility as contemplated by paragraph 5(f) shall be conducted by a committee composed of the head of the Human Resources Department, the directors of instruction and non-instructional personnel, the director of risk management and the department coordinator. The head of the Department is authorized to appoint other staff to serve in the place of a designated member to accommodate scheduling or work load.
 - h. Reconsideration and Appeal. Contractors who have been denied employment, and probationary employees who have been denied permanent employment, on the bases 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.
6. Background Screening – Access to School Funds. Noninstructional Contractors who have access to or control of school funds are subject to the background screening procedure and standards set forth in Paragraphs 4 and 5.
7. Background Screening – No Contact with Students. If the evaluation of the proposed contract by the Contract Administrator determines that it is not anticipated that the Noninstructional Contractors performing the contract services will not have direct contact with students, and that any

CHAPTER 7.00 – BUSINESS SERVICES

unanticipated contact would be infrequent and incidental, the District will comply with the requirements of Florida Statute 1012.467.

8. Statewide Badges. The District shall recognize a uniform statewide badge issued by another district. However, the District reserves the right to conduct a criminal background check on a Contractor with a statewide badge to make sure the Contractor currently meets clearance requirements and does not pose a threat to student safety.
9. Exceptions. The requirements of this rule do not apply to Noninstructional Contractors who are exempted from background screening by Florida Statute 1012.468(2). However, such exempt Contractors are subject to screening against the sexual predators and sexual offenders databases maintained by the Department of Law Enforcement under Florida Statute 943.0343, and the National Sex Offender Public Registry. Any Noninstructional Contractor who is identified as a sexual predator or sexual offender shall not be permitted on school grounds when students are present.
10. Rescreening. Noninstructional Contractors who are subject to background screening under this rule are subject to periodic rescreening under Florida Statute 1012.32
11. Procedures and Guidelines. The Superintendent is authorized to enact procedures and guidelines to implement this rule.

STATUTORY AUTHORITY:

1001.41, 1001.42, F.S.

LAW(S) IMPLEMENTED:

1012.465, 1012.467, 1012.460, F.S.

HISTORY:

Adopted: 10/14/14

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