

District School Board of Collier County

**Criminal Background Screening, Guidelines & Procedures**

I. INTRODUCTION

The purpose of this document is to provide appropriate guidelines and procedures for determining whether (a) an applicant for employment; (b) an existing district employee who is recommended to fill a position; (c) an employee of a contractor seeking to do or already doing business with the district; or (d) a prospective or existing volunteer can be cleared to serve the district and be given access to district schools, buildings, and property based upon criminal background screening and the assessment of such screening.

In developing these guidelines and screening assessment, the District must follow statutory screening standards with respect to fingerprinting, the Jessica Lunsford Act, as well as the nature and severity of any crime found to have been committed including statutory restrictions on hire. These statutes will be identified as necessary and appropriate throughout the text of this document.

In evaluating the background of any person screened under these guidelines and procedures for possible clearance to work for, serve, or gain admission to District sites, the risk and safety of students, employees, as well as the interests of the District in carrying out its mission will be central considerations.

Every effort will be made to promote fairness in the process of review including follow up on a case-by-case basis should that be deemed necessary and appropriate under the circumstances. Given the volume of applications the Human Resources Department receives, and the time it sometimes takes for receiving information back from State and Federal law enforcement agencies, final decisions may take longer than anticipated. We ask for everyone's understanding and patience in this process.

II. Volunteers

A. Level I Volunteer

A Level I volunteer is a volunteer whose work may involve contact with students but will never be working with students without an employee present (such as for example, assisting in a classroom with the teacher present).

B. Level II Volunteer

A Level II volunteer is a volunteer whose work may involve contact with students without an employee present (such as for example, tutoring outside of the classroom, mentoring, or overnight chaperoning).

### III. Criminal Background Screening Requirements

#### A. Preliminary Considerations

A prospective employee/applicant, existing employee, prospective Level I or II volunteer, sports official/referee, tutor, child/student care provider, or contractor employee who is recommended to fill a position shall, as a condition of hire and/or admission to serve the District, undergo appropriate background screening. Except for a Level I volunteer, all such persons shall have a complete and legible set of fingerprints taken by a designated employee or agent of the District trained to take fingerprints. Fingerprinting shall also be required where there has been any break in service, in excess of six (6) months, as a condition of employment or readmission to service with the District.

#### B. Screening Requirements

##### 1. Level I Volunteers

(a) Level I volunteers will not be required to be fingerprinted. However, they are required to truthfully complete the volunteer application and the questions pertaining to criminal history on that form.

##### (b) Follow Up Screening

Actual Level I volunteers will be required to update their District applications every five (5) years. The District reserves the right, as a matter of due diligence, to follow upon any information received on any employee or person serving and/or admitted to the District if it believes there are reasonable grounds for same.

##### 2. Level II Volunteers, Applicants, Contractors

(a) Fingerprints will be processed pursuant to the requirements of F.S. §1012.32 and be sent to the Florida Department of Law enforcement (FDLE) and the Federal Bureau of Investigation (FBI). The applicant who is applying for hire and/or admission and is fingerprinted shall be required to pay for the full costs of processing at the time of the fingerprinting.

(b) In the event that there are problems with the fingerprinting of an applicant, such as worn fingerprints that are not readable, thereby requiring FBI notification, an applicant who is cleared through FDLE will receive provisional approval subject to receiving FBI clearance.

(c) All persons whether applicants, existing employees, Level I or Level II volunteers, or contractor's employees who are seeking admission to the District shall not only be required to meet screening guidelines, but also the requirements set forth in the Jessica Lunsford Act.

IV. Required Documentation for Background Screening

A. A prospective employee/applicant who is recommended to fill a position shall, as a condition of employment, submit a "Criminal Record" form as part of the application process. In Florida, the entire arrest record must be disclosed to school districts, including sealed and/or expunged records and military court proceedings. Therefore, the completed "Criminal Record" form must include a full disclosure of the prospective employee or applicant's criminal past, including all sealed and expunged records pursuant to F.S. §943.058. Any offense that occurred whether as a juvenile or adult must be disclosed. Therefore, all adult and juvenile offenses must be listed.

B. Prior criminal records may or may not result in disqualification for employment. However, failure of the prospective employee/applicant to disclose completely and truthfully any prior criminal record on the "Criminal Record" portion of the application is sufficient cause to immediately disqualify the applicant for employment consideration, or if the applicant has been hired, to immediately terminate the employment relationship. The disqualification period is a minimum of one (1) year from the date of notice of disqualification unless otherwise provided herein which would warrant further inquiry to determine the duration of disqualification.

V. Guidelines and Restrictions for Hiring and/or Admission to Service with the District

A. (1) The following guidelines and restrictions for hiring and/or admission for service with the District shall apply to all applicants for any position with the District including employee, volunteer, child care worker, tutor, game official, referee, and/or contractor employee positions.

(2) An applicant's criminal history shall include, as part of any screening review, any offense resulting in a felony and/or misdemeanor conviction, or otherwise found or pled guilty, where the applicant has posted bail, entered a pretrial diversion or intervention program after charges were filed or pled no contest (nolo contendere). Under these guidelines, the time of the offense shall commence from the date of the charge, not the disposition of the case. Moreover, if there is an open case pending at the time of the application, the district will not consider the applicant for hire and/or admission to service until the case has been resolved.

(3) It shall not be considered part of an applicant's criminal history if a person has successfully completed a pretrial diversion or intervention program and either a criminal complaint (Information) was not filed, or charges were dropped, nolle prosequi entered, and the case dismissed prior to or at the time of the completion of the program.

B. WILL NOT HIRE OR ADMIT TO SERVICE WITH THE DISTRICT. The following criminal offenses shall disqualify any applicant for hire or admission for service with the District. The list is representative and not intended to be complete:

- Sexual assault/sexual battery
- Sexual misconduct involving any child, developmentally or otherwise disabled person, or other lewd or lascivious conduct of a sexual nature
- Sexual exploitation
- Assault and battery of a minor
- Aggravated assault and battery regardless of age
- Abuse, neglect, or exploitation of a minor, aged person, or disabled adult
- Contributing to the delinquency or dependency of a minor
- Taking, enticing, or removing a child beyond state limits to avoid a custody hearing
- Domestic violence (felony)
- Extortion
- Felony drug sale, distribution, trafficking, and/or manufacture
- Grand theft and grand larceny
- Murder
- Manslaughter
- Arson
- Robbery
- Vehicular homicide
- Kidnapping
- Prostitution or solicitation of prostitution
- Showing and/or exhibiting a firearm within 1,000 feet of a school
- Indecent exposure

C. WILL NOT HIRE OR ADMIT TO SERVICE WITH THE DISTRICT if the following offenses are less than ten (10) years old:

- Burglary
- Forgery
- Fraud
- Counterfeiting activity
- Possession of a concealed weapon
- Identity theft
- Use or possession of drugs (felony)
- Domestic violence, not involving a minor
- Felonies that pose no risk to students, or employees, or the District
- DUI/felony conviction

The District will carefully review the application if the indicated offense is more than ten (10) years old to determine eligibility.

D. WILL NOT HIRE OR ADMIT TO SERVICE WITH THE DISTRICT if the following offenses are less than five (5) years old:

- Two DUIs
- Writing worthless checks
- Resisting arrest
- Misdemeanor drug use, and/or drug possession, or possession of paraphernalia
- Shoplifting and petit theft
- Misdemeanor underage drinking
- Misdemeanor disorderly conduct
- Misdemeanor cyberstalking
- Telephone harassment
- Violation of probation
- Possession and/or usage of a false ID

As noted above, this is not intended to be an inclusive list. The District will carefully review the application if the indicated offense is greater than five (5) years to determine eligibility.

E. WILL NOT HIRE OR ADMIT TO SERVICE WITH THE DISTRICT if the following offenses are less than two (2) years old:

- One DUI where there has been no injury to persons or property
- Loitering
- Trespassing
- Driving while license suspended or revoked (habitual offenders' records may warrant closer scrutiny and increased time)
- Reckless driving
- Sale of alcohol to minors/or persons under 21 years of age
- Criminal mischief where there has been no injury to persons and property damage is less than \$1,000.00

F. (1) In considering a DUI or reckless driving offense, or more than one such offense, the District will review such offense to determine whether the applicant is seeking a safety sensitive position (such as a bus driver) and whether the job description itself involves driving as a requirement of the position. In such situations, the District reserves the right to declare the person ineligible if it is determined to be in the best interests of the District to do so regardless of the time periods set forth above. The same considerations will apply to existing employees, contractor employees, volunteers, and so on.

(2) The eligibility of former employees seeking to return to employment with the District who have been subject to a DUI offense, or more than one offense, will be reviewed on the basis of the position applied for and their employment history with the District to determine whether any of exceptions to the guidelines are permissible.

G. The undertaking of the review of an offense with respect to the duration criteria noted above will be from the date of the offense itself, not the date of the judicial disposition of the offense.

H. Applicants who are on administrative probation with Educational Practices Commission, or other administrative agency, as a result of an administrative determination or settlement agreement will be considered for positions by the District subject to review of the issues involved.

I. A current employee may be reviewed, disqualified, or terminated from continued employment; (a) based on follow up review as a matter of due diligence concerning information received, and/or (b) if the current employee has been adjudicated guilty or convicted of a crime classified as a felony, or convicted of a crime involving moral turpitude, or any of the offenses enumerated in F.S. §435, or a misdemeanor offense warranting District action. This section shall be read consistently with the screening guidelines set forth above including as they pertain to pretrial diversion programs.

VI. Review of Decisions and Notice of Action

A. Any applicant may contest the accuracy of the information provided to the District by the FDLE, or other law enforcement agency, whether federal, state or local and which may have been a basis for disqualification. The applicant, not the District, is responsible for providing such information directly to the FDLE, or other law enforcement agency, whether federal, state or local.

B. If a contractor, or contractor's employee, is determined to be disqualified from working on District property, the contractor will be notified in writing of the disqualification. An opportunity to contest the accuracy of the report from FDLE, or other law enforcement agency, whether federal, state or local, as stated in paragraph 5 above, will be provided. Any final report involving the contractor's employee will be provided to that employee only.

C. Any prospective employee/applicant who is disqualified for employment pursuant to the above-cited criteria will be informed in writing of the disqualification.

D. Florida statutes require periodic re-fingerprinting of employees. Contractors and volunteers in the District will also require periodic re-fingerprinting as noted above. Upon re-fingerprinting, any new criminal history will be reviewed against the same screening guidelines used to review all contractual personnel and/or volunteers; including any disciplinary or disqualifying consequences that might arise from such review consistent with guidelines set forth above.

VII. Effective Date of Guidelines

November 1, 2011.