

Personnel -- Certified/Non-Certified

Reference Checks

Employment/Reference Checks

In order to create a safe and orderly environment for students, all offers of employment will be conditional upon the successful outcome of a criminal record check. In addition, any person applying for employment with the Board shall submit to a record check of the Department of Children and Families Child Abuse and Neglect Registry before the person may be hired.

Requirements for Applicants

The Board shall not offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact, prior to the Board requiring of such applicant to provide:

1. Contact information for current and former employers if they were education employers or the employment otherwise involved contact with children. The contact information must include the name, address and telephone number of each current or former employer.
2. Written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the State Department of Education (SDE) "Educational Employer Verification" form that interviewing employers send. The authorization also must consent to and authorize SDE to disclose information and related records to the District upon request and release such former employees and the SDE from any liability that may arise as a result of such disclosure or release.
3. To provide a written statement of whether he or she:
 - a. was the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
 - b. was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (DCF), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated by DCF of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or
 - c. has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.

Reference Checking Procedures

The District shall conduct a review of the applicant's employment history by contacting those employers listed in the required information provided by the applicant. Such review shall be conducted using the SDE "Educational Employer Verification" form that requests:

1. the dates of employment of the applicant;
2. a statement as to whether the employer has knowledge that the applicant was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated; was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct.

Such review may be conducted by telephone or through written communication, not later than five business days after any such current or former employer of the applicant receives a request for such information, and responds with such information. The Board may request more information concerning any response made by a current or former employer. Such employer shall respond not later than five business days after receiving such request; and

The District shall also request information from SDE concerning:

1. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit;
2. whether SDE has knowledge that a finding has been substantiated by the Department of Children and Families of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding;
3. whether SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

The Board shall notify SDE if it receives information that an applicant for a position with the District or a current employee has been disciplined for a finding of abuse or neglect or sexual misconduct.

The Board will not employ an applicant for a position involving direct student contact who does not comply with the provisions of this policy.

Temporary Hires

The Board may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's review of the required and submitted applicant information provided:

1. The applicant has submitted to the District the three required disclosures;
2. The Board, has no knowledge of information pertaining to the applicant that would disqualify him/her from employment; and
3. The applicant affirms that he or she is not disqualified from employment with the Board.

Employment Agreements

The Board shall not enter into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement or any other contract or agreement or take any action that:

1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
2. Affects the ability of the local or regional Board of Education, council or operator to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
3. Requires the Board, to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the Board, unless after investigation such allegation is dismissed or found to be false.

Substitute Teachers

The Board shall only hire applicants for substitute teaching positions who comply with this policy.

Contractors and Their Employees

In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to the contractor all information required of any applicant for a position in the district as previously described in this policy. The contractor shall contact any current or former employer of such employee that was a Board of Education, council or operator or if such employment caused the employee to have contact with children, and request, either by telephone or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee.

Such employer shall report to the contractor any such finding, either by telephone or through written communication. If the contractor receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, immediately forward such

information to the Board of Education with which the contractor is under contract, either by telephone or through written communication.

Any Board of Education that receives such information shall determine whether such employee may work in a position involving direct student contact at any school under the Board's jurisdiction. No determination by a Board of Education that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

Falsification of Records/Information

Any applicant who knowingly provides false information or knowingly fails to disclose information required by this policy in compliance with applicable statutes shall be subject to discipline by the Board. Such discipline may include denial of employment, or termination of the contract of a certified employee.

It is understood that any employer and SDE who provide information to the Board and in accordance with this policy shall be immune from criminal and civil liability, provided the employer or SDE did not knowingly supply false information.

Communication

The District, as required, shall communicate with other education employers and also between an education employer and SDE, about findings of abuse or sexual misconduct by applicants or employees. The Board will notify SDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct. In addition, the Board will provide, upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of an education employer or a contractor's employee.

Definitions

"Sexual misconduct" means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student;

"Abuse of a child or youth" is defined as (a) inflicting physical injury or non-accidental injuries; (b) inflicting injuries that do not match the story associated with their origin; or (c) maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment; and

"Neglect of a child or youth" is defined as (a) abandonment; (b) denial of proper care and attention physically, educationally, emotionally, or morally; or (c) allowing the child to live under conditions, circumstances, or associations injurious to the child's well-being.

"Abuse and neglect" also includes sexual assault as defined in the statutes. (C.G.S. 46b-120, and includes any violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a).

Offer of Employment

Prior to offering employment to an applicant, the Board shall make a documented good faith effort to contact each current and any former employer that was a Board of Education, council or operator or if such employment otherwise caused the applicant to have contact with children of the applicant in order to obtain information and recommendations which may be relevant to the applicant's fitness for employment, provided such effort shall not be construed to require more than three telephone requests made on three separate days.

The Board shall not offer employment to any applicant who had any previous employment contract terminated by a Board, council or operator or who resigned from such employment, if such person has been convicted of abuse or neglect or sexual misconduct.

(cf. 4112.5 - Security Check/Fingerprinting)

(cf. 4121 - Substitute Teachers)

Legal References: Connecticut General Statutes

1-200 through 1-241 of the Freedom of Information Act.

5-193 through 5-269 -State Personnel Act

10-151c Records of teacher performance and evaluation not public records.

10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissal. (as amended by PA 16-67)

10-222c Hiring policy. (as amended by PA 16-67)

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93 568, codified at 20 U.S.C. 1232g)

Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. provisions act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.

PA 16-67 An Act Concerning the Disclosure of Certain Educational Personnel Records

Policy adopted: April 18, 2017

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In checking references, the following guidelines shall be followed:

1. All reference questions must be directly related to the applicant's qualifications and ability to perform the position in question.
2. Questions, which are impermissible in the application/interview context, are equally improper when checking references.
3. As in the interview context, nothing is "off the record." Contents of reference checks are discoverable in litigation.
4. The use of an appropriate reference check form specifically related to the qualifications for the position in question ***should be developed*** and used consistently.
5. Consider the statutory safeguards with respect to obtaining employment and educational references.

Connecticut Personnel Files Act:

- Private employers may only verify dates of employment, position and salary.
- Further disclosure of personnel information is prohibited unless:
 - (i) the employee provides written consent for such disclosure; or
 - (ii) one of the specific statutory exemptions applies such as a lawfully issued subpoena or response to a government audit/investigation.

Connecticut Freedom of Information Act:

- Applicable to all public employers.
- Personnel files and similar files are exempt from disclosure only if disclosure would result in an invasion of privacy. The "invasion of privacy" standard is construed strictly, favoring disclosure.
- A public employer is only required to produce existing public records upon request. It does not require a public employer to create records or to provide verbal comments regarding an employee.

- C.G.S. 10-151c exempts records of teacher performance from disclosure unless the teacher has provided written consent for such disclosure.

Family Educational Rights and Privacy Act ("FERPA")

- Applies to all educational institutions receiving federal aid.
- Prohibits disclosure of student records without written consent, unless a specific exemption applies.

(cf. 5125 - Student Records)

Legal References: Connecticut General Statutes

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5-193 through 5-269 -State Personnel Act

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Regulation approved: April 18, 2017