

Shelby County Board of Education BACKGROUND CHECKS

4053

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I. PURPOSE

To ensure the safety of the educational and work environments of students and employees of the Shelby County Schools (SCS).

II. SCOPE

This policy applies to prospective employees; current employees; other individuals employed and/or contracted by any person, corporation, or other entity who enters into or renews a contract with the District; and school volunteers.

Exemptions shall apply to any current Memphis City Schools (MCS) employee who transfers and/or is offered a position for employment with SCS as a result of the consolidation of the school districts effective until June 30, 2013.

III. DEFINITIONS

Background Check - process of verifying information provided by an individual that the District is considering for making employment and as a volunteer. This may include, but is not limited to a check of child abuse and neglect registries and federal and state criminal records.

Prospective employee - applicant who will receive an offer of employment with the District pending outcome of an initial background check and other District requirements. This definition explicitly excludes any MCS employee who transfers and/or accepts an offer of employment with SCS without a break between service.

Volunteer - A person who renders aid, performs a service, or assumes an obligation of his/her own free will and is not paid for said services by the District.

IV. POLICY STATEMENT

The District is committed to providing a safe environment for its students and employees. In an effort to ensure the safety and welfare of students and employees, the District shall require background checks on all prospective employees; individuals employed and/or contracted by any person, corporation, or other entity who enters into or renews a contract with the District as provided by law; and school volunteers.

The Board assigns to the Superintendent the duty to conduct background checks and to advise all prospective employees that all hiring decisions for such checks are contingent upon satisfactory results of such checks.

In accordance with T.C.A. 49-5-413, the District shall not hire or retain any individual whom the Department of Children Services has found to have committed child abuse, severe child abuse, child sexual abuse, or child neglect.

A. Prospective Employees Selected as the Successful Applicant for a Job

The District shall require background checks of all prospective employees upon an offer of employment. Prospective employees will be informed if the results of his/her background check precludes employment with the District. Any costs incurred in conducting a background check shall be paid by the prospective employee upon hiring.

1. Teaching and Other Positions Requiring Proximity to Students

Any prospective employee applying for a position as a teacher, supervisor, principal, Superintendent, other certificated personnel, or any other position requiring proximity to school children, shall be required to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause.

Prospective employees applying for the above referenced positions who fail to make such disclosures commit a Class A misdemeanor which shall be reported to the District Attorney General for prosecution. If it is discovered that the prospective employee has failed to make such disclosures, he/she shall not be hired. If the information is discovered after the applicant has been hired, the employee may be subject to disciplinary measures up to and including termination from employment.

2. Non-Teaching Positions Not Requiring Proximity to Students

Any prospective employee applying for a non-teaching position not requiring proximity to students shall be required to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause. If it is discovered that the applicant has failed to make such disclosures, he/she shall not be hired. If the information is discovered after the applicant has been hired, the employee may be subject to disciplinary measures up to and including termination from employment.

B. Current Employees

The District reserves the right to conduct background checks on any/all current employees. The cost for background checks conducted on any/all current employees shall be incurred by the District.

Disclosure of Charges or Convictions

Any SCS employee charged or convicted of (1) a misdemeanor that involves theft of property, alcohol/drug use, or assault; (2) a felony offense; (3) abuse against a child; and/or (4) selling drugs to a minor child must report it to the SCS Department of Human Resources. Failure to report such charges or convictions may constitute grounds for immediate termination. Individual reported cases will be reviewed and District, action as deemed appropriate shall be taken.

C. Contracted Persons, Corporations or Other Entities

Criminal background checks shall be required, except as otherwise provided below, on any person who is employed and/or contracted by any person, corporation, or other entity who enters into or renews a contract with the District, who during the course of performing contracted duties may have direct contact with students or enter the school grounds when students are present.

It is the responsibility of the person, corporation, or other entity that employs a person entering into or renewing a contract with the District to ensure that fingerprint samples are submitted; that criminal background checks are conducted by the Tennessee and Federal Bureaus of Investigation; and that the results of such checks are provided to the District.

Exceptions

In accordance with State law, criminal background checks shall not be required for the following:

1. Government personnel engaged in law enforcement, medical or emergency health services;

2. Utility personnel, where utility means any entity created or authorized by law to provide electricity, gas, water, wastewater services, telecommunications services, or any combination thereof; or
3. Delivery or pick-up service providers, not including non-district student transportation service providers, where those services involve only scheduled visits under the supervision of school personnel.
4. A person whose contract is for the performance of a service at a school-sponsored activity, assembly or event at which school officials or employees are present when the service is performed and where the activity, assembly, or event is conducted under the supervision of school officials or employees.

Any costs incurred in conducting such investigations shall be paid by the person, corporation, or other entity entering into or renewing a contract with the District.

D. Volunteers

Volunteers whose volunteer activity requires them to work alone with children outside the presence and direct supervision of school personnel must receive a criminal background check that requires fingerprinting (i.e., an FBI and/or TBI background check). Certain volunteers who work with children in the presence and under the direct supervision of school personnel must receive a criminal background check that does not require fingerprinting (i.e., a web-based background check of local and national criminal databases). Individuals refusing to submit to any criminal background check and/or to supply a fingerprint sample required under this policy shall be ineligible to serve as volunteers. Prospective volunteers shall be required to make a full disclosure of any prior charges and/or convictions of a felony. The District reserves the right to conduct additional background checks at any point in the volunteer's period of approved services as warranted.

The cost of background checks required for volunteers shall be paid for by the District.

E. Confidentiality

Background check information received by the District in accordance with this policy shall be confidential and used solely for assessing the prospective employee's suitability for employment or for volunteer services.

IV. RESPONSIBILITY

- A. It is the applicant's responsibility to provide complete and accurate information to the Superintendent or designee.
- B. It is the employee's responsibility to report if he/she has been charged with and/or convicted of a felony in accordance with this policy.
- C. It is the employee's responsibility to report if he/she has been legally charged with or convicted of abuse against a child and/or with selling drugs to a minor child in accordance with this policy.
- D. It is the responsibility of the person, corporation or other entity that employs a person to require the applicant to supply a fingerprint sample and submit to a criminal background check prior to permitting the person to have contact with the children or enter school grounds.
- E. It is the volunteer's responsibility to provide complete and accurate information; submit fingerprints when applicable; and report if he/she has been charged with and/or convicted of a felony in accordance with this policy.
- F. The Superintendent is responsible for ensuring that this policy is followed.

Legal References:

- 1. T.C.A. 49-5-406
- 2. T.C.A. 49-5-413
- 3. T.C.A. §49-5-404
- 4. Tennessee State Board of Education
Rule § 0520-1-3-.08(2)(f)
- 5. 49-5-501
- 6. T.C.A. 10-7-504
- 7. T.C. A. 49-10-608
- 8. T.C.A. §49-5-202
- 9. T.C.A. §49-5-405
- 10. T.C.A. §49-2-301
- 11. T.C.A. §49-2-303
- 12. Immigration Reform and Control Act
of 1986

Cross References:

Shelby County Board of Education

Issued Date: 03/05/13

Revised:

Administrative Rules and Regulations

BACKGROUND CHECKS

Prospective Employees Selected as the Successful Applicant for a Job

Prior to extending an offer of employment with the District, the responsible staff in the Department of Human Resources shall submit the name of a prospective employee to the Department of Children Services. Any prospective employee who is found to have committed child abuse, severe child abuse, child sexual abuse, or child neglect shall not be eligible for employment.

The Director of the Department of Human Resources or designee may extend an offer of employment to a prospective employee if the result of the criminal background check conducted by the Department of Children Services is acceptable.

A prospective employee who accepts an offer of employment from the District shall be required to provide fingerprints and sign an informed background check consent form. Refusal to provide the District with fingerprints and/or a completed consent form will result in the withdrawal of the offer of employment.

Background checks indicating criminal convictions shall be reviewed by the appropriate staff in the Department of Human Resources to determine if a cause for concern exists for the safety of the students, employees, and/or property of the District. The prospective employee shall be provided an opportunity to view the report and, if applicable, dispute the accuracy of information. Upon verification of the results, the Director of the Department of Human Resources shall make a final decision. The prospective employee shall be notified in writing if a decision is made to withdraw an offer of employment based on an unsatisfactory criminal background check.

Prospective employees who are subsequently hired shall have any cost incurred for conducting background checks paid through payroll deduction.

Current Employees

SCS reserves the right to conduct random and periodic criminal background checks on current employees. Any employee who is randomly selected for a criminal background check and does not have a completed consent form and/or useable fingerprints on file shall be required to submit such within the timeframe designated by the Department of Human Resources. Refusal by a current employee to provide a consent form and/or useable fingerprints may result in disciplinary actions up to and including termination.

A current employee who is found to have committed child abuse, severe child abuse, child sexual abuse, or child neglect shall not be retained in employment by the District.

A criminal background check of a current employee that indicates a criminal conviction shall be reviewed by the Director of the Department of Human Resources or designee in order to determine if a cause for concern exists for the safety of the students, employees, and/or property of the District. Upon verification of the results, the Director of the Department of Human Resources or designee shall render a final decision for any action taken as a result of an unsatisfactory report. The Director of the Department of Human Resources or designee shall provide written notification to the employee and the appropriate supervisor/Division Director if a decision is made to take action against the employee as a result of an unsatisfactory report.

Any costs incurred in conducting criminal background checks shall be paid by the District.

Disclosure of Charges or Convictions

Any SCS employee charged or convicted of a misdemeanor that involves theft of property, alcohol/drug use, or assault (including domestic violence against another District employee) must report it to the Department of Human Resources within seven (7) working days of the charge or conviction. Individual cases will be reviewed and appropriate actions will be taken when deemed necessary.

Any SCS employee charged or convicted of a felony offense must report it to the Department of Human Resources within seven (7) working days of the charge or conviction. Failure to report such charge or conviction may constitute grounds for immediate termination. Additionally, an employee charged or convicted of a felony offense may be terminated. Individual cases will be reviewed and appropriate

actions will be taken.

Any employee who has been legally charged with abuse against a child and/or selling drugs to a minor child must report it to the SCS Department of Human Resources within seven (7) working days of the charge or conviction. Failure to report such charges or convictions may constitute grounds for immediate termination. Additionally, an employee convicted of abuse against a child and/or selling drugs to a minor child shall be terminated.

Employees who drive District owned and/or leased vehicles as part of their employment must report a suspended or revoked driver's license to the Department of Human Resources within seven (7) working days of the notification of the suspension or revocation. Failure to disclose information may result in disciplinary actions up to and including termination.