

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA
ADMINISTRATIVE REGULATION

CRIMINAL
HISTORY REVIEW

The District will conduct a criminal history record review for a final candidate for employment and will determine through the individualized assessment procedures described below whether the individual should be excluded from employment. [See DBAA(LOCAL)]

Only District employee(s) authorized to view criminal history records will be involved in conducting an individualized criminal history record review.

NOTICE TO CANDIDATE
FOR EMPLOYMENT

*CLAIM OF ERROR
IN RECORDS*

A candidate for employment who has a criminal history record will be notified that he or she may be excluded from employment due to criminal history. The candidate will be given an opportunity to provide additional information concerning his or her criminal history record to be considered as part of the individualized assessment process and shall have an opportunity to challenge the applicability of an exclusion based on their particular circumstances by providing this information to the Criminal History Review Committee.

Additional information may include:

- Documentation showing inaccuracies in the criminal record;
- Any evidence related to the factors for individualized assessment listed at DBAA(LOCAL);
- Evidence that he or she has performed the same type of work since the incident(s) noted on the criminal history record, with no known incidents of criminal conduct;
- Rehabilitation efforts, including education and training;
- Employment or character references; and
- Whether or not he or she is bonded (if a bond is required for the job position with the District).

If the individual does not provide additional information in a timely manner, the District will proceed with an individualized determination with the information available to the District.

A candidate for employment who claims that the reported criminal history record is erroneous may be provided a copy of the record so that he or she can undertake efforts to correct the record.

DISQUALIFYING
OFFENSES

The District shall obtain criminal history record information on final candidates for employment. All District positions have the potential for contact with students. The District shall disqualify from employment a person whose criminal history indicates that the person poses a threat to students or employees. Consistent with business

INDIVIDUALIZED
ASSESSMENT

necessity, the District shall also disqualify from employment a person whose criminal history is otherwise inconsistent with the job duties of the position for which the person is being considered.

Except with regard to those offenses which, in accordance with state law, preclude an individual from public school employment, the District will conduct an individualized assessment of the offense and/or conduct in question in consideration of the position sought or currently held.

The District will consider all relevant information available, or obtainable through reasonable means, including information received from the applicant or employee, law enforcement, governmental entities, State Board for Educator Certification (SBEC), previous employers, or any other source.

Applicants and employees may be asked to provide additional information regarding specific criminal history information. If an applicant or employee fails or refuses to provide requested information, the District will make a determination based on other available information, including the person's refusal or failure to provide information. In the absence of a conviction or guilty plea, the District may consider other evidence that the applicant or employee engaged in the alleged conduct.

The District will consider the following factors when conducting an individualized assessment of an individual's criminal history and fitness for employment:

- The nature of the offense (e.g., the harm caused, elements of the offense and gravity of the offense);
- The age of the person when the crime was committed;
- The date of the offense and how much time has elapsed;
- The adjudication of the offense (e.g., whether the person was found guilty by a trier of fact, pled guilty, entered a no contest plea, or received deferred adjudication);
- The nature and responsibilities of the job sought (e.g., job duties, essential functions and level of supervision, oversight and interactions with students and staff);
- The accuracy of the person's disclosure of his or her criminal history during the selection process (including, the extent and timeliness of the information provided by the applicant to the District);
- The effect of the conduct on the overall educational environment; and

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- Any further information provided by the person concerning his or her criminal history record.
- The employee's conduct during his/her employment with the District, where applicable.
- Input from the employee's immediate supervisor, where applicable.

An employee may be placed on administrative leave with or without pay, as appropriate, while the District collects information and conducts an individualized assessment of the employee's criminal history.

OFFENSES FOR WHICH
EXCLUSION IS LIKELY

A record of certain offenses carries a high likelihood that the District will exclude the individual from employment. Subject to an individualized assessment, the following classes of offense will likely preclude employment with the District:

- Any offense requiring exclusion pursuant to Education Code 22.085.
- Any offense for which employment of the individual places the safety of both students and other employees at risk regardless of the date of the offense, its relation to the employee's job, or the age of the victim. Such offenses include homicide, murder, capital murder, unlawful transport, false imprisonment, trafficking of persons, improper relationship between educator and student, sexual assault, aggravated sexual assault, rape, child abuse, sale or purchase of a child, arson, robbery, aggravated robbery, prostitution or solicitation of prostitution, child pornography, and sexual solicitation of a child.
- Any offense that, because of the relationship between the offense and the duties and responsibilities of the position in question, creates a risk to the best interests of the District. For example, a person who has committed a property offense will not normally be eligible for a position with financial duties or responsibilities.
- Any felony conviction that occurred within the ten years prior to application for employment with the District.
- Any Class C misdemeanor conviction involving moral turpitude within the ten years prior to application for employment with the District. [For the purposes of this regulation and related procedures, the definition of moral turpitude is found at DH(LOCAL).]

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| ADJUDICATION OF OFFENSES | In considering the adjudication of the offense, the following standards apply. |
| CONVICTION | The District will ordinarily treat a conviction as proof of guilt. A conviction record constitutes reliable evidence that a person engaged in the criminal conduct “beyond a reasonable doubt.” |
| ARREST | <p>The fact of an arrest alone shall not establish that criminal conduct has occurred and the District shall not disqualify a person based solely on an arrest. The District may make an employment decision based on the conduct underlying the arrest if the conduct makes the person unfit for the position in question.</p> <p>The District will examine the circumstances surrounding the arrest and will make any necessary inquiries. The District is not required to conduct an extensive investigation to determine the individual’s guilt or innocence but need only make inquiries that could shed light on the likelihood of the individual’s guilt in committing the underlying offense.</p> <p>An arrest will be treated as a conviction when inquiries suggest a high likelihood that the individual committed the underlying offense. Where such a determination is not found, the arrest will not be used to take an adverse employment action against the individual.</p> |
| DEFERRED ADJUDICATION | <p>A grant of deferred adjudication resulting from a no contest or guilty plea will ordinarily be treated as an admission of guilt. However, the District will make inquiries similar to the inquiries made when an arrest is reported.</p> <p>When such inquiries suggest a high likelihood that the individual committed the underlying offense, deferred adjudication will be treated as a conviction. Where such a determination is not found, deferred adjudication will not be used to take an adverse <i>employment action against the individual</i>.</p> |
| NOT GUILTY, WITHDRAWN, OR DISMISSED CHARGES | <p>For a not guilty, withdrawn, or dismissed adjudication, the individual will be asked to explain, in writing, the circumstances and may be required to provide a certified copy of the court paperwork showing the final disposition of every charge. The District may make additional inquiries into the surrounding circumstances.</p> <p>The charges will be treated as a conviction when such inquiries suggest a high likelihood that the individual committed the underlying offense. Where such a determination is not found, the criminal history in question will not be used to take an adverse employment action against the individual.</p> |

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TYPES OF
CONVICTIONS

If the criminal history record shows a conviction, or if inquiries made during the record review indicate a high likelihood of guilt and/or recurrence, then the following employment restrictions will apply.

FELONY

For a felony offense committed within the ten years before application for employment, see Offenses for Which Exclusion is Likely, above.

If the individual committed a felony offense more than ten years before application for employment, the District will determine whether the conviction was for an offense that generally requires exclusion by law or by policy or, if not, whether the underlying offense relates to the duties and responsibilities of the desired position.

The following guidelines will apply:

- If the offense does not relate to the duties and responsibilities of the position, and was not for an offense that would otherwise preclude employment, the individual may be considered for employment or continued employment.
- If the offense does relate to the duties and responsibilities of the position, the District will consider the likelihood of recurrence of the criminal behavior. A determination that the behavior is unlikely to recur will result in the individual being eligible for employment; a finding to the contrary will result in the individual being ineligible for employment.

*CLASS A AND B
MISDEMEANORS*

An individual may be eligible for employment if the conviction for a Class A or Class B misdemeanor is not related to the duties and responsibilities of the position and/or has occurred more than five years prior.

If the conviction occurred in the past five years and does relate to the duties and responsibilities of the position, and if it is determined there is a high degree of likelihood for the recurrence of the behavior, the employee is ineligible for employment in the District.

For Class A or Class B misdemeanor convictions that involve moral turpitude, the exclusion shall be ten years. For Class A or Class B misdemeanor DWI offenses the exclusion shall be five years.

*CLASS C
MISDEMEANORS*

For a Class C misdemeanor offense involving moral turpitude committed within the ten years before application for employment, as applicable, see Offenses for Which Exclusion is Likely, above.

If convicted of a Class C misdemeanor that does not involve moral turpitude or that occurred more than ten years before application of

employment, the District will determine whether the underlying offense relates to the duties and responsibilities of the desired position.

The following guidelines will apply:

- If the offense does not relate to the duties and responsibilities of the position and was not for an offense that would otherwise preclude employment, the individual may be considered for employment.
- If the offense does relate to the duties and responsibilities of the position, the District will consider the likelihood of recurrence of the criminal behavior. A determination that the behavior is unlikely to recur will result in the individual being eligible for employment; a finding to the contrary will result in the individual being ineligible for employment.

*MULTIPLE
OFFENSES*

An individual with multiple offenses that individually do not make him or her ineligible for employment may be deemed ineligible for continued employment when repetitious criminal behavior indicates a high degree of likelihood for recurrence of the behavior.

*UNLISTED
CRIMINAL
HISTORY*

If a criminal history record does not list an event reported by the candidate for employment, he or she will be asked to explain, in writing, the circumstances for each reported incident. A certified copy of pertinent court paperwork showing final disposition of the charge must be included. The District may make additional inquiries.

DUTY TO REPORT

These regulations do not replace or otherwise relieve an employee's responsibility to timely report criminal history for certain offenses as outlined in Board policy DH (Local). Failure to make a report required by Board policy DH (Local) shall constitute grounds for discipline, up to and including termination of employment.

BACKGROUND
CHECKS AND
FINGERPRINTING

The following categories of applicants must have completed fingerprinting requirements that have results available for review through the TX Department of Public Safety database and the FBI before the hiring process can proceed:

- New hires as well as existing employees moving to new positions
- New substitutes
- Independent contractors working directly with students
- Tutors
- Adult temporary hires working directly with students

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The following individuals must have passed the third-party county-by-county (long) background review before the approval process can proceed:

- Adult temporary hires not working directly with students
- Independent contractors not working directly with students
- Student teachers

The following individuals must have passed the third-party nationwide (short) background review before the approval process can proceed:

- Student observers and other supervised college interns
- Volunteers
- Student employees
- Annual upload of employees
- Annual upload of substitutes

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| CRIMINAL HISTORY RECORD INFORMATION SCOPE | The following provisions apply to any electronic or physical media containing Federal Bureau of Investigation (FBI) criminal justice information, and its subset, criminal history record information (CHRI), as defined at DBAA(LEGAL). |
| POINT OF CONTACT | The District designates the Chief Human Resources Officer as the point of contact (POC), who will oversee compliance with the user agreement and all aspects of CHRI security. |
| PROPER ACCESS, USE, AND DISSEMINATION OF CHRI | Only authorized District personnel will access CHRI, and only for authorized purposes. Authorization is based on compliance with Texas Department of Public Safety (DPS) policy or other conditions of access set by information-granting agencies. |
| <i>AUTHORIZED PERSONNEL</i> | The District will conduct a fingerprint-based record check for all personnel who have direct access to CHRI, those who have direct responsibility for configuring and maintaining computer systems and networks with direct access to CHRI, and any persons with access to physically secure locations or controlled areas containing CHRI. |
| <i>SECURITY AWARENESS TRAINING</i> | The District will require basic security awareness training within six months of initial hire or assignment for all personnel who have access to CHRI. Thereafter, the District will require basic security awareness training every two years. |
| <i>PHYSICAL SECURITY</i> | CHRI will be kept in a location with physical and personnel security controls sufficient to protect the CHRI and associated information systems from unauthorized viewing or access. |

Only authorized personnel will have access to the physically secure locations. The District will maintain and keep current a list of authorized personnel. The District will implement access controls and monitor physically secure areas to protect all transmission and display media of CHRI. Authorized personnel will take necessary steps to prevent physical, logistical, and electronic breaches.

PHYSICAL MEDIA

Physical media such as printouts will be disposed of by one of the following methods:

- Shredding using District shredders;
- Placement in locked shredding bins for an authorized shredding contractor to come to District premises and shred, witnessed by District personnel throughout the entire process; or
- Incineration using District incinerators or by an authorized incineration contractor, witnessed by District personnel either at a District or contractor incineration site.

ELECTRONIC MEDIA

Electronic media such as hard drives, tape cartridges, CDs, printer ribbons, or printer and copier hard drives will be disposed of by one of the following methods:

- Overwriting at least three times. Overwriting uses a program to write binary code onto the location of the file needing sanitization.
- Degaussing. Degaussing magnetically erases data from magnetic media, using strong magnets or electric degaussers.
- Destruction. Destruction involves physically dismantling electronic media by methods such as crushing or disassembling, ensuring that the platters have been physically destroyed so that no data can be retrieved.

Information technology systems that have been used to process, store, or transmit CHRI will not be released from the District's control until the equipment has been sanitized and all stored information has been cleared using one of the above methods.

ACCOUNT
MANAGEMENT

The District will manage information system accounts, including establishing, activating, modifying, reviewing, disabling, and removing accounts. The District will validate information system accounts at least annually and shall document the validation process.

All accounts will be reviewed at least annually by the POC or designee to ensure that access to and account privileges on systems that contain CHRI are commensurate with job functions, need-to-know, and employment status. The POC may also conduct periodic reviews.

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REMOTE ACCESS

The District will authorize, monitor, and control all methods of remote access to the information systems that can access, process, transmit, and/or store CHRI. Remote access is any temporary access to an agency's information system by a user (or an information system) communicating temporarily through an external, non-District-controlled network (e.g., the Internet).

The District will employ automated mechanisms to facilitate the monitoring and control of remote access methods. The District will control all remote accesses through managed access control points. The District may permit remote access for privileged functions only for compelling operational needs, but will document the rationale for such access in the security plan for the information system.

Utilizing publicly accessible computers to access, process, store, or transmit CHRI is prohibited. Publicly accessible computers include, but are not limited to, hotel business center computers, convention center computers, public library computers, and public kiosk computers.

PERSONALLY,
OWNED
INFORMATION
SYSTEMS

A personally owned information system will not be authorized to access, process, store or transmit CHRI unless the District has established and documented the specific terms and conditions for personally owned information system usage. A personal device includes any portable technology, such as a camera, USB flash drives, USB thumb drives, DVDs, CDs, air cards and mobile wireless devices such as Androids, Blackberry OS, Apple iOS, Windows Mobile, Symbian, tablets, laptops, or any personal desktop computer. If bring-your-own-devices (BYOD) are authorized, they will be controlled using the requirements described in the most recent Criminal Justice Information Services (CJIS) Security Policy.

REPORTING
INFORMATION
SECURITY EVENTS

The District will promptly report incident information to appropriate authorities to include the DPS. Information security events and weaknesses associated with information systems will be communicated in a manner allowing timely corrective action to be taken.

Wherever feasible, the District will employ automated mechanisms to assist in the reporting of security incidents.

All employees, contractors, and third-party users will be made aware of the procedures for reporting different types of events and weaknesses that might have an impact on the security of District assets and are required to report to the designated POC any information security events and weaknesses as quickly as possible.

POLICY VIOLATION

Violation by an employee of any requirements of this policy or the most recent CJIS Security Policy will result in suitable disciplinary

action, up to and including loss of access privileges, termination, and/or civil or criminal prosecution.

Violation by a visitor of any requirements of this policy or the most recent CJIS Security Policy will result in suitable disciplinary action against the sponsoring employee, up to and including loss of access privileges, termination, and/or civil or criminal prosecution.

Credit History

The District shall obtain credit history information in accordance with the Fair Credit Reporting Act on a candidate for employment in the following positions: Superintendent; Chief Financial Officer; Executive Director of Finance; Director of Budget, Taxes and Investments; Director of Payroll and Benefits; and when a candidate's credit history is related to the position for which the person is being considered.