

	ABERDEEN SCHOOL DISTRICT	NEPN Code: GBB
	POLICIES AND REGULATIONS	

PERSONNEL

EMPLOYEE/STUDENT TEACHER CRIMINAL BACKGROUND CHECK

It is the policy of the Board to employ only individuals and to allow only student teachers who do not have a “disqualifying record.” Each offer of employment or student teacher experience is subject to the provisions of SDCL 13-10-12, et seq., relating to criminal background investigations. This policy shall apply to all individuals employed for the 2000-2001 school year and thereafter, who were not employed by the district during the preceding school year. An employee is any person the district lists on its payroll and makes payroll deductions pursuant to state or federal law. This policy shall not apply to persons performing services for the district under the authority of the South Dakota High School Activities Association. The District may also elect to require background checks for volunteers and interns.

Each person, 18 years and older, considered the final applicant for employment and each student teacher applicant shall submit to a criminal background investigation by means of checks by the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation. Trained personnel in the Human Resources office shall submit completed fingerprint cards to South Dakota Division of Criminal Investigation, 500 East Capitol Avenue, Pierre, SD 57501 before the prospective new employee enters into service. The certification of trained school district personnel is found in GBB-E. The prospective employee must also provide to the Human Resources Office a check or money order payable to the South Dakota Division of Criminal Investigation in an amount necessary to cover the costs of the criminal record check. The school district may, upon approval of the supervisor, reimburse less than full-time personnel for the fees.

Any person granted employment or a student teaching or interning experience is subject to this policy and may enter into service on a temporary basis conditioned upon no disqualifying report being received from the criminal background investigation. Any disqualifying record will result in immediate termination of employment without further notice or hearing. A “disqualifying record” means any conviction of a crime of violence as defined in SDCL 22-1-2(9), a sex offense as defined in SDCL 22-24B-1, or trafficking in narcotics. (See GBB-R) Conviction of any crime of moral turpitude as defined by SDCL 22-1-2(25) may constitute a disqualifying record as determined by the Human Resources Director and/or the Superintendent on a case-by-case basis. Any criminal conviction may be considered in making a hiring decision. Where an applicant does have a conviction, the following three (3) factors will be weighed in hiring: 1) the nature and gravity of the offense; 2) the length of time since the conviction or since the conclusion of whatever sentence was imposed; and 3) the nature of the job for which the person is applying. Any criminal conviction not disclosed by an applicant may be treated as a disqualifying record.

The accuracy of the FBI criminal history records investigation may be challenged by following the procedure set forth at Title 28, Code of Federal Regulations CFR, Section 16.34. The challenge to the accuracy of the investigation must be initiated within five (5) days of the date of notice. The District will hold the applied-for job position open for a period of ten (10) weeks (70 calendar days) from the date the challenge is initiated, and will then make a final decision on employment. Written notice of the date of the challenge and a copy of the results of the challenge must be must be provided to the District upon receipt. Application will be

considered in light of the results of the challenge of the FBI criminal history records investigation. If significant circumstances require the District to hire prior to the expiration of the five (5) day deadline for the initiation of the challenge, or prior to the ten (10) week deadline for the receipt of the results of the challenge, immediate written notification will be provided.

Copies of such reports less than five years old shall be made available to other South Dakota public school districts upon written request by the employee.

The District will ensure all employees who have access to criminal history record information (CHRI) are trained as authorized users by South Dakota Department of Criminal Investigations (SDDCI) on the rules and responsibilities for the confidentiality, receipt, use and dissemination of CHRI. New users are trained within 6 months of hire and each user recertifies every 2 years. A local agency security officer is designated to oversee the use of CHRI and ensure authorized users are trained according to SDDCI requirements.

The District will restrict access to authorized users only. Physical copies will be maintained in a locked cabinet in an area free from unauthorized access.

The District sends the applicant fingerprint cards to SDDCI in a sealed envelope delivered by the US Postal Service. The District only shares CHRI with schools with the same originating agency identifier number through US Postal mail.

The District will dispose of records securely. Physical records of a terminated employee will be shredded internally by an authorized user after the CHRI reaches 5 years old.

Authorized users are made aware of the guidelines, consequences and liabilities that could occur from unauthorized use of CHRI. Misuse of information is reported to the local agency security officer and an incident form is sent to the SDDCI.

This policy applies to all other employment agreements, whether written or oral.

LEGAL REFERENCES:

SDCL 22-1-2(9); SDCL 22-1-2(25) Definition of Terms
22-24B-1 Sex crimes defined

SDCL 13-10-12 Criminal background investigation of prospective employees, technical institute instructors, and student teachers-Temporary employment pending results

SDCL 13-10-13 Criminal conviction as factor in hiring decision

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