

ACTION: Below are recommended revisions to Policy GBEBEC from MSBA, with additional revisions from General Counsel. These revisions are based on a new Missouri law requiring the district to notify retirement systems when current or former employees are charged with or convicted of certain criminal offenses. These revisions also add language regarding Rap Back programs, which provide ongoing notification to districts regarding employee arrests.

Recommendation: Amend Policy GBEBEC as recommended by MSBA, with additional revisions from General Counsel.

Section: Personnel

Title: Criminal Background Checks

Number: GBEBEC - Critical

Legal Refs: Sections 43.540, .543, 105.669, 168.071, .133, 576.050, RSMo.

Adopted: January 26, 2017

Revised: _____

The Park Hill School District is committed to providing a safe environment for students to learn. As part of this effort, in accordance with this policy, the district will require criminal background checks of employees as well as certain volunteers and others working on district property. The Board directs the superintendent or designee to develop procedures and practices consistent with this policy.

Definitions

Criminal Background Check – A search of the Federal Bureau of Investigation's (FBI) criminal history files; the Missouri State Highway Patrol's (MSHP) criminal history database and sexual offender registry; the Family Care Safety Registry (FCSR) or the central registry of child abuse and neglect of the Children's Division (CD) of the Department of Social Services; Missouri Case.net; and other databases required by law or by the district.

Driving Records – Traffic-related offenses contained in the Missouri Department of Revenue's databases.

Rap Back – A program designed to provide school districts automatic criminal history updates about individuals who have been previously fingerprinted. "Rap" is an acronym for "record of arrest and prosecution." Rap Back is available on the state and federal level.

Employees

Generally, the district will conduct criminal background checks in accordance with applicable law on all new employees authorized to have contact with students prior to the employees working with students; however, the district may forgo a criminal background check when:

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1. A teacher is employed to work on a part-time or substitute basis within one year of having retired from the Park Hill School District.
2. An employee or potential employee has had a background check conducted by another Missouri public school within the past year and the district receives a copy of the background check directly from the other district or obtains electronic access to the previous background check.
3. An employee or potential employee has successfully completed a criminal background check, including a check of the FCSR, as part of the professional license application process within one year prior to employment.

In order to participate in Rap Back, the district must conduct its own background checks and may not use any of the above exceptions. Any offer of employment is contingent upon the satisfactory outcome of the criminal background check, when required by the district. The district has the sole and absolute discretion to determine whether the outcome is satisfactory.

Drivers

The district will conduct a criminal background check on all bus drivers the district employs. The district may allow bus drivers to operate district transportation pending the results of the criminal background check.

If the district contracts for student transportation services, the contract will require the transportation company to conduct background checks on the company's employees who will have contact with district students. Persons whose background check indicates that they have exhibited behavior that is violent or harmful to children or adults will be excluded from providing transportation services for the district.

Volunteers

The district will conduct a search of the MSHP's criminal history database and the FCSR or the CD's central registry of child abuse and neglect on all persons requesting to volunteer in positions where they will be left alone with a child or children, ~~and the superintendent.~~ Volunteers may be subject to additional types of criminal background checks in accordance with the district's policy and procedure for school volunteers. If the volunteer is a sponsor, advisor or coach of a district-sponsored activity, he or she must satisfactorily complete the criminal background check required of employees.

~~The superintendent or designee is directed to identify any additional volunteer positions in the district that will also require a criminal background check. The superintendent~~

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~~or designee must receive the results of the background check and officially approve the volunteer before he or she may begin service in the identified volunteer position.~~

Payment

In general, applicants for employment and volunteers are responsible for the cost of the criminal background check, but the district may later reimburse the person at the district's discretion. However, when an applicant has had a background check conducted by another Missouri public school within the past year and the district receives a copy of the background check directly from the other district or obtains electronic access to the previous background check, the district will not require an additional background check as a condition of employment unless the district pays the cost.

The district will pay the expenses associated with conducting and renewing criminal background checks for current employees. In cases where the district requires independent contractors to conduct criminal background checks, payment for the background checks will be determined by the contract.

Updating Information

The district reserves the right to require any employee or volunteer to submit to additional criminal background checks at the district's expense or to rerun background checks at any time. The district will provide the Department of Elementary and Secondary Education (DESE) the relevant personnel information necessary to conduct postemployment background checks as allowed by law.

The district may update all criminal background checks required under this policy at least every five years if the person is still volunteering or working for the district or working on district property. The district may update the driving records for all drivers of district transportation every six months. Any employee refusing to submit to a background check may be disciplined or terminated. The district may decline to utilize the services of volunteers or contractors who refuse to participate.

Ongoing Background Checks

The district may participate in the state and federal Rap Back programs, which automatically notify the district when a district employee is arrested for a reportable offense after the district has conducted an initial background check under the program. Once notified, the superintendent or designee is authorized to take appropriate action as allowed by law and district policy, including but not limited to discussing the incident with the employee and contacting the district's attorney regarding any legal concerns.

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District Notification

As a condition of continuing to work within the district, all employees and other persons required to submit to a criminal background check pursuant to this policy must notify the district if they are charged, convicted, plead guilty to or are otherwise found guilty of any misdemeanor or felony, regardless of the imposition of sentence. This notification must be made as soon as possible, but no later than five business days after the event, and is in addition to any reporting requirement established by law.

Reporting Requirements

~~The district will report to DESE when information is obtained that a certificated person has pled guilty or no contest to or been found guilty of a crime or offense, regardless of whether a sentence has been imposed, in this state, another state or another country that may put the person's certificate in jeopardy pursuant to Missouri law. The superintendent or designee shall immediately provide written notice to the State Board of Education and the attorney general upon learning that a certificated employee has pled guilty to or was found guilty of any offense that would authorize the State Board to seek discipline of or revoke a teaching certificate.~~

In accordance with law, the district will notify the Public School Retirement System (PSRS), the Public Education Employee Retirement System (PEERS) or any other relevant state retirement system when an employee or former employee is charged with or convicted of any of the following crimes committed in direct connection with or directly related to the employee's or former employee's duties as an employee with the district when the charge or conviction is a felony:

1. Stealing under Section 570.030, RSMo., when the offense involved money, property or services valued at \$5,000 or more;
2. Receiving stolen property under Section 570.080, RSMo., as it existed before January 1, 2017, when such offense involved money, property or services valued at \$5,000 or more;
3. Forgery under Section 570.090, RSMo.;
4. Counterfeiting under Section 570.103, RSMo.;
5. Bribery of a public servant under Section 576.010, RSMo.;
6. Acceding to corruption under Section 576.020, RSMo.; or

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7. Any substantially similar offense under federal law.

Confidentiality

Information received by the district pursuant to a criminal background check is confidential. Except as allowed by law, the district will only use this information for the district's internal purposes in determining the suitability of an applicant, employee, volunteer or other worker on district property. The district will keep this information in a location that is only accessible to persons who need to know the information to carry out their responsibilities with the district. Upon written request, any person submitting to a criminal background check may receive a copy of the background check information received by the district during the time period the district has access to the information.

Pursuant to state law and upon the written request of an employee or former employee, the district may transfer a criminal background check to another school district within one year of receiving the background check.

Pursuant to state and federal law, information submitted to the MSHP for background checks will be shared with state and national Rap Back criminal background check programs. The information, including fingerprints, shall be retained by the state central repository and the FBI and shall be searched against other fingerprints on file, including latent fingerprints. Applicant fingerprints, while retained, may continue to be compared against other fingerprints submitted to or retained by the FBI, including latent fingerprints.

Consequences

The superintendent or designee is directed to exclude from employment or to take action to terminate individuals whose criminal background checks reveal that they have exhibited behavior that is violent or harmful to children or adults and may take adverse action, including but not limited to termination, against any employee or exclude any applicant if the background check reveals behavior that would make him or her unsuitable for the position in the discretion of the superintendent or designee. A person whose background check reveals behavior that would make the person unsuitable to volunteer in the district will not be allowed to volunteer. Employees who fail to keep background check results confidential as required by law or this policy or who violate any portion of this policy or district procedure will be subject to disciplinary action up to and including termination.

Park Hill School District, Platte County, MO