

Board Policy 5110: Criminal History/Background Checks

Status: ADOPTED

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Last Reviewed Date:

It is the policy of the District not to employ or to continue the employment of classified, professional or administrative personnel who may be deemed unsuited for service by reason of arrest and/or criminal conviction. While an arrest or conviction of a crime, in and of itself, may not be an automatic bar to employment, if an arrest or conviction relates to suitability of the individual to perform duties in a particular position, such person may be denied employment or, in the case of current employees, may face disciplinary action up to and including termination.

It is the policy of this District to perform criminal history checks as required by Idaho law and to perform other types of background checks on employees or volunteers including, but not limited to:

1. Contacting prior employers for references;
2. Contacting personal references; and/or
3. Contacting other persons who, in the discretion of the District, could provide valuable information to the District.

Where a prior conviction is discovered, the District will consider the nature of the offense, the date of the offense, and the relationship between the offense and the position for which application is sought, or the person is employed. Any individual convicted of a felony offense listed in I.C. § 33-1208(2) shall not be hired.

If an applicant or employee makes any misrepresentation or willful omissions of fact about their prior criminal history, this misrepresentation or omission shall be sufficient cause for disqualification of the applicant or termination of employment.

Any certificated employee who was hired prior to July 1, 2020 and has their teaching certificate revoked by the Professional Standards Commission due to the updated crimes listed in I.C. § 33-1208 shall be granted an informal review based on their contract category, as outlined in Policy 5105.

Initial Hires

In order to protect the health, safety, and welfare of the students of the District, Idaho law requires the following employees hired on or after July 1, 2008 to submit to criminal history checks. The list is to include, but is not limited to:

1. Certificated and non-certificated employees;

2. All applicants for certificates;
3. Substitute staff;
4. Individuals involved in other types of student training such as practicums and internships; and
5. All individuals who have unsupervised contact with students.

A criminal history check shall be based on a complete ten finger fingerprint card or scan and include, at a minimum, the following:

1. Idaho bureau of criminal identification;
2. Federal bureau of investigation (FBI) criminal history check; and
3. Statewide sex offender registry.

Employees will be required to undergo a criminal history check no later than five days after starting employment or unsupervised contact with students, whichever is sooner.

Employee Arrest or Conviction

All employees shall have a continuing duty to notify the District of any arrest or criminal conviction that occurs subsequent to being hired by the District. In the event that any employee, whether full-time or part-time, probationary or non-probationary, classified or certified, is arrested, charged, or indicted for a criminal violation of any kind, whether misdemeanor or felony, with the exception of minor traffic infractions, he or she is required to report such arrest promptly to the employee's supervisor or department head within one business day unless mitigating circumstances exist. This reporting requirement applies regardless of whether such arrest has occurred on-duty or off-duty. Failure to comply with this reporting requirement shall be grounds for disciplinary action, up to and including termination.

Additionally, if an employee has a protection order served against him or her, the employee shall follow the same reporting requirements as outlined above.

Supervisors or department heads shall contact the Superintendent or designee upon receiving notification that an employee has been arrested or has a protection order served against him or her. The District reserves the right to determine appropriate disciplinary action in such cases, up to and including termination, depending upon the facts and circumstances surrounding the incident.

The District, at its discretion, may terminate or take other action against any employee that has either been convicted of one or more of the felony offenses set forth in I.C. § 33-1208 or made a material misrepresentation or omission on their job application.

Substitute Teachers

The State Department of Education shall maintain a statewide list of substitute teachers. To remain on the statewide substitute teacher list, the substitute teacher shall undergo a criminal history check every five years. If a substitute teacher has undergone a criminal history check within five

years as a result of employment with another District, the District may in its sole discretion, not require a substitute to undergo a criminal history check. If the District does desire a substitute teacher who has undergone a criminal history check within the last five years to undergo an additional criminal history check, the District will pay the costs of such check.

Other Employees

The District may require that any employee be subjected to criminal history checks. If required, the District will pay the costs of such checks.

Volunteers

Any volunteer in the District who has unsupervised contact with students or who volunteers regularly with the District, as determined by the Superintendent or the Superintendent's designee, shall submit to a fingerprint criminal background investigation conducted by the appropriate law enforcement agency prior to consideration for volunteering in the schools of this District.

Any requirement of a volunteer to submit to a fingerprint background check shall be in compliance with the Volunteers for Children Act of 1998 and applicable federal regulations. If a volunteer has any prior record of arrest or conviction by any local, state, or federal law enforcement agency for an offense other than a minor traffic violation, the facts must be reviewed by the Superintendent, who shall decide whether the volunteer is suitable to be in the presence of the students in the District. Arrests resolved without conviction shall not be considered in the hiring process unless the charges are pending.

Contractors

The District maintains a safe environment for students by developing a system that cross-checks all District contractors or other persons who have irregular contact with students against the statewide sex offender registry.

Confidentiality

Outstanding warrants, criminal charges, and/or protective orders may be confidential. An employee who is provided access to such information relating to another employee shall ensure that the information remains confidential. If an employee discloses such information without authorization, the employee shall be subject to disciplinary action.

Legal References	Description
IC § 33-130	Criminal History Checks for School District Employees or Applicants for Certificates

IC § 33-512	District Trustees - Governance of Schools
IC § 74-106	Records Exempt from Disclosure
Pub. L. 105-251	Volunteers for Children Act

Cross References

Code	Description
4605	Student Teachers
5100	Hiring Process and Criteria
5700	Substitutes
5725	Private Service Providers/Consultants