

**Pioneer Springs Community School
Criminal Background Check Policy (approved 4/22/2014)**

An applicant's or employee's criminal history may indicate that the applicant or employee is not fit to work at Pioneer Springs Community School. Therefore, in accordance with N.C.G.S. §115C- 332, a criminal records check of an individual's county, state or federal criminal history will be conducted on all applicants for employment who accept an offer of employment or re-employment, including full-time, part-time, substitute and temporary employees. A criminal records check may also be conducted on a selective, random or rotating basis for any current employees, annually rehired employees, and employees whose contracts are scheduled to be renewed.

In order to conduct an accurate check of criminal records, all applicants for employment will be required to submit to fingerprinting, and any current employee may be required to submit to fingerprinting. The refusal to consent to a criminal records check or fingerprinting will result in the applicant not being offered employment, or if a conditional offer has been made, the offer will be withdrawn or the employee's employment will be terminated, as applicable.

If a person omits information or gives false information concerning his or her criminal history on his or her employment application, background check form, resume or any other required or submitted application-related document, that person may not be offered employment. If the person has been: (a) hired, or (b) offered employment conditioned on the results of a criminal history check, the person will be subject to disciplinary action up to and including dismissal or the offer of employment will be withdrawn, as applicable.

The results of criminal records checks will be considered in hiring, discipline, dismissal and other personnel decisions. If an applicant's or employee's criminal history or the resulting additional background check indicates that the person poses a threat to the physical safety of students or personnel or that the person has demonstrated that he or she does not have sufficient integrity, honesty, ethics or other traits to fulfill his or her duties as a public school employee, then the person's offer of employment will be withdrawn or the person's employment will be terminated. All newly hired and rehired employees (whether full-time, part-time, substitute or temporary) are employed conditionally pending the review of the criminal records check and any resulting additional background investigation.

Each employee is required to notify his or her immediate supervisor within five calendar days after any felony or misdemeanor criminal conviction, guilty plea or plea of no contest. Any employee who is aware of any criminal conviction, guilty plea or plea of no contest of another employee should notify his or her immediate supervisor.

Information obtained through the implementation of this policy shall be kept confidential as provided in Article 21A of Chapter 115C of the North Carolina General Statutes, and N.C.G.S §115C-332(e). However, the criminal history received on any person who is certificated, certified or licensed by the State Board of Education will be provided to the State Board as required by N.C.G.S. §115C-332(e).

Procedures for implementing this policy will be developed and administered by the PSCS Board of Trustees.

I. Procedure for applicants

- A. An applicant is anyone who has not previously been employed by the Board of Trustees or any former employee who has had a break in employment, not including leaves of absence or suspensions.
- B. A criminal history check will be conducted for all applicants who accept an offer of employment.
- C. All applicants who accept employment must consent to a criminal history check by signing the Background Check Authorization. They must also provide fingerprints, unless their fingerprints are currently on file with the School System.
- D. A preliminary criminal history check by a private contractor will be conducted.
 - E. A separate criminal history check will be obtained from the SBI and FBI for the applicant in accordance with NCGS §IISC-332.
- F. The refusal to consent to a criminal records check or fingerprinting will result in the applicant not being offered employment, or if an offer has been made, the offer will be withdrawn or the employee's employment will be terminated, as applicable.
- G. All offers of employment and initial contracts of employment are conditional upon satisfactory completion of all criminal history checks and related investigations, satisfaction of any other stated conditions of employment, and a decision made to employ the applicant following this process. A person who receives an offer of employment may be dismissed without a hearing unless all conditions of employment are satisfied.
- H. If PSCS receives any indication of a positive criminal history as a result of a criminal history check by a private contractor, the applicant will be notified of the adverse results in accordance with the Fair Credit Reporting Act. Any indication of a positive criminal history will be verified either by the applicant, by court records, or by other reliable means before being used as the basis for an employment decision.
- I. If an applicant has a verified positive criminal history, the employment or continued employment of the applicant requires approval of the Director or his/her designee.

II. Effect of criminal history on employment decisions

- A. "Criminal history" as used in this regulation means a guilty plea, conviction, no contest plea, prayer for judgment continued, arrest without conviction, deferred prosecution, charge with no disposition, or pending charge for a misdemeanor or felony for all offenses except:

I. Infractions;

2. Traffic offenses that are not felonies and that are not related to and did not involve driving while intoxicated or under the influence of a drug or intoxicating beverage, unless the person is applying for a position as a driver;

3. Offenses that have been "waived" or expunged;

4. Offenses involving worthless checks, unless the position involves responsibility for school system funds, or unless the offenses indicate, through the number of offenses, the dollar amounts of the worthless checks or otherwise, that the person may not have sufficient honesty, integrity, ethics or other traits to fulfill the duties of the position for which the person applied or is employed.

B. If the criminal history checks or other information show that the applicant has been convicted, pled guilty, or pled no contest to a felony that is listed in NCGS §115C-332(a)(1), or to a comparable federal felony or felony from another state, or the applicant was untruthful with respect to such matters, the applicant will not be offered employment, or if an offer has been made, the offer will be withdrawn or the employee's employment will be terminated.

C. If the criminal history checks or other information show that the applicant has been convicted, pled guilty, or pled no contest to felonies other than those described in II. B. above, or to misdemeanors, or the applicant was untruthful with respect to such matters, the factors listed in Sections II. D. and E. below will be considered in making the determination of whether the nature of the offense or offenses indicate that the person may pose a threat to the physical safety of students or personnel or indicate that the person may not have sufficient honesty, integrity, ethics, or other traits to fulfill the duties of the position for which the person applied.

D. Factors that weigh against the applicant's being hired or his or her employment being continued include:

1. The victim of the offense was a minor;

2. The offense involved drugs or narcotics;

3. The offense was sexual in nature;

4. The offense involved a violent act or the threat of violence against a person;

5. The offense involved deception, dishonesty, or fraud;

6. There was a pattern of offenses or multiple offenses;

7. The offense was a felony;
8. The offense occurred within the last ten years;
9. The evaluation of a person who supervised the applicant contemporaneously with or subsequent to the event that the offense is indicative of a pattern of behavior; and
10. The applicant or employee was untruthful with respect to their criminal history, or omitted information or gave false information concerning their criminal history on their employment application, background check form, resume or any other required or submitted application related document.

II. The offense involved a pre k-12 public or private educational institution.

E. Factors that indicate that the applicant might be hired or his or her employment continued in spite of his or her criminal history check include:

- I. The applicant has had no convictions, guilty pleas, or pleas of no contest for at least ten years;
2. There was only one offense;
3. The applicant was a minor at the time of the offense;
4. The offense was a misdemeanor not included in the articles listed in NCGS §115C-332(a)(I);
5. The applicant made restitution or there is other evidence of rehabilitation;
6. The evaluation of a person who supervised the applicant contemporaneously with or subsequent to the event indicating that the offense is not indicative of a pattern of behavior.

F. If the criminal history checks or other information disclose that the applicant has had one or more arrests without convictions, prayers for judgment continued, deferred prosecutions, or charges with no disposition, or the applicant was untruthful with respect to such matters, a determination will be made of whether the nature of the arrest(s), offense(s), or underlying conduct indicate that the person may pose a threat to the physical safety of students or personnel or indicate that the person may not have sufficient honesty, integrity, ethics or other traits to fulfill the duties of the position for which the person applied. This determination will be made by considering the factors listed in Section II. D. and E. and may include an expanded reference check, such as with the applicant's current or prior employers and probation officers.

G. If the criminal history checks or other information indicates that one or more charges are pending against an applicant:

I. If the charge is for a felony described in II. B. above, the applicant shall not be hired, or his or her employment shall not be continued. After the charges are resolved, the applicant may reapply for employment and his or her eligibility for employment will be evaluated at that time.

2. If the charge is for an offense other than a felony described in II. B. above:

a. The applicant shall not be hired or his or her employment shall not be continued unless a determination is made that, even if the applicant is guilty, a conviction would not indicate that the person poses a threat to the physical safety of students or personnel or that the person does not have sufficient honesty, integrity, ethics or other traits to perform the job duties of the position for which the person applied. In making this determination, the factors listed in Section II. D. and E. above will be considered.

b. If the determination made in accordance with Section II.G.2.a. above is not favorable to the applicant, the applicant shall not be hired, or his employment shall not be continued. After the charges are resolved, the applicant may reapply for employment and his or her eligibility for employment will be evaluated at that time.

III. Records of criminal history checks

A. The results of a criminal history check must be maintained at least as long as the person is employed by PSCS, plus three years.

B. Fingerprint cards will be maintained for at least one year.

C. Information obtained through the implementation of this regulation shall be kept confidential as provided in Article 21A of Chapter 115C of the North Carolina General Statutes, and NCGS §IISC-332, except that the criminal history received on any person who is certificated, certified or licensed by the State Board of Education will be provided to the State Board of Education as required by NCGS § IISC-332.

IV. Disclosures by Employees and Applicants

A. All employees and applicants must report to the Director any criminal charges, convictions, guilty pleas, pleas of no contest, prayers for judgment continued, or deferred prosecutions that occur after the employee's or applicant's application for employment was submitted. Employees and applicants are not required to report charges or offenses listed in Section II.A. 1-4, above. The employee or applicant must make the report within five calendar days after the employee or applicant receives notice of the charge or disposition.

B. If a person omits information or gives false information concerning his or her criminal history on his or her employment application, background check form, resume or any other required or submitted application related document, that person may not be offered employment. If the person has been: (a) hired, or (b) offered employment conditioned on the results of a criminal history check, the person will be subject to disciplinary action up to and including dismissal or the offer of employment will be withdrawn, as applicable.

V. Criminal History Check of Current Employees

A. The Director may conduct criminal history checks on a random or rotating basis for current employees or on a selective basis for employees about whom the Director has a reasonable suspicion of an undisclosed charge or disposition or for insurance, safety or regulatory purposes. Prior to conducting such criminal history checks, the Director will obtain the required Background Check Authorization from the employee and their fingerprints, if not already on file. No person will remain employed who refuses to sign this authorization or provide fingerprints.

B. If PSCS receives any indication of a positive criminal history from a private contractor, the applicant or employee will be notified of the adverse results in accordance with the Fair Credit Reporting Act. Any indication of a positive criminal history will be verified either by the applicant or employee, by court records, or by other reliable means before it is used as the basis for an employment decision.

C. If an employee reports or the criminal history checks or other information show that he or she has a conviction, guilty plea, no contest plea, prayer for judgment continued, deferred prosecution, or arrest without conviction not covered in V. D. below, then the guidelines in Section II. B.- F. above, will be used to determine whether the employee may pose a threat to the physical safety of students or personnel or that the employee may not have sufficient honesty, integrity, ethics or other traits to perform the job duties of his or her current position.

D. If the employee reports or the criminal history checks or other information show that he or she has one or more criminal charges pending against the employee:

1. The employee may be terminated, or either suspended or reassigned while the charges are pending, unless the determination is made that, even if the employee is guilty, a conviction would not indicate that the employee poses a threat to the physical safety of students or personnel or that the employee does not have sufficient honesty, integrity, ethics or other traits to perform the job duties of the position that the employee holds. In making this determination, the factors listed in Sections II. D. and E., above and whether the charge is a felony as described in Section II.B., above, will be considered.

2. If an employee is a career employee as defined in NCGS §115C-325(a)(1 a), then suspensions under this paragraph shall be with pay in accordance with NCGS §115C-325, unless the Director initiates dismissal proceedings, in which event the suspension can be without pay pending the dismissal in accordance with NCGS §115C-325.

3. If an employee is not a career employee as defined in NCGS §115C-325(a)(1 a), any suspension of an employee will be with pay for no more than 30 days. If the employee is suspended, and the matter is not resolved after a suspension of 30 days, the employee's employment will be terminated. After the charges are resolved, the employee may reapply for employment and his or her eligibility for employment will be evaluated at that time.