

PERSONNEL**Criminal Background Check - Hiring/Retaining Employees and Contractors**

In compliance with current law, the Okemos Public Schools' hiring procedures shall include obtaining a criminal history profile of any individual applying for a position as an employee of the district or as a contractor. For purposes of this policy, the term "contractor" shall mean an owner or person employed by an entity who regularly and continuously works under contract with the district to provide administrative, counseling, custodial/maintenance or transportation services, or instructional services to students, or related and auxiliary services to special education students.

The criminal history profile will include a fingerprint-based criminal history records check conducted by the Michigan State Police and the Federal Bureau of Investigation as well as information obtained by accessing: Criminal History Assessment Tool (ICHAT), Michigan Public Sex Offender Registry (PSOR) and Offender Tracking and Information System (OTIS).

If a criminal history profile includes a "listed offense," as outlined in the regulations to this policy, any offer of employment will be withdrawn by the district. If the profile includes conviction of a felony, employment will be conditional on written approval by both the superintendent and the board of education.

Further, any employee or contractor of the district who is charged with a crime other than a "listed offense" while employed with the Okemos Public Schools is required to report that he or she has been charged with a crime in accordance with Revised School Code Section 1230d. If the employee or contractor is convicted of a "listed offense," her/his employment or services will be terminated. If the employee or contractor is convicted of a felony, continued employment would require written approval by the superintendent and the board of education. The district will follow the procedures of state law and as outlined in the regulations to this policy, developed in accordance with the requirements of Revised School Code Section 1230d.

Reference:

MCL 380.1230; 1230a; 1230d; 28.722

See Also: Board Policy:

4116.11: Equal Opportunity Employment/Nondiscrimination in Hiring or Transfer

4211: Recruitment/Hiring

4211.1: Employment of Support Staff

Policy

Adopted: 1-08-07

Amended:

Reviewed:

The Okemos Public Schools’ hiring procedures include obtaining a criminal history profile of all staff at the time of hire. If the criminal history profile is not satisfactory to the superintendent or deputy superintendent, any offer of employment will be withdrawn.

For purposes of these regulations, the term “contractor” shall mean an owner or person employed by an entity who regularly and continuously works under contract with the district to provide administrative, counseling, custodial or transportation services, or instructional services to students, or related and auxiliary services to special education students.

I. Conditional Employees and/or Employees/Contractors Recommended for Hire

The following procedures shall be used to process applications for employment and certain contract services. These procedures apply to any person conditionally hired and/or recommended to the board for employment or assignment as a contractor.

A. Initial Background Check

The administration shall conduct the following background checks *before* any person is conditionally hired and/or recommended to the board for employment in any capacity or assignment as a contractor.

1. *Criminal history check* through the Criminal History Assessment Tool (ICHAT) accessible through the Michigan State Police website;
2. *Offender status check* through the Offender Tracking and Information System (OTIS) accessible through the Michigan Department of Corrections website;
3. *Sex offender status check* through the Michigan Public Sex Offender Registry (PSOR) accessible through the Michigan State Police website;
4. *Certification status check* through the Michigan Department of Education website (only required for certificated personnel); and,
5. *Driving record lookup* through the Michigan Department of State (only required for a person who must drive a district-owned vehicle).

B. Fingerprint Criminal History/Records Check

As required by Sections 1230 and 1230a of the Revised School Code, when a person is recommended for hire as an employee or assignment as a contractor, the administration shall request a fingerprint-based criminal history records check conducted by the Michigan State Police and a criminal records check conducted by the Federal Bureau of Investigation. MCL 380.1230, MCL 380.1230a.

C. Conditional Employment Status

In the event Steps A and B have been completed, but the required reports from Step B have not been received, the district may employ the person as a conditional employee only, when:

1. It is necessary to hire the person during the school year or within 30 days of the beginning of the school year; and,
2. The person signs a statement identifying all crimes for which he or she has been convicted, along with an acknowledgement that the conditional employment contract is void-able if the criminal history or criminal records report is not the same as the person's disclosure statement.

D. Unprofessional Conduct Check

As required by Sections 1230b of the Revised School Code, before hiring an applicant for employment, the administration shall request that the:

1. Applicant sign a statement authorizing the applicant's current or former employer(s) to disclose any unprofessional conduct committed by the applicant; and,
2. Applicant's current employer (if not currently employed, the immediate previous employer) to disclose any unprofessional conduct committed by the applicant.

II: Current Employees and Contractors

To comply with Revised School Code Section 1230g, no later than July 1, 2008, any person who as of January 1, 2006 was employed by the district or assigned as a contractor must be fingerprinted for a criminal history and records report conducted by the Michigan State Police and the Federal Bureau of Investigation. MCL 380.1230g.

III. Action Required Upon Receipt of Criminal History and Records Information

The following actions shall take place upon the district's receipt of criminal history and records information.

A. Listed Offense

If the required criminal history and records check discloses, or if the district receives notice from an authoritative source, that an applicant, employee, or contractor has been convicted of a listed offense as defined in the Sex Offenders Registration Act, MCL 28.722, the district shall not employ the applicant, retain the employee, or allow the contractor to continue to work in any capacity.

B. Felony

If the required criminal history and records check discloses, or if the district receives notice from an authoritative source, that an applicant, employee, or contractor has been convicted of a felony, the superintendent and board must each specifically approve, in writing, the applicant's hire or contract, the continued employment of the employee, or the continuing assignment of the contractor.

1. The superintendent shall make a recommendation to the board to hire or contract with an applicant, retain an employee, or continue the assignment of a contractor with a felony conviction.
2. Each applicant, employee, or contractor shall be considered individually and no decision shall be deemed as precedent-setting for any future applicant, employee, or contractor.
3. The superintendent, and the board, may consider the following factors in determining whether to hire/contract with an applicant, retain an employee, or continue the assignment of a contractor with a felony conviction that is not a listed offense:
 - a. Nature of conviction
 - b. Date of conviction
 - c. Position sought or occupied
 - d. Employment history with the district and previous employers
 - e. Department of Education review of certified individuals
 - f. Verification of employment application and conviction disclosure
 - g. Other relevant information may include but is not limited to mitigating circumstances, intervention, remediation.
4. To the extent allowed by Section 8 of the Open Meetings Act, and if requested by the person under review, the board may meet in closed session to discuss whether to hire or retain a person with a felony conviction. Any board decision to hire/contract with or retain a person who has been convicted of a felony that is not a listed offense must be made in a public meeting.

C. Criminal Charge

As required by the Revised School Code Section 1230d, an applicant, employee, or contractor charged with certain crime(s) at arraignment shall report to the district and to the Michigan Department of Education that he or she has been charged with the crime. Depending on the nature and circumstances of the charge, the district may place the employee on paid administrative leave, or refrain from using the contractor's or applicant's services pending the outcome of the district's investigation and/or judicial process.

D. **Due Process**

A current employee will be afforded due process rights as required by the applicable law, board policy, contract, or collective bargaining agreements.

E. **Confidentiality**

The district shall only disclose criminal history and records information to persons who are directly involved in evaluating a person's qualifications for employment or assignment as a contractor. Any other disclosure of this information is strictly limited to those situations expressly permitted by law.