



CRIMINAL BACKGROUND CHECK REQUIREMENTS (Personnel and Management)

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The purpose of this policy is to describe the terms and conditions under which criminal background checks are conducted. The Marlborough Public Schools is a diverse community committed to hiring qualified employees and engaging volunteers and others into appropriate roles in order to contribute to the overall success of student learning. Requirements are also subject to local, state and federal laws for public schools.

FINGERPRINT REQUIREMENTS

FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION (CHRI) CHECKS

As required by law, state and national fingerprint criminal background checks shall be conducted to determine the suitability of full or part time current and prospective district employees, who may have direct and unmonitored contact with children. District employees shall include, but not be limited to, any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with children. The Superintendent or his/her designee shall also obtain a state and national fingerprint background check for any individual who regularly provides school-related transportation to children.

Requesting CHRI checks

Fingerprint-based CHRI checks will only be conducted as authorized by state and federal law, in accordance with all applicable state and federal rules and regulations. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

Access

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts Criminal Offender Record Information laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations.

Storage

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent FBI CJIS Security Policy, have been implemented to ensure the security and confidentiality of CHRI.



CRIMINAL BACKGROUND CHECK REQUIREMENTS
(Personnel and Management)

Retention

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes **only**:

- Historical reference and/or comparison with future CHRI requests
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in hard copy form in the Human Resources Office.

Training

An informed review of a criminal record requires training. Accordingly, all District personnel authorized to receive and/or review CHRI will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

Determining Suitability

In determining an individual's suitability, the following factors will be considered: these factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature and relevance of the record to the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the District.

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination. It will contain the following information:

- The name and date of birth of the employee or applicant;
- The date on which the school employer received the national criminal history check results; and,
- The suitability determination (either "suitable" or "unsuitable").



CRIMINAL BACKGROUND CHECK REQUIREMENTS
(Personnel and Management)

Relying on Previous Suitability Determination

The school district may obtain and may rely on a favorable suitability determination from a prior employer, if the following criteria are met:

- The suitability determination was made within the last seven years; and
- The individual has not resided outside of Massachusetts for any period longer than three years since the suitability determination was made; and **either**
- The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; **or**
- If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination. Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.

Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the District will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of this Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.



CRIMINAL BACKGROUND CHECK REQUIREMENTS
(Personnel and Management)

CRIMINAL OFFENDER RECORD INFORMATION REQUIREMENTS

1. It shall be the policy of the Marlborough Public Schools to obtain all available Criminal Offender Record Information (C.O.R.I.) from the criminal history systems board of prospective employee(s) or volunteer(s) of the school district including any individual who regularly provides school related transportation to children, who may have direct and unmonitored contact with children, prior to hiring the employee(s) or to accepting any person as a volunteer. State law requires that school districts obtain C.O.R.I. data for employees of taxicab companies that have contracted with the schools to provide transportation to pupils.
2. The Superintendent or his/her certified designees shall periodically, but not less than every three years, obtain all available C.O.R.I. from the criminal history systems board on all employees, individuals who regularly provide school related transportation to children, including taxicab company employees, and volunteers who may have direct and unmonitored contact with children, during their term of employment or volunteer service.
3. The Superintendent or his/her certified designees may also have access to C.O.R.I. for any subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with children, and shall notify them of this requirement and comply with the appropriate provisions of this policy. This includes school bus or van drivers employed by a transportation company under contract with the district to provide transportation to students.
4. Pursuant to a Department of Elementary and Secondary Education Advisory on C.O.R.I. Law dated February 17, 2003 and revised May 7, 2007, "Direct and unmonitored contact with children means contact with a child when no other C.O.R.I. cleared employee of the District is present. A person having only the potential for incidental unsupervised contact with children in commonly used areas of the school grounds, such as hallways, shall not be considered to have the potential for direct and unmonitored contact with children. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized and separated by sight or sound from other staff) that are accessible to students."
5. In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school related transportation to children of the school district shall sign a request form authorizing receipt by the district of all C.O.R.I. data from the criminal history systems board. In the event that a current employee has questions concerning the signing of the request form, he/she may meet with the Superintendent of his/her designee. Completed request forms must be kept in secure files. Personnel certified to obtain information under this policy, shall prohibit the dissemination of school information for any purpose other than to further the protection of school children.



CRIMINAL BACKGROUND CHECK REQUIREMENTS
(Personnel and Management)

6. C.O.R.I. is not subject to the public records law and must be kept in a secure location, separate from personnel files and may be retained for not more than three years. C.O.R.I. may be shared with the individual to whom it pertains upon his or her request, and in the event of an inaccurate report the individual should contact the Criminal History Systems Board.
7. Access to C.O.R.I. material must be restricted to those individuals certified to receive such information. In the case of prospective employees or volunteers, C.O.R.I. material should be obtained only where the Superintendent has determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.
8. The hiring authority, subject to applicable law, reserves the exclusive right concerning any employment decision made pursuant to Chapter 385 of the Acts of 2002. The employer may consider the following factors when reviewing C.O.R.I. These factors may include, but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature and relevance of the record to the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the District.
9. If the district is inclined to make an adverse decision based on the results of the C.O.R.I. check, the applicant will be notified. The applicant shall be provided with a copy of the criminal record and the district's C.O.R.I. policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the C.O.R.I. record.
10. The Superintendent shall ensure that a C.O.R.I. Request Form shall be completed at the time of application or volunteer service. Current employees, persons regularly providing school related transportation, and volunteers shall also be informed in writing by the Superintendent or their designee prior to the periodic obtaining of their C.O.R.I.
11. The Superintendent shall amend employment applications to include questions concerning criminal records that have been approved by Counsel. All questions relevant to criminal records shall be reviewed from time to time to reflect the current requirements of law, regulations, and court decisions.
12. The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all the legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.



CRIMINAL BACKGROUND CHECK REQUIREMENTS
(Personnel and Management)

SEX OFFENDER REGISTRY INFORMATION BOARD (SORI) checks

The district will consult the [Sex Offender Registry Board \(SORB\) website](#) to confirm that applicants are not classified by SORB as Level 3 sex offenders, or as Level 2 sex offenders classified after July 12, 2013.

Legal Reference:
MGL 71:38R, 151B, 276, 100A, ST. 202. C. 385
Sources: <http://www.doe.mass.edu/lawsregs/advisory/cori.html>
<http://www.doe.mass.edu/chri/schools.html>

Approved: 6/10/03

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