

**RECRUITMENT, HIRING, & BACKGROUND CHECKS FOR NEW CLASSIFIED PERSONNEL**

The Montpelier Public School Board is committed to hiring individuals who will best meet the needs of the District consistent with budget limitations, with its goal to ensure student and staff safety, and in compliance with state and federal law.

**Definitions**

For the purposes of this policy:

*Applicant* is defined as any individual applying for a non-licensed position.

*Crime* is defined as a felony offense, misdemeanor, a violation of an ordinance, or charges that result from non-sufficient funds or “no account.”

*Immediate family* is defined as the employee’s spouse, brother, sister, parents, children, stepchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and any member of the employee’s household.

*Misconduct* is defined as any action that caused discharge from previous employment.

*Sexual offender* is an individual meeting the criteria in NDCC 12.1-32-15 and/or is required to register under NDCC 12.1-32-15.

*Unsupervised contact* is defined in accordance with NDCC 12-60-24 as being in proximity to one or more students, on school grounds, or at school functions.

**Recruitment and Hiring Authority:**

The Board authorizes the Superintendent to hire non-licensed staff. No action of the Board shall be necessary so long as the Board previously established the position and hiring is within budget limitations.

All Classified employees (non-contracted staff) shall be hired at an hourly rate or given a salary and not issued a contract. The employment of classified employees shall be at-will.

All advertising for classified positions shall include a statement that the District is subject to veterans’ preference laws and is an equal opportunity employer.

**Background Checks:**

The Superintendent shall require each applicant to certify in writing that s/he has never been charged with a crime or shall describe in writing the disposition of the arrest or charge. Each applicant shall verify residency for the past five years and certify that s/he has not been required to register as a sexual offender in any state. Each applicant shall be required to supply a complete work history from the past five years and furnish references. Each applicant applying for positions involving the transportation of students and/or the regular use of District vehicles shall certify, in writing, that s/he has no offenses on his/her driving record or explain, in writing, the nature of these offenses.

Each applicant applying for a position involving regular access to district funds must consent to a credit check. Each final applicant seeking a District position that allows for unsupervised contact with students must give authorization and submit to state and federal criminal history record checks. The Superintendent may check all applicable sexual offender registries for all final applicants. The

Superintendent shall conduct a driving record check for all final applicants seeking a position involving the transportation of students and/or regular use of District vehicles. The Superintendent may interview the final applicant's former employer(s) and/or supervisors(s) and may check all references supplied by the applicant. The Superintendent shall develop regulations related to applicant notification and the carrying out of record checks.

The Superintendent shall make all hiring decisions on a case-by-case basis based on the applicant's compatibility with the District's mission statement; his/her short and, when applicable, long-term ability to perform job requirements, protect the integrity of the District, and promote the efficiency of District operations; and the applicant's potential risk to district operations, students, and staff. The Superintendent shall determine risk based on the following factors:

- 1.1. The nature and gravity of any known misconduct and/or offense(s)
- 1.2. The time that has passed since any known misconduct, criminal conviction, and/or completion of a sentence occurred;
- 1.3. The nature of the job sought.

**Final Applicants Rights:**

Records obtained by the District for background and other record checks will be used solely for purposes that they were requested and will only be disseminated and retained in accordance with the personnel records policy. The Superintendent shall advise applicants that the procedure for obtaining, correcting, or updating federal records is contained in 28 CFR 16.34. Before making a hiring determination, the Superintendent shall give the applicant a reasonable time to correct and/or complete his/her criminal history record or decline to do so. The Superintendent shall follow the requirements under the Fair Credit Reporting Act if using credit reports to make employment decisions.

**Disqualifying Factors:**

Factors that may exclude an applicant from employment include but are not limited to the following:

The applicant is a sexual offender or has committed an offense involving a child victim.

The employment would create a direct supervisor-subordinate relationship with an immediate family member who is also an employee. Employees who marry or become members of the same household may continue employment; however, a direct supervisor-subordinate relationship between the employees shall be avoided.

The falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning criminal convictions or pending criminal charges.

**Orientations:**

The Superintendent or designee shall provide an orientation program for new classified employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their position.

**BACKGROUND CHECK SCREENING PROCEDURE (Descriptor Code DBAA-AR)**

1. No later than ten calendar days after the Superintendent or his/her designee has notified a potential employee of his/her status as a final applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will supply the applicant with a packet containing all materials necessary for the applicant to be fingerprinted and a copy of this procedure. The local police station shall take fingerprints for all district applicants and employees.
2. No later than ten calendar days after the Superintendent or his/her designee has provided the final applicant with the fingerprinting packet, the applicant must arrange to be fingerprinted. Failure of the applicant to have his/her fingerprints taken within such ten-day period without good cause will be grounds for disqualification from employment.
3. The Superintendent shall submit the final applicant's background check authorization form, two sets of fingerprints, and payment for screening fees to the North Dakota Bureau of Criminal Investigation (BCI) within five calendar days of receiving the applicant's background check materials or as soon thereafter a practicable.
4. If BCI rejects a final applicant's final fingerprints, the applicant must arrange to be re-fingerprinted within five calendar days of receiving notification of the rejection. Failure of the applicant to have his/her fingerprints taken within such five-day period without good cause will be grounds for disqualification from employment.
5. Should a BCI reject an applicant's fingerprints three times, the District reserves the right to conduct a name-based criminal record check search.

### **Policy and Procedures for Criminal History Record Information (CHRI)**

N.D.C.C 12-60-24 Provides authority to complete criminal history background check for public employees.

P.L. 92-544- Federal law that allows/requires states to create laws (NDCC 12-6-24) allowing non-criminal justice agencies to request and view criminal records from the FBI.

**Purpose:** This policy is intended to provide Montpelier School and all authorized personnel with a basic understanding of their responsibilities to protect and safeguard the confidential information to which they have been granted the authorization to have access to.

**Access:** The superintendent of the school shall be authorized to receive, evaluate and discuss CHRI information with a potential employee. The Authorized Personnel List will be filed with the North Dakota Bureau of Criminal Investigation (NDBCI) and updates provided when personnel changes.

**Handling:** When the results of the criminal history check are received from NDBCI the superintendent will review it for any information or concerns. If none, the results will be logged in the application as “clear” and placed in a file locked in a drawer accessible only by the superintendent. CHRI documents will never be left unattended when not locked in the drawer.

CHRI records are maintained for three years at which time they are destroyed. The CHRI record is taken by the superintendent who personally takes them to the paper shredder and inserts them into the shredder. He/she observes that the records have been completely destroyed by the shredder.

CHRI is not public record and will not be released to any unauthorized persons.

**Training:** Authorized personnel will have accounts on Criminal Justice Information Services (CJIS) online for the purpose of training. Once authorized personnel have completed the training and received the certificate copies will be placed in the CHRI file. Authorized personnel will receive notices via email when the next training is due. When an authorized person leaves that account will be immediately deleted. Authorized users will be trained every two years and the training documented in the training log. (Appendix C)

**Abuse or Misuse of CHRI:** Examples of suspected abuse include, but are not limited to, using CHRI for any purpose other than intended and authorized or sharing CHRI with unauthorized personnel. In the event shredding and/or burning materials isn't feasible, failing to sanitize any media or failure to overwrite media can be suspected misuse. All authorized users must agree and sign the Acknowledgement Statement of Misuse. (Appendix A)

Suspected misuse will be investigated and reported and could result in an authorized person being removed from the Authorized Personnel list and any access to CHRI. Suspected unauthorized use or misuse of CHRI could result in the termination of employment. This is recorded and reported on the Security Incidence Response Form. (Appendix B)

### Acknowledgment Statement of Misuse

All authorized personnel are made aware of the guidelines, consequences and liabilities that could occur from unauthorized use of criminal justice information (CJI) and criminal history record information (CHRI). Employees are advised of the following:

- Do not give CHRI to someone who is not authorized to receive it.
- Do not allow unauthorized access to CHRI.
- Do not use CHRI for any other purpose other than stated in the North Dakota statute.
- Access to criminal justice information (CJI) and CHRI via submitted fingerprints could be suspended or cancelled for violation of security and/or violation of the terms and conditions in the User Agreement.
- Misuse of the CHRI is a misdemeanor or felony depending on the circumstances of the release.

Penalties for misuse of CHRI

NDCC § 12.1-13-01

NDCC § 12-60-16.10

Title 28, USC § 534

Pub. L. 92-544

Title 28, CFR, 20.33(b)

I acknowledge that I have been advised of the consequences of misuse of criminal justice and criminal history record information.

\_\_\_\_\_  
Employee Name (print)

\_\_\_\_\_  
Employee Signature

Date

**Security Incident Response Form  
FBI CJIS DIVISION  
INFORMATION SECURITY OFFICER (ISO)  
SECURITY INCIDENT REPORTING FORM**

NAME OF PERSON REPORTING THE INCIDENT:  
\_\_\_\_\_

DATE OF REPORT: \_\_\_\_\_ (mm/dd/yyyy)

DATE OF INCIDENT: \_\_\_\_\_ (mm/dd/yyyy)

POINT(S) OF CONTACT:  
\_\_\_\_\_

PHONE/EXT: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

LOCATION(S) OF INCIDENT:  
\_\_\_\_\_

INCIDENT DESCRIPTION:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SYSTEM(S) AFFECTED:  
\_\_\_\_\_  
\_\_\_\_\_

AFFECTED SYSTEM(S) DESCRIPTION (e.g. CAD, RMS, file server, etc.):  
\_\_\_\_\_  
\_\_\_\_\_

METHOD OF DETECTION:  
\_\_\_\_\_

ACTIONS TAKEN/RESOLUTION:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The Following is for BCI Use Only**

Copies To:

**George White**  
**(FBI CJIS Division ISO)**  
**1000 Custer Hollow Road**  
**Clarksburg, WV 26306-0102**  
**(304) 625-5849**  
[iso@ic.fbi.gov](mailto:iso@ic.fbi.gov)

**John C. Weatherly**  
**(FBU CJIS CSIRC POC)**  
**1000 Custer Hollow Road/ Module D-2**  
**Clarksburg, WV 26306-0102**  
**(304) 625-3660**  
[iso@ic.fbi.gov](mailto:iso@ic.fbi.gov)

**End of Montpelier School Policy.....Amended: 09/11/2019**