

**BOE Policy Committee Agenda
Wednesday, October 14, 2020
Virtual Meeting 8:30 A.M.**

In consideration of public health, open meetings and the Governor’s Executive Order No. 7B dated March 10, 2020 regarding PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID- 19 PANDEMIC AND RESPONSE - FURTHER SUSPENSION OR MODIFICATION OF STATUTES; this meeting will include an option for the public to phone in to listen to the audio of the meeting. Please note that public comment will be received by phone at the beginning and end of this meeting.

Joining Info: Join by phone
(US) +1 563-316-2691 PIN: 267 980 500#

CALL TO ORDER

PUBLIC PARTICIPATION

APPROVE MINUTES September 30, 2020

UNFINISHED NEW BUSINESS

Discussion and possible action:

Item	Reports
<p>Policy 5145.42 – Racial Harassment L. Rodrigue and A. Uberti will review this policy and make any necessary edits.</p>	<ul style="list-style-type: none"> • Committee to re-review
<p>Policy 4118.237/4218.237/5141.8 – Face Masks/Coverings L. Rodrigue will review this policy with Newtown Health Director, D. Culbert.</p>	<ul style="list-style-type: none"> • Committee to review.
<p>Policy 4112.5 – Security/Credit Check The committee asked S. D’Eramo to make all edits to this policy and bring back for review.</p>	<ul style="list-style-type: none"> • S. D’Eramo will make the edits and send to S. Connell • S. Connell will invite S. D’Eramo to an upcoming virtual meeting.
<p>Policy 4112.51 – Reference Checks S. D’Eramo will review the Shipman and Goodwin policy and bring her input to the policy committee.</p>	<ul style="list-style-type: none"> • S. Connell will invite S. D’Eramo to an upcoming virtual meeting.
<p>Policy 4112.6 – Personnel Records S. D’Eramo will review this policy along with other similar Newtown policies.</p>	<ul style="list-style-type: none"> • S. Connell will invite S. D’Eramo to an upcoming virtual meeting.
<p>Policy 4112.61 – Use and Disclosure of Employee Medical Information S. D’Eramo and L. Rodrigue will reach out to Shipman and Goodwin regarding this policy.</p>	<ul style="list-style-type: none"> • S. Connell will invite S. D’Eramo to an upcoming virtual meeting.

**Policy 4112.8 – Nepotism, Husband/Wife
Employment**

S. D’Eramo and L. Rodrigue will reach out to Shipman and Goodwin regarding this policy.

- S. Connell will invite S. D’Eramo to an upcoming virtual meeting.

UPDATE FROM THE SUPERINTENDENT

PUBLIC PARTICIPATION

ADJOURNMENT

Students

Nondiscrimination

Racial Harassment of Students

The Board of Education is committed to safeguarding the rights of all students within the school district to learn in an environment that is free from racial* discrimination, including harassment. The Board recognizes that racial harassment of students can originate from a person of the same or different race of the victim including peers, employees, Board members or any individual who foreseeably might come in contact with students on school grounds or at school-sponsored activities.

Racial harassment of students consists of different treatment on the basis of race and is recognized in two different forms:

1. when the district's employees or agents, acting within the scope of official duties, treat a student differently than other students solely on the basis of race; or
2. when the education environment is not kept free from discrimination because the harassing conduct is so severe, pervasive or persistent that it interferes with or limits the ability of a student to participate in or benefit from the services, activities or privileges provided.

The Board also prohibits any retaliatory behavior against complainants or any witnesses. Any student who believes that he/she has been subject to racial harassment should report the alleged misconduct immediately so that corrective action, up to and including discharge of an employee or suspension of a student, may be taken at once. The complainant shall not be discouraged from reporting an incident of alleged racial harassment. In the absence of a victim's complaint, the Board, upon learning of, or having reason to suspect the occurrence of any racial harassment, will ensure that an investigation is promptly commenced by appropriate individuals.

The ~~Superintendent of Schools~~ Diversity Compliance Coordinator, in collaboration with the Superintendent and District Administrative Team, is directed to support the development and implementation of specific procedures on reporting, investigating, and remedying allegations of racial harassment. Such procedures are to be consistent with any applicable provisions contained in the district's policy manual, collective bargaining agreements, the tenure laws as well as other federal and state laws on racial harassment. Training programs shall be established ~~for students and employees~~ to raise awareness of the issues surrounding racial harassment and to implement preventative measures to help reduce incidents of racial harassment.

~~A copy of this policy and its accompanying regulation is to be distributed to all personnel and students and posted in appropriate places.~~

***For the sake of simplicity and clarity, the term "race" shall be used throughout this discussion to refer to all forms of discrimination prohibited by Title VI – that is, race, color, and national origin.**

Students

Nondiscrimination

Racial Harassment of Students (continued)

False Reporting

Any person who knowingly files false charges against an employee or a student in an attempt to demean, harass, abuse, or embarrass that individual shall be subject to disciplinary action consistent with school policy and student disciplinary policies.

(cf. 0521 - Equal Opportunity - Nondiscrimination)

(cf. 4118.113/4218.113 - Harassment)

(cf. 5114 - Suspension/Expulsion/Due Process)

(cf. 5131 - Student Conduct)

(cf. 5131.2 - Assault)

(cf. 5131.21 - Terroristic Threats/Acts)

(cf. 5144 - Discipline)

(cf. 5145.5 - Sexual Harassment)

(cf. 5145.51 - Peer Sexual Harassment)

Legal Reference: Civil Rights Act of 1964, Title VI, 42 U.S.C. §2000 et seq. 34 CFR Part 1000

Policy adopted:

cps 7/00

_____ PUBLIC SCHOOLS
_____, Connecticut

REPORT OF RACIAL HARASSMENT

This form is to be used by any employee or student who has either observed or been subject to racial harassment. To insure full investigation, it should be completed as accurately as possible. It is not, however, critical to be 100 percent precise. An investigation may require the complainant to be interviewed.

Date: _____

Please Print

Name of complainant making a charge of racial harassment: _____

Address _____ of _____ complainant:

Telephone Number: _____

Position or grade: _____

Names of individuals involved in the harassment and indicate whether they are students or employees: _____

—

Complainant's signature

Please see the _____ Board of Education's policy on Racial Harassment for more information on the topic. Present this Report to your most immediate supervisor not involved in the harassment.

Report Number

_____ PUBLIC SCHOOLS
_____, Connecticut

INVESTIGATIVE REPORT OF ALLEGED RACIAL HARASSMENT

Note: If additional space is needed, please attach separate sheets as referenced by report number.

Name of complainant: _____

School and/or Position: _____

Nature of complaint _____ Student _____ Employee

Specific complaint: _____

Date complaint filed: _____

Name(s) of Respondent _____ Date notified: _____

Respondent's answer _____ Agrees with the facts
_____ Disagrees with the facts

Explanation

Date complainant notified: _____

Complainant's response _____ Agrees with the facts
_____ Disagrees with the facts

Explanation

INVESTIGATIVE REPORT OF ALLEGED RACIAL HARASSMENT
(continued)

Complainant's Witnesses	
Name	Position

_____ Date Interviewed: _____
(name of witness)

_____ response:
(name of witness)

_____ Date Interviewed: _____
(name of witness)

_____ response:
(name of witness)

Respondent's Witnesses	
Name	Position

INVESTIGATIVE REPORT OF ALLEGED RACIAL HARASSMENT
(continued)

_____ Date Interviewed: _____
(name of witness)

_____ response:
(name of witness)

_____ Date Interviewed: _____
(name of witness)

_____ response:
(name of witness)

Other records/documents reviewed:

	Name of Document	Date Reviewed
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

Summary of Review of above records/documents:

Investigator's Summary:

Suggested Corrective Action:

_____ Date
Investigator's Signature

Students

Nondiscrimination

Racial Harassment of Students

A student can be subject to racial* harassment by a student, employee, Board member or any individual who foreseeably might come in contact with the student on school grounds or at school activities. The following are examples of incidents which might constitute racial harassment:

1. unwanted verbal comments, racial name calling, racial or ethnic slurs, slogans, graffiti;
2. school security treating black students more severely than white students;
3. intimidating actions such as cross-burning or painting swastikas; and
4. teacher repeatedly treating minority students in a racially derogatory manner.

Procedures

The Board of Education shall designate a Compliance Officer to carry out the district's responsibilities for redressing grievances pursuant to policy 5145.6, Student Grievance Procedures. In addition, the Board will designate a second individual for ensuring compliance with Title VI so that students who believe that they have been subjected to racial harassment will have a second avenue of complaint, if the alleged harasser is the Compliance Officer.

The Superintendent of Schools shall notify all students and employees of the name, office address and telephone number of both designees and of the grievance procedures that provide for prompt investigation and equitable resolution of student racial harassment complaints.

The Superintendent shall implement specific and continuing steps to notify students, parents, employees, and prospective students or employees that the school district does not discriminate on the basis of race in the educational programs or activities which it operates. Such notification shall include publication in: local newspapers; newspapers and magazines operated by the district or by student, alumnae, or alumni groups for or in connection with the district; and memoranda or other written communications distributed to every student and employee.

All reports of racial harassment will be held in confidence, subject to all applicable laws and any relevant provisions found in the district's policy manual and collective bargaining agreements.

Consistent with federal and state law, and all applicable provisions contained in the district's policy manual and collective bargaining agreements, the following procedures shall be employed in handling any report, investigation and remedial action concerning allegations of racial harassment:

Students

Nondiscrimination

Racial Harassment of Students

Procedures (continued)

Students who believe they have been subjected to racial harassment are to report the incident to the Compliance Officer or the second designee as described above. The Compliance Officer or designee shall notify the Building Principal and the Superintendent of all complaints. The student can pursue his/her complaint informally or file a formal complaint.

Investigation of a Complaint

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow. This investigation is to be conducted diligently. All witnesses shall be interviewed and if requested, the victim shall speak with an individual of the same race. Complainants are to be notified of the outcome of the investigation.

Informal Complaints

In addition to notification to the Compliance Officer or the alternate designee as described above, students who believe they have been subjected to racial harassment may request that an informal meeting be held between themselves and the Building Principal or Superintendent. The student may also request a meeting with a counselor or administrator of the same race. Parents or guardians of the student shall be notified of their right to attend the interview with their child. The purpose of such a meeting will be to discuss the allegations and remedial steps available.

The Building Principal or Superintendent ~~Superintendent~~ District Compliance Officer will then promptly discuss the complaint with the alleged harasser. The alleged harasser shall be informed of his/her right to representation by counsel. Should the alleged harasser deny the allegations, the Building Principal or Superintendent ~~Superintendent~~ District Compliance Officer is to inform the complainant of the denial and request a formal written complaint to file with his/her report to the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of the complaint shall accompany the Building Principal's or Superintendent's District Compliance Officer's report with a recommendation for further action.

Should the harasser admit the allegations, the Building Principal or Superintendent ~~Superintendent~~ District Compliance Officer is to obtain a written assurance that the unwelcome behavior will stop. Depending on the severity of the charges, the Building Principal or Superintendent ~~Superintendent~~ District Compliance Officer may impose further disciplinary action. Thereafter, the Building Principal or Superintendent ~~Superintendent~~ District Compliance Officer is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the report whether or not he/she is satisfied with the resolution.

Students

Nondiscrimination

Racial Harassment of Students

Informal Complaints (continued)

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of racial harassment is reported. The Building Principal or ~~Superintendent~~ District Compliance Officer is to inform the complainant to report any recurrence of the harassment or any retaliatory action that might occur. Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If during the Building Principal or ~~Superintendent's~~ District Compliance Officer informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcome behavior, the Building Principal or ~~Superintendent~~ District Compliance Officer is to file a report with the next appropriate level in the complaint procedure. The report is to indicate the nature of the complaint, a description of what occurred when the Building Principal or Superintendent informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by the student's formal complaint.

Formal Complaints

Formal complaints may be submitted either to initially report any incidence of racial harassment, or as a follow-up to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the Building Principal or ~~Superintendent~~ District Compliance Officer originally consulted, who will then forward it to the next appropriate level of management, e.g., the Superintendent or the Board of Education, for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable Building Principal or ~~Superintendent~~ District Compliance Officer reports. The appropriate forms solicit the specifics of the complaint, e.g., date and place of incident, description of racial misconduct, names of any witnesses, and any previous action taken to resolve the matter.

The Superintendent or the Board shall take immediate, appropriate and corrective action upon a determination of racial harassment. The Superintendent or the Board shall notify the complainant of any findings and action taken.

Students

Nondiscrimination

Racial Harassment of Students (continued)

Remedial Action

If the investigation reveals that racial harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law, district policies and regulations and collective bargaining agreements. Depending on the gravity of the misconduct, sanctions may range from a reprimand up to and including dismissal of an employee or suspension of a student.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions in the district's policy manual or collective bargaining agreements. If the investigation reveals that no racial harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of racial harassment, the complainant may appeal to the next appropriate level in the complaint procedure. The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.

Post Remedial Action

Following a finding of harassment, victims will be periodically interviewed by the appropriate Building Principal or ~~Superintendent~~ District Compliance Officer to ensure that the harassment has not resumed and that no retaliatory action has occurred. In the discretion of the district, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

Complaint Records

Upon written request, complainants should receive a copy of any resolution reports filed by the Building Principal or ~~Superintendent~~ District Compliance Officer concerning his/her complaint. Upon substantiation, copies should also be filed with the student or employment records of both the complainant and the alleged harasser.

Investigation in the Absence of a Complaint

The Board will, in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals, upon learning of, or having reason to suspect, the occurrence of any racial harassment.

***For the sake of simplicity and clarity, the term "race" shall be used throughout this discussion to refer to all forms of discrimination prohibited by Title VI -- that is, race, color, and national origin.**

Students

Nondiscrimination

Racial Harassment of Students (continued)

(cf. 0521 - Equal Opportunity - Nondiscrimination)

(cf. 4118.113/4218.113 - Harassment)

(cf. 5114 - Suspension/Expulsion/Due Process)

(cf. 5131 - Student Conduct)

(cf. 5131.2 - Assault)

(cf. 5131.21 - Terroristic Threats/Acts)

(cf. 5144 - Discipline)

(cf. 5145.5 - Sexual Harassment)

(cf. 5145.51 - Peer Sexual Harassment)

Legal Reference: Civil Rights Act of 1964, Title VI, 42 U.S.C. §2000 et seq. 34 CFR Part 1000

Regulation approved:

cps 7/00

_____ PUBLIC SCHOOLS
_____, Connecticut

Harassment Complaint Form

Name: _____

Date: _____ School: _____

Who was responsible for the harassment? _____

Describe the harassment: _____

(attach additional pages if necessary)

Date(s), time(s), and place (places) the harassment occurred: _____

Where there other individuals involved in the harassment? _____

If so, name the individual(s) and what their role was _____

Did anyone witness the harassment? _____ If so, name the witness(es) _____

What was your reaction to the harassment? _____

Describe any prior incidents _____

Signature of Complainant or Parents/Legal Guardian

copy: Student/Parents



Series C-19
COVID-19 Policies and Regulations

POLICY CONCERNING USE OF FACE COVERINGS IN SCHOOL (NEW)

The _____ Board of Education (the “Board”) recognizes the importance of protecting the health and safety of students, staff, and the community during the COVID-19 pandemic. As such, and in accordance with requirements and guidelines issued by the Connecticut State Department of Education (“SDE”), the Board requires that all individuals entering a school building, a _____ Public Schools (“District”) facility, or a District transportation vehicle wear an appropriate face covering. An appropriate face covering shall consist of a cloth mask or disposable procedure-style mask that completely covers the individual’s nose and mouth. ***[Optional: An appropriate face covering shall not include “neck gaitors,” bandanas or exhalation valve masks.]*** Any individual who presents for entrance into a school building, District facility or District transportation vehicle who is not wearing an appropriate face covering shall be provided an appropriate face covering by the District.

Compliance with this policy shall be mandatory for all individuals while in a school building, District facility and/or District transportation vehicle, unless an applicable exception applies. Any individual who refuses to wear an appropriate face covering at all times while in a school building, District facility or District transportation vehicle shall be denied admission and/or required to leave the premises, unless an applicable exception applies. In addition, failure to comply with this policy may lead to disciplinary action for students and staff, and exclusion from school property for members of the community, in accordance with applicable laws, rules, regulations, and/or Board policies.

[Optional: All individuals participating in or attending any school-sponsored activities must wear an appropriate face covering, whether or not those activities occur in a school building, District facility or District transportation vehicle, unless an applicable exception applies or the Administration, in consultation with the local health department, determines that face coverings are not required for athletes participating in certain athletic activities.]

The Board authorizes the Superintendent or designee to develop administrative regulations and/or protocols to implement this policy. Such administrative regulations and/or protocols shall outline authorized exceptions to the requirement that all individuals wear an appropriate face covering in the school buildings, District facilities and District



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transportation vehicles and may identify additional face covering rules as related to the safe operation of the school community.

Legal References:

Connecticut General Statutes § 10-221

Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together, Connecticut State Department of Education, as amended by Addendums 1-11 (June 29, 2020 through August 31, 2020).

ADOPTED: _____

REVISED: _____

Temporary Policy Rev. 9/2/2020



**Series C-19
COVID-19 Policies and Regulations**

PROTOCOLS CONCERNING USE OF FACE COVERINGS IN SCHOOL (NEW)

In accordance with requirements and guidelines issued by the Connecticut State Department of Education (“SDE”), the _____ Public Schools (“District”) requires that all individuals entering a school building, a District facility, or a District transportation vehicle wear an appropriate face covering. An appropriate face covering shall consist of a cloth mask or disposable procedure-style mask that completely covers the individual’s nose and mouth. ***[Optional: An appropriate face covering shall not include “neck gaitors,” bandanas or exhalation valve masks.]*** Any individual who presents for entrance into a school building, District facility or District transportation vehicle who is not wearing an appropriate face covering shall be provided an appropriate face covering by the District.

Compliance with these protocols shall be mandatory for all individuals while in a school building, District facility and/or District transportation vehicle, unless an applicable exception applies. Any individual who refuses to wear an appropriate face covering at all times while in a school building, District facility or District transportation vehicle shall be denied admission and/or required to leave the premises, unless an applicable exception applies. In addition, failure to comply with these protocols may lead to disciplinary action for students and staff, and exclusion from school property for members of the community, in accordance with applicable laws, rules, regulations, and/or Board policies.

[Optional: All individuals participating in or attending any school-sponsored activities must wear an appropriate face covering, whether or not those activities occur in a school building, District facility or District transportation vehicle, unless an applicable exception applies or the Administration, in consultation with the local health department, determines that face coverings are not required for athletes participating in certain athletic activities.]

Students and all individuals being transported on District transportation vehicles are required to wear appropriate face coverings (face coverings must be worn prior to boarding and while exiting the vehicle), in accordance with the District’s Transportation Protocols. Please see below for additional procedures for face covering exemption requirements.

Students, staff and all individuals inside school buildings and District facilities are required to wear appropriate face coverings except if: (i) the individual cannot wear the face covering because the individual has difficulty breathing, is unconscious, or



incapacitated; (ii) the individual cannot remove the face covering without assistance; (iii) the individual has a documented medical reason making it unsafe to wear a mask; (iv) the student is in preschool; or (v) the individual has a disability that causes the individual to be unable to wear a face covering.

Important Note: The need for a medical exemption for the wearing of face coverings of the styles recommended for use in schools for source control is rare. Medical contraindications to the wearing of cloth or other similar loose fitting masks generally are limited to individuals suffering from severe chronic obstructive pulmonary disease (COPD) such as might be seen with cystic fibrosis, severe emphysema, heart failure, or significant facial burns that would cause extreme pain or interfere with the healing of a skin graft. These severe medical conditions will be rare in students or staff capable of presenting to the school for work or instruction (in most cases these individuals would not be able to move about freely without significant assistance). In addition, for anyone suffering from any of these underlying conditions, the strong recommendation would be for that person to remain at home and engage in fully virtual learning due to their risk of developing severe complications if they did become infected with COVID-19. Mild or intermittent respiratory or other common conditions such as asthma, cardiovascular diseases, kidney disease, or other similar conditions generally are not considered contraindications to the wearing of loose-fitting face coverings.

Face coverings may only be removed within the school building for the following reasons: (i) eating/drinking; (ii) on school grounds with appropriate social distancing implemented; and (iii) educational or medical activities requiring removal of masks (speech and language, evaluations, etc.) **ONLY** under circumstances when the school has implemented appropriate and District-approved mitigating measures (such as gowns, face shields, additional social distancing, physical barriers for District employees and/or students).

If a student claims a medical or disability-related exemption from wearing a face covering, the District shall follow the Decision Tree - Face Covering Exemptions in these Protocols. If the District determines the request is based on medical need, the parent or guardian and the **student's treating physician** must complete the Face Covering Exemption Request Form. If the District determines the request is based on disability (skill deficit), the District shall promptly convene a Planning and Placement Team ("PPT") Meeting or Section 504 Team meeting as appropriate to discuss and consider necessary programming revisions, accommodations, modifications, etc.

If a staff member claims a medical or disability-related exemption from wearing a face covering, the District shall comply with all applicable laws, rules, regulations, and requirements regarding the evaluation of, and response to, any such claim.



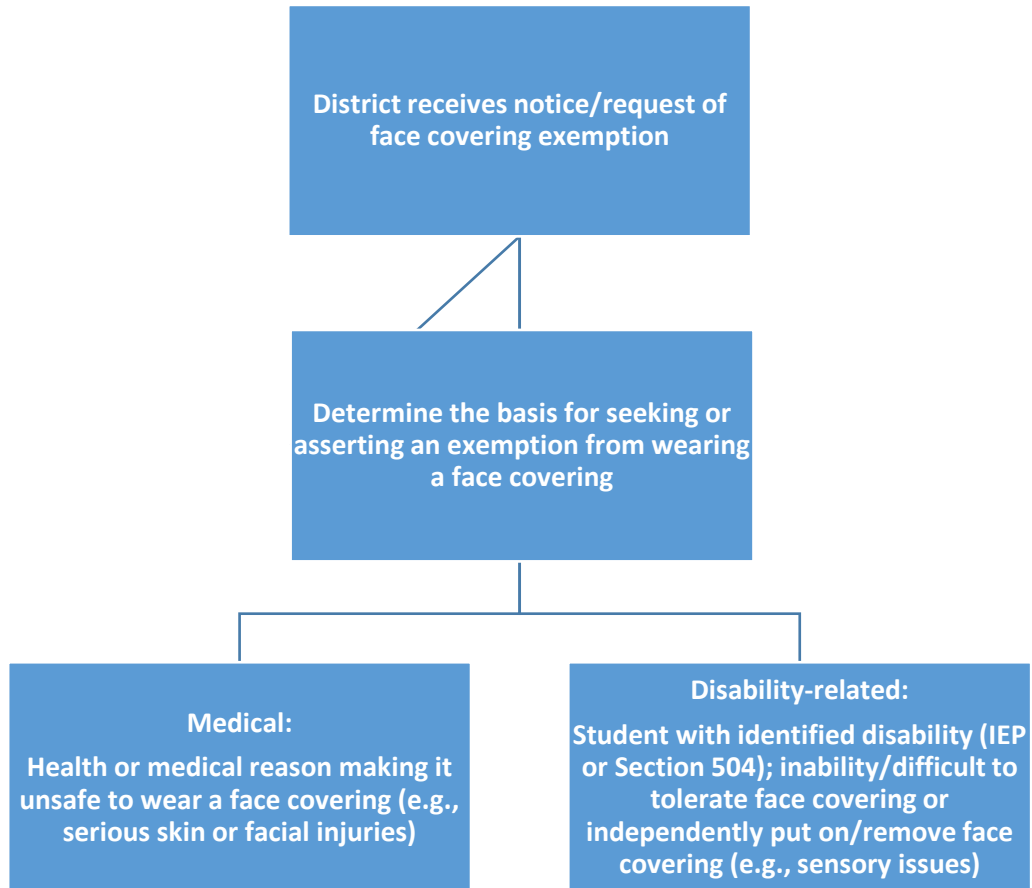
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Students shall be offered face covering breaks during the school day as determined appropriate by the Administration. A face covering break consists of the student removing the face covering from the student's own nose and mouth for a short period of time. School district personnel supervising students shall only permit a face covering break when individuals who are indoors are a minimum of 12 feet apart ***[note: consult with local health department to determine whether more than 12 feet is required when indoors without masks]*** or other District-approved mitigating measures (such as physical barriers) have been implemented, and when individuals who are outdoors are a minimum of 6 feet apart. When practicable, school district personnel supervising students shall schedule mask breaks outdoors.



Decision-Making Tree - Face Covering Exemptions





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SAMPLE

[Board of Education/School Letterhead]

FACE COVERING

MEDICAL/HEALTH EXEMPTION FORM

COVID-19 is a highly contagious virus that spreads by respiratory droplets released when individuals talk, cough or sneeze. Many individuals infected with COVID-19 are asymptomatic and contagious. Federal and state public health agencies, including the United States Centers for Disease Control and Prevention (CDC), recommend that individuals wear a face covering to limit the spread of COVID-19.

The Connecticut State Department of Education and _____ Public Schools require ALL students, beginning in kindergarten, to wear face coverings during the school day. Any student seeking a medical exemption to the face covering requirement must have the student's treating physician complete the below Medical/Health Exemption Form. As noted below, _____ Public Schools will consult with the student's treating physician to determine what reasonable accommodations, if any, would allow the student to wear a face covering during the school day. In light of the significant public health and safety requirements, the _____ Public Schools require that any request for medical exemption be completed and submitted to _____, the [title] at _____ [email].

Students submitting requests for medical exemption are subject to COVID-19 containment strategies pending the completion of the exemption review process. COVID-19 containment strategies may include assignment to home-based remote learning to mitigate the possibility of infection to the student or others in the physical school building.

Name of Child: _____ Date of Birth: _____

Address of Child: _____

Name of Parent(s): _____

Address of Parent(s): _____

(if different from child)



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COUNSELORS AT LAW

Contact Information for Treating Physician

Name: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

THE _____ PUBLIC SCHOOLS RESERVES THE RIGHT TO DENY MASK EXEMPTION REQUESTS WITHOUT SUFFICIENT INFORMATION TO DETERMINE THE HEALTH-RELATED NECESSITY OF SUCH REQUEST.

I HEREBY CONSENT TO SCHOOL OFFICIALS OF THE _____ PUBLIC SCHOOLS CONSULTING WITH THE ABOVE-NAMED TREATING PHYSICIAN IN CONNECTION WITH THE REQUEST FOR A MEDICAL EXEMPTION FROM WEARING A FACE COVERING DURING THE COVID-19 PANDEMIC. I UNDERSTAND THAT MY CHILD'S TREATING PHYSICIAN IS AUTHORIZED TO EXCHANGE HEALTH/MEDICAL AND EDUCATIONAL INFORMATION RELATED TO THE FACE COVERING MEDICAL EXEMPTION REQUEST SUBMITTED ON BEHALF OF MY CHILD, _____ [NAME OF STUDENT], WITH THE _____ PUBLIC SCHOOLS . I UNDERSTAND THAT THE PURPOSE OF THE EXCHANGE OF SUCH INFORMATION IS TO DETERMINE WHETHER A MEDICAL EXEMPTION IS NECESSARY AND/OR WHETHER THERE ARE ANY REASONABLE ACCOMMODATIONS THAT SHOULD BE CONSIDERED IN CONNECTION WITH THE FACE COVERING EXEMPTION REQUEST. I UNDERSTAND THAT THIS AUTHORIZATION WILL EXPIRE ON JUNE 30, 2021, UNLESS I REVOKE THIS AUTHORIZATION AT AN EARLER TIME BY SUBMITTING WRITTEN NOTICE OF THE



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COUNSELORS AT LAW

WITHDRAWAL OF CONSENT. I ACKNOWLEDGE THAT HEALTH/MEDICAL RECORDS, ONCE SHARED WITH THE _____ PUBLIC SCHOOLS, WILL BE EDUCATION RECORDS UNDER FEDERAL EDUCATION RECORD LAWS (FERPA) AND MAY NOT BE PROTECTED BY THE HIPAA PRIVACY RULE. I ALSO UNDERSTAND THAT REFUSAL TO CONSENT TO THE EXCHANGE OF INFORMATION DESCRIBED ABOVE WILL NOT AFFECT ACCESS TO HEALTHCARE.

PRINT NAME
PARENT/GUARDIAN

DATE

SIGNATURE
PARENT/GUARDIAN



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The section below must be completed by the student's treating physician to verify a health or medical reason that prohibits the student from wearing a face covering in the school building and/or on school grounds or to identify possible accommodations for the student to wear a face covering within the school building or on school grounds. Upon completion, this form must be provided by the treating physician directly to the _____ Public Schools, care of [insert contact name] at [address].

The treating physician MUST consult with school health supervisory personnel prior to completing this form. The contact information for the school health supervisory personnel for this matter (COVID-19 Liaison at _____ Public Schools) is:

Medical Verification

Yes No

I have consulted with school health supervisory personnel regarding the student's ability to wear a face covering due to a verified medical or health reason.

After consultation with school health supervisory personnel, I have determined that reasonable accommodations would permit the student to wear a face covering for parts or all of the school day.

If yes, to the above question:

I have determined that the following reasonable accommodations would permit the student to wear a face covering during the school day (examples include, without limitation, face covering breaks at specified intervals, use of face shield when a face covering is contraindicated, use of bandana or looser fitting face covering):

-
-
-

After consultation with school health supervisory personnel, I have determined that the student cannot wear a face covering during the entire school day due to a verified medical or health reason.

The student has been diagnosed with the following medical condition(s) that prevent the student from wearing a face covering at all times during the school day:



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*** Documentation supporting the above diagnosis MUST be submitted to the _____ Public Schools along with this Medical Verification Form.**

By signing below, I verify that the above information is accurate to the best of my professional knowledge.

Signature of Treating Physician

Date

Print Name of Treating Physician

CT License No.

A new required sample policy to consider.

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

This policy pertains to students, faculty, staff, and visitors. It has been developed to fulfill the guiding principles contained in the *Framework for Connecticut Schools*, specifically to safeguard the health and safety of students and staff and to allow all students the opportunity to return into classrooms full time.

The Board of Education (Board) is implementing this masking requirement to promote the safest possible learning, teaching and work environment for students, faculty, staff and visitors during the COVID-19 pandemic. The first priority of the Board is the health and well-being of students and staff as the District prepares for and implements the safe reopening of schools.

The Center for Disease Control (CDC) and the Connecticut Department of Health (DPH) and the Connecticut State Department of Education, as outlined in *Adapt, Advance, Achieve: Connecticut's Plan to Learn and Grow Together* requires the wearing of face coverings for all students and staff when they are inside school buildings and while riding school transportation vehicles, with certain exceptions.

It is important to remember that while extremely important, face coverings are just one part of a system or procedures that are in place to safeguard the health and safety of students, teachers, and school staff during the COVID-19 pandemic. The other parts of this system of procedures include physical distancing, good ventilation, enhanced cleaning and disinfection, frequent hand cleaning, cohorting where possible, and efficient identification, isolation and exclusion of sick students and staff.

Definitions

Face covering/mask – a cloth, paper, or disposable face covering that covers the nose and mouth. It may or may not be medical grade. (Evidence shows that the proper wearing of facial masks or coverings helps stop the spread of the virus, which is currently by droplets when an individual coughs, sneezes or talks.)

Face shield – a clear, plastic shield that covers the forehead, extends below the chin and wraps around the sides of the face, protecting the eyes, nose and mouth from contamination from respiratory droplets, along with masks or respirators.

Clear plastic barrier – a clear plastic or solid surface that can be cleaned and sanitized often.

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings (continued)

Transportation

Student passengers are required to wear a face mask or cloth face covering that completely covers the nose and mouth during transit. The student's face covering must be in place prior to boarding the bus, van or other vehicles and must be kept in place until they are completely off the bus or van. The Board shall provide back-up masks if students do not have face coverings when boarding a school bus or van. The face mask or cloth face covering is also applicable to the drivers of the vehicle.

The Board may consider the option of assigning a temporary monitor on student transportation at the beginning of the school year to facilitate compliance with this new face mask protocol.

School Buildings and Grounds

All students, staff, and visitors are required to use face coverings, that completely covers the nose and mouth, when they are inside the school building or on school grounds, even when social distancing is maintained. An individual shall be excused from this requirement for the following listed reasons, per CDC guidance.

The individual:

1. has trouble breathing;
2. is unconscious;
3. is incapacitated; or
4. cannot remove the mask or face covering without assistance.

In addition, masks or face coverings shall not be required for anyone who has a medical reason making it unsafe to wear a face mask or face covering, subject to the restrictions pertaining to exemptions listed in this policy. A written notification from a licensed medical provider, the Department of Developmental Services or other state agency that provides or supports services for people with emotional, intellectual or physical disabilities, or a person authorized by any such agency is required in order for the Board to permit a medical exemption. Such documentation need not name or describe the condition that qualifies the person for the exemption. Schools shall also consider if supporting documentation exists in a student's existing school medical record, where the medical condition and/or need for an exemption is obvious, thereby eliminating the need for additional documentation previously described.

The Board supports the position of the SDE that an exemption "has possible serious consequences for the health of other students and their families, and for the school's ability to stay open in the face of community spread, medical professionals should give serious consideration to the risk-benefit of giving medical notes for mask exemptions and discuss these considerations with the requesting families, including the possibility that a medical attestation of compromised health severe enough to present a contraindication to mask wearing may also constitute a directive for fully-virtual learning."

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

School Buildings and Grounds (continued)

The State Department of Education (SDE) has proclaimed that the need for a medical exemption for the wearing of masks “is rare.” The SDE has stated that “medical contraindications” to the wearing of masks “are generally limited to individuals suffering from severe chronic obstructive pulmonary disease (COPD) such as might be seen with cystic fibrosis, severe emphysema, heart failure or significant facial burns that would cause extreme pain or interfere with the healing of a skin graft.” The SDE has indicated that these “severe medical conditions will be rare in students or staff capable of presenting to the school for work or instruction”, as these “individuals would not be able to move about freely without significant assistance.” It is recommended by the SDE “for anyone suffering from any of these underlying conditions for that person to remain at home and engage in fully virtual learning due to their risk of developing severe complications if they did become infected with COVID-19.”

The Board supports the SDE position that “mild or intermittent respiratory or other common conditions such as asthma, cardiovascular diseases, kidney disease, or other similar conditions are generally not considered contraindications to the wearing of loose-fitting face coverings.” However, it is recognized that while certain “mild” medical conditions will not justify the exemption from mask wearing, some students may have difficulty breathing through a mask creating a significant health risk or if psychological responses to a mask, such as claustrophobia, cannot be accommodated by trying different mask types, then the mask could be considered contraindicated.

The Board recognizes that apart from the medical contraindications other situations may exist where exemptions to mask wearing shall be considered. Some students with developmental disabilities may not tolerate or be able to comply well with mask wearing, but this alone should not be a basis for their exclusion from school. The District shall assess, on an individualized basis, the appropriate accommodations for students with disabilities who are unable to wear a face mask. An exemption to mask wearing may be appropriate for children with special needs, such as hearing or language challenges, autism, or developmental disabilities if they have issues tolerating a face covering.

In addition, the Board recognizes that some students and staff involved with certain special education activities, such as, but not limited to, speech therapy or where lip reading is required, may need to be exempted from wearing a mask intermittently. In such situations in which an exception is requested based upon a disability, a Planning and Placement Team (PPT) or Section 504 meeting, “as appropriate, shall be held in order to consider programming revisions or appropriate accommodations. In those situations where masks will not be in use, other key mitigation strategies shall be used, including maximizing distancing, holding activities outdoors or to a well-ventilated space, and/or the use of face shields or other physical barriers.

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

School Buildings and Grounds (continued)

Parents/guardians may not excuse their child from this face mask requirement, by signing a waiver, because such wearing is a mandated requirement that the Office of the Governor, the Connecticut State Department of Education, and/or the Connecticut State Department of Public Health have defined as necessary for school districts to comply with in order to open schools from the COVID-19 caused closure.

In addition to the wearing of face masks, the District will maximize social distancing between student's workstations and desks, achieving six feet when feasible. Space between the teacher and students is to be maximized to reduce the risk of increased droplets from teachers during instruction. A teacher is permitted to remove a face covering or mask during instruction to an individual or group. If the teacher removes the face covering or mask during instruction, spacing shall be increased beyond six feet. A teacher who remains seated during instruction requires the use of Plexiglas or other physical barrier in place which is preferable to the use of a face shield. Face shields, however, are not an acceptable substitute for face covering masks.

The Board acknowledges the position of the SDE that teachers should still wear a face covering/mask at all times in school "except for in the rare circumstances where face covering is detrimental to the specific instruction being given."

Transparent (clear) masks should be considered as an option for teachers and students in classes for deaf and hard of hearing students. Pre-K and special education teachers should consider wearing clear masks.

Face shields may be an option for those students with medical, behavioral or other challenges who are unable to wear face masks or coverings. The Board recognizes that face shields are not as effective for source control and should be used only when other methods are not available or appropriate. Therefore, the use of face shields for those with medical conditions is done with the understanding of their limitations and a heightened need for strict adherence to social distancing. Face shields, however, are not an acceptable substitute for face covering masks.

The Board shall provide to any student, staff member or visitor a face mask if such individual does not have one. Training shall be provided as necessary regarding the proper use of face coverings. Information shall be provided to staff, students and students' families regarding the proper use, removal and washing of cloth face coverings.

Limited Exceptions to Use of Face Coverings

When other and appropriate mitigating practices are in place, such as social distancing, students will not be required to wear face masks or coverings while eating, drinking, during physical education classes, or when students are outside and effectively practicing social distancing and any other possible mitigants. Exceptions may also be necessary for certain special education students or other special populations.

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

Limited Exceptions to Use of Face Coverings (continued)

Teachers and staff may be excused from wearing a face mask or covering while teaching provided they are properly socially distancing or remaining static behind a physical barrier. Face shields may be useful in situations where it is important for students to see how a teacher pronounces words (e.g. English Learners, early childhood, foreign language, etc.) and social distancing is maintained. However, face shields alone are not a sufficient alternate to the wearing of face mask for source control.

The SDE has indicated that “when the wearing of a face mask is problematic, (i.e. when the teacher’s and student’s mouth must be visible during speech therapy, when a child with hearing loss needs to read lips, etc.) other appropriate control measures should be implemented, including proper social distancing and/or the use of physical barriers between students and staff.”

Mask Breaks

Breaks from wearing masks, for a period of time per break limited to no more than 15 minutes, shall be scheduled throughout the school day, by the teacher, provided that strict social distancing requirements are maintained and limitations are enforced regarding student and staff mobility.

Priority shall be placed for mask breaks to be outdoors if possible, or indoors in large areas where students can appropriately distance. With respect to indoor breaks, which should occur in well-ventilated areas, students and/or staff shall maintain a distance of six feet or more apart and have no physical contact. It is recommended that everyone face in the same direction. Loud talking, yelling/bellowing or singing must be avoided during mask breaks.

During time of eating, face masks or coverings may be removed. Masks are required in all dining areas while entering and leaving or getting food and drinks. They may be removed at appropriately socially distanced tables in order to eat but must be replaced after eating.

A recess period may be used as a break from wearing masks when no more than one class is outside at a time and social distancing requirements are maintained to the greatest degree feasible.

Violations of this Policy

Violations of this policy, whether by students or staff, shall be handled in the same manner as other violations of applicable Board policy. Prior to the imposition of disciplinary measures, staff is encouraged to remind students of the significant health implications of this decision and work with the student to correct and encourage cooperation. Staff is encouraged to pursue a broad spectrum of non-exclusionary options to support students prior to pursuing discipline.

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

Violations of this Policy (continued)

If a student refuses to wear a face mask or covering and does not fulfill any of the exemptions allowed by this policy, such student shall be sent to a room or space designated by the school. The parent/guardian shall be contacted to rectify the situation, school personnel to explain the options available regarding schooling and for the possible removal of the child from the school setting.

If a visitor refuses to wear a face covering, for non-medical reasons, entry to the school/district facility may be denied. (alternate position: The District will provide a suitable face covering for a visitor who presents to school without a face covering.)

Teachers or schools may provide incentives for compliance with the face mask requirement.

Community Outreach

The District shall engage in community education programs including signage, mass and targeted communication, and positive reinforcement that will actively promote mask use consistent with CDC, DDH, CSDE and OSHA guidance. Community members will be reminded that mask use does not replace the need for social distancing, washing of hands and other preventative practices recommended by all appropriate authorities.

Other Considerations

- The District shall maintain in each school a supply of disposable face coverings in the event that a staff member, student or visitor does not have one for use.
- Special attention must be given to putting on and removing face coverings for purposes such as eating. After use, the front of the face covering is considered contaminated and should not be touched during removal or replacement. Hand hygiene should be performed immediately after removing and after replacing the face covering.
- When medically appropriate, nurses shall substitute use of metered dose inhalers and spacers for students with respiratory issues.
- Face shields with face masks may be used by staff who support students with special healthcare needs such as those who are unable to wear masks and who may need assistance with activities of daily living, such as toileting and eating.
- Mask use will not be required by employees when they are alone in private offices. However, they are required to mask when anyone enters a private office space and required to wear a mask if their office space is physically shared with others and does not allow for 6 feet of physical distancing or if the work area is frequented by others (such as a reception area).
- CDC does not recommend masks with exhalation valves for use in the school setting,

Personnel -- Certified/Non-Certified

Students

Face Masks/Coverings

Other Considerations (continued)

Until further notice the Board will require the wearing of masks as prescribed in this policy. The Board reserves the right to interpret the provisions of this policy and to modify any or all matters contained in this policy at any time, subject to applicable law.

- (cf. 5141.22 – Communicable/Infectious Diseases)
- (cf. 5141.6 – Crisis Management Plan)
- (cf. 6114 – Emergencies and Disaster Preparedness)
- (cf. 6114.6 – Emergency Closings)
- (cf. 6114.8 – Pandemic/Epidemic Emergencies)
- (cf. 6114.81 – Emergency Suspension of Policy During Pandemic)

Legal Reference: Connecticut General Statutes
 10-154a Professional communications between teacher or nurse and student.
 10-207 Duties of medical advisors.
 10-221 Boards of education to prescribe rules.
 19a-221 Quarantine of certain persons.
 52-557b Immunity from liability for emergency medical assistance, first aid or medication by injection. School personnel not required to administer or render.
 CT. Executive Order 7NNN, August 14, 2020
 The Family Educational Rights and Privacy Act of 1974, (FERPA), 20 U.S.C. 1232g, 45 C.F.R. 99.
 Adapt, Advance, Achieve: Connecticut’s Plan to Learn and Grow Together
 Connecticut LEA School Reopening Template
 Addendum 11-Interim Guidance for the Use of Face coverings in Schools during COVID-19, August 31, 2020, SDE.
 “Frequently Asked Questions Regarding Reopening K-12 Public Schools” series, Vol. 3, September 2, 2020, SDE.
 CDC Considerations for Schools
 CDC Symptoms of Coronavirus
 CDC Quarantine & Isolation
 CDC Use of Cloth Face Coverings to Help Slow the Spread of COVID-19
 CDC Interim Guidance for Administrators of US K-12 Schools and Child Care Programs
 CDC Schools Decision Tree for Schools Reopening

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Personnel - Certified/Non-Certified

Employment and Student Teacher Checks

As set forth below, each applicant for a position with the district, and each student who is enrolled in a teacher preparation program, as defined in section 10-10a of the Connecticut General Statutes, and completing his or her student teaching experience in the district, shall be asked to provide in writing: (1) whether he/she has ever been convicted of a crime; (2) whether there are any criminal charges pending against him/her at the time of the application and, if charges are pending, to state the charges and the court in which such charges are pending; and (3) whether the applicant is included on the Abuse and Neglect Registry of the Connecticut Department of Children and Families (“DCF”) (the “Registry”). Applicants shall not be required to disclose any arrest, criminal charge or conviction that has been erased.

In addition, the district shall conduct an employment history check for each applicant for a position, as set forth below.

For the purposes of this policy:

“**Sexual misconduct**” means any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent, or erotic contact with a student.

“**Abuse or neglect**” means abuse or neglect as described in Conn. Gen. Stat. § 46b-120, and includes any violation of Conn. Gen. Stat. §§ 53a-70 (sexual assault in the first degree), 53a-70a (aggravated sexual assault in the first degree), 53a-71 (sexual assault in the second degree), 53a-72a (sexual assault in the third degree), 53a-72b (sexual assault in the third degree with a firearm), or 53a-73a (sexual assault in the fourth degree).

“**Former employer**” means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty years prior to applying for a position with a local or regional board of education.

I. Employment History Check Procedures

- A. The district shall not offer employment to an applicant for a position, including any position that is contracted for, if such applicant would have direct student contact, prior to the district:
 1. Requiring the applicant:
 - a. to list the name, address, and telephone number of each current employer or former employer (please note the definition of “former employer” above, including the applicable twenty year reporting period) during any of the previous

twenty years, if:

- (i) such current or former employer is/was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, and/or
- (ii) the applicant's employment with such current or former employer caused the applicant to have contact with children.

b. to submit a written authorization that

- (i) consents to and authorizes disclosure by the employers listed under paragraph I.A.1.a of this policy of the information requested under paragraph I.A.2 of this policy and the release of related records by such employers,
- (ii) consents to and authorizes disclosure by the Department of Education of the information requested under paragraph I.A.3 of this policy and the release of related records by the department, and
- (iii) releases those employers and the Department of Education from liability that may arise from such disclosure or release of records pursuant to paragraphs I.A.2 or I.A.3 of this policy; and

c. to submit a written statement of whether the applicant

- (i) has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated,
- (ii) has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to Conn. Gen. Stat. § 17a-101g or abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct, or
- (iii) has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by DCF or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct;

2. Conducting a review of the employment history of the applicant by contacting those employers listed by the applicant under paragraph I.A.1.a of this policy. Such review shall be conducted using a form developed by the Department of Education, which shall request the following:
 - a. the dates employment of the applicant, and
 - b. a statement as to whether the employer has knowledge that the applicant:
 - (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency, or municipal police department or which has been substantiated;
 - (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or
 - (iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct. Such review may be conducted telephonically or through written communication. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, not later than five (5) business days after the district receives a request for such information about an employee or former employee, the district shall respond with such information. The district may request more information concerning any response made by a current or former employer for information about an applicant, and, notwithstanding subsection (f), such employer shall respond not later than five (5) business days after receiving such request.
3. Requesting information from the Department of Education concerning:
 - a. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit,
 - b. whether the Department of Education has knowledge that a finding has been substantiated by DCF pursuant to Conn. Gen. Stat. § 17a-101g of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and
 - c. whether the Department of Education has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

- B. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, if the district receives information that an applicant for a position with or an employee of the board has been disciplined for a finding of abuse or neglect or sexual misconduct, it shall notify the Department of Education of such information.
- C. The district shall not employ an applicant for a position involving direct student contact who does not comply with the provisions of paragraph I.A.1 of this policy.
- D. The district may employ or contract with an applicant on a temporary basis for a period not to exceed ninety (90) calendar days, pending the district's review of information received under this section, provided:
 - 1. The applicant complied with paragraph I.A.1 of this policy;
 - 2. The district has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the district; and
 - 3. The applicant affirms that the applicant is not disqualified from employment with the district.
- E. The district shall not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement, or any other contract or agreement or take any action that:
 - 1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
 - 2. Affects the ability of the district to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
 - 3. Requires the district to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the district, unless, after investigation, such allegation is dismissed or found to be false.
- F. The district shall not offer employment to a person as a substitute teacher, unless such person and the district comply with the provisions of paragraph I.A.1 of this policy. The district shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The district shall not hire any person as a substitute teacher who is not on such list. Such person shall remain on such list as long as such person is continuously employed by the district as a substitute teacher as described in paragraph III.B.2 of this policy, provided the district does not have any knowledge of a reason that such person should be removed from such list.
- G. In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to such contractor all the information required of an applicant under paragraphs I.A.1.a and I.A.1.c of this policy and a written authorization under paragraph I.A.1.b of this policy. Such contractor

shall contact any current or former employer (please note the definition of “former employer” above, including the applicable twenty year reporting period) of such employee that was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or if the employee’s employment with such current or former employer caused the employee to have contact with children, and request, either telephonically or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, such employer shall report to the contractor any such finding, either telephonically or through written communication. If the contractor receives any information indicating such a finding or otherwise receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, immediately forward such information to the district, either telephonically or through written communication. If the district receives such information, it shall determine whether such employee may work in a position involving direct student contact at any school in the district. No determination by the district that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

- H. Any applicant who knowingly provides false information or knowingly fails to disclose information required in subdivision (1) of subsection (A) of this section shall be subject to discipline by the district that may include
 - 1. denial of employment, or
 - 2. termination of the contract of a certified employee, in accordance with the provisions of Conn. Gen. Stat. § 10-151.
- I. If the district provides information in accordance with paragraph I.A.2 or I.G of this policy, the district shall be immune from criminal and civil liability, provided the district did not knowingly supply false information.
- J. Notwithstanding the provisions of Conn. Gen. Stat. § 10-151c and subsection (f) of Conn. Gen. Stat. § 31-51i, the district shall provide, upon request by another local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school for the purposes of an inquiry pursuant to paragraphs I.A.2 or I.G of this policy or to the Commissioner of Education pursuant to paragraph I.B of this policy any information that the district has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.
- K. Prior to offering employment to an applicant, the district shall make a documented good faith effort to contact each current and any former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) of the applicant that was a local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school, or if the applicant’s employment with such current or former employer caused the applicant to have contact with children in order to obtain information and recommendations that may be relevant to the applicant’s fitness for employment. Such effort, however, shall not be construed

to require more than three telephonic requests made on three separate days.

- L. The district shall not offer employment to any applicant who had any previous employment contract terminated by a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or who resigned from such employment, if the person has been convicted of a violation of Conn. Gen. Stat. § 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

II. DCF Registry Checks

Prior to hiring any person for a position with the district, and before a student who is enrolled in a teacher preparation program, as defined in section 10-10a of the Connecticut General Statutes, and completing his or her student teaching experience with the district, begins such student teaching experience, the district shall require such applicant or student to submit to a records check of information maintained on the Registry concerning the applicant.

The district shall request information from the Registry promptly, and in any case no later than thirty (30) calendar days from the date of employment. Registry checks will be processed according to the following procedure:

- A. No later than ten (10) calendar days after the Superintendent or his/her designee has notified a job applicant of a decision to offer employment to the applicant, or as soon thereafter as practicable, the Superintendent or designee will either obtain the information from the Registry or, if the applicant's consent is required to access the information, will supply the applicant with the release form utilized by DCF for obtaining information from the Registry.
- B. If consent is required to access the Registry, no later than ten (10) calendar days after the Superintendent or his/her designee has provided the successful job applicant with the form, the applicant must submit the signed form to the Superintendent or his/her designee to be sent to DCF. Failure of the applicant to submit the signed form or its out of state equivalent within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.
- C. Upon receipt of Registry information indicating previously undisclosed information concerning abuse or neglect investigations concerning the successful job applicant/employee, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the Registry check and will provide an opportunity for the affected applicant/employee to respond to the results of the Registry check.
- D. If notification is received by the Superintendent or designee that that the applicant is listed as a perpetrator of abuse or neglect on the Registry, the Superintendent or designee shall provide the applicant with an opportunity to be heard regarding the results of the Registry check. If warranted by the results of the Registry check and any additional information provided by the applicant, the Superintendent or designee shall revoke the offer of employment and/or terminate the applicant's employment if he or she has already commenced working for the district.

III. Criminal Records Check Procedure

- A. Each person hired by the district shall be required to submit to state and national criminal record checks within thirty (30) calendar days from the date of employment. Each student who is enrolled in a teacher preparation program, as defined in section 10-10a of the Connecticut General Statutes, and completing his or her student teaching experience with the district, shall be required to submit to state and national criminal record checks within sixty (60) calendar days from the date such student begins to perform such student teaching experience. Record checks will be processed according to the following procedure:
1. ~~No later than five (5) calendar days a~~ After the Superintendent or his/her designee has notified a job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will provide the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted. This packet shall also contain all documents and materials necessary for the police department to submit the completed fingerprints to the State Police Bureau of Identification for the processing of state and national criminal record checks. The Superintendent or his/her designee will also provide each applicant with the following notifications before the applicant obtains his/her fingerprints: (1) Agency Privacy Requirements for Noncriminal Justice Applicants; (2) Noncriminal Justice Applicant's Privacy Rights; (3) and the Federal Bureau of Investigation, United States Department of Justice Privacy Act Statement.
 2. ~~No later than ten (10) calendar days a~~ After the Superintendent or his/her designee has provided the successful job 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 the withdrawal of the offer of employment.
 3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks. Fees and costs associated with the fingerprinting process and the submission and process of requests are waived for student teachers, in accordance with state law.
 4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or his/her designee will notify the affected applicant/employee of the results of the record check and will provide an opportunity for the affected applicant/employee to respond to the results of the criminal record check. The affected applicant/employee may notify the Superintendent or his/her designee in writing within five (5) ~~calendar~~ **business** days that the affected/employee will challenge his/her criminal history record check. Upon written notification to the Superintendent or his/her designee of such a challenge, the affected applicant/employee shall have ten (10) ~~calendar~~ **business** days to provide the Superintendent or his/her designee with necessary documentation regarding the affected applicant/employee's record challenge. The Superintendent or his/her designee may grant an extension to the preceding ten-day period during which the affected applicant/employee may provide such documentation for good cause shown.

5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, 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, shall be grounds for disqualification from consideration for employment or discharge from employment.
6. Notwithstanding anything in paragraph III.A.5 of this Policy, above, no decision to deny employment or withdraw an offer of employment on the basis of an applicant/employee's criminal history record shall be made without affording the applicant/employee the opportunities set forth in paragraph III.A.4 of this Policy, above.

B. Criminal Records Check for Substitute Teachers:

A substitute teacher who is hired by the district must submit to state and national criminal history record checks according to the procedures outlined above, subject to the following:

1. ~~If the state and national criminal history record checks for a substitute teacher have been completed within one year prior to the date the district hired the substitute teacher, and if the substitute teacher arranged for such prior criminal history record checks to be forwarded to the Superintendent, then the substitute teacher will not be required to submit to another criminal history record check at the time of such hire.~~
2. If a substitute teacher submitted to state and national criminal history record checks upon being hired by the district, then the substitute teacher will not be required to submit to another criminal history record check so long as the substitute teacher is continuously employed by the district, that is, employed for at least one day of each school year, by the district, provided a substitute teacher is subjected to such checks at least once every five years.

IV. Sex Offender Registry Checks

School district personnel shall cross-reference the Connecticut Department of Public Safety's sexual offender registry prior to hiring any new employee and before a student who is enrolled in a teacher preparation program, as defined in section 10-10a of the Connecticut General Statutes, and completing his or her student teaching experience with the district, begins such student teaching experience. Registration as a sexual offender constitutes grounds for denial of employment opportunities and opportunities to perform student teaching experiences in the school district.

V. ~~Credit Checks~~

~~The district may also ask a prospective employee for a credit report for employment for certain district~~

~~positions, where the district's receipt of a credit report is substantially related to the e-employee's potential job. Substantially related is defined to mean "the information contained in the credit report is related to the position for which the employee or prospective employee who is the subject of the report is being evaluated." Prior to asking for a credit report, the district will determine whether the position falls within one of the categories as described in this paragraph. The position must: (1) be a managerial position which involves setting the direction or control of the district; (2) involve access to employees' personal or financial information; (3) involve a fiduciary responsibility to the district, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (4) provide an expense account or district debit or credit card; or (5) involve access to the district's nonfinancial assets valued at two thousand five dollars or more.~~

~~When a credit report will be requested as part of the employment process, the district will provide written notification to prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the district may use the information in the consumer credit report to make decisions related to the individual's employment.~~

~~The district will obtain consent before performing the credit or other background checks. If the district intends to takes an action adverse to a potential employee based on the results of a credit report, the district must provide the prospective employee with a copy of the report on which the district relied in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," which should be provided by the company that provides the results of the credit check. The district will notify the prospective employee either orally, in writing or via electronic means that the adverse action was taken based on the information in the consumer report. That notice must include the name, address and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the district's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) calendar days.~~

VI. Notice of Conviction

If, at any time, the district receives notice of a conviction of a crime by a person holding a certificate, authorization or permit issued by the State Board of Education, the district shall send such notice to the State Board of Education. In complying with this requirement, the district shall not disseminate the results of any national criminal history records check.

VII. Personal Online Accounts

For purposes of these Administrative Regulations, "personal online account" means any online account that is used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of the district, including, but not limited to, electronic mail, social media and retail-based Internet web sites. "Personal online account" does not include any account created, maintained, used or accessed by an employee or applicant for a business purpose of the district.

A. During the course of an employment check, the district may not:

1. request or require that an applicant provide the district with a user name and password, password or any other authentication means for accessing a personal online account;

2. request or require that an applicant authenticate or access a personal online account in the presence of the district; or
 3. require that an applicant invite a supervisor employed by the district or accept an invitation from a supervisor employed by the district to join a group affiliated with any personal online account of the applicant.
- B. The district may request or require that an applicant provide the district with a user name and password, password or any other authentication means for accessing:
1. any account or service provided by district or by virtue of the applicant's employment relationship with the district or that the applicant uses for the district's business purposes, or
 2. any electronic communications device supplied or paid for, in whole or in part, by the district.
- C. In accordance with applicable law, the district maintains the right to require an applicant to allow the district to access his or her personal online account, without disclosing the user name and password, password or other authentication means for accessing such personal online account, for the purpose of:
1. conducting an investigation for the purpose of ensuring compliance with applicable state or federal laws, regulatory requirements or prohibitions against work-related employee misconduct based on the receipt of specific information about activity on an applicant's personal online account; or
 2. conducting an investigation based on the receipt of specific information about an applicant's unauthorized transfer of the district's proprietary information, confidential information or financial data to or from a personal online account operated by an applicant or other source.

VIII. Policy Inapplicable to Certain Individuals

This policy shall also not apply to:

- A. A student employed by the district who attends a district school.
- B. A person employed by the district as a teacher for a noncredit adult class or adult education activity, as defined in Conn. Gen. Stat. § 10-67, who is not required to hold a teaching certificate pursuant to Conn. Gen. Stat. § 10-145b for his or her position.

~~IX.~~ VIII Falsification of Records.

Notwithstanding any other provisions of this policy, the falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning abuse or neglect

investigations or pending criminal applications, shall be grounds for disqualification from consideration for employment or discharge from employment.

Legal References: Conn. Gen. Stat. § 10-212

Conn. Gen. Stat. § 10-221d

Conn. Gen. Stat. § 10-222c

Conn. Gen. Stat. § 31-40x

Conn. Gen. Stat. § 31-51i

Conn. Gen. Stat. § 31-51tt

Public Act 19-91, “An Act Concerning Various Revisions and Additions to the Education Statutes.”

Elementary and Secondary Education Act, reauthorized as the Every Student Succeeds Act, Pub. L. 114-95, codified at 20 U.S.C. § 1001 *et seq.*

Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

ADOPTED: _____

REVISED: _____

Agency Privacy Requirements for Noncriminal Justice Applicants

Authorized governmental and non-governmental agencies/officials that conduct a national fingerprint-based criminal history record check on an applicant for a noncriminal justice purpose (such as a job or license, immigration or naturalization matter, security clearance, or adoption) are obligated to ensure the applicant is provided certain notice and other information and that the results of the check are handled in a manner that protects the applicant's privacy.

- Officials must provide to the applicant written notice¹ that his/her fingerprints will be used to check the criminal history records of the FBI.
- Officials using the FBI criminal history record (if one exists) to make a determination of the applicant's suitability for the job, license, or other benefit must provide the applicant the opportunity to complete or challenge the accuracy of the information in the record.
- Officials must advise the applicant that procedures for obtaining a change, correction, or updating of an FBI criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- Officials should not deny the job, license, or other benefit based on information in the criminal history record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
- Officials must use the criminal history record solely for the purpose requested and cannot disseminate the record outside the receiving department, related agency, or other authorized entity.²

The FBI has no objection to officials providing a copy of the applicant's FBI criminal history record to the applicant for review and possible challenge when the record was obtained based on positive fingerprint identification. If agency policy permits, this courtesy will save the applicant the time and additional FBI fee to obtain his/her record directly from the FBI by following the procedures found at 28 CFR 16.30 through 16.34. It will also allow the officials to make a more timely determination of the applicant's suitability.

Each agency should establish and document the process/procedures it utilizes for how/when it gives the applicant notice, what constitutes "a reasonable time" for the applicant to correct or complete the record, and any applicant appeal process that is afforded the applicant. Such documentation will assist State and/or FBI auditors during periodic compliance reviews on use of criminal history records for noncriminal justice purposes.

If you need additional information or assistance, contact:

<p style="text-align: center;">Connecticut Records: Department of Emergency Services and Public Protection State Police Bureau of Identification (SPBI) 1111 Country Club Road Middletown, CT 06457 860-685-8480</p>	<p style="text-align: center;">Out-of-State Records: Agency of Record OR FBI CJIS Division-Summary Request 1000 Custer Hollow Road Clarksburg, West Virginia 26306</p>
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¹ Written notification includes electronic notification, but excludes oral notification.

² See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d).

Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for a job or license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification³ by _____ that your fingerprints will be used to check the criminal history records of the FBI.
- If you have a criminal history record, the officials making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the job, license, or other benefit based on information in the criminal history record.⁴
- You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.⁵
- If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.
- If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)
- If you need additional information or assistance, please contact:

<p>Connecticut Records: Department of Emergency Services and Public Protection State Police Bureau of Identification (SPBI) 1111 Country Club Road Middletown, CT 06457 (860) 685-8480</p>	<p>Out-of-State Records: Agency of Record OR FBI CJIS Division-Summary Request 1000 Custer Hollow Road Clarksburg, West Virginia 26306</p>
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³ Written includes electronic notification, but excludes oral notification.

⁴ See 28 CFR 50.12(b).

⁵ See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

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Federal Bureau of Investigation
United States Department of Justice
Privacy Act Statement

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Social Security Account Number (SSAN). Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Additional Information: The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any systems(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).

A policy to consider. A sample regulation follows.

Personnel -- Certified/Non-Certified

Security Check/Fingerprinting

In order to create a safe and orderly environment for students, all offers of employment will be conditional upon the successful outcome of a criminal record check. In addition, any person applying for employment with the Board shall submit to a record check of the Department of Children and Families (DCF) Child Abuse and Neglect Registry before the person may be hired.

Note: Applicants for all positions, certified or non-certified must submit to a check of Department of Children and Families Child Abuse and Neglect Registry.

Applicants, as required, shall make disclosures containing (1) current and past employers' contact information; (2) authorization allowing contact with such employers; and (3) statements about any past misconduct, discipline, or licensure penalties as a result of sexual misconduct or abuse allegations.

The District, prior to hiring such applicants, applicants, will (1) ensure that they complete the above stated three requirements; (2) review applicants' employment history after making a documented, good faith effort to contact previous employers for information; and (3) request any available information about applicants from SDE.

The background/reference checks shall be done in compliance with the statutory guidelines contained in Board policy #4112.51/4212.51, as amended.

District employees shall within 30 days after they are hired submit to state and national criminal checks. District students employed by the school system are exempted from this requirement. *[Optional: After 40 days of continuous employment in the District, the employee will be reimbursed for the cost of the State and National criminal check.]*

Workers placed in a school under a public assistance employment program shall also submit to the criminal check if such individuals will have direct contact with students.

School nurses and nurse practitioners appointed by the Board or under contract with the Board shall also submit to a criminal history check pursuant to C.G.S. 29-17a.

Student teachers placed in District schools as part of completing preparation requirements for the issuance of an educator certificate shall also be required to undergo the same criminal background checks and DCF child abuse and neglect registry check already required for school employees.

A District student, employed by the District or a person employed by the Board as a teacher for a non-credit adult class or adult education activity (as defined in C.G.S. 10-67) who is not required to hold a teaching certificate, pursuant to C.G.S. 10-145b, as amended by PA 18-51, is exempt from the fingerprinting requirement.

Personnel -- Certified/Non-Certified

Security Check/Fingerprinting (continued)

Criminal Justice Information

Criminal Justice Information (CJI) is to be maintained in accordance with the administrative regulation pertaining to the use and disclosure of criminal justice information.

(cf. 4112.51/4212.51 - Employment/Reference Checks)

Legal Reference: Connecticut General Statutes

10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissed. (as amended by PA 01-173, PA 04-181 and June 19 Special Session, PA 09-1, PA 11-93, PA 16-67, PA 18-51, and PA 19-91)

29-17a Criminal history checks. Procedure. Fees.

PA 16-67 An Act Concerning the Disclosure of Certain Education Personnel Records

Criminal Justice Information Services (CJIS) Security Policy, Version 5.4, U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, October 6, 2015.

Policy adopted:

rev 6/16
rev 4/17
rev 10/18
rev 7/19

Westport's version of this policy to consider.

Personnel -- Certified/Non-Certified

Employment Checks

As set forth below, each applicant for a position with the district shall be asked whether he/she has ever been convicted of a crime, and state in writing, whether there are any criminal charges pending against him/her including a statement of the charges and the court in which such charges are pending and whether the applicant is included on the Abuse and Neglect Registry of the Connecticut Department of Children and Families (“DCF”) (the “Registry”). If the applicant’s current or most recent employment occurred out of state, the applicant will also be asked whether he/she is included on an equivalent database and/or abuse/neglect registry maintained in that other state. Applicants shall not be required to disclose any arrest, criminal charge or conviction that has been erased.

In addition, the district shall conduct an employment history check for each applicant for a position, as set forth below.

For the purposes of this policy:

“Sexual misconduct means” any verbal, nonverbal, written, or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature, and any other sexual, indecent, or erotic contact with a student.

“Abuse or neglect” means abuse or neglect as described in Conn. Gen. Stat. § 46b-120, and includes any violation of Conn. Gen. Stat. §§ 53a-70 (sexual assault in the first degree), 53a-70a (aggravated sexual assault in the first degree), 53a-71 (sexual assault in the second degree), 53a-72a (sexual assault in the third degree), 53a-72b (sexual assault in the third degree with a firearm), or 53a-73a (sexual assault in the fourth degree).

“Former employer” means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty years prior to applying for a position with a local or regional board of education.

I. Employment History Check Procedures

- A. The district shall not offer employment to an applicant for a position, including any position that is contracted for, if such applicant would have direct student contact, prior to the district:

Personnel -- Certified/Non-Certified

Employment Checks (continued)

1. Requiring the applicant:

- a. to list the name, address, and telephone number of each current employer or former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) during any of the previous twenty years, if:
 - (i) such current or former employer is/was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, and/or
 - (ii) the applicant’s employment with such current or former employer caused the applicant to have contact with children.
- b. to submit a written authorization that
 - (i) consents to and authorizes disclosure by the employers listed under paragraph I.A.1.a of this policy of the information requested under paragraph I.A.2 of this policy and the release of related records by such employers,
 - (ii) consents to and authorizes disclosure by the Department of Education of the information requested under paragraph I.A.3 of this policy and the release of related records by the department, and
 - (iii) releases those employers and the Department of Education from liability that may arise from such disclosure or release of records pursuant to paragraphs I.A.2 or I.A.3 of this policy; and
- c. to submit a written statement of whether the applicant
 - (i) has been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated,

Personnel -- Certified/Non-Certified

Employment Checks (continued)

- (ii) has ever been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by DCF, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to Conn. Gen. Stat. §17a-101g or abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct, or
 - (iii) has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by DCF or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct;
- 2. Conducting a review of the employment history of the applicant by contacting those employers listed by the applicant under paragraph I.A.1.a of this policy. Such review shall be conducted using a form developed by the Department of Education, which shall request the following:
 - a. the employment dates of the applicant, and
 - b. a statement as to whether the employer has knowledge that the applicant:
 - (i) was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency, or municipal police department or which has been substantiated;
 - (ii) was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or

Personnel -- Certified/Non-Certified

Employment Checks (continued)

- (iii) has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct. Such review may be conducted telephonically or through written communication. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, not later than five (5) business days after the district receives a request for such information about an employee or former employee, the district shall respond with such information. The district may request more information concerning any response made by a current or former employer for information about an applicant, and, notwithstanding subsection (f), such employer shall respond not later than five (5) business days after receiving such request.
- 3. Requesting information from the Department of Education concerning:
 - a. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit,
 - b. whether the Department of Education has knowledge that a finding has been substantiated by DCF pursuant to Conn. Gen. Stat. § 17a-101g of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and
 - c. whether the Department of Education has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.
- B. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. §31-51i, if the district receives information that an applicant for a position with or an employee of the board has been disciplined for a finding of abuse or neglect or sexual misconduct, it shall notify the Department of Education of such information.
- C. The district shall not employ an applicant for a position involving direct student contact who does not comply with the provisions of paragraph I.A.1 of this policy.

Personnel -- Certified/Non-Certified

Employment Checks (continued)

- D. The district may employ or contract with an applicant on a temporary basis for a period not to exceed ninety (90) calendar days, pending the district's review of information received under this section, provided:
1. The applicant complied with paragraph I.A.1 of this policy;
 2. The district has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment with the district; and
 3. The applicant affirms that the applicant is not disqualified from employment with the district.
- E. The district shall not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement, or any other contract or agreement or take any action that:
1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
 2. Affects the ability of the district to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
 3. Requires the district to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the district, unless, after investigation, such allegation is dismissed or found to be false.
- F. The district shall not offer employment to a person as a substitute teacher, unless such person and the district comply with the provisions of paragraph I.A.1 of this policy. The district shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The district shall not hire any person as a substitute teacher who is not on such list. Such person shall remain on such list as long as such person is continuously employed by the district as a substitute teacher as described in paragraph III.B.2 of this policy, provided the district does not have any knowledge of a reason that such person should be removed from such list.
- G. In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to such contractor all the information required of an applicant under paragraphs I.A.1.a and I.A.1.c of this policy and a written authorization under paragraph I.A.1.b of this policy.

Personnel -- Certified/Non-Certified

Employment Checks (continued)

- G. (continued) Such contractor shall contact any current or former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) of such employee that was a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or if the employee’s employment with such current or former employer caused the employee to have contact with children, and request, either telephonically or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee. Notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. § 31-51i, such employer shall report to the contractor any such finding, either telephonically or through written communication. If the contractor receives any information indicating such a finding or otherwise receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, notwithstanding the provisions of subsection (f) of Conn. Gen. Stat. §31-51i, immediately forward such information to the district, either telephonically or through written communication. If the district receives such information, it shall determine whether such employee may work in a position involving direct student contact at any school in the district. No determination by the district that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.
- H. Any applicant who knowingly provides false information or knowingly fails to disclose information required in subdivision (1) of subsection (A) of this section shall be subject to discipline by the district that may include
1. denial of employment, or
 2. termination of the contract of a certified employee, in accordance with the provisions of Conn. Gen. Stat. § 10-151.
- I. If the district provides information in accordance with paragraph I.A.2 or I.G of this policy, the district shall be immune from criminal and civil liability, provided the district did not knowingly supply false information.
- J. Notwithstanding the provisions of Conn. Gen. Stat. § 10-151c and subsection (f) of Conn. Gen. Stat. § 31-51i, the district shall provide, upon request by another local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school for the purposes of an inquiry pursuant to paragraphs I.A.2 or I.G of this policy or to the Commissioner of Education pursuant to paragraph I.B of this policy any information that the district has concerning a finding of abuse or neglect or sexual misconduct by a subject of any such inquiry.

Personnel -- Certified/Non-Certified

Employment Checks (continued)

- K. Prior to offering employment to an applicant, the district shall make a documented good faith effort to contact each current and any former employer (please note the definition of “former employer” employer above, including the applicable twenty year reporting period) of the applicant that was a local or regional board of education, governing council of a state or local charter school, interdistrict magnet school operator, or supervisory agent of a nonpublic school, or if the applicant’s employment with such current or former employer caused the applicant to have contact with children in order to obtain information and recommendations that may be relevant to the applicant’s fitness for employment. Such effort, however, shall not be construed to require more than three telephonic requests made on three separate days.
- L. The district shall not offer employment to any applicant who had any previous employment contract terminated by a local or regional board of education, council of a state or local charter school, interdistrict magnet school operator, or a supervisory agent of a nonpublic school, or who resigned from such employment, if the person has been convicted of a violation of Conn. Gen. Stat. § 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

II. DCF Registry Checks

Prior to hiring any person for a position with the district, the district shall require such applicant to submit to a records check of information maintained on the Registry concerning the applicant.

For any applicant whose current or most recent employment occurred out of state, the district shall request that the applicant provide the district with authorization to access information maintained concerning the applicant by the equivalent state agency in the state of most recent employment, if such state maintains information about abuse and neglect and has a procedure by which such information can be obtained. Refusal to permit the district to access such information shall be considered grounds for rejecting any applicant for employment.

The district shall request information from the Registry or its out of state equivalent promptly, and in any case no later than thirty (30) calendar days from the date of employment. Registry checks will be processed according to the following procedure:

- A. No later than ten (10) calendar days after the Superintendent or his/her designee has notified a job applicant of a decision to offer employment to the applicant, or as soon thereafter as practicable, the Superintendent or designee will either obtain the information from the Registry or, if the applicant’s consent is required to access the information, will supply the applicant with the release form utilized by DCF, or its out of state equivalent when available, for obtaining information from the Registry.

Personnel -- Certified/Non-Certified

Employment Checks

II. DCF Registry Checks (continued)

- B. If consent is required to access the Registry, no later than ten (10) calendar days after the Superintendent or his/her designee has provided the successful job applicant with the form, the applicant must submit the signed form to DCF or its out of state equivalent, with a copy to the Superintendent or his/her designee. Failure of the applicant to submit the signed form to DCF or its out of state equivalent within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.
- C. Upon receipt of Registry or out-of-state registry information indicating previously undisclosed information concerning abuse or neglect investigations concerning the successful job applicant/employee, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the Registry check and will provide an opportunity for the affected applicant/employee to respond to the results of the Registry check.
- D. If notification is received by the Superintendent or designee that that the applicant is listed as a perpetrator of abuse or neglect on the Registry, the Superintendent or designee shall provide the applicant with an opportunity to be heard regarding the results of the Registry check. If warranted by the results of the Registry check and any additional information provided by the applicant, the Superintendent or designee shall revoke the offer of employment and/or terminate the applicant's employment if he or she has already commenced working for the district.

III. Criminal Records Check Procedure

- A. Each person hired by the district shall be required to submit to state and national criminal record checks within thirty (30) calendar days from the date of employment. Each person otherwise placed within a school under any public assistance employment program, employed by a provider of supplemental services pursuant to federal law or in a nonpaid, noncertified position completing preparation requirements for the issuance of an educator certificate, who performs a service involving direct student contact shall also be required to submit to state and national criminal record checks within thirty (30) calendar days from the date such worker begins to perform such service. Record checks will be processed according to the following procedure:*

Personnel -- Certified/Non-Certified

Employment Checks

III. Criminal Records Check Procedure (continued)

1. No later than five (5) calendar days after the Superintendent or his/her designee has notified a job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will provide the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted by the Westport Police Department or another police department in the State of Connecticut. This packet shall also contain all documents and materials necessary for the police department to submit the completed fingerprints to the State Police Bureau of Identification for the processing of state and national criminal record checks. The Superintendent or his/her designee will also provide each applicant with the following notifications before the applicant obtains his/her fingerprints: (1) Agency Privacy Requirements for Noncriminal Justice Applicants; (2) Noncriminal Justice Applicant's Privacy Rights; (3) and the Federal Bureau of Investigation, United States Department of Justice Privacy Act Statement, all contained in the appendix to this policy.
2. No later than ten (10) calendar days after the Superintendent or his/her designee has provided the successful job applicant with the fingerprinting packet, the applicant must arrange to be fingerprinted by the Westport Police Department. Failure of the applicant to have his/her fingerprints taken within such ten-day period, without good cause, will be grounds for the withdrawal of the offer of employment.
3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks.
4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the record check and will provide an opportunity for the affected applicant/employee to respond to the results of the criminal record check. The affected applicant/employee may notify the Superintendent or his/her designee in writing within five (5) calendar days that the affected/employee will challenge his/her criminal history record check. Upon written notification to the Superintendent or his/her designee of such a challenge, the affected applicant/employee shall have ten (10) calendar days to provide the Superintendent or his/her designee with necessary documentation regarding the affected applicant/employee's record challenge. The Superintendent or his/her designee may grant an extension to the preceding ten-day period during which the affected applicant/employee may provide such documentation for good cause shown.

Personnel -- Certified/Non-Certified

Employment Checks

III. Criminal Records Check Procedure (continued)

5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, 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, shall be grounds for disqualification from consideration for employment or discharge from employment.
6. Notwithstanding anything in paragraph III.A.5 of this Policy, above, no decision to deny employment or withdraw an offer of employment on the basis of an applicant/employee's criminal history record shall be made without affording the applicant/employee the opportunities set forth in paragraph III.A.4 of this Policy, above.

B. Criminal Records Check for Substitute Teachers:

A substitute teacher who is hired by the district must submit to state and national criminal history record checks according to the procedures outlined above, subject to the following:

1. If the state and national criminal history record checks for a substitute teacher have been completed within one year prior to the date the district hired the substitute teacher, and if the substitute teacher arranged for such prior criminal history record checks to be forwarded to the Superintendent, then the substitute teacher will not be required to submit to another criminal history record check at the time of such hire.
2. If a substitute teacher submitted to state and national criminal history record checks upon being hired by the district, then the substitute teacher will not be required to submit to another criminal history record check so long as the substitute teacher is continuously employed by the district, that is, employed for at least one day of each school year, by the district, provided a substitute teacher is subjected to such checks at least once every five years.

IV. Sex Offender Registry Checks

School district personnel shall cross-reference the Connecticut Department of Public Safety's sexual offender registry prior to hiring any new employee. Registration as a sexual offender constitutes grounds for denial of employment opportunities.

Personnel -- Certified/Non-Certified

Employment Checks (continued)

V. Credit Checks

The district may also ask a prospective employee for a credit report for employment for certain district positions, where the district's receipt of a credit report is substantially related to the employee's potential job. Substantially related is defined to mean "the information contained in the credit report is related to the position for which the employee or prospective employee who is the subject of the report is being evaluated." Prior to asking for a credit report, the district will determine whether the position falls within one of the categories as described in this paragraph. The position must: (1) be a managerial position which involves setting the direction or control of the district; (2) involve access to employees' personal or financial information; (3) involve a fiduciary responsibility to the district, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (4) provide an expense account or district debit or credit card; or (5) involve access to the district's nonfinancial assets valued at two thousand five dollars or more.

When a credit report will be requested as part of the employment process, the district will provide written notification to prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the district may use the information in the consumer credit report to make decisions related to the individual's employment.

The district will obtain consent before performing the credit or other background checks. If the district intends to take an action adverse to a potential employee based on the results of a credit report, the district must provide the prospective employee with a copy of the report on which the district relied in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," which should be provided by the company that provides the results of the credit check. The district will notify the prospective employee either orally, in writing or via electronic means that the adverse action was taken based on the information in the consumer report. That notice must include the name, address and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the district's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) calendar days.

VI. Notice of Conviction

If, at any time, the Board of Education receives notice of a conviction of a crime by (1) a person holding a certificate, authorization or permit issued by the State Board of Education, or (2) a person employed by a provider of supplemental services, the Board shall send such notice to the State Board of Education.

Personnel -- Certified/Non-Certified

Employment Checks

VII. School Nurses

School nurses or nurse practitioners appointed by, or under contract with, the Board of Education shall also be required to submit to a criminal history records check in accordance with the procedures outlined above.

VIII. Personal Online Accounts

For purposes of these Administrative Regulations, “personal online account” means any online account that is used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of the Board, including, but not limited to, electronic mail, social media and retail-based Internet web sites. “Personal online account” does not include any account created, maintained, used or accessed by an employee or applicant for a business purpose of the Board.

- A. During the course of an employment check, the Board may not:
 - 1. request or require that an applicant provide the Board with a user name and password, password or any other authentication means for accessing a personal online account;
 - 2. request or require that an applicant authenticate or access a personal online account in the presence of the Board; or
 - 3. require that an applicant invite a supervisor employed by the Board or accept an invitation from a supervisor employed by the Board to join a group affiliated with any personal online account of the applicant.
- B. The Board may request or require that an applicant provide the Board with a user name and password, password or any other authentication means for accessing:
 - 1. any account or service provided by Board or by virtue of the applicant’s employment relationship with the Board or that the applicant uses for the Board’s business purposes, or
 - 2. any electronic communications device supplied or paid for, in whole or in part, by the Board.
- C. In accordance with applicable law, the Board maintains the right to require an applicant to allow the Board to access his or her personal online account, without disclosing the user name and password, password or other authentication means for accessing such personal online account, for the purpose of:
 - 1. conducting an investigation for the purpose of ensuring compliance with applicable state or federal laws, regulatory requirements or prohibitions against work-related employee misconduct based on the receipt of specific information about activity on an applicant’s personal online account; or

Personnel -- Certified/Non-Certified

Employment Checks

VIII. Personal Online Accounts (continued)

2. conducting an investigation based on the receipt of specific information about an applicant's unauthorized transfer of the Board's proprietary information, confidential information or financial data to or from a personal online account operated by an applicant or other source.

IX. Policy Inapplicable to Students Employed by the School District

- A. This policy shall also not apply to a student employed by the local or regional school district in which the student attends school.

X. Falsification of Records

Notwithstanding any other provisions of this policy, the falsification or omission of any information on a job application or in a job interview, including but not limited to information concerning abuse or neglect investigations or pending criminal applications, shall be grounds for disqualification from consideration for employment or discharge from employment.

Legal Reference: Connecticut General Statutes
10-221d Criminal history records checks of school personnel.
Fingerprinting. Termination or dismissed. (as amended by PA 01-173, PA 04-181 and June 19 Special Session, PA 09-1, PA 11-93, PA 16-67 and PA 18-51, and PA 19-91)
29-17a Criminal history checks. Procedure. Fees.
PA 16-67 An Act Concerning the Disclosure of Certain Education Personnel Records
Criminal Justice Information Services (CJIS) Security Policy, Version 5.4,
U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, October 6, 2015.

Policy adopted:

cps 1/19
rev 7/19

WESTPORT PUBLIC SCHOOLS
Westport, Connecticut

An optional regulation to consider, extensively revised to reflect new legislation. It has been further updated to include a new section pertaining to Criminal Justice Information (CJI).

Personnel – Certified/Non-Certified

Security Check/Fingerprinting

Each person hired by the school system shall be required to submit to state and national criminal record checks. In order to process such record checks, the following procedure will be followed:

1. No later than ten calendar days after the Superintendent or his/her designee has notified job applicant of a decision to hire the applicant, or as soon thereafter as practicable, the Superintendent or his/her designee will supply the applicant with a packet containing all documents and materials necessary for the applicant to be fingerprinted by the Regional Service Center. This packet shall also contain all documents and materials necessary for the Regional Service Center to submit the completed fingerprints to the State Police Bureau of Identification for the processing of state and national criminal record checks.
2. No later than ten calendar days after the Superintendent or his/her designee has provided the successful job 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 the withdrawal of the offer of employment.
3. Any person for whom criminal records checks are required to be performed pursuant to this policy must pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for criminal record checks.
4. Upon receipt of a criminal record check indicating a previously undisclosed conviction, the Superintendent or his/her designee will notify the affected applicant/employee in writing of the results of the record check and will provide an opportunity for the affected applicant/ employee to respond to the results of the criminal record check.
5. Decisions regarding the effect of a conviction upon an applicant/employee, whether disclosed or undisclosed by the applicant/employee, will be made on a case-by-case basis. Notwithstanding the foregoing, 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, shall be grounds for disqualification from consideration for employment or discharge from employment.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

6. Each applicant for a position involving direct student contact is required to make three disclosures to the Board for a position involving direct student contact. The applicant must:
 - a. Provide the District with contact information for current and former employers if they were education employers or the employment otherwise involved contact with children. The contact information must include each employer's name, address, and telephone number.
 - b. Provide a written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the SDE-designed standardized form that interviewing education employers send. The authorization also must consent to and authorize SDE to disclose information and related records to requesting education employers and release such former employers and SDE from any liability that may arise from such disclosure or release.
 - c. Give a written statement about whether he or she:
 - i. was the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency, or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
 - ii. was disciplined or asked to resign from a job or resigned from or otherwise separated from any job while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (DCF), or an allegation of sexual misconduct was pending or under investigation or because of an allegation substantiated by DCF of abuse or neglect or sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or
 - iii. had a professional or occupational license or certificate suspended or revoked or ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because of an allegation substantiated by DCF of abuse or sexual misconduct or a conviction for abuse or sexual misconduct.
 - iv. has, at the time of application, any criminal charges pending to state the charges and the court in which such charges are pending.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

7. The District is prohibited from offering employment for any position involving direct student contact until the following has occurred:
 - a. the applicant has complied with the above disclosure requirements;
 - b. the District has reviewed, either through written or telephone communication, the applicant's employment history on the standardized form filled out by current and past employers, which current or former employers must complete and return within five business days of receipt; and
 - c. the District has requested information from SDE about the applicant's eligibility status for a position requiring a certificate, authorization, or permit; previous disciplinary action for a substantiated finding of abuse or neglect or sexual misconduct; and notice of a criminal conviction or pending criminal charges against the applicant.
8. A good faith effort to reach an applicant's current and previous employers shall be made. A "good faith effort" is one requiring no more than three phone calls on three separate days.
9. The District may request additional information from an applicant's current or former employers relating to any response the applicant listed on the standardized SDE form, to which the applicant must respond within five business days of receipt. Immunity is provided from criminal and civil liability to any employer who provides such information, as well as to SDE, as long as the information supplied is not knowingly false.
10. The information available to the Board from SDE about an applicant may include:
 - a. any information about the applicant's eligibility for employment with such education employer in a position that requires a certificate, authorization, or permit;
 - b. whether SDE knows if the applicant was disciplined for a finding of abuse or neglect or sexual misconduct, and any information related to the finding; and
 - c. whether SDE has been notified that the applicant has been convicted of a crime or of pending criminal charges against the applicant and any information about such charges.
11. Applicants for substitute teaching positions must also fulfill the disclosure requirements as listed above. The District will also request information from the applicant's prior employers and SDE (in the same manner required for other applicants).

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

12. Adult education teachers and substitute teachers, if they are continuously employed by the district, do not have to be refingerprinted after fulfilling the initial requirement.
13. The District shall maintain a list of individuals suitable to work as substitute teachers. Only those on the list may be hired as substitute teachers. An individual remains on the list as long as (1) he or she is continuously employed by the District as a substitute teacher and (2) District does not have any knowledge that would cause the person to be removed from the list.
14. School nurses and nurse practitioners appointed by the Board or under contract with the Board shall also submit to a criminal history check pursuant to C.G.S. 29-17a.
15. Student teachers placed in District schools as part of completing preparation requirements for the issuance of an educator certificate shall also submit to a criminal history check. The criminal history check shall be done prior to being placed in a school for clinical experiences such as field experiences, student teaching or internship. Candidates are required to be fingerprinted at one of the RESCs and not through local police stations or the school district. The District is required to notify the State Board of Education if notice is received that a student teacher has been convicted of a crime. Student teachers must also submit to a records check of the Department of Children and Families Child Abuse and Neglect Registry.
16. Each applicant for a certified position must submit to a records check of the Department of Children and Families (DCF) Child Abuse and Neglect Registry established pursuant to C.G.S. 17a-101k before the applicant may be hired. The Superintendent or his/her designee shall request the required records check of DCF in accordance with the procedures established by DCF.
17. Each applicant for a non-certified position must submit to a records check of the Department of Children and Families (DCF) Child Abuse and Neglect Registry established pursuant to C.G.S. 17a-101k before the applicant may be hired. The Superintendent or his/her designee shall request the required records check of DCF in accordance with the procedures established by DCF.
18. Contractors that apply for positions involving direct student contact are required to perform the checks on their employees who would fill such positions. These checks are similar to the ones the District must perform on applicants.
 - a. A contractor's employee must fulfill the three disclosure requirements that a regular, direct applicant for such a position must fulfill.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

- b. The contractor must contact any current or former employers that were education employers and request, by telephone or in writing, any information about whether there was a finding of abuse or neglect or sexual misconduct against the employee, and which the employer must report if there is one.
 - c. Should the contractor receive any information indicating such a finding or otherwise has knowledge of one, he or she must immediately forward, either by telephone or in writing, the information to the District.
 - d. The District must determine whether the employee may work in a position involving direct student contact at any of its schools.
 - e. It is not considered a breach of contract for the District to determine that the contractor's employee is forbidden to work under any such contract in such a position.
19. The District shall notify SDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct.
20. The District is required to provide upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of the Board or a contractor's employee.
21. The Board is prohibited from entering into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement, or any other agreement or take any action that results in any of the following outcomes:
 - a. has the effect of suppressing information about an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
 - b. affects the education employer's ability to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
 - c. requires the district to expunge information about an allegation or finding of suspected abuse or neglect or sexual misconduct from any documents it maintains, unless after investigation the allegation is dismissed or found to be false.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

22. The District may employ or contract with an applicant for up to 90 days while awaiting the complete review of their application information, as long as the following has occurred:
 - a. the applicant has submitted to the District the three required disclosures,
 - b. the District has no information about the applicant that would disqualify him or her from employment, and
 - c. the applicant affirms that he or she is not disqualified from employment with the education employer.
23. Applicants who knowingly provide false information or knowingly fail to disclose information that is statutorily required to the District is subject to discipline by the District. Such discipline may include denial of employment or termination of a certified employee's contract.

A District student, employed by the District or a person employed by the Board as a teacher for a non-credit adult class or adult education activity (as defined in C.G.S. 10-67) who is not required to hold a teaching certificate, pursuant to C.G.S. 10-145b, as amended by PA 18-51, is exempt from the fingerprinting requirement.

Criminal Justice Information*

Policies #4112.5/4212.5 and #4112.51/4212.51 and applicable law require applicants for employment in the District to submit to state and national criminal record checks. All results for such background checks and accompanying information is considered "Criminal Justice Information (CJI)." Such information is to be maintained, used and disclosed in compliance with this administrative regulation. These regulations apply to all CJI that the District possesses or controls in any form or format, including CJI contained in correspondence, documentation or reports of the District.

Definitions

Criminal Justice Information (CJI) means the results of any state or federal criminal record checks of an applicant for employment in the district, volunteer, employee, or contractor and all copies thereof.

Criminal Justice Information Officer (CJI Officer) means the individual appointed by the Superintendent to be responsible for the use, disclosure, and safeguarding of CJI in the District. This individual serves as the District's primary point of contact for CJI matters and these regulations.

Permitted Individual means an individual designated by the Superintendent, or his/her designee, who may access CJI. Such individuals may include, but are not limited to, human resources personnel, and certain administrative staff.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

Request and Use of Criminal Justice Information

An employee, contractor, applicant, volunteer, will be asked by the District for CJI as permitted or required by applicable policy and/or law.

The Superintendent or his/her designee shall designate those individuals who will be considered “Permitted Individuals” for purposes of these regulations. CJI may not be accessed by any other member of the District staff or be used for any reason without obtaining prior written approval from the CJI Officer. CJI used by the “Permitted Individual” is limited to that permitted or required by law or District policy.

“Permitted Individuals” must satisfy applicable legal screening requirements prior to access to CJI, including the following:

1. Permitted Individuals who are Connecticut residents shall be screened by the District through a Connecticut and national fingerprint-based record check after designations as a Permitted Individual.
2. Permitted Individuals who are not Connecticut residents shall be subject to a District state and national fingerprint-based record check and follow FBI guidance pertaining to additional screening requirements.

The Connecticut Department of Emergency Services and Public Protection may be consulted by the CJI Officer pertaining to the execution of the above cited screening requirements.

A Permitted Individual’s access to CJI may be terminated with or without cause at the discretion of the Superintendent, CJI Officer, or their respective designees. Upon termination of the Permitted Individual’s employment in or contract with the District, such individual’s access to CJI is to be immediately terminated. Reassignment or modification of a Permitted Individual’s professional responsibilities is considered cause to reconsider CJI access.

Maintenance and Safeguarding of Criminal Justice Information (CJI)

The District will designate the locations, files and information systems where CJI is to be maintained. These controlled areas, locked when unattended, are limited to Permitted Individuals and other authorized personnel. If not possible to reasonably restrict access, all CJI is to be maintained in encrypted format in a manner consistent with legal requirements and industry standards.

The written approval of the CJI Officer is required in order to remove CJI from a controlled area. The CJI Officer must develop a protocol to ensure the protection of CJI while being transported and while out of the controlled area.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

Maintenance and Safeguarding of Criminal Justice information (CJI) (continued)

CJI that is maintained in paper format must be kept in a physically secure location, with a posted notice of restricted access to such records. An access log or sign-in sheet is to be used to record access to paper records.

The Criminal Justice Information Services (CJIS) Security Policy contains safeguards for CJI records maintained in electronic format which the District shall comply. These safeguards include, but are not limited to, maintaining CJI on secure electronic systems and media; positioning information systems in a manner to prevent unauthorized individuals access and viewing CJI; storing electronic media containing CJI in a secure location; instituting access controls to limit access to Permitted Individuals; validating and authenticating information system users accessing CJI; developing protocols for configuration management and providing necessary access for system modifications and maintenance; providing the capability to detect and protect against threats to the integrity of CJI; developing parameters for auditing electronic systems containing CJI; and instituting media protection policies and procedures.

Disclosure of CJI by Permitted Individuals

CJI may be disclosed by Permitted Individuals to (1) District staff upon written approval of the Superintendent, CJI Officer or their respective designees when such disclosure is viewed as reasonably necessary for the performance of District function or policy or consistent with applicable law; (2) third-party individuals/entities when such disclosure has been approved by the Superintendent or CJI Officer or their respective designees, when consistent with applicable law; or as otherwise required or permitted by law. All such disclosures shall be logged.

Security Incident Response

“Security Incident” is the actual or suspected acquisition, access, use, or disclosure of CJI in a manner not permitted by these regulations or applicable law. A Security Incident must be reported immediately to the CJI Officer, who will investigate, collect relevant evidence and respond to all such incidents.

The CJI Officer is to document each security incident including the District’s response, steps taken to mitigate harm to the affected individuals and changes, as necessary to District policies and procedures to avoid a reoccurrence of such incidents.

Security incidents are to be reported in writing to the District, regarding an individual’s CJI that may have been accessed, acquired or disclosed during the Security Incident. Affected individuals and/or appropriate government agencies will be notified by the District as required by law or as the District determines appropriate.

Personnel – Certified/Non-Certified

Security Check/Fingerprinting (continued)

Record Retention, Disposal and Destruction of CJI

CJI shall be maintained by the District in conformity with applicable record retention laws. Records containing CJI shall be stored for extended periods only if they are key elements for the integrity and/or utility of case files and/or criminal record files. Any audit records and transaction logs are to be maintained for one year. All records containing CJI are to be destroyed when the District is no longer required to keep CJI on file.

CJI containing paper records shall be disposed of as to make them unreadable and unable to be reconstructed, by shredding or incineration of such records. Electronic media containing CJI shall be destroyed utilizing a method that renders the CJI unreadable, indecipherable or unable to be reconstructed. Media destruction is to be done only by authorized personnel and witnessed and the method used documented.

Training

District staff with access to CJI shall initially be trained in the use, disclosure and safeguarding of such information and no less than biennially after the initial training.

(cf. 4112.51/4212.51 - Employment/Reference Checks)

Legal Reference: Connecticut General Statutes
10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissed. (as amended by PA 01-173, PA 04-181, June 19 Special Session, PA 09-1, PA 11-93, PA 16-67 and PA 18-51, and PA 19-91)
17a-101k Registry of findings of abuse or neglect of children maintained by Commissioner of Children and Families. Notice of finding of abuse or neglect of child. Appeal of finding. Hearing procedure. Appeal after hearing. Confidentiality. Regulations.
29-17a Criminal history checks. Procedure. Fees.
PA 16-67 An Act Concerning the Disclosure of Certain Education Personnel Records.
PA 16-83 An Act Concerning Fair Chance Employment
Criminal Justice Information Services (CJIS) Security Policy, Version 5.4, U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, October 6, 2015.

*This section of the administrative regulation pertaining to Criminal Justice Information (CJI) is based upon information originally developed by the law firm of Shipman and Goodwin.

Regulation approved:

rev. 4/17
rev 10/18
rev 7/19

Agency Privacy Requirements for Noncriminal Justice Applicants

Authorized governmental and non-governmental agencies/officials that conduct a national fingerprint-based criminal history record check on an applicant for a noncriminal justice purpose (such as a job or license, immigration or naturalization matter, security clearance, or adoption) are obligated to ensure the applicant is provided certain notice and other information and that the results of the check are handled in a manner that protects the applicant's privacy.

- Officials must provide to the applicant written notice (*Written notice includes electronic notification, but excludes oral notification*) that his/her fingerprints will be used to check the criminal history records of the FBI.
- Officials using the FBI criminal history record (if one exists) to make a determination of the applicant's suitability for the job, license, or other benefit must provide the applicant the opportunity to complete or challenge the accuracy of the information in the record.
- Officials must advise the applicant that procedures for obtaining a change, correction, or updating of an FBI criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- Officials should not deny the job, license, or other benefit based on information in the criminal history record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
- Officials must use the criminal history record solely for the purpose requested and cannot disseminate the record outside the receiving department, related agency, or other authorized entity. (See 5 U.S.C. 552a(b); 28U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d))

The FBI has no objection to officials providing a copy of the applicant's FBI criminal history record to the applicant for review and possible challenge when the record was obtained based on positive fingerprint identification. If agency policy permits, this courtesy will save the applicant the time and additional FBI fee to obtain his/her record directly from the FBI by following the procedures found at 28 CFR 16.30 through 16.34. It will also allow the officials to make a more timely determination of the applicant's suitability.

Each agency should establish and document the process/procedures it utilizes for how/when it gives the applicant notice, what constitutes "a reasonable time" for the applicant to correct or complete the record, and any applicant appeal process that is afforded the applicant. Such documentation will assist State and/or FBI auditors during periodic compliance reviews on use of criminal history records for noncriminal justice purposes.

Connecticut Records:

Department of Emergency Services and Public Protection
State Police Bureau of Identification (SPBI)
111 Country Club Road
Middletown, CT 06457
860-685-8480

Out-of-State Records:

Agency of Record
OR
FBI CJIS Division-Summary Request
1000Custer Hollow Road
Clarksburg, West Virginia 26306

If you need additional information or assistance, contact: _____.

Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for a job or license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification by _____ that your fingerprints will be used to check the criminal history records of the FBI.
- If you have a criminal history record, the officials making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the job, license, or other benefit based on information in the criminal history record (See 28 CFR 50.12(b)).
- You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council. (See 5 U.S.C. 552a(b); 28U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d)).
- If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.
- If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)

Connecticut Records:

**Department of Emergency Services and Public Protection
State Police Bureau of Identification (SPBI)
111 Country Club Road
Middletown, CT 06457
860-685-8480**

Out-of-State Records:

**Agency of Record
OR
FBI CJIS Division-Summary Request
1000 Custer Hollow Road
Clarksburg, West Virginia 26306**

If you need additional information or assistance, please contact: _____.

**Federal Bureau of Investigation
United States Department of Justice
Privacy Act Statement**

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Social Security Account Number (SSAN). Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Additional Information: The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any systems(s) of records in which that agency may also maintain your records, including the authorities, purposes and routine uses for the system(s).



STATE OF CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION

**Automated Fingerprint Identification System (AFIS) Agreement
for Fingerprint Card Submissions
by and between
the State of Connecticut Department of Emergency Services and Public Protection
and
_____Public School, Board of Education**

WHEREAS, the State of Connecticut Department of Emergency Services and Public Protection (hereinafter "DESPP") operates a central Automated Fingerprint Identification System (hereinafter "AFIS"); and

WHEREAS, _____**Public School, Board of Education** (hereinafter "BOE"), is established pursuant to Connecticut General Statutes (C.G.S.) § 10-220 and has been authorized to submit hard copy fingerprint cards to AFIS pursuant to the limited purposes set forth in C.G.S. § 10-212, § 10-221d, the Adam Walsh Act of 2006 (AWA), and the National Child Protection Act 1993/Volunteers for Children Act of 1998 (NCPA/VCA), as applicable.

WHEREAS, the BOE is a qualified entity pursuant to the NCPA/VCA.

NOW, THEREFORE, DESPP and BOE, by and through their Commissioners or other authorized individuals, enter into this Agreement to permit BOE to send hard copy fingerprint cards to the State Police Bureau of Identification (SPBI) for submission to AFIS and receive back the results of the state and/or national criminal history record information (CHRI) via email.

1. **Effective Date.** This Agreement shall be effective upon signature by both parties.
2. **Authority to Enter Agreement.** DESPP is authorized to enter into this agreement through the Commissioner of the Department of Emergency Services and Public Protection, pursuant to the authority provided under C.G.S. § 4-8.
3. **Duration of Agreement.** This Agreement shall remain in full force and effect unless terminated by DESPP, giving BOE written notice of such intention at least thirty (30) days in advance. DESPP reserves the right to suspend or revoke access to CHRI without notice in the event of a breach of the conditions of this Agreement. Notwithstanding any provisions in this Agreement, DESPP, through a duly authorized employee, may terminate the Agreement whenever DESPP makes a written determination that such termination is in the best interests of the State. DESPP shall notify BOE in writing of termination pursuant to this section, which notice shall specify the effective date of termination and the extent to which BOE must complete its performance under the Agreement prior to such date.

4. **DESPP Responsibilities.** DESPP shall:

- a) Electronically process BOE applicant prints as required and report results of required state and/or national record checks via a generic email.
- b) Identify a liaison as the primary point of contact for any issues related to this agreement.

5. **BOE Responsibilities.** BOE shall:

- a) Provide qualifying fingerprints that meet submission criteria pursuant to the specific purposes pursuant to C.G.S. §10-212, §10-221d, the AWA, and/or the NCPA/VCA.
- b) Assign a Local Agency Security Officer (hereinafter “LASO”) in accordance with the United States Department of Justice (USDOJ) FBI Criminal Justice Information Services Security Policy (hereinafter “CJIS Security Policy”).
- c) Ensure appropriate security measures as applicable to the physical security of communication equipment; personnel security to include screening requirements; technical security to protect against unauthorized use; and security of criminal justice information (hereinafter “CJI”) in accordance with the provisions of the CJIS Security Policy. BOE shall further:
 - a. Assign a generic email to be used by DESPP to communicate CJI, CHRI and related notifications only.
 - b. Ensure that CJI is maintained in a physically secure location or controlled area as defined in the CJIS Security Policy.
 - c. Ensure that all persons with access to physically secure locations or controlled areas, including, but not limited to, support personnel, contractors, vendors, and custodial workers, are escorted by authorized personnel at all times. Authorized personnel are BOE personnel who have been appropriately trained and vetted through the screening process and have been granted access to CJI for the specific purposes provided in the C.G.S. §10-212, §10-221d, the AWA, and/or the NCPA/VCA. The use of cameras or other electronic means to monitor a physically secure location or controlled area does not constitute an escort.
 - d. Ensure that access to CJI, in any form, is limited to BOE personnel requiring access to such information for the specific purposes provided in the C.G.S. §10-212, §10-221d, the AWA, and/or the NCPA/VCA.
 - e. Ensure that all BOE personnel accessing CJI are properly trained before access to CJI is authorized. Training must include Security Awareness Training in accordance with the provisions of the CJIS Security Policy.
 - f. Ensure that BOE personnel having access to CJI sign an acknowledgment form attached hereto as Attachment A acknowledging that they have received copies of this Agreement and Attachment A and that they are responsible for complying with the terms contained therein. Such forms shall be maintained in the official personnel files of such personnel.
- d) Ensure that all security incidents are reported to the CJIS Security Officer (“CSO”) or their designee. If a person already has access to CJI and is subsequently arrested and/or convicted, continued access to CJI shall be determined by the CSO. If the CSO or their designee determines that access to CJI by the person would not be in the public interest, access shall be denied and BOE shall be notified in writing of the access denial.

- e) Comply with all audit requirements for CJIS Systems, including, but not limited to, appropriate and reasonable quality assurance procedures.
- f) Ensure that, prior to fingerprinting, all persons fingerprinted are provided with a copy of the Noncriminal Justice Applicant’s Privacy Rights form.
- g) Ensure that, prior to fingerprinting, all persons fingerprinted pursuant to NCPA/VCA are provided with a NCPA/VCA Waiver and Consent Form (Waiver). A copy of the Waiver shall be maintained for a minimum of one year from the date of fingerprint submission.
- h) Violations of the CJIS Security Policy can result in the suspension or termination of system access for BOE, individual suspension or termination of access to CJI, criminal and/or administrative investigation, arrest, and/or prosecution and conviction for violation of state and federal statutes designated to protect confidentiality and integrity of CJI and related data.

6. **Transaction Fees.** BOE applicants shall remit full payment for all transactions with the submission of hard copy fingerprint cards. Fees shall be calculated as follows:

Statute	Category	State Fee	Federal Fee
C.G.S. §10-212	BOE Nurse or Nurse Practitioner	\$0.00	\$12.00
C.G.S. §10-221d	BOE Employee	\$0.00	\$12.00
AWA	Individual employed, under consideration for employment, or otherwise in a position in which the individual would work with or around children in the school.	\$50.00	\$12.00
AWA Volunteer	Volunteers in a position in which the individual would work with or around children in the school.	\$50.00	\$10.75
NCPA/VCA	Individuals who provide treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities on behalf of the BOE.	\$50.00	\$12.00
NCPA/VCA Volunteer	Volunteers who provide treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities on behalf of the BOE.	\$50.00	\$10.75

The fingerprinting fee at a Connecticut State Police location shall be fifteen (\$15.00) dollars, and the fingerprinting fee varies if fingerprints are taken by a local police location. Fees are subject to change due to legislative enactments and federal assessments.

7. **Modification or Amendment of the Agreement.** This Agreement may not be modified or amended unless in writing signed by an authorized representative of both parties.

8. Indemnification

BOE shall indemnify and hold harmless the State of Connecticut, the State of Connecticut Department of Emergency Services and Public Protection, its officers, agents, employees, commissions, boards, departments, divisions, successors and assigns from and against all actions (pending or threatened and whether at law or in equity in any forum), liabilities, damages, losses, costs and expenses, including but not limited to reasonable attorneys' and other professionals' fees, resulting from (i) misconduct or negligent or wrongful acts (whether of commission or omission) of BOE or any of its officers, representatives, agents, servants, consultants, employees or other persons or entities with whom BOE is in privity of oral or written contract; (ii) liabilities arising directly or indirectly in connection with this Agreement out of the acts of BOE and (iii) damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, that may arise out of such claims and/or liabilities.

9. The following documents are incorporated by reference and made part of this MOU:
- a. CJIS Security Policy;
 - b. National Crime Prevention and Privacy Compact, 42 U.S.C. Section 14616; and
 - c. Title 28, Code of Federal Regulations, Parts 20 and 25, Section 50.12, and Chapter IX.

THE DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION

By: _____ (Date)
Dora B. Schriro
Commissioner
Duly Authorized Pursuant to C.G.S. Section 4-8

BOE

By: _____ (Date)
Name
Title
Duly Authorized

ATTACHMENT A

ACKNOWLEDGEMENT

I, _____, acknowledge the following:

1. I have received a copy of the Agreement between the State of Connecticut Department of Emergency Services and Public Protection (“DESPP”) and the BOE concerning access to the DESPP Automated Fingerprint Identification System (“AFIS”).
2. I understand that I am being allowed to submit applicant prints via hard copy fingerprint cards into AFIS pursuant to a Federal Bureau of Investigation-approved state or federal statute.
3. I understand that I am not authorized to submit any other fingerprints into AFIS except those authorized by the Agreement.
4. I will fully cooperate with state or federal personnel regarding any audit, system check, and user privilege inquiries.
5. I understand that I am responsible for complying with the Agreement between the State of Connecticut DESPP and the BOE and that noncompliance may result in suspension or revocation of user privileges and/or other action as provided by law.

By: _____
Signature Date

cc: Official Personnel File

New material to review.

Personnel -- Certified/Non-Certified

Personnel Records

Personnel records shall be kept on all current employees and shall include information usually expected in good personnel administration.

A file shall be kept for all resigned or retired employees, including such essential information as shall seem appropriate to the administration as specified by state and federal laws.

The Superintendent, on behalf of the Board, shall notify an employee and a collective bargaining representative, if any, in writing when a request is made for disclosure of the employee's personnel, medical or similar files, if the Superintendent reasonably believes disclosure would invade the employee's privacy.

The records will be disclosed unless written objection is received from the teacher or employee's collective bargaining representative, within seven business days from the receipt by employee or collective bargaining representative.

The records may be disclosed when the Superintendent does not believe such disclosure would legally constitute an invasion of privacy. The records, in such a situation, shall first be disclosed to the requestor, followed within a reasonable time after disclosure, with the sending of a written or electronic copy or brief description of such request to the employee and any applicable collective bargaining representative. Disclosure shall only be considered an invasion of privacy where (1) such records do not pertain to a legitimate matter of public interest and (2) disclosure of such records would be highly offensive to a reasonable person.

Records maintained or kept on file by the State Department of Education or the Board of Education that are records of a teacher's performance and evaluation shall not be released without the written consent of the teacher. Such records are not public records subject to FOI.

Records maintained or kept on file by the State Department of Education or the Board, that are records of a teacher's personal misconduct shall be deemed to be public records, and subject to disclosure under the Freedom of Information Act. Disclosure of such records of a teacher's personal misconduct shall not require the consent of the teacher. (*"Teacher" includes all certified employees below the rank of Superintendent.*)

All written materials shall be made available for inspection by the employee and a collective bargaining representative, if any, involved at an off-duty time in the presence of an administrator. Upon request, a professional employee will be provided a copy of supervisory records and reports maintained in said employee's personal file as a guide to evaluation of performance.

Personnel -- Certified/Non-Certified

Personnel Records (continued)

In accordance with federal law, (ESSA), the District shall notify parents at the beginning of each school year of their right to request information regarding the professional qualifications and degrees of teachers and the qualifications of paraprofessionals for any teacher or paraprofessional who is employed by a school receiving Title I funds and who provides instruction to their child at that school. The District will provide such information on request in a timely manner. The District shall also provide notification to the parent/guardian of a child who has been assigned or has been taught for four or more consecutive weeks by a teacher not meeting applicable state certification at the grade level and subject area in which the teacher has been assigned.

NOTE: The information to be provided upon request regarding teachers shall indicate whether the student's teacher has met state certification for the grade level and/or subjects taught. Information pertaining to a paraprofessional should indicate the educational background of the individual, including secondary school diploma or its equivalent, study at an institution of higher education and any degree earned.

Files containing medical information regarding an employee will be kept separate from other personnel files.

Legal Reference: Connecticut General Statutes

- 1-206 Denial of access to public records or meetings.
- 1-213 Agency administration. Disclosure of personnel, birth and tax records.
- 1-214 Objection to disclosure of personnel or medical files (as amended by PA 18-93)
- 1-215 Record of arrest as public record
- 10-151a Access of teacher to supervisory records and reports in personnel file.
- 10-151c Records of teacher performance and evaluation not public records. (as amended by PA 02-138 and PA 13-122)

Perkins v. Freedom of Information Commission, 228 Conn. 158 (1993)

The Americans with Disabilities Act

Section 1112(c)(6) The Every Student Succeeds Act (ESSA)

Section 1112(e)(1)(B) The Every Student Succeeds Act (ESSA)

Policy adopted:
rev 3/17
rev 8/18
rev 4/19

Another version to consider.

Personnel — Certified/Non-Certified

Personnel Records

Personnel records shall be maintained securely and confidentially in the central office for all current employees and shall include information customarily kept in personnel files. Files also shall be maintained for past employees, including years of employment, salaries, and such other basic and essential information as the Superintendent of Schools shall require.

There shall be only one personnel file for each employee, and Principals shall not maintain employee files separate from the official employee file in the Central Office.

Requests for access to personnel files, except from an employee to see his or her own file, shall be referred to the Superintendent who shall determine whether disclosure of such records would legally constitute invasion of employee privacy. If the Superintendent believes disclosure is not an invasion of privacy, requested information shall be disclosed, but professional courtesy suggests the employee should be notified of such disclosure.

If the Superintendent determines disclosure would invade employee privacy, the employee/s and collective bargaining representatives if any, shall be notified in writing of the request. If the Superintendent does not receive a written objection, from the employee or bargaining representative, within seven business days from receipt of their notification, or if there is no evidence of receipt not later than nine business days from the date the notice was mailed, sent, posted, or otherwise given, requested records shall be disclosed. However, if an objection is received in a timely manner on the form prescribed, the Superintendent shall not disclose requested information unless directed to do so by the Freedom of Information Commission. Notwithstanding an objection filed by an employee's bargaining representative, the employee may subsequently approve disclosure of records by filing a written notice with the Superintendent.

Employee or bargaining representative objections to disclosure of records shall be made in writing on a form developed by the Superintendent including a signed statement by the employee or bargaining representative, under penalties of false statement, that to the best of respondent's knowledge, information, and belief, there is good grounds to support the objection and that the objection is not interposed for delay.

The records may be disclosed when the Superintendent does not believe such disclosure would legally constitute an invasion of privacy. The records, in such a situation, shall first be disclosed to the requestor, followed within a reasonable time after disclosure, with the sending of a written or electronic copy or brief description of such request to the employee and any applicable collective bargaining representative. Disclosure shall only be considered an invasion of privacy where (1) such records do not pertain to a legitimate matter of public interest and (2) disclosure of such records would be highly offensive to a reasonable person.

Records maintained or kept on file by the State Department of Education or the Board which are records of a teacher's personal misconduct shall be deemed to be public records, and subject to disclosure under the Freedom of Information Act. Disclosure of such records of a teacher's personal misconduct shall not require the consent of the teacher.

Personnel — Certified/Non-Certified

Personnel Records (continued)

Notwithstanding earlier provisions of this policy, personnel evaluations of certified employees, except the Superintendent, are not public records subject to disclosure — unless the employee consents in writing to the release of such records.

Each employee's own file shall be available for his or her inspection at reasonable times, and, upon request, employees will be provided a copy of information contained in his or her file.

In accordance with federal law, (ESSA), the District shall notify parents at the beginning of each school year of their right to request information regarding the professional qualifications and degrees of teachers and the qualifications of paraprofessionals for any teacher or paraprofessional who is employed by a school receiving Title I funds and who provides instruction to their child at that school. The District will provide such information on request in a timely manner. The District shall also provide notification to the parent/guardian of a child who has been assigned or has been taught for four or more consecutive weeks by a teacher not meeting applicable state certification at the grade level and subject area in which the teacher has been assigned.

Files containing medical information regarding an employee will be kept separate from other personnel files.

Legal Reference: Connecticut General Statutes
 1-213 Agency administration. Disclosure of personnel, birth and tax records.
 1-214 Objection to disclosure of personnel or medical files. (as amended by
 PA 18-93)
 1-215 Record of arrest as public record.
 1-206 Denial of access to public records or meetings.
 10-151a Access of teacher to supervisory records and reports in personnel
 file.
 10-151c Records of teacher performance and evaluation not public records.
 (as amended by PA 02-138 and PA 13-122)
 Perkins v. Freedom of Information Commission, 228 Conn. 158 (1993)
 The Americans with Disabilities Act
 Section 1112(c)(6) The Every Student Succeeds Act (ESSA)
 Section 1112(e)(1)(B) The Every Student Succeeds Act (ESSA)

Policy adopted:

rev 3/17
rev 8/18
rev 4/19

A form to consider.

_____ **PUBLIC SCHOOLS**
_____, **Connecticut**

Request to Use Personnel Records

Written request for information contained in personnel records is required. Official records are maintained in the Central Office for all current employees. Anyone seeking information from these records must complete this form. All individuals whose records have been requested will receive a copy of this form and have the right to deny access to their records if they feel their state and/or constitutional rights are being violated.

Date: _____

Name, address and phone number of individual requesting records:

Name of person whose file you request information from:

What aspect of the file do you wish to review?

Individual whose records you wish to review will receive a copy of this request. See Board Policy #4212.1 for time lines to be used in reviewing employee records and rights of employee.

Superintendent's response to request (to be made within five business days):

If employee approves the review of his/her records, please sign here:

If employee objects to his/her files being disclosed, please sign here (understanding the following):

Under the penalty of false statement to the best of my knowledge, information and belief, there are good grounds to support the objection and that the objection is not intended to delay the process.

*This form and the following were developed by the
Connecticut State Department of Education. Other samples follow.*

TEACHER QUALIFICATIONS

District: _____ **School Year:** _____

School: _____

Teacher Name: _____

Certification Status:

- Full state certification for grade level and subject taught.
- Durational Shortage Area Permit: (minimum of a Bachelor's degree, 12 semester hours of credit in subject taught, passed basic skills test; must complete all certification requirements within three years).
- Minor Assignment: Holds full certification in a different but often related-subject and may teach no more than two periods a day in non-certified subject (holds state certification in another subject, minimum of 12 semester hours of credit in subject taught; must complete all certification requirements within two years).
- Non-Renewable Interim Certificate: Valid one year (meets all certification requirements except for state tests).
- Interim Certificate: Valid one year, renewable one year (meets all certification requirements except for required course in special education).
- Limited Extended Authorization for Early Childhood: (minimum of 10 months teaching experience under Early Childhood certificate (nursery to Grade 3); may teach in Grades 4-6, minimum 12 semester hours of credit in elementary education; must complete all certification requirements within two years.)
- Holds Connecticut certification but not for grade level or subject taught.
- Long-Term Substitute Permit: Valid for one year (holds a bachelor's degree and has 12 semester hours of credit in the subject taught).
- Regular Substitute Teacher: May not teach in the same classroom more than 40 days (holds a Bachelor's degree).

Degrees Held: Baccalaureate degree major: _____

Graduate degrees: _____

(identify field of discipline) _____

Paraprofessional: (Please check one box)

Your child is receiving services by a paraprofessional

Qualifications:

Highest Level of Education: _____

Years of Experience: _____

Other: _____

Your child is not receiving services by a paraprofessional.

Use for teachers not fully certified or substitute teachers.

DATE

INSIDE ADDRESS
INSIDE ADDRESS
INSIDE ADDRESS

Dear "Parent":

In fulfillment of federal legislation, the Every Student Succeeds Act, we are informing you that your child, _____ has been taught by a teacher for more than four consecutive weeks who does not meet applicable state certification requirements at the grade level and subject area in which the teacher has been assigned although he/she has been hired by the _____ Public Schools.*

Alternate Paragraphs. Please use the paragraph that is most appropriate.

The teacher does not hold full Connecticut certification but holds, at a minimum, a bachelor's degree and has met minimum semester hours of coursework in the subject being taught and needs to complete tests and/or additional coursework to become fully certified.

or

Your child is being taught by a substitute teacher..... (fill in qualifications as appropriate)

The District was unable to find and hire a fully certified teacher to fill this position, but will continue to seek a fully certified teacher.

Sincerely,

AUTHOR
TITLE

***Note to Superintendent/Principal: Please do not use this phrase if you have a certified teacher providing instruction in an area in which he/she is not certified.**

Another version to consider.

**PARENTAL NOTICE REGARDING TEACHERS NOT FULLY CERTIFIED
OR FOR LONG-TERM SUBSTITUTES**

DATE

INSIDE ADDRESS (line 1)

INSIDE ADDRESS (line 2)

INSIDE ADDRESS (line 3)

Dear Parent:

In fulfillment of new federal legislation, The Every Student Succeeds Act, we are required to inform you if your child has been taught by a teacher for more than four consecutive weeks who does not meet applicable state certification requirements at the grade level and subject area in which the teacher has been assigned. This definition states that “a highly qualified teacher holds full state certification as a teacher (including certification through alternate routes) or has passed a state teacher licensing exam and holds state certification.”

In Connecticut, we consider teachers with a durational shortage area permit, a non-renewable interim certificate, an interim certificate, a temporary authorization for a minor assignment, and a long-term substitute permit to be qualified to teach in the public school system.

Your child, _____, is being taught by a qualified teacher, hired by the _____ Public School System, who has one of the above-named permits or certificates; while the teacher does not hold full Connecticut certification, he/she holds, at a minimum, a bachelor’s degree and has met minimum semester hours of coursework in the subject being taught and needs to complete tests and/or additional coursework to become fully certified.

At this time, the _____ Public School System is unable to find and hire a fully certified teacher to fill this position, but will continue to seek a person who meets the federal definition.

Sincerely,

AUTHOR

TITLE

XXX/xx

****Please note: This letter would not be applicable for a regular substitute teacher for a certified teacher providing instruction in an area in which he/she is not certified.***

Sample notification notices to parents regarding their right to review teacher qualifications.

NOTICE TO PARENTS

Sample #1 (Re: Teacher Qualifications)

To: All Parents
From: (Insert school district name)
Date: (Insert date)

As a parent of a student at _____ School, you have the right to request and to receive information regarding the professional qualifications of the classroom teachers who instruct your child. Federal law allows you to ask for certain information about your child's classroom teachers, and requires us to give you this information in a timely manner if requested.

Specifically, you have the right to ask for the following information about each of your child's classroom teachers:

- Whether the Connecticut State Department of Education has licensed or qualified the teacher for the grades and subjects he or she teaches.
- Whether the Connecticut State Department of Education has decided that the teacher can teach in a classroom without being licensed or qualified under state regulations because of special circumstances.
- The teacher's college major; whether the teacher has any advanced degrees, and if so, the subject(s) of the degrees.
- Whether any teachers' aides or similar paraprofessionals provide services to your child, and if they do, their qualifications.

If you would like to receive this information please call _____ at _____.

Sample #2 (Re: Teacher Qualifications)

To: All Parents
From: _____ School District
Date: _____

As the parent of a student in the _____ School district, under The Every Student Succeeds Act, you have the right to know the professional qualifications of the teachers who instruct your child. The ESSA gives you the right to ask for the following information about each of your child's classroom teachers:

- Whether the State of Connecticut has licensed or qualified the teacher for the grades and subjects he or she teaches.

NOTICE TO PARENTS

Sample #2 (Re: Teacher Qualifications) (continued)

- Whether the teacher is teaching under an emergency permit or other provisional status by which state licensing criteria have been waived.
- The teacher's college major; whether the teacher has any advanced degrees, and if so, the subject of the degrees.
- Whether any instructional aides or similar paraprofessionals provide services to your child, and if they do, their qualifications.

If you would like to receive any of this information, please contact _____ at _____.

Nutmeg Public Schools
Nutmeg, Connecticut

Sample #3 (Use if child is taught by an emergency credentialed teacher for four or more consecutive weeks)

To: All Parents
From: _____ School District
Date: _____

As a parent of a student in _____ School District in a program funded under the Every Student Succeeds Act, you have a right to know the professional qualifications of the teachers who instruct your child. The ESSA requires the school district to notify you in a timely manner that the teacher that has been assigned to your child's class has the following professional credentials: (e.g. specify the type of credential such as Emergency Permit)

If you have any questions, please contact _____ at _____.

Nutmeg Public Schools
Nutmeg, Connecticut

A new recommended policy to consider, which replaces previous versions due to new legislation.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

The Board of Education (Board) believes that it is critical that references on an application be checked prior to an offer of employment. Also, in order to create a safe and orderly environment for students, all offers of employment will be conditional upon the successful outcome of a criminal record check. In addition, any person applying for employment with the Board shall submit to a record check of the Department of Children and Families Child Abuse and Neglect Registry before the person may be hired.

Requirements for Applicants

The Board, as an eligible school operator, shall not offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact, prior to the Board requiring of such applicant to provide:

1. Contact information for current and former employers if they were education employers or the employment otherwise involved contact with children. The contact information must include the name, address and telephone number of each current or former employer.
2. Written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the State Department of Education (SDE) designated standardized form that interviewing employers send. The authorization also must consent to and authorize SDE to disclose information and related records to the District upon request and release such former employees and the SDE from any liability that may arise as a result of such disclosure or release.

“Former employer” means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

3. To provide a written statement of whether he or she:
 - a. was the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
 - b. was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (DCF), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated by DCF of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or

Personnel -- Certified/Non-Certified

Employment/Reference Checks (continued)

- c. has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.
- d. has ever been convicted of a crime or whether criminal charges are pending at the time of the application for a position and, if charges are pending, a statement of the charges and the court in which such charges are pending.

Reference Checking Procedures

The District shall conduct a review of the applicant's employment history by contacting those employers listed in the required information provided by the applicant. Such review shall be conducted using the SDE form that requests:

1. the dates of employment of the applicant;
2. a statement as to whether the employer has knowledge that the applicant was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated; was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct.

Such review may be conducted by telephone or through written communication, not later than five business days after any such current or former employer of the applicant receives a request for such information, and responds with such information. The Board may request more information concerning any response made by a current or former employer. Such employer shall respond not later than five business days after receiving such request; and

The District shall also request information from SDE concerning:

1. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit;
2. whether SDE has knowledge that a finding has been substantiated by the Department of Children and Families of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding;
3. whether SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

Reference Checking Procedures (continued)

The Board shall notify SDE if it receives information that an applicant for a position with the District or a current employee has been disciplined for a finding of abuse or neglect or sexual misconduct.

The Board will not employ an applicant for a position involving direct student contact who does not comply with the provisions of this policy.

Temporary Hires

The Board may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's review of the required and submitted applicant information provided:

1. The applicant has submitted to the District the three required disclosures;
2. The Board, has no knowledge of information pertaining to the applicant that would disqualify him/her from employment; and
3. The applicant affirms that he or she is not disqualified from employment with the Board.

Employment Agreements

The Board shall not enter into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement or any other contract or agreement or take any action that:

1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
2. Affects the ability of the local or regional Board of Education, council or operator to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
3. Requires the Board, to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the Board, unless after investigation such allegation is dismissed or found to be false.

Substitute Teachers

The Board, as an eligible school operator, shall only hire applicants for substitute teaching positions who comply with this policy and who fulfill the disclosure requirements and after requesting information from the applicant's prior employers and SDE. The Board shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The Board shall hire only substitutes who are on such list.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

Substitute Teachers (continued)

Approved substitutes shall remain on such list as long as he or she is continuously employed by the Board as a substitute teacher, provided the Board does not have any knowledge of a reason that such person should be removed from the list.

Student Teachers

Student teachers must give written statement about whether they have ever been convicted of a crime or have criminal charges pending against them when they apply to work in a District school, along with the charge and court where they are pending. They must also submit to a DCF child abuse and neglect registry check before beginning their student teaching experience and submit to state and national criminal history checks within 60 days before the start of student teaching.

Adult Education Teachers

Persons employed by the Board as a teacher for a non-credit adult class or adult education activity, as defined in C.G.S. 10-67, who is not required to hold a teaching certificate for his/her position shall/shall not undergo state and national criminal history records checks. (Board is permitted to determine)

Contractors and Their Employees

In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to the contractor all information required of any applicant for a position in the district as previously described in this policy. The contractor shall contact any current or former employer of such employee that was a Board of Education, council or operator or if such employment caused the employee to have contact with children, and request, either by telephone or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee.

Such employer shall report to the contractor any such finding, either by telephone or through written communication. If the contractor receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, immediately forward such information to the Board of Education with which the contractor is under contract, either by telephone or through written communication.

Any Board of Education that receives such information shall determine whether such employee may work in a position involving direct student contact at any school under the Board's jurisdiction. No determination by a Board of Education that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

Personnel -- Certified/Non-Certified

Employment/Reference Checks (continued)

Falsification of Records/Information

Any applicant who knowingly provides false information or knowingly fails to disclose information required by this policy in compliance with applicable statutes shall be subject to discipline by the Board. Such discipline may include denial of employment, or termination of the contract of a certified employee.

It is understood that any employer and SDE who provide information to the Board and in accordance with this policy shall be immune from criminal and civil liability, provided the employer or SDE did not knowingly supply false information.

Communication

The District, as required, shall communicate with other education employers and also between an education employer and SDE, about findings of abuse or sexual misconduct by applicants or employees. The Board will notify SDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct. In addition, the Board will provide, upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of an education employer or a contractor's employee.

The Board, in compliance with federal law, shall not disseminate the results of any national criminal history records check, except as required to the State Board of Education.

Definitions

“Eligible school operator” means a school or school district authorized to receive national criminal history record information from the FBI and includes local or regional boards of education, the Technical Education and Career System, the governing council of charter schools and interdistrict magnet school.

“Sexual misconduct” means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student;

“Abuse of a child or youth” is defined as (a) inflicting physical injury or non-accidental injuries; (b) inflicting injuries that do not match the story associated with their origin; or (c) maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment; and

“Neglect of a child or youth” is defined as (a) abandonment; (b) denial of proper care and attention physically, educationally, emotionally, or morally; or (c) allowing the child to live under conditions, circumstances, or associations injurious to the child's well-being.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

Definitions (continued)

“Abuse and neglect” also includes sexual assault as defined in the statutes. (C.G.S. 46b-120, and includes any violation of section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a).

“Former employer” means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

Offer of Employment

Prior to offering employment to an applicant, the Board shall make a documented good faith effort to contact each current and any former employer that was a Board of Education, council or operator or if such employment otherwise caused the applicant to have contact with children of the applicant in order to obtain information and recommendations which may be relevant to the applicant’s fitness for employment, provided such effort shall not be construed to require more than three telephone requests made on three separate days.

The Board shall not offer employment to any applicant who had any previous employment contract terminated by a Board, council or operator or who resigned from such employment, if such person has been convicted of abuse or neglect or sexual misconduct.

Sex Offender Registry Checks

The Board requires school district personnel to cross-reference the Connecticut Department of Public Safety’s Sexual Offender Registry prior to hiring any new employee. Registration as a sexual offender constitutes grounds for denial of employment opportunities.

Employment Assistance Prohibited

Pursuant to the federal Every Student Succeeds Act (ESSA), the Board prohibits the Board, individual Board members, and any individual or entity who is a District employee, contractor or agent of the District from assisting a District employee, contractor, or agent in obtaining a new job/position if the Board, individual, or entity knows, or has probable cause to believe, that such District employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative file does not violate this prohibition.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

Employment Assistance Prohibited (continued)

This prohibition does not apply under certain conditions specified by ESSA such as:

1. The matter has been reported to law enforcement authorities and it has been officially closed or the school officials have been notified by the prosecutor or police after an investigation that there is insufficient information to establish probable cause, or;
2. The individual has been acquitted or otherwise cleared of the alleged misconduct, or;
3. The case remains open without charges for more than four (4) years after the information was reported to a law enforcement agency.

This policy shall not apply to a student employed by the Board.

Credit Checks

The District may ask an applicant for a credit report for certain district positions, where the receipt of such report is substantially related to the employee's potential position. Substantially related means "the information contained in the credit report is related to the position for which the applicant who is the subject of the report is being evaluated." A credit report will be requested if the position is (1) a managerial position which involves setting the direction or control of the district; (2) involves access to employees' personal or financial information; (3) involves a fiduciary responsibility to the District, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (4) provides an expense account or District debit or credit card; or (5) involves access to the District's nonfinancial assets valued at two thousand five hundred dollars or more.

In requesting a credit report as part of the employment process, written notification will be provided to the prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the District may use the information in the consumer credit report to make decisions related to the individual's employment.

Consent will be obtained prior to performing the credit checks. When an action adverse to a potential employee based on the credit report is taken, the District will provide the applicant with a copy of the report which the District used in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," provided by the company that submits the results of the credit check. The District will notify the prospective employee the adverse action was taken based on the information in the consumer report. That notice will include the name, address and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the District's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) calendar days.

Personnel -- Certified/Non-Certified

Employment/Reference Checks

(cf. 4112.5 – Security Check/Fingerprinting)
(cf. 4121 – Substitute Teachers)

Legal References: Connecticut General Statutes

- 1-200 through 1-241 of the Freedom of Information Act.
- 5-193 through 5-269 State Personnel Act
- 10-151c Records of teacher performance and evaluation not public records.
- 10-221d Criminal history records checks of school personnel. Fingerprinting. Termination or dismissal. (as amended by PA 19-91)
- 10-222c Hiring policy. (as amended by PA 16-67 and PA 17-220)
- Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93-568, codified at 20 U.S.C. 1232g)
- Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. Provisions Act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.
- Elementary and Secondary Education Act, reauthorized as the Every Student Succeeds Act (ESSA), P.L. 114-95 codified as U.S.C. §1001 et seq.
- PA 16-67 An Act Concerning the Disclosure of Certain Educational Personnel Records
- 20 U.S.C. 7926 Prohibition on aiding and abetting sexual abuse
- P.A. 17-220 An Act Concerning Mandate Relief

Policy adopted:
rev 6/17
rev 3/18
rev 7/19

STATE OF CONNECTICUT
Contractor Verification
(in accordance with Public Act 16-67)

Directions to Contractor: Connecticut law requires that any contractor applying or bidding for a contract (including individuals who are independent contractors) with a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator require any employee with the contractor who would be in a position involving direct student contact to supply the contractor with the information provided in this form. Information may be collected either through a written communication or telephonically.

In addition, pursuant to Connecticut General Statutes (C.G.S.) § 10-233c, the contractor is required to contact — either telephonically or through written communication — any current or former employer of an employee if such employer was a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator or if the employment caused the employee to have contact with children, to request any information concerning whether there was a finding of abuse or neglect or sexual misconduct against the employee. If the contractor receives any information indicating such a finding, or otherwise has knowledge of such a condition, the contractor must immediately forward such information to any local or regional board of education with which the contractor is under contract.

Directions to Employee of Contractor: Pursuant to Connecticut state law, employees of a contractor who would be in a position involving direct student contact must supply all of the information provided in Section 2 of this form.

Section 1 - To be completed by Contractor

Name	
Street Address	
City, State, Zip Code	
Contact person	
Telephone number/email address	

Section 2 — To be completed by Employee of Contractor

Part A. On a separate sheet of paper, please list the name, address and telephone number of each current or former employer, if such current or former employer was a local or regional board of education, a governing council of a state or local charter school, or interdistrict magnet school operator, or if such employment otherwise caused you to have contact with children.

Part B. Please complete the questions below in their entirety.

Have you ever:

Y **N**
 Been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department (answer “no” if the investigation resulted in a finding that all allegations were unsubstantiated)?

Y **N**
 Been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (the “department”), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to section 17a-10lg of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

Y **N**
 Been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (the “department”), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to section 17a-10lg of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

Y **N**
 Had a professional or occupational license or certificate suspended or revoked or ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the department or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the department of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

Part C - Written Consent and Disclosure Authorization. I hereby authorize the entities I have listed in Section 2 of this form to release to the entity listed in Section 1 of this form the information required to be released by my previous employer pursuant to (C.G.S.) §10-222c along with any related records. I hereby consent to and authorize disclosure by the State Department of Education of the information requested pursuant to C.G.S. §10-222c, as amended by Public Act 16-67, and I hereby authorize the release by the State Department of Education of any related records. I further hereby release the above-named employer(s) and the State Department of Education from any and all liability of any kind that may arise from the disclosure or release of records requested pursuant to C.G.S. §10-222c, as amended by Public Act 16-67.

Signature of Applicant

Date

NOTES:

The terms provided below are currently defined in state law as follows. Please note that statutes may be amended from time to time.

Sexual Misconduct means “any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student.” Connecticut General Statutes §10-222c(k).

Abuse or Neglect means “abuse or neglect as described in Section 46b-120, and includes any violation of Sections 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a.” Connecticut General Statutes §10-222c(k).

The Connecticut State Department of Education is an affirmative action/equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, gender identity or expression, sexual orientation, marital status, national origin, ancestry, age, criminal record, political beliefs, genetic information, intellectual disability, past or present history of mental disability, learning disability, or physical disability, including, but not limited to, blindness or any other basis prohibited by Connecticut state and/or federal nondiscrimination laws.

**STATE OF CONNECTICUT
Educational Employer Verification
(in accordance with Public Act 16-67)**

Directions for School District/Entity Considering Applicant for Employment: Each local or regional board of education, governing council of a state or local charter school or an interdistrict magnet school operator is required to obtain the information listed on this form from ALL current or former employer(s) of the applicant if such employer was a local or regional board of education, a governing council of a state or local charter school, an interdistrict magnet school operator or if the employment caused the applicant to have contact with children. Applicants are required under the law to provide a prospective employer with the name, address and telephone number of all current or former employers that meet the above criteria. Information may be collected either through a written communication or telephonically.

Directions for Current/Previous Employer: The applicant listed below is under consideration for a position with the school/district listed below in Section 2. The individual identified below has reported current/previous employment with your organization or contractual services with your organization in a position in which he/she had contact with children. As required by Connecticut General Statutes Section 10-222c, as amended by Public Act 16-67, please provide the information requested in Section 3. In accordance with the provisions of Public Act 16-67, you are required to respond to this request within five business days.

Section 1 – To be completed by the Applicant

Name of applicant	
Former name(s) (if applicable)	
Street address	
City, State, Zip Code	
Approximate dates of employment with employer listed in Section 3 of this form	
Position held with employer listed in Section 3 of this form	

Section 2 – To be completed by Prospective Employer

Name of prospective employer	
Street address of prospective employer	
City, State, Zip Code	
Contact person	
Telephone number/email address	

Section 3 – To be completed by the Current/Former Employer

Name of employer	
Date of receipt of this notice	
Date of employment of above-named applicant	
Contact person	
Telephone number/email address	

Y **N**
 Been the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation currently pending with any current or prior employer, state agency or municipal police department or which has been substantiated?

Y **N**
 Been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct?

Y **N**
 Had a professional or occupational license, certificate, authorization or permit suspended or revoked or ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct?

Signature of Superintendent or HR Director

Date

Return all completed information to the Prospective Employer listed in Section 2 of this form.

NOTES:

The terms provided below are currently defined in state law as follows. Please note that statutes may be amended from time to time.

Sexual Misconduct – “any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student.” Connecticut General Statutes §10-222c(k).

Abuse or neglect – “abuse or neglect as described in Section 46b-120, and includes any violation of Sections 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a.” Connecticut General Statutes §10-222c(k).

Agency Privacy Requirements For Noncriminal Justice Applicants

Authorized governmental and non-governmental agencies/officials that conduct a national fingerprint- based criminal history record check on an applicant for a noncriminal justice purpose (such as a job or license, immigration or naturalization matter, security clearance, or adoption) are obligated to ensure the applicant is provided certain notice and other information and that the results of the check are handled in a manner that protects the applicant’s privacy.

- Officials must provide to the applicant written notice¹ that his/her fingerprints will be used to check the criminal history records of the FBI.
- Officials using the FBI criminal history record (if one exists) to make a determination of the applicant’s suitability for the job, license, or other benefit must provide the applicant the opportunity to complete or challenge the accuracy of the information in the record.
- Officials must advise the applicant that procedures for obtaining a change, correction, or updating of an FBI criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- Officials should not deny the job, license, or other benefit based on information in the criminal history record until the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.
- Officials must use the criminal history record solely for the purpose requested and cannot disseminate the record outside the receiving department, related agency, or other authorized entity.²

The FBI has no objection to officials providing a copy of the applicant’s FBI criminal history record to the applicant for review and possible challenge when the record was obtained based on positive fingerprint identification. If agency policy permits, this courtesy will save the applicant the time and additional FBI fee to obtain his/her record directly from the FBI by following the procedures found at 28 CFR 16.30 through 16.34. It will also allow the officials to make a more timely determination of the applicant’s suitability.

Each agency should establish and document the process/procedures it utilizes for how/when it gives the applicant notice, what constitutes “a reasonable time” for the applicant to correct or complete the record, and any applicant appeal process that is afforded the applicant. Such documentation will assist State and/or FBI auditors during periodic compliance reviews on use of criminal noncriminal justice purposes.

If you need additional information or assistance, contact the Department of Human Resources at 860- 828-6581.

Connecticut Records: Department of Emergency Services and Public Protection State Police Bureau of Identification (SPBI) 1111 Country Club Road Middletown, CT 06457 860-685-8480	Out-of-State Records: Agency of Record OR FBI CJIS Division-Summary Request 1000 Custer Hollow Road Clarksburg, West Virginia 26306
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¹Written notification Includes electronic notification, but excludes oral notification.

²See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d), 50.12(b) and 906.2(d).

Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for a job or license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification³ by the Berlin Board of Education that your fingerprints will be used to check the criminal history records of the FBL
- If you have a criminal history record, the officials making a determination of your suitability for the job, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the job, license, or other benefit based on information in the criminal history record.⁴
- You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.⁵
- If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.
- If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entity. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)

Connecticut Records: Department of Emergency Services and Public Protection State Police Bureau of Identification (SPBI) 1111 Country Club Road Middletown, CT 06457 860-685-8480	Out-of-State Records: Agency of Record OR FBI CJIS Division-Summary Request 1000 Custer Hollow Road Clarksburg, West Virginia 26306
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If you need additional information or assistance, please contact the Department of Human Resources at 860-828-6581.

³Written notification includes electronic notification, but excludes oral notification.

⁴See 28 CFR 50.12(b).

⁵See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

**Federal, Bureau of Investigation
United States Department of Justice
Privacy Act Statement**

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Social Security Account Number (SSAN). Your SSAN is needed to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), the requesting agency is responsible for informing you whether disclosure is mandatory or voluntary, by what statutory or other authority your SSAN is solicited, and what uses will be made of it. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Additional Information: The requesting agency and/or the agency conducting the application-investigation will provide you additional information pertinent to the specific circumstances of this application, which may include identification of other authorities, purposes, uses, and consequences of not providing requested information. In addition, any such agency in the Federal Executive Branch has also published notice in the Federal Register describing any systems(s) of records in which that agency may also maintain your records, including the authorities, purposes, and routine uses for the system(s).

HIPAA PRIVACY RULE

BACKGROUND INFORMATION FOR POLICY COMMITTEE

Definition: As school districts continue to wrangle with ever-increasing health insurance costs, one of the phrases board members and superintendents are likely to hear in their discussions is “HIPAA”. Exactly what HIPAA is and how it affects school insurance policies is a very complicated, but important topic.

HIPAA is the Health Insurance Portability and Accountability Act of 1996, enacted by the federal government. The Office for Civil Rights in the U.S. Department of Health and Human Services has the responsibility for enforcing the new HIPAA rules. However, it has not yet published the enforcement procedures it will follow, but the agency has said enforcement will be “complaint-driven,” meaning it will act only when a privacy violation is called to its attention.

The Privacy Rule: The Act contains a series of “administrative simplification” provisions that required the U.S. Department of Health and Human Services to adopt national standards for electronic health care transactions. Final regulations for protecting the privacy of individually identifiable health information under HIPAA went into effect April 14, 2003 with many issues that may affect schools still unclear.

HIPAA is intended to (1) protect the confidentiality of personally identifiable health information (PHI) by restricting its release and safeguarding its security; and (2) simplify and reduce administrative costs by standardizing codes used to transmit PHI. The Privacy Rule under HIPAA, effective April 14, 2003, is a sweeping federal regulation requiring covered entities to take affirmative steps to protect the privacy of *protected health information* (PHI).

- The Privacy Rule sets forth rights of access for parents to their child’s medical records.
- Each covered entity is required to designate a privacy officer, issue privacy notices to affected individuals, obtain consent before disclosing PHI and to implement procedures to prevent unauthorized disclosure of PHI.
- Violations are punishable with civil and criminal penalties.

Definition of PHI: PHI is defined as “any oral or recorded information that is created or received by the health plan that relates to the past, present or future physical or mental health condition of a participant, the provisions of health care to an individual, or the past, present or future payments for the provision of health care of a participant if the information either identifies the participant or there is a reasonable basis to believe that the information can be used to identify the participant.” PHI does not include employment records held by an employer.

Covered Entities: Health insurance plans; health care clearinghouses and those health care providers that conduct certain financial and administrative transactions electronically are required to comply with the final standards of the Act. Some school districts may be *covered entities* under the Privacy Rule.

The term “*health care provider*” is very broadly defined to include any “care services or supplies related to the health of an individual.” Health care centers located in schools but operated by HIPAA-covered entities such as hospitals or public health departments are subject to HIPAA and may not release student health information to the schools in which they are situated, since the schools are not HIPAA “covered entities.”

HIPAA Privacy Rule (continued)

Districts that employ nurses, athletic trainers, psychologists, social workers and certain educational aides may be health care providers but would not be covered unless they conduct health care transactions, such as billing, electronically.

Districts that are self-insured for employee insurance-health, dental, vision, prescription drugs-are *health insurance plans*.

Districts that process Medicaid and other medical claims for third parties may be considered *health care clearinghouses*.

Schools that bill private insurers or Medicaid for health services provided to students, as in the case of special education, may be engaging in HIPAA-covered transactions, which are defined in the regulations as including billing for treatment, which could bring schools under HIPAA regulation.

Districts that are not covered entities will experience an indirect impact. Covered entities that disclose PHI to third parties pursuant to a business relationship must obtain certain assurances from those third parties. For example, a contractor providing physical therapy services to special education students under a contract with the district must obtain written assurances that the district will protect or maintain the confidentiality of any health information before disclosing it to the district.

Medical providers, faced with HIPAA's requirements and violation penalties, are becoming very cautious about Protected Health Information (PHI), what they disclose, to whom, and by what means. There is also some confusion about what information is considered PHI. Some medical providers have resolved the confusion by refusing to supply any medical information via fax or e-mail. This may be an overreaction, and may only be a temporary situation. However, districts should anticipate increasing challenges to obtaining or providing health records.

Health insurance providers must obtain written assurances before releasing even summary health information. Outside health care providers must obtain written permission before releasing medical information to schools. This means that a physician must have the parent's written consent before providing a student's immunization records to the district. Therefore, school nurses accustomed to calling doctors, hospitals and clinics for student immunization records that are required for school admission may find providers unwilling to provide such information without parental authorization because HIPAA privacy protections apply to "preventative" health care as well as other treatment, and there is no exception in the regulations for immunization records.

Impact on Student and Personnel Records: Even if a district is a covered entity, exceptions soften the responsibilities of compliance.

- The Privacy Rule specifically excludes education records under the Family Educational Rights Act (FERPA) from its coverage. However, health information not covered by FERPA, such as oral communications, is covered by HIPAA.
- The Privacy Act excludes records that an entity holds in its capacity as an employer.
- The rule also excludes disclosure of workers' compensation records to an employer. However, health insurance records relating to employees come under the rule.

HIPAA Privacy Rule (continued)

- School nurses who are employees of their school systems are not subject to HIPAA but are required to keep health information in student records confidential as required by FERPA. The release of student health records to persons in a school who need the information in order to provide education is permitted by FERPA. A key exception, however, is that the information that may be released to school personnel under FERPA does not include information entered into the student's record by medical or psychiatric professionals or paraprofessionals that deal entirely with the treatment recommended for the student.
- It is a common practice for employees to request assistance with health benefits claims. In order to provide this assistance it will usually be necessary for the employee to provide either the district's business office or the health insurance company with what HIPAA refers to as Protected Health Information (PHI). Before that takes place, the employee must provide the intended recipient with a signed authorization for receipt and use of PHI. Disclosure must be limited to the smallest possible number of individuals necessary to accomplish the stated need of the disclosure.
- Student health records appear to be regulated primarily by the Family Educational Rights and Privacy Act (FERPA). There is a legal question however, about whether student health records are protected solely by FERPA. An argument could be made that student health information originating with district employees such as a contractual psychologist, physical therapist, etc. is protected by HIPAA rather than by FERPA.

Actions to Take: Schools are about to be faced with compliance deadlines under a new law for which there is little or no regulatory guidance from Washington. Keep in mind that two components of HIPAA apply to schools: (1) assurance of confidentiality and security of student records when dealing with billing done to Medicaid or private insurance companies and (2) adoption of uniform national codes for health reports provided electronically to the state's Medicaid office.

Consider working with a qualified consultant and the district's school attorney to determine if and to what extent the district is covered by HIPAA and to develop a compliance plan. This appears to be a complex, fact-dependent determination for which there is no "one-size fits all."

Districts should also be prepared to receive "Business Associate Agreements" from covered entities and possibly plan amendments from its insurance company. The board's attorney, to ensure that the district is not taking on any more responsibility or liability than necessary, should review these documents.

Every board of education should designate a privacy official who would be responsible to verify that the district's health plan complies with the Privacy Rule. This individual will also be responsible to bring to the board any issues relating to the rule that the board may need to act on. This person could also receive complaints about the health plans and provide information regarding the privacy notice.

Policy Implications: The legislation does not require boards of education to adopt policies related to health records or health care transactions.

However, an optional policy, #4112.61/4212.61 to consider has been developed, pertaining to health and medical records of employees and follows for your consideration. Forms to assist in the compliance with this legislation are also included.

In addition, policy #5125.11 to consider has been developed pertaining to the health and medical records of students as they relate to HIPAA.

The board's role is one of general oversight to ensure that the administration is utilizing appropriate administrative procedures to comply with the law to the extent the district is covered.

A number of forms are provided to assist districts with the procedural aspects of this legislation.

Sources of Additional Information:

1. **The U.S. Department of Health and Human Services maintains a comprehensive Web site on HIPAA at www.hhs.gov/ocr/hipaa/.**
2. **The Center for Health and Health Care in Schools at www.healthinschools.org.**
3. **The Center for Medicaid Services (CMS) at <http://www.cms.hhs.gov/hipaa/hipaa2/NewesreleaseFull.asp>**
4. **The National Assembly on School-Based Health Care at [Http://nasbhc.org/TAT/About_HIPAA.htm](http://nasbhc.org/TAT/About_HIPAA.htm)**
5. **Mr. David Parrella, Director, Medical Care Administration, Department of Social Services, 25 Sigourney Street, Hartford, CT 06106 (860) 424-5116**

South Windsor's recent version of this policy.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies

The South Windsor Board of Education (“the Board” or the “Plan Sponsor”) sponsors a group health plan that provides medical and dental benefits (the “Plan”). These Privacy Policies have been adopted by the Plan and the Board in order to ensure the privacy of protected health information (“PHI”) that they receive in connection with the Plan in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations thereunder (“HIPAA”) and other applicable laws. In these Policies, “Plan Participant” refers to a covered employee or retiree of the Board and his or her covered spouse and dependents; “we” refers to the Plan and the Board; and “employee” means all members of the Board’s workforce. Other terms in these Policies have the meanings set forth in HIPAA, unless otherwise defined herein.

We are committed to maintaining the privacy of PHI and complying with all applicable laws and regulations relating to such information, including HIPAA. Accordingly, employees of the Board who have access to PHI created or received by the Plan shall comply with these Policies, and any additional policies and procedures that we may establish from time to time in order to comply with any changes in applicable law. We reserve the right to modify and amend these Policies from time to time, subject to applicable law. Such changes may be made with or without notice unless otherwise required by law.

These Policies are intended to serve as a practical guide to our privacy policies and practices and, as such, are not intended to cover all topics or circumstances. We reserve the right to respond to specific situations in a manner that best suits our needs and the needs of the individuals involved. Where there are differences between the provisions of these Policies and the provisions of applicable law, the provisions of applicable law will control.

Nothing in these Policies is intended to create or increase the rights or remedies of any Plan Participant or other third party or create any express or implied contract with any Plan Participant or other third party, other than as expressly set forth herein or contemplated hereby or in our Notice of Privacy Practices. Nothing in these Policies is intended to address any rights or obligations of the Board with respect to information that is not PHI.

Generally speaking, the PHI of a Plan Participant may be used or disclosed for payment purposes, such as determination or provision of benefits under the Plan; determination of eligibility or coverage under the Plan; adjudication and payment of claims; and for health care operations of the Plan, such as reviewing plan performance and business management and general administrative purposes. We may use and disclose PHI relating to Plan Participants only in accordance with these Policies, our Notice of Privacy Practices (described below) and applicable law. Moreover, a Plan Participant’s PHI may be used or disclosed only for a permitted purpose and only the minimum amount of PHI necessary to accomplish the intended purpose may be used or disclosed. Reasonable precautions should be taken to prevent inadvertent or unnecessary disclosures.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies (continued)

Should you have any questions about these Privacy Policies or their application to particular circumstances, please contact the Assistant Superintendent for Personnel and Administration, our Privacy Officer, at (860) 291-1215.

Privacy Notice

We will provide Plan Participants with a Notice of Privacy Practices describing how the Plan may use and disclose individually identifiable health information and setting forth their rights and our obligations under the law and these Policies. The Notice of Privacy Practices will be sent to each Plan Participant. Plan Participants who join the Plan on or after the effective date will be provided with the Notice of Privacy Practices upon enrollment. In addition, our Notice of Privacy Practices will be posted on our website at www.swindsor.k12.ct.us.

Should there be a material change in the privacy rights of the Plan Participants or our policies or obligations under the law, the Notice of Privacy Practices will be promptly revised and redistributed as set forth above.

Use and Disclosure of PHI

We will use and disclose PHI in a manner that is described in the Notice of Privacy Practices, and only as permitted by HIPAA and other applicable laws. We will take appropriate steps to request, use or disclose no more than the minimum amount of PHI that is necessary to accomplish the purpose for which such information is sought. This minimum necessary standard does not apply, however, to the following uses or disclosures:

1. Uses by, or disclosures to, the Plan Participant;
2. Uses or disclosures pursuant to a valid authorization;
3. Disclosure to the U.S. Department of Health and Human Services (“HHS”); and
4. Uses and disclosures that are required by applicable law.

The Board will not use PHI in connection with any employment-related functions or decisions or in connection with any of its other benefit plans that are not health plans under HIPAA, such as our workers’ compensation and life insurance plans, unless the Plan Participant has provided a valid authorization for such use or disclosure or such use or disclosure is required by applicable law. Only the Privacy Officer and those employees of the Board designated in the Plan Amendment shall be authorized to access PHI for the purpose of performing administrative functions on behalf of the Plan (such individuals are referred to as “Authorized Employees”). No other employee of the Board shall have access to PHI except in connection with exercising the right to access their own PHI as further described in the Right of Access policy described below.

If we no longer need PHI that is in our possession, we will destroy the information.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies (continued)

Disclosure of PHI to Business Associates

Where it is necessary to employ a third party, such as a third party administrator, to carry out payment or health care operations of the Plan and to communicate PHI to or authorize receipt of PHI by such third party for the performance of its duties, the Plan must enter into a written agreement that obligates the third party (“Business Associate”) to appropriately safeguard the information. Before disclosing PHI to a Business Associate and before the Business Associate can be authorized to receive PHI on behalf of the Plan from any source, the employee making disclosure must confirm with the Privacy Officer that a Business Associate Agreement with such party has been signed. If an employee of the Board learns that a Business Associate has engaged in an activity, pattern or practice that constitutes a material breach of its Business Associate Agreement, the employee shall notify the Privacy Officer who will take immediate steps to initiate remedial action. Such action shall include requiring the Business Associate to cure the breach or end the violation and, if such steps are unsuccessful, to terminate the Business Associate Agreement or notify the Secretary of HHS.

If PHI is to be used or disclosed for purposes other than treatment, payment or operations (and certain other permissible purposes identified in these Policies and our Notice of Privacy Practices), the Plan Participant’s written authorization must first be obtained. The form and contents of the authorization will comply with the requirements of HIPAA and other applicable laws. All uses and disclosures made pursuant to an authorization must be consistent with the terms and conditions of the authorization. We will not condition enrollment or eligibility for benefits upon the Plan Participant’s signing an authorization. Requests for disclosures for purposes other than treatment, payment or operations without an authorization must be coordinated by the Privacy Officer.

Individual Privacy Rights

Right of Access to PHI

A Plan Participant has the right to review his or her PHI contained in a designated record set, and to receive copies of such information in accordance with applicable law. We do not intend to maintain a designated record set; however, we will take reasonable steps to ensure that the third party administrator of the Plan will accommodate Plan Participants’ requests to receive their PHI by any reasonable and appropriate means. However, a Plan Participant’s request for access to his or her PHI may be denied where such denial is permitted by law. Additionally, a Plan Participant may be required to make a request for access to his or her PHI in writing and may be charged a reasonable fee for the copying and mailing of such information.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies (continued)

Right to Request Amendment of PHI

A Plan Participant has the right to request an amendment of his or her PHI contained in a designated record set. If the record is inaccurate, and the law permits an amendment, it will be corrected. We will take reasonable steps to ensure that the third party administrator of the Plan will accommodate Plan Participants' requests for amendment of PHI as permitted by applicable law.

Right to Request an Accounting of Disclosures of PHI

A Plan Participant has the right to obtain an accounting of any disclosures of his or her PHI, except disclosures:

1. to Business Associates or Authorized Employees of the Board who are performing payment or health care operations;
2. to the Plan Participant;
3. made pursuant to the Plan Participant's authorization;
4. for national security or intelligence purposes;
5. to a health oversight agency or law enforcement official; or
6. incident to a permissible use or disclosure identified in our Policies or in HIPAA.

We will take reasonable steps to ensure that the third party administrator of the Plan meets the following standards: It will respond to a Plan Participant's request for an accounting within 60 days, or if it is unable to comply with such request within 60 days, it may extend the period by an additional 30 days, provided that it gives the Plan Participant notice (including reasons for the delay and the date that the information will be provided) within the original 60-day period; and the accounting will include the date of disclosure, the name of the receiving party, a brief description of the information disclosed, and a brief statement of the purpose of the disclosure (or a copy of the written request for the disclosure, if any). The first accounting in any 12 month period will be provided free of charge. The third party administrator may impose reasonable production and mailing costs for subsequent accountings.

Right to Request Alternate Means of Communication or Locations

Plan Participants may ask to receive communications regarding their PHI by alternative means or at alternative locations. For example, a Plan Participant may ask to be called only at work rather than at home. We will accommodate the request of any Plan Participant if he or she clearly provides information that the disclosure of all or part of that information could endanger the participant. Other requests will be considered but cannot be accepted without consultation with the applicable third-party administrators and may be denied. The Privacy Officer or an Authorized Employee designated by the Privacy Officer shall be responsible for administering requests for confidential information and coordinating such requests with the applicable third party administrator.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies (continued)

Right to Request Additional Privacy Protections

A Plan Participant has the right to request that the use and disclosure of his or her PHI for purposes of treatment, payment or operations, or disclosures to individuals involved in their care be restricted further than the restrictions already imposed by these Policies and applicable law. However, there is no obligation to agree to any requested additional restrictions. The Privacy Officer or an Authorized Employee designated by the Privacy Officer will need to coordinate with the Plan's third party administrator prior to agreeing to an additional restriction. Any restrictions that are agreed to must be documented in accordance with our policies on documentation.

Personal Representatives of Plan Participants

For a Plan Participant who is an adult or emancipated minor, we will recognize a person who has legal authority to make health care decisions for the Plan Participant as his or her personal representative for purposes of exercising the Plan Participant's privacy rights and making decisions regarding the use and disclosure of the Plan Participant's PHI.

For a Plan Participant who is an unemancipated minor, we generally will recognize his or her parent, legal guardian or other person acting in loco parentis (in place of the parent) as the personal representative of the Plan Participant with respect to the exercise of privacy rights and the use and disclosure of the Plan Participant's PHI. We will not, however, recognize such person as a personal representative in those circumstances, acknowledged in HIPAA and set forth in other applicable laws, where a minor may obtain health care for himself or herself absent parental consent or notification.

For a deceased Plan Participant, we will recognize the executor, administrator or other legal representative with authority to act on behalf of the decedent or the decedent's estate as having the authority to exercise the Plan Participant's privacy rights and to make decisions regarding the use and disclosure of the Plan Participant's PHI.

Verification of Persons Requesting PHI

We will take reasonable steps to verify the identity and legal authority of any person requesting PHI if his or her identity and authority is not otherwise known.

Personnel-Certified/Non-Certified

HIPAA Privacy Policies (continued)

Legal Reference: 42 U.S.C. 1320d-1320d-8, P.L. 104-191, Health Insurance Portability and
Accountability Act of 1996 (HIPAA)
65 Fed. Reg. 50312-50372
65 Fed. Reg. 92462-82829
63 Fed. Reg. 43242-43280
67 Fed. Reg. 53182-53273

Policy adopted: April 26, 2005

SOUTH WINDSOR PUBLIC SCHOOLS
South Windsor, Connecticut

cps 5/05

South Windsor's regulation to consider/modify.

Personnel-Certified/Non-Certified

Privacy Officer

We will designate a Privacy Officer for the Plan and the Board in writing. The Privacy Officer shall be responsible for developing and implementing our privacy policies and procedures that relate to PHI, including without limitation, those set forth in these Policies.

The Privacy Officer will be listed in the Board's telephone directory and its website (www.swindsor.k12.ct.us).

The Privacy Officer shall be responsible for, among other things:

1. Implementing, administering and updating privacy policies and procedures to ensure compliance with the standards, implementation specifications and other requirements of HIPAA and other applicable laws;
2. Coordinating privacy and individual rights issues with the Plan's third party administrator and ensuring that all third party administrators commit to hold PHI received on behalf of the Plan in accordance with the requirements of HIPAA and other applicable laws;
3. Developing, maintaining and updating the privacy forms required by these Policies and HIPAA and other applicable laws;
4. Arranging for and documenting the training of the Board's Authorized Employees on privacy policies and procedures and the requirements of HIPAA and other applicable laws;
5. Establishing and maintaining organized files and records of privacy policies and practices and retaining such files and records in accordance with HIPAA and other applicable laws;
6. Receiving and investigating complaints about violations of our privacy policies or HIPAA and other applicable laws; and
7. Serving as the contact person for Plan Participants who have questions, concerns or complaints about the privacy of their PHI.

Personnel-Certified/Non-Certified

Privacy Officer (continued)

Training

The Board will provide training regarding these Policies to its Authorized Employees who have access to PHI in connection with the Plan. This training will include, at a minimum, information regarding permissible and impermissible uses and disclosures of such PHI and the procedures for filing complaints for violations of privacy laws and policies.

Initial training will be completed by June 30, 2005. Any new employee who has access to PHI in connection with the Plan will receive training on privacy policies within a reasonable time after his or her date of hire. If there is a material change in the policies and procedures set forth in any applicable privacy laws, employees whose duties are affected by such change will receive training in a timely manner after the effective date of the change, absent extenuating circumstances.

For Authorized Employees who receive PHI in connection with the Plan, successful completion of these training sessions is a prerequisite to continued employment and failing to attend scheduled training sessions may result in disciplinary consequences.

Safeguards and Firewalls

The Board will establish appropriate technical and physical safeguards to prevent any PHI that it may receive in performing administrative functions on behalf of the Plan from intentionally or unintentionally being used or disclosed in violation of HIPAA. Technical safeguards include limiting access to information by creating computer firewalls and physical safeguards such as locking doors or filing cabinets. Firewalls shall be adequate to ensure that only Authorized Employees will have access to PHI, and only for plan administrative purposes, and that any other employees of the Board will not have access to PHI.

Complaints about Privacy Issues

The Privacy Officer will be the Plan's contact person for receiving complaints. The Privacy Officer will investigate such complaints as promptly as possible under the circumstances and will recommend corrective action where appropriate.

Any employee or other individual who becomes aware of any violation of the privacy laws or the policies or who wishes to complain about the policies and procedures shall promptly report such matter to the Privacy Officer. Each complaint shall be submitted in writing, either on paper or electronically, and shall describe the specific conduct or policies that are the subject of the complaint. A complaint may initially be made orally but must be followed within five (5) business days by a written complaint as described above.

Personnel-Certified/Non-Certified

Privacy Officer

Complaints about Privacy Issues (continued)

The Privacy Officer or his or her designee shall maintain a record of all privacy complaints received and the disposition of such complaints, and such records shall be retained for a period of at least six (6) years from the date of the complaint.

Sanctions

Authorized Employees who have access to PHI in connection with plan administrative functions will be subject to appropriate sanctions, including termination of employment, if they fail to comply with these Policies or applicable privacy laws. In addition, employees may be subject to both civil and criminal penalties for violation of privacy laws and may be sued by aggrieved individuals seeking damages for unauthorized or improper use or disclosure of PHI.

Mitigation of Inadvertent Uses or Disclosures of PHI

We will take all necessary and appropriate steps to mitigate, to the extent possible, any harmful effects that become known as a result of the unauthorized use or disclosure of a Plan Participant's PHI in violation of these Policies. Any unauthorized or improper use or release of PHI should be reported immediately to the Privacy Officer.

The Privacy Officer shall develop a plan for mitigating the effects of any known instance of unauthorized use or disclosure of PHI and shall be responsible for implementing such plan and reporting to the Superintendent, or his or her designee, on such mitigation efforts. Where appropriate, the Privacy Officer shall consult with legal counsel regarding appropriate steps to be taken to mitigate any harmful effects of such unauthorized use or disclosure.

No Intimidation or Retaliatory Acts; No Waiver of Rights

No Plan Participant shall be subject to any intimidation, threats, reprisals, coercion, discrimination or other retaliatory actions for (i) exercising any right under these Policies or applicable law, (ii) filing any privacy complaint with the Privacy Officer, the third party administrator, or the Secretary of HHS, (iii) testifying, assisting or participating in any investigation or other proceeding relating to these privacy policies or applicable privacy laws, or (iv) opposing any acts or practices that are in violation of these policies or are unlawful, provided that such individual has a good faith belief that the practice that is being opposed is a violation of these policies or is unlawful, and the manner of the opposition is reasonable and does not involve the unlawful disclosure of PHI.

Personnel-Certified/Non-Certified

Privacy Officer

No Intimidation or Retaliatory Acts; No Waiver of Rights (continued)

No individual shall be required to waive his or her privacy rights under HIPAA as a condition of treatment, payment, enrollment or eligibility under any of the Plan.

Documentation

Any documentation created or received by us in connection with protecting the privacy of PHI and the rights of Plan Participants with respect to PHI shall be retained by us for at least six years from the date that such documentation was either created or last given effect, whichever is later. By way of example, this retention standard shall apply to these Policies, our Notice of Privacy Practices, authorizations by Plan Participants, business associate contracts, the identity of individuals responsible for processing requests from Plan Participants to access, amend or receive an accounting of PHI, designation of the Privacy Officer, documentation of additional restrictions for a Plan Participant's PHI, documentation of complaints, and other items requiring documentation under applicable privacy laws. Such documentation may be retained in either paper or electronic form.

Any changes to our policies and procedures with respect to HIPAA Privacy compliance must be reduced to writing and documented through an amendment to these Policies, and, if appropriate, indicated in a revised Notice of Privacy Practices. Additionally, the list, by name, title or class, of Authorized Employees (those employees of the Board who are authorized to receive PHI for the performance of administrative functions on behalf of the Plan) shall be documented in the Plan Amendment. Any changes to such list of Authorized Employees shall be made through a further amendment to the Plan Amendment. Third party administrators of the Plan must be provided with a copy of the changes to the Plan Amendment.

Regulation approved:

April 26, 2005

SOUTH WINDSOR PUBLIC SCHOOLS
South Windsor, Connecticut

cps 5/05

An optional sample policy to consider.

Personnel-Certified/Non-Certified

Use and Disclosure of Employee Medical Information (HIPAA)

Version #1:

The Board of Education directs the Superintendent or his/her designee to take the necessary steps to ensure compliance with the Health Insurance Portability Act of 1996 (HIPAA). Compliance activities shall include conducting an audit to determine applicability of HIPAA to District operations, recommending policies to the Board, implementation of administrative regulations, including record keeping procedures, preparation of necessary documents, employee training and all other activities necessary to ensure compliance.

Version #2:

Other than health information contained in employment records held by the District in its role as employer, all information in the District's possession which is related to employee past, present and future health conditions and that identifies the individual employee or could reasonably be utilized to identify the employee, will be protected under the terms of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

To the extent the District possesses personally identifiable health information regarding employees, aside from health information contained in employment records held by the District in its role as employer, the Superintendent or his/her designee shall act as the Privacy Officer to oversee the administration of privacy of such records. The Superintendent or his/her designee shall provide all employees with the following information regarding such records:

1. The use and disclosure of personally identifiable health information;
2. Each employee's rights to privacy with respect to his/her personally identifiable health information;
3. Duties under HIPAA with respect to employee's personally identifiable health information;
4. Each employee's rights to file a complaint with the District, Health Benefit Plan, and/or the Secretary of the United States Department of Health and Human Services; and
5. The person or office that an employee can contact for further information about privacy practices.

In addition, the District shall notify the administrator of each of the District's health benefit plans of the requirement under HIPAA that it take reasonable steps to maintain the privacy of each employee's personally identifiable health information and to inform each employee about the information set forth above in items 1 through 5. Further, the District shall notify the administrator of the health benefit plan of the requirement under HIPAA that it provide reasonable notice to all employees of whom the benefit plan designates as the Privacy Officer to oversee the administration of privacy of the benefit plan and to receive complaints.

Personnel-Certified/Non-Certified

Use and Disclosure of Employee Medical Information (HIPAA)

Version #3:

When applicable, the District will comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to maintain the privacy of protected health information it receives, obtains, transmits or sends. The Board of Education designates the _____ as its HIPAA Privacy Officer.

Group health plans sponsored by the Board of Education, including medical, dental, vision, prescription drug plans as well as any employee assistance plans, flexible spending account plans and medical savings account plans may be subject to HIPAA's requirements. The District will develop procedures and safeguards to protect the privacy of health information and prevent wrongful use and disclosure, including obtaining written authorizations when required, limiting disclosures to staff who perform plan administration functions and certify that health information will not be used or disclosed for employment-related actions or decisions. The Superintendent or his/her designee will provide for the training of staff regarding privacy policies and procedures and impose discipline, up to and including discharge, for staff that wrongfully use or disclose protected health information. A privacy notice will be issued to all plan participants describing how protected health information is used and disclosed and explaining the rights of individuals to access or amend their health information.

The District will enter into business associate agreements with third parties who perform a service involving the use or disclosure of health information. The contact person for employee health plans is _____.

(cf. 4112.6/4212.6 - Personnel Records)

Legal Reference: 42 U.S.C. 1320d-1320d-8, P.L. 104-191, Health Insurance Portability and Accountability Act of 1996 (HIPAA)
 65 Fed. Reg. 50312-50372
 65 Fed. Reg. 92462-82829
 63 Fed. Reg. 43242-43280
 67 Fed. Reg. 53182-53273

Policy adopted:
cps 6/03

Authorization Form for Release of Health Information under HIPAA

I, _____, hereby authorize the use or disclosure of my health information as described in this authorization.

1. Specific person/organization (or class of persons) authorized to provide the information:

2. I authorize release of information to the _____ Public Schools at _____ (address)

3. I authorize release of health information regarding [body parts], from [insert date], forward.

4. I understand that this information will be used by the _____ Public Schools in connection with employment related issues or in connection with my receipt of benefits from the _____ School District.

5. Right to Revoke: I understand that this authorization is voluntary and that I have the right to revoke this authorization at any time by notifying the Privacy Officer in writing at _____ Public Schools. I understand that such a revocation is only effective after it is received and logged by the Privacy Officer. I understand that any use or disclosure made prior to the revocation of this authorization will not be affected by a revocation.

6. I understand that after this information is disclosed, federal law might not protect it and the recipient might disclose it again.

7. I understand that I am entitled to receive a copy of this authorization and the information described on this form if I ask for it.

8. I understand that this authorization will expire six months from the date I sign it, unless I revoke it sooner.

9. I understand that no treatment, payment, enrollment or eligibility for benefits is conditioned upon receipt of this authorization.

Signature of Individual

Date

Signature of Personal Representative

Date

If a Personal Representative executes this form, that Representative warrants that he or she has authority to sign the authorization form on the basis of:

Request that PHI Be Transmitted Confidentially

Today' Date: _____

Print name of individual making request: _____

I am requesting that effective (insert date) _____, the following protected health information (PHI) (specify PHI) _____ be transmitted to me by the alternate means or location described below:

(Insert the new mailing address/place or manner in which individual will receive future information that would otherwise have been mailed to the individual's address on file (e.g. will personally pick up.) _____

I am requesting this confidentiality of PHI because the current method of disclosure of PHI, to which my request pertains, may endanger me.

Signature of individual requesting confidential transmission of PHI: _____

OR

Signature of Personal Representative (acting on behalf of the individual) requesting confidential transmission of PHI: _____

If a Personal Representative executes this form, that Representative warrants that he or she has authority to sign the authorization form on the basis of: _____

Your request for confidential communication of PHI has been:

- Approved
- Denied, for the following reason(s): _____
- _____
- _____

Name of Privacy Officer: _____

Signature of Privacy Officer: _____ **Date:** _____

Request Accounting of Disclosure of Protected Health Information (PHI)

Today's Date: _____

Name of individual for whom accounting of PHI is requested: _____

Name of individual requesting accounting of PHI: _____

Address: _____

_____ **Phone:** _____

I _____ am requesting that I be provided an accounting of the disclosures of the following PHI for the above noted individual during the time period starting _____ and ending _____.

For internal use only:

The above request for an accounting of disclosures of PHI by the District has been:

- Approved
- The District needs an extension of _____ days because: _____

- Denied, for the following reason(s): _____

Name of Privacy Officer: _____

Signature of Privacy Officer: _____ **Date:** _____

Request to Amend Protected Health Information (PHI)

Today's Date: _____

Name of individual for whom PHI amendment is requested: _____

Name of individual requesting amendment of PHI: _____

Address: _____

_____ **Phone:** _____

I am requesting that an amendment be made to the following PHI: _____

For the following reason(s): _____

The above request for amendment to the above noted PHI has been:

Approved

Denied, for the following reason(s): _____

Name of Privacy Officer: _____

Signature of Privacy Officer: _____ **Date:** _____

**Request to Terminate the Confidential Transmission of PHI
by Alternate Means/Location**

Today's Date: _____

Print name of individual making request: _____

I am requesting that effective (insert date) _____, my original request to maintain confidentiality of PHI delivery by an alternate means/location be terminated. Please deliver all future PHI to me at my usual address/location as follows:

(Insert the mailing address or manner or usual place where individual will personally pick up the information.) _____

Signature of individual requesting confidential transmission of PHI: _____

OR

Signature of Personal Representative (acting on behalf of the individual) requesting confidential transmission of PHI: _____

If a Personal Representative executes this form, that Representative warrants that he or she has authority to sign the authorization form on the basis of:

The above noted request to terminate confidentiality of PHI has been reviewed and:

- Will be adopted as requested on the date requested above.
- Will be adopted but with these modifications: _____

- Can not be adopted because *(insert reasons)*: _____

Name of Privacy Officer: _____

Signature of Privacy Officer: _____ **Date:** _____

Appointment of Personal Representative

Complete the following chart to indicate the name of the proposed Personal Representative

	Employee	Proposed Personal Representative
Name (print):		
Address (City, State, Zip):		
Phone:	()	()

I, _____ [Name of Participant or Beneficiary]

hereby designate _____ [Personal Representative]:

- to act on my behalf, _____
- to act on behalf of my spouse named: _____
- to act on behalf of my dependent child(ren) named: _____

I authorize my Personal Representative to act for me and for my covered spouse and dependents (if named above) in receiving the following protected health information to conduct the following functions on my behalf: _____

I understand that this designation of a Personal Representative is subject to approval by the District. I also understand that, once approved, this designation will remain in effect unless I revoke it. I understand that I have the right to revoke this designation at any time by submitting a signed statement to that effect to the Privacy Officer, on a form for Revocation of a Personal Representative available from the Privacy Officer.

Employee's Signature

Date

Signature of Personal Representative

Date

The above Personal Representative request is:

- approved.
- not approved because: _____

Name of Privacy Officer: _____

Signature of Privacy Officer: _____ **Date:** _____



SHIPMAN & GOODWIN LLP™
COUNSELORS AT LAW

**Series 4000
Personnel**

[A Board of Education Policy on nepotism is not required by law and is, therefore, a discretionary decision for the Board of Education. This model policy is provided for the Board's consideration.]

NEPOTISM

Purpose

It is the policy of the Board to recruit and hire qualified applicants for employment within the [_____] Public Schools, while avoiding both nepotism and the appearance of nepotism.

Definitions

“Immediate family” means a spouse, child, parent, sister, brother, half-sister or half-brother.

“Relative” means a sister-in-law, brother-in-law, mother-in-law, father-in-law, daughter-in-law, son-in-law, step parent, aunt, uncle, niece, nephew, first cousin, grandparent, step child, foster child, grandchild or individual living in the same household.

“Familial relationship” means a relationship between a member of one’s immediate family or a relative, as defined within this policy.

Prohibitions on Hiring

No relative or immediate family member of the Superintendent shall be hired to any position of employment.

No immediate family members of a Board member or any other district level administrator shall be hired to any position of employment.

Restrictions on Employment of Relatives

No individuals shall be hired in a position of employment that would result in a supervisory or evaluative relationship between a current employee and a relative.

No employee may be involved in the process of screening for advancement in the application process, interviewing or hiring his or her relatives.

Employees will not be hired, promoted, transferred or assigned to work in positions in the same school or work unit or department in which a relative is already employed, unless the Superintendent of Schools approves such an assignment in writing.

No administrator shall supervise any of his or her relatives.

Employees will not be hired, promoted, transferred or assigned to work in positions in which they will have access to confidential information regarding a relative, such as, but not limited to, information regarding benefits selections, confidential medical information or personnel records that are not subject to public disclosure.

Restrictions on Employment of Immediate Family Members

No employee may be involved in the process of screening for advancement in the application process, interviewing or hiring of an immediate family member.

Employees will not be hired, promoted, transferred or assigned to work in positions in the same school or work unit or department in which an immediate family member is already employed, unless the Superintendent of Schools approves such an assignment in writing.

No person who is a member of the immediate family of a building administrator or department supervisor may be nominated for or transferred or otherwise assigned to any position within that administrator's building or supervisor's department. No administrator or supervisor shall supervise any member of his or her immediate family.

Employees will not be hired, promoted, transferred or assigned to work in positions in which they will have access to confidential information regarding an immediate family, such as, but not limited to, information regarding benefits selections, confidential medical information or personnel records that are not subject to public disclosure.

Disclosure Requirements

A Board member or administrator who has an existing familial relationship with an employee, as defined above, or who has had a change in circumstances which creates a familial relationship with any employee of the [_____] Public Schools, shall declare such relationship to the Superintendent or Chair of the Board immediately.

If a change in circumstances creates a familial relationship between an employee and his or her supervisor, the Board, through its Superintendent, reserves the right to seek a transfer of any employee in order to resolve any concerns about the operations of the district with respect to nepotism or the appearance of nepotism. The Superintendent may also provide for the evaluation and/or supervision of the employee outside of the typical chain of command in order to resolve any concerns about nepotism or the appearance of nepotism.

A Board member or administrator who knows that a relative or immediate family member has applied for a position with the [_____] Public Schools shall declare such relationship to the Superintendent or the Chair of the Board as soon practicable.

In addition to the requirements set forth above regarding familial relationships, if a romantic relationship develops between an employee and (1) an administrator who has a supervisory or

evaluative relationship with the employee, or (2) a member of the Board, the affected administrator or member of the Board shall declare such relationship to the Superintendent.

Recusal

A member of the Board should not vote on any action of the Board which will directly affect a relative or member of his or her immediate family.

Discharge and Denial of Re-Employment

No current employee will be discharged or denied re-employment pursuant to an applicable recall provision based on this Policy.

ADOPTED: _____

REVISED: _____

NEPOTISM

(BACKGROUND INFORMATION FOR POLICY COMMITTEE)

Improper favoritism remains a lasting concern in public employment. Nepotism, defined as actual or presumed bias arising from a familial or other close relationship, can cause unfairness, inefficiency and low morale in the school setting. The U.S. Supreme Court has recognized problems related to nepotism.

Governmental agencies, including school districts, commonly adopt anti-nepotism policies in an attempt to resolve the issues raised or the perceptions caused by nepotism. However, these policies in themselves have been the subject of controversy. Such policies typically prohibit spouses and other relatives from working together or supervising one another.

Those who have objected to these policies often do so on the argument that they violate the constitutional rights of an individual to marry, to substantive due process, to free association and to equal protection of the laws. However, federal courts have disagreed and indicated that such policies do not directly burden constitutional rights.

It is believed that anti-nepotism policies will survive legal challenge as long as the employer has a legitimate government interest in enacting them. This is not a difficult standard to meet because the major objective behind anti-nepotism policies is the need to promote workplace harmony and efficiency.

In terms of anti-discriminatory language in state statutes around the country, the issue is less clear. State anti-discrimination statutes, especially those banning marital status discrimination, such as Connecticut's 46a-60, can provide a stronger basis for challenging aspects of anti-nepotism policies, especially the portion pertaining to spouses. Courts appear split on this issue. Some state courts have held that such policies violated the marital status provisions of anti-discrimination laws. Conversely, other state courts have not agreed. Further, even if a court finds that anti-nepotism policies prohibiting marital working relationships are discriminatory, courts may not find other aspects of the policy banning other familial or non-marital relationships discriminatory.

In Connecticut, there is no statutory prohibition against a relative of a board member, including husband, wife or child from being employed by the board of education. In such cases, there may be a local ethics ordinance governing the action of the board member, such as the need for the board member to refrain from voting on an issue in which he/she may have a personal interest.

Policy Implications

It is recommended that boards adopt a policy pertaining to nepotism. Policy #4112.8/4212.8 pertains to this topic. Models follow for your consideration.

A new version to consider. Be advised that if the adoption of this policy reflects a change in practice, having a direct effect on conditions of employment, then it may be considered a mandatory subject of bargaining. Consult with your attorney.

Personnel -- Certified/Non-Certified

Nepotism: Employment of Relatives

It is the policy of the Board of Education that individuals shall not be appointed to any full-time, part-time or temporary position which would create a supervisor/employee relationship within any one department between two individuals who are related by blood, marriage*, civil union or law.

*The term "marriage" includes a same-sex marriage that is legally recognized in Connecticut.

As used in this policy, the word "Department" shall mean and include those levels of organization under the Superintendent's office into which the various structural areas of operation of the school district are divided.

In the event of marriage or civil union between employees of the District, creating a relationship which violates this policy, one of the persons affected must transfer to a location compatible with policy provisions, or in cases of refusal to transfer, be terminated from that location by the end of the school/fiscal year or within six months from the date the relationship was established, whichever is the greater period.

The degrees of relationship included in the above restrictions are as follows:

- By Blood:** Parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousin.
- By Marriage:** Husband, wife, stepparent, stepchild, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, half-sister, half-brother, uncle, aunt, nephew, niece.
- By Law:** Guardianship relationships, adoptive parent/child relationships, partner in a civil union, same-sex marriage.

In the appointment and selection of new employees, the District shall adhere to this policy. All current supervisor/employee relationships established prior to the adoption of this policy will not be affected by this policy so long as they remain in present assignments.

(cf. 9270 – Conflict of Interest)

Personnel -- Certified/Non-Certified

Nepotism: Employment of Relatives

Legal Reference: Connecticut General Statutes
7-479 Conflicts of Interest
46b-38nn Equality of benefits, protections and responsibilities (civil unions)
46b-38oo applicability of statutes to civil unions and parties to a civil union.
10-153a et seq. Teacher Negotiation Act
7-467 et seq. Municipal Employees Relations Act
United States v. Windsor, U.S. 133 S. Ct. 2675 (2013)

Policy adopted:

cps 1/08
rev 1/09
rev 3/14

A sample "good practice" policy to consider. Be advised that if the adoption of this policy reflects a change in practice, having a direct effect on conditions of employment, then it may be considered a mandatory subject of bargaining. Consult with your attorney.

Personnel -- Certified/Non-Certified

Nepotism: Employment of Relatives

It is the intent of this policy to avoid any situation where a conflict of interest can arise either on the part of the members of the Board of Education or a member of the staff.

1. No member of the immediate family (spouse*, civil union partner, child, parent, sibling, or household member) of a Board of Education member shall be appointed to a full-time position in the school district.

* The term "spouse" refers to any individuals who are lawfully married under any state law, including individuals married to a person of the same sex who were legally married in a state that recognizes such marriage, but whose domicile (permanent residence) is in a state that does not recognize such marriages.

2. Persons related otherwise by blood, marriage* or civil union partner, to a Board of Education member may be employed following full disclosure of the relationship by the Board of Education member in a public meeting. For appointment of the Superintendent, sufficient vote of appointment shall be without counting the vote of the related Board of Education member.

*The term "marriage" includes a same-sex marriage that is legally recognized in Connecticut.

3. A spouse or civil union partner, or child of a Board of Education member may be employed for limited term or short-term employment on a competitive basis among persons who are eligible.
4. Employees whose employment predates the election of a relative to the Board of Education are exempt from the provisions of this policy.
5. Persons related by blood or marriage, or civil union partner to members of the staff shall not be appointed to a position that is in a line relationship involving supervision and evaluation of the position.
6. Members of the same family may be employed at the same department or work location when approved in writing by the Superintendent or the Superintendent's designee (**Exception:** members of the same family shall not be approved in direct line of supervision.)

Personnel -- Certified/Non-Certified

Nepotism: Employment of Relatives

Legal Reference: Connecticut General Statutes
7-479 Conflicts of Interest
46b-38nn Equality of benefits, protections and responsibilities (civil unions)
46b-38oo applicability of statutes to civil unions and parties to a civil union.
10-153a et seq. Teacher Negotiation Act
7-467 et seq. Municipal Employees Relations Act
United States v. Windsor, U.S. 133 S. Ct. 2675 (2013)

Policy adopted:

cps 1/08
rev 1/09
rev 3/14

A new regulation to consider.

Personnel -- Certified/Non-Certified

Nepotism: Employment of Relatives

The following regulations shall govern conflict of interest in the employment of staff:

1. Persons related by blood, marriage, or civil union partner to a Board of Education member may not be employed to a full-time position in the school district.
2. Persons related by blood, marriage or civil union partner to members of the administrative staff shall not be appointed to a position that is in a line relationship involving supervision and evaluation of the position.
3. Members of the same family may be employed at the same department or work location when approved in writing by the Superintendent or the Superintendent's designee. (Exception: members of the same family shall not be approved in direct line of supervision.)

For purposes of this regulation the term “marriage” is defined to include a same-sex marriage that is legally recognized as a marriage under any state law.

It is the intent of these rules to avoid any situation where a conflict of interest can arise either on the part of the member of the Board of Education or a member of the administrative staff.

(cf. 9270 – Conflict of Interest)

Legal Reference: Connecticut General Statutes
7-479 Conflicts of Interest
46b-38nn Equality of benefits, protections and responsibilities (civil unions)
46b-38oo applicability of statutes to civil unions and parties to a civil union.
10-153a et seq. Teacher Negotiation Act
7-467 et seq. Municipal Employees Relations Act
United States v. Windsor, U.S. 133 S. Ct. 2675 (2013)

Regulation approved:

cps1/08
rev 1/09
rev 3/14