

Book	Policy Manual
Section	Special Update - July 2023 for Board Approval
Title	Revised Policy - Special Update - July 2023 - PERSONAL BACKGROUND CHECKS, REFERENCES, AND MANDATORY REPORTING
Code	po4121
Status	
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Revised Policy - Special Update - July 2023

4121 - **PERSONAL BACKGROUND CHECKS, REFERENCES, AND MANDATORY REPORTING-OF CONVICTIONS AND SUBSTANTIATED CHILD ABUSE () AND ARRESTS**

To protect students and staff members, the School Board requires an inquiry into the personal background of each applicant the Superintendent recommends for employment on the School Corporation's support staff.

~~Such an inquiry also shall be made for substitutes.~~

The Superintendent shall establish the necessary procedures for obtaining personal background information on each applicant recommended for employment on the Corporation's support staff which shall include the following:

- A. an expanded criminal history check as defined by I.C. 20-26-2-1.5
- B. an Indiana expanded child protection index check as defined by I.C. 20-26-2-1.3
- C. ~~() an expanded child protection index check in other states~~
- D. a search of the national sex offender registry maintained by the United States Department of Justice
- E. beginning July 1, 2017, a search of the State child abuse registry
- F. telephone inquiry with former employer(s)
- G. explanations of any employment gaps to ensure the candidate has not omitted an employer where an offense occurred
- H. verification of the applicant's eligibility to work using the E-Verify database maintained by the Federal government as required by I.C. 12-32-1
- I. ~~() fingerprint check~~
- J. (**x**) a detailed background history including all prior employment ~~and volunteer positions~~
- K. (**x**) an Indiana Bureau of Motor Vehicles driver history if the position involves driving

Eligibility

Each applicant shall certify under penalty of perjury their eligibility to be employed by the Board as a United States citizen or a qualified alien.

Background Checks, Including Expanded Criminal History and Expanded Child Protection Index

The Board requires that an expanded criminal history check be conducted for each applicant for employment who is likely to have direct, ongoing contact with children within the scope of the applicant's employment before or not later than thirty (30) days after the start of the applicant's employment by the Corporation.

If a third party vendor is used to provide an expanded criminal history check, and the vendor offers more than one type of expanded criminal history check, the Board shall evaluate all available types of criminal history checks to select and employ the expanded criminal history check that would best protect the Corporation's students.

The Board requires that an Indiana expanded child protection index check be conducted for each applicant for employment who is likely to have direct, ongoing contact with children within the scope of the applicant's employment before or not later than sixty (60) days after the start of the applicant's employment by the Corporation.

~~The Board requires that all references and, if applicable, the most recent employer provided by an applicant be contacted before the Corporation may hire the applicant.~~

The Board shall deny employment to ~~a person~~ **an individual** who has been convicted of an offense requiring license revocation per I.C. 20-28-5- 8(c), unless the conviction has been reversed, vacated, or set aside on appeal. Likewise, the Board shall terminate the employment of ~~a person~~ **an individual** who has been convicted of an offense requiring license revocation per I.C. 20-28-5-8(c), unless the conviction has been reversed, vacated, or set aside on appeal.

The Board also shall deny employment to an individual who has been convicted of an offense listed in I.C. 20-26-5-11.2(b), unless the conviction has been reversed, vacated, or set aside on appeal. Likewise, the Board shall terminate the employment of an individual who has been convicted of an offense listed in I.C. 20-26-5-11.2(b), unless the conviction has been reversed, vacated, or set aside on appeal.

The Board may deny employment to an applicant who is the subject of a substantiated report of **child** abuse or neglect.

~~Each applicant shall certify under penalty of perjury the applicant's eligibility to be employed by the Board as a United States citizen or a qualified alien.~~

~~[] Should it be necessary to employ a person in order to maintain continuity of the program prior to receipt of the report, the Superintendent may provide for a substitute () or employ the applicant as a substitute [END OF OPTIONS].~~

~~The procedures shall provide that information and records obtained from pre-employment inquiries under this policy are confidential and shall not be released except as necessary to implement this policy, defend a decision made pursuant to this policy, or comply with I.C. 20-26-5-11.5 when responding to a request for an employment reference from another school for a current or former employee.~~

[DRAFTING NOTE: THE BOARD MAY SELECT ONE, BOTH, OR NEITHER OF THE FOLLOWING TWO OPTIONS. THE BOARD SHOULD BE SURE TO SELECT THE SAME OPTIONS HERE AS IT SELECTS IN POLICY 1521 – PERSONAL BACKGROUND CHECKS, REFERENCES, AND MANDATORY REPORTING, POLICY 3120.02 – ADJUNCT TEACHERS, POLICY 3121 – PERSONAL BACKGROUND CHECKS, REFERENCES, AND MANDATORY REPORTING, AND POLICY 8121 – PERSONAL BACKGROUND CHECK – CONTRACTED SERVICES.]

[] [OPTION 1]

~~Per I.C. 20-26-5-11.2(c), the Corporation may employ or contract with an individual convicted of any of the following offenses if a majority of the Board approves the employment or contract as a separate, special agenda item [select the items below that the Board wishes to permit]:~~

- ~~A. () An offense relating to operating a motor vehicle while intoxicated under I.C. 9-30-5.~~
- ~~B. () Battery (I.C. 35-42-2-1), unless it is a Class A, B, or C felony conviction (for a crime committed before July 1, 2014) or a Level 2, 3, or 5 felony conviction (for a crime committed after June 30, 2014).~~
- ~~C. () Domestic battery (I.C. 35-42-2-1.3), unless it is a Class A, B, or C felony conviction (for a crime committed before July 1, 2014) or a Level 2, 3, or 5 felony conviction (for a crime committed after June 30, 2014).~~
- ~~D. () Contributing to the delinquency of a minor (I.C. 35-46-1-8). () An offense involving a weapon under I.C. 35-47 or I.C. 35-47.5.~~
- ~~E. () An offense involving a weapon under I.C. 35-47 or I.C. 35-47.5.~~

- F. ~~() An offense relating to controlled substances under I.C. 35-48-4, other than: 1) an offense involving marijuana or paraphernalia used to consume marijuana; or 2) an offense requiring license revocation under I.C. 20-28-5-8(c).~~

[END OPTION 1]

[] [OPTION 2]

Per I.C. 20-26-5-11.2(h), the Corporation may hire or contract with an individual **[select the items below that the Board wishes to permit]:**

- A. ~~() who is required to wear an ankle monitor as the result of a criminal conviction~~
- B. ~~() who entered into an agreement to settle an allegation of misconduct relating to the health, safety, or well-being of a student at a school corporation, charter school, or State-accredited nonpublic school, if the agreement included a nondisclosure agreement covering the alleged misconduct [as defined in I.C. 20-26-5-11.2(i)]~~
- C. ~~() who, in an academic environment, engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition the child for sexual activity (as defined in I.C. 35-42-4-13) if a majority of the Board approves the employment or contract as a separate, special agenda item.~~

~~if a majority of the Board approves the employment or contract as a separate, special agenda item.~~

[END OPTION 2]

[END OF OPTIONS]

DRAFTING NOTE: SELECT ONE (1) OF THE FOLLOWING TWO (2) OPTIONS]

☒ [OPTION 1]

Any costs associated with obtaining the expanded criminal history check and the expanded child protection index check are to be borne by the applicant.

[END OPTION 1]

[] [OPTION 2]

~~The Corporation shall pay the costs associated with conducting the expanded criminal history check and obtaining the expanded child protection index check for applicants.~~

[END OF OPTION 2]

[END OF OPTIONS]

The Board requires that an expanded criminal history check be conducted for each Corporation employee who is likely to have direct, ongoing contact with children within the scope of the employee's employment every five (5) years.

[] [OPTIONAL LANGUAGE]

~~In implementing this requirement, the Corporation shall conduct the updated expanded criminal history checks for Corporation employees over a period not to exceed _____ () **[maximum is five (5)]** years by annually conducting updated expanded criminal history checks for at least _____ () **[minimum is 1/5]** of employees who are employed by the Corporation on July 1, 2017.~~

[END OF OPTIONAL]

DRAFTING NOTE: SELECT ONE (1) OF THE FOLLOWING TWO (2) OPTIONS]

☒ [OPTION 1]

Any costs associated with obtaining the expanded criminal history check are to be borne by the employee unless otherwise agreed upon through an agreement reached following negotiations with the exclusive representative of the employees.

[END OF OPTION 1]

x] [OPTION 2]

The Corporation shall pay the costs associated with conducting the expanded criminal history check for all employees, provided the exclusive representatives of the Corporation's employees do not object.

[END OF OPTION 2]

[END OF OPTIONS]

[] [OPTIONAL LANGUAGE. DRAFTING NOTE: IF THE BOARD SELECTS THE FIRST OPTION BELOW, IT ALSO MUST DECIDE WHETHER TO ACCEPT THE SECOND OPTION. IF THE BOARD DOES NOT SELECT THE FIRST OPTION BELOW, IT LIKewise SHOULD NOT SELECT THE SECOND OPTION.]

[] The Board requires that an expanded child protection index check be obtained for each Corporation employee every five (5) years. The Corporation shall pay the costs associated with obtaining the expanded child protection index check for employees.

[] In implementing this requirement, the Corporation shall obtain the updated expanded child protection index checks for Corporation employees over a period not to exceed _____ () **[maximum is five (5)]** years by annually obtaining updated child protection index checks for at least _____ () **[minimum is 1/5]** of employees who are employed by the Corporation on July 1, 2017.

[END OF OPTIONAL LANGUAGE]

[END OF OPTIONS]

The Corporation may obtain an expanded criminal history check or an expanded child protection index check at any time if the Corporation has reason to believe that the applicant or employee:

- A. is the subject of a substantiated report of child abuse or neglect; **or**
- B. has been charged with or convicted of **one (1) of the following crimes: an offense requiring license revocation per I.C. 20-28-5-8(c); or**
- C. **has been charged with or convicted of an offense listed in I.C. 20-26-5-11.2(b).**
 - 1. **Murder (I.C. 35-42-1-1).**
 - 2. **Causing suicide (I.C. 35-42-1-2).**
 - 3. **Assisting suicide (I.C. 35-42-1-2.5).**
 - 4. **Voluntary manslaughter (I.C. 35-42-1-3).**
 - 5. **Reckless homicide (I.C. 35-42-1-5).**
 - 6. **Battery (I.C. 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.**
 - 7. **Aggravated battery (I.C. 35-42-2-1.5).**
 - 8. **Kidnapping (I.C. 35-42-3-2).**
 - 9. **Criminal confinement (I.C. 35-42-3-3).**
 - 10. **A sex offense under I.C. 35-42-4 (including criminal deviate conduct, I.C. 35-42-4-2, before its repeal).**
 - 11. **Carjacking (I.C. 35-42-5-2) (before its repeal).**
 - 12. **Arson (I.C. 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.**
 - 13. **Incest (I.C. 35-46-1-3).**

14. Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (I.C. 35-46-1-4(b)(2) and (3)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
15. Child selling (I.C. 35-46-1-4(d)).
16. Contributing to the delinquency of a minor (I.C. 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
17. An offense involving a weapon under I.C. 35-47 or I.C. 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
18. An offense relating to controlled substances under I.C. 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
19. An offense relating to material or a performance that is harmful to minors or obscene under I.C. 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
20. An offense relating to operating a motor vehicle while intoxicated under I.C. 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
21. Domestic battery (I.C. 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.
22. Public indecency (I.C. 35-45-4-1) committed: (A) after June 30, 2003; or (B) before July 1, 2003, if the person committed the offense by, in a public place: (i) engaging in sexual intercourse or other sexual conduct (as defined in I.C. 35-31.5-2-221.5); (ii) appearing in a state of nudity with the intent to arouse the sexual desires of the person or another person, or being at least eighteen (18) years of age, with the intent to be seen by a child less than sixteen (16) years of age; or (iii) fondling the person's genitals or the genitals of another person.
23. An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

References

The Board requires that all references and, if applicable, the most recent employer provided by an applicant be contacted before the Corporation may hire the applicant.

Notwithstanding any confidentiality agreement entered into by the Corporation and an employee of the Corporation, the Corporation shall respond to a request for an employment reference from another school for a current or former employee who is likely to have direct, ongoing contact with children within the scope of the new employment by disclosing to the requesting school any incident known by the Corporation in which the employee or former employee committed an act resulting in a substantiated report of abuse or neglect.

Notwithstanding any confidentiality agreement entered into or amended after June 30, 2023 by the Corporation and an employee of the Corporation, the Corporation shall respond to a request for an employment reference from another school for a current or former employee who is likely to have direct, ongoing contact with children within the scope of the new employment by disclosing to the requesting school any incident known by the Corporation in which the employee or former employee was:

- A. arrested;
- B. charged with a criminal offense;
- C. convicted of a criminal offense;
- D. under court supervision or the supervision of a community correction program as the result of a conviction for a criminal offense (including being placed on home detention, work release, or intermittent incarceration);

E. the subject of a protection order; or

F. named as a defendant in a civil action if the civil action could affect the safety of students.

Information and records obtained from inquiries under this policy are confidential and shall not be released except as necessary to implement this policy, defend a decision made pursuant to this policy, or comply with I.C. 20-26-5-11.5 when responding to a request for an employment reference from another school for a current or former employee or any other mandatory State reporting requirements.

Mandatory Reporting

During the course of employment with the Corporation, each support staff employee shall be required to report the

- A. (x) arrest or the filing of criminal charges against the employee;
- B. conviction of the employee in Indiana or another jurisdiction for an offense listed in I.C. 20-28-5-8(c);
- C. conviction of the employee for a crime in Indiana or another jurisdiction for an offense listed in I.C. 20-26-5-11.2(b) or I.C. 20-26-5-11.2(c); and
- D. substantiated report of child abuse or neglect of which the employee is the subject

to the Superintendent within two (2) business days of the occurrence. The Superintendent shall obtain a review of each reported conviction or substantiated report of child abuse or neglect and shall recommend appropriate action to the Board considering the risk to members of the school community presented by the continued employment of the employee who was convicted or the subject of a substantiated report of child abuse or neglect.

I.C. 5-2-22

I.C. 10-13-3

I.C. 20-26-2-1.3, ~~20-26-2-1.5~~

~~I.C. 20-26-2-1.5~~

I.C. 20-26-5-10, ~~10.5, 11 and 11.5~~

~~I.C. 20-26-5-10.5~~

~~I.C. 20-26-5-11~~

~~I.C. 20-26-5-11.5~~

I.C. 20-28-5-8

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Legal

I.C. 5-2-22

I.C. 10-13-3

I.C. 20-26-2-1.3

I.C. 20-26-2-1.5

I.C. 20-26-5-10

I.C. 20-26-5-10.5

I.C. 20-26-5-11

I.C. 20-26-5-11.5

I.C. 20-28-5-8