

Employment: Disclosures, Certification Requirements, Assurances and Approval

The board has the legal responsibility of employing all staff. The responsibility of administering the recruitment process is assigned to the superintendent. Prior to final action by the board, a prospective staff member shall present necessary documents which establish eligibility to work and attest to his or her eligibility as required by P.L. 99-603, the Immigration Reform and Control Act of 1986. As required by federal immigration law, the superintendent shall certify to have “examined the documents which were presented to me by the new hire, that the documents appear to be genuine, that they appear to relate to the individual named, and that the individual is a U.S. citizen, a legal permanent resident, or a non-immigrant alien with authorization to work.” This certification shall be made on the I-9 form issued by the federal Immigration and Naturalization Service (INS).

The district shall report all new hires to the state Department of Social and Health Services (DSHS) Division of Child Support (DCS) required by P.L. 104-193, the Personal Responsibility and Work Opportunity Recognition Act of 1996.

In order to maintain a qualified and quality staff, employment areas of concern that will be organized for and monitored by the district through this operational procedure are as follows:

1. Disclosure of Crime

Prior to employment of any unsupervised staff member or volunteer, the district shall require the applicant to disclose whether he or she has been

- 1.1 convicted of any crime against persons;
- 1.2 found in any dependency action under RCW 13.34.030(2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor;
- 1.3 found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;
- 1.4 found in any disciplinary board final decision to have sexually abused or exploited any minor or to have physically abused any minor; or
- 1.5 been convicted of a crime related to drugs, their manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

For purposes of this procedure, unsupervised means not in the presence of another employee or volunteer, as well as working with children under sixteen (16) years of age or developmentally disabled persons. The disclosure shall be made in writing and signed by the applicant and sworn to under penalty of perjury. The disclosure sheet shall specify all crimes committed against persons.

2. Reporting Sexual Misconduct

The district takes with utmost seriousness its obligation to provide the safest possible educational environment for students and staff. The district will perform background checks with previous school district employers regarding whether prospective applicants for employment have a record of sexual misconduct, including grooming behaviors.

The district will also refuse to expunge or suppress any records of sexual misconduct, verbal abuse or physical abuse by employees.

3. Background Check

Prospective unsupervised staff members shall have their records checked through the Washington State Patrol (WSP) criminal identification system and through the Federal Bureau of Investigation (FBI). The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card.

Unsupervised volunteers and employees without unsupervised access to children shall also be advised that they will be subjected to a WSP name and birth date background check.

Applicants may be employed on a conditional basis pending the outcome of the background check and may begin conditional employment once completed fingerprint cards have been sent to the WSP. If the background check reveals evidence of convictions as identified above, the candidate will not be recommended for employment, or, if temporarily employed, will be terminated. When such a background check is received, the superintendent may consult with legal counsel.

If a volunteer has undergone a criminal record check in the last two (2) years for another entity, the district shall request a copy from the volunteer or have the volunteer sign a release permitting the entity for whom the check was conducted to provide a copy to the district.

4. Record Check Database Access Designee

The superintendent is directed to establish procedures for determining which staff members are authorized to access the Office of the Superintendent of Public Instruction's (OSPI) record check database. Fingerprint record information is highly confidential and shall not be re-disseminated to any organization or individual by district staff. Records of arrest and prosecution (RAP sheets) shall be stored in a secure location separate from personnel and applicant files, and access to this information is limited to those authorized to access the OSPI record check database.

5. Certification Requirements

The district shall require that certificated staff hold a Washington State Certificate with proper endorsement (if required for that certificate and unless eligible for out-of-endorsement assignment) for the role and responsibilities for which they are employed. Failure to meet this requirement shall be just cause for termination of employment. State law requires that the initial application for certification shall require a background check of the applicant through the WSP criminal identification system and FBI. No salary warrants may be issued to the staff member until the district has registered a valid certificate for the role to which he or she has been assigned.

In addition, any teacher who meets standard or continuing certification after August 30, 1987, must complete one hundred fifty (150) hours of continuing education study every five (5) years. Failure to satisfy this requirement will cause the certificate to lapse. If a certificated staff

member with a lapsed certificate is issued a transitional certificate pursuant to WAC 180-79A.231 (7), he or she may be conditionally employed for up to two (2) years while he or she meets the certificate reinstatement requirements.

6. Classified Staff

Classified staff, who are engaged to serve less than twelve (12) months, shall be advised of their employment status for the ensuing school year prior to the close of the school year. The superintendent shall give reasonable assurance by written notice that the staff member will be employed during the next school year.

All staff members selected for employment shall be recommended by the superintendent. Staff members must receive an affirmative vote from a majority of all members of the board. In the event an authorized position must be filled before the board can take action, the superintendent has the authority to fill the position with a temporary employee who shall receive the same salary and benefits as a permanent staff member. The board will act on the superintendent's recommendation to fill the vacancy at its regular meeting.

Cross References:

- (cf.: 1610 – Conflict of Interest)
- (cf.: 5121 – Certification Revocation)
- (cf.: 5255 – Disciplinary Action and Discharge)
- (cf.: 5410 – Substitutes)
- (cf.: 6530 – Insurance)

Legal References:

- RCW 28A.320.155 Criminal History Record Information—School Volunteers
- RCW 28A.400.300 Hiring and Discharging Employees—Leaves for Employees—Seniority and Leave Benefits, Retention Upon Transfers Between Schools
- RCW 28A.400.303 Record Checks for Employees
- RCW 28A.350.050 Teacher Must Qualify Before Warrant Drawn and Issued or Registered—All Districts
- RCW 28A.405.060 Course of Study and Regulations—Enforcement—Withholding Salary Warrant for Failure
- RCW 28A.405.210 Conditions and Contracts of Employment—Determination of Probable Cause for Non-Renewal of Contracts—Notice—Opportunity for Hearing
- RCW 28A.410.010 Certification—Background Check
- RCW 9.96A.020 Employment, Occupational Licensing by Public Entity—Prior Felony Conviction No Disqualification—Exceptions
- RCW 43.43.830-40 Washington State Criminal Code Records
- RCW 50.44.050 Benefits Payable, Terms and Conditions
- RCW 50.44.053 Definition of “Reasonable Assurance”

- P.L. 99-603, Immigration Reform and Control Act of 1986 (IRCA)
- Ch. 162-12 WAC Preemployment Inquiry Guide (Human Rights Commission)

- WAC 180-16-220 Supplemental Program Requirements
- Ch. 180-79A WAC Standards for Teacher, Administrator and Educational Staff Associate Certification
- WAC 180-82-105 Assignment of Classroom Teachers Within Districts
- WAC 180-82-110 Exceptions to Classroom Teacher Assignment Policy
- Ch. 180-85 WAC Continuing Education
- WAC 392-300-050 Access to Record Check Data Base
- WAC 392-300-055 Prohibition of Redissemination of Fingerprint Record Information by Education Service Districts or School Districts
- WAC 392-300-060 Protection of Fingerprint Record Information by Education Service District and School District
- WAC 446-20-280 Employment—Conviction Records

Management Resources:

Policy News, August 1998 District Must Report New Hires

Policy News, February 1999 Local Boards Decide Endorsement Waivers

Policy News, June 1999 Safety Bills Impact Policy

Adoption Date:

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