

CODE B-20
(Recommended)¹

PERSONNEL RECRUITMENT, SELECTION, APPOINTMENT AND BACKGROUND CHECKS

Policy

It is the policy of the **Marlboro School District** to select for employment only persons of good character who have the skills and other qualifications necessary to fulfill job requirements while complying with the provisions of state law regarding the recruitment, selection and employment of school district employees and contractors.

Persons subject to criminal record checks and abuse registry checks under this policy include all those recommended for full-time, part-time or temporary employment in the school district, including student teachers, and those contractors and employees of contractors who may have unsupervised contact with students and are subject by law to criminal record and abuse registry checks prior to or in the course of employment.

The superintendent may request a name and date of birth or fingerprint-supported check of the criminal record of any current employee who has previously undergone a check at any time during the course of the record subject's employment in the capacity for which the original check was required.²

The district shall ensure that adults employed in the schools maintained by the district receive orientation, information or instruction on the prevention, identification and reporting of child abuse as required by state law. The district will also provide opportunities for parents, guardians, and other interested persons to receive the same information.³

Definitions

1. The term "criminal record" as used in this policy shall have the same meaning as defined in 16 V.S.A. § 252(1).⁴

¹ A school board policy on the recruitment and selection of employees is not explicitly required by state law. This model policy is intended to incorporate the various legal requirements that school districts must address when employing individuals to work as licensed or nonlicensed employees and as contractors or employees of contractors. The VSBA recommends that a policy on the recruitment and selection of employees be adopted by all school district and supervisory union boards.

² 16 V.S.A. § 256(a)(2)

³ See 16 V.S.A. § 563a.

⁴ "Criminal record" means the record of: (A) convictions in Vermont, including whether any of the convictions listed in 13 V.S.A. § 5401(10) (sex offender definition for registration purposes); and (B) convictions in other jurisdictions recorded in other state repositories or by the Federal Bureau of Investigation (FBI). 16 V.S.A. § 252(1).

2. The term “unsupervised” as used in this policy shall have the same meaning as defined in 16 V.S.A. § 252(4).⁵
3. The term “abuse registry” as used in this policy shall include the Vermont Child Protection Registry maintained by the Vermont Department for Children and Families and the Vulnerable Adult Abuse Registry maintained by the Vermont Department of Disabilities, Aging and Independent Living.
4. The terms “employ” or “employment” as used in this policy shall, as the context requires, apply to individuals who are, or are being considered for, full-time, part-time or temporary employment in the school district, including student teachers and those contractors and employees of contractors who may have unsupervised contact with students.

Recruitment

1. The board is committed to securing the services of the best personnel available. Only individuals who meet applicable state licensing requirements will be employed.
2. The board seeks minority applicants in accordance with its policy pertaining to non-discrimination. The district will attempt to provide an educational experience enhanced by the professional contributions of representatives of different races, physical conditions, sexes, ethnic backgrounds and age groups.
3. All personnel will be recruited by the district's administrative staff under the immediate direction of the superintendent.
4. Written or electronic applications will be required of candidates for employment. The application will include a statement to be signed by the candidate listing the dates, locations and dispositions of any convictions, including findings of guilt, pleas of nolo contendere or guilty, for criminal violations. The application will also include a warning to the applicant that falsification of information on the application or during the application process will be grounds for dismissal if the applicant is hired.

Selection

1. It is the policy of the board to select employees solely on the basis of character, professional qualifications, and critical job requirements. Employees will be selected in a manner that does not unlawfully discriminate.⁶ The superintendent shall require that all applicants, as a condition of employment consideration, cooperate fully with background investigations, supplying references and releases so the district can contact previous employers. Applicants the

⁵ “Unsupervised” means not in the presence of a responsible adult in the employ of or under the direction of the independent school or school district. 16 V.S.A. § 252(2).

⁶ See, e.g. 21 V.S.A. § 495, et seq. (Fair Employment Practices) and 9. V.S.A. § 4500, et seq. (Public Accommodations Act).

superintendent is prepared to recommend for employment will be expected to provide fingerprints, releases and other information necessary to conduct criminal record background investigations. The costs of such checks will be borne by the (prospective employee) (the school district). All offers of employment will be conditioned upon completion of the background investigation and a finding that the information provided by the application during the pre-employment process was accurate, complete and truthful.

2. The superintendent shall request a criminal record check through the Vermont Criminal Information Center (VCIC) on any candidate he or she intends to appoint or is prepared to recommend for appointment. Requests will be made for fingerprint-supported criminal records from the FBI as well as criminal records from the state of Vermont and any state in which the superintendent knows the applicant has resided or been employed. The superintendent shall maintain such records in accordance with state law.
3. The superintendent shall also request information through any available abuse registry to determine whether there are any substantiated abuse/neglect charges or sex offense convictions against an applicant before appointing or nominating a candidate for employment. The superintendent shall maintain such records in accordance with state law.⁷
4. Employment conditioned on the completion of a background check may be terminated if it is determined that the employee failed to respond truthfully to questions about criminal activity or prior employment. In any event the Superintendent shall forward the information received from VCIC to the person about whom the request was made and inform the person of their rights to challenge the accuracy of the record and to determine the disposition of the record under 16 V.S.A. §§255(f), (g).
5. Providing a safe learning environment for students is a primary consideration in district employment decisions. The district will base such decisions on all relevant information, qualifications, and circumstances. Unfavorable background check information is not an automatic bar to employment, nor is a background check with no unfavorable information a guarantee of employment. However, no person convicted of a sexual offense requiring registration on the Vermont comprehensive sex offender registry shall be employed by the school district or supervisory union.⁸

Appointment

1. The appointment of licensed employees will be made by the board subject to the nomination of candidates by the superintendent of schools.⁹

⁷ Sec. 5, Act 1 of 2009 (Adj. Session)

⁸ Sec. 5, Act 1 of 2009 (Adj. Session)

⁹ 16 V.S.A. § 242(3)(A)

2. Subject to any pre-employment screening processes approved by the board,¹⁰ the superintendent shall appoint all non-licensed employees to be employed by the school district or supervisory union.¹¹
3. Contracts of employment or other notification of employment will be conditional pending receipt of criminal records check information and evaluation of that information.
4. Upon completion of a criminal records check, the superintendent shall:
 - notify the person subject to the check about the district's protocol for maintenance of criminal history files, and
 - ask the person subject to the check to indicate if his or her record should be maintained or destroyed after the retention period specified in the District's user agreement with VCIC.
5. Employees who have been employed for fewer than two years in Vermont public schools are considered probationary teachers and may be offered a probationary contract.
6. All offers of employment may be withdrawn based on the criminal records check report or upon a finding that the information provided by the applicant during the pre-employment process was inaccurate, incomplete or untruthful.

Date Warned: 4-4-2016

Date Adopted: 5-2-2016

Legal Reference(s): 16 V.S.A. §§251 et seq. (Criminal record checks)
16 V.S.A. §242(3) and 563 (12) (Responsibility for hiring)
Act 1 of 2009 (Adjourned Sess.)
Act 108 of 2010

Cross Reference:

¹⁰ The term "Pre-employment screening processes" as used in this model policy is intended to refer to background checks other than required criminal record and abuse registry checks, interviewing processes or other methods of assessing a candidate's qualifications prior to appointment by the Superintendent. Pre-employment screening processes involving participation by employee groups, board members or other interest groups are not required, but are frequently used.

¹¹ 16 V.S.A. § 242(3)(B)