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EXPLANATION: CRIMINAL BACKGROUND CHECKS

MSBA has revised the reporting section of this policy for consistency with the law and policy GCPE. This policy was amended to incorporate changes based on Senate Bill 62 (2017), which requires public employers such as school districts to notify the relevant retirement systems when an employee or former employee is charged or convicted of certain offenses when committed in relation to the employee's or former employee's position with the district. Under state law, these persons will forfeit retirement benefits if they used their positions for criminal purposes. MSBA also revised this policy to comply with House Bill 1350 (2018), which changed school district reporting requirements relating to employment screenings and how screening information is shared between state and federal governments.

MSBA has also updated GBEB and GBEB-AP1 to explain district responsibilities under the newly strengthened state and federal Rap Back programs and clarify the requirements of the new Rap Back program that features ongoing background checks. Rap Back provides ongoing notification to districts if any of the district's employees who are in the system are arrested. However, not all arrests lead to charges or convictions, so districts should be cautious about how this information is used. This policy authorizes the superintendent to access the district's attorney for assistance.

Though the Rap Back program provides an increased level of security to the school district, the program requires frequent fingerprinting. To fully participate in the Rap Back program, the district must fingerprint every new employee even if they have recently had a background check by another employer. Additionally, the district must re-fingerprint each employee every six years, or the Rap Back system will no longer provide update alerts to the district about that employee.

NOTE: Employees whose fingerprints were submitted prior to the district's Rap Back activation date will not be covered by the Rap Back program. If the district wants all employees to be subject to Rap Back, it will need to have the employees fingerprinted again. Please be aware that the state Rap Back program activation date and the national Rap Back program activation date may differ depending on the district's enrollment date into each program.

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MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.

	Board Secretary	X	Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
X	Human Resources	X	Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

CRIMINAL BACKGROUND CHECKS

The Raytown C-2 School District is committed to providing a safe environment for students to learn. As part of this effort, in accordance with this policy, the district will require criminal background checks of employees as well as certain volunteers and others working on district property. The Board directs the superintendent or designee to develop procedures and practices consistent with this policy.

Definitions

Criminal Background Check – A search of the Federal Bureau of Investigation's (FBI) criminal history files; the Missouri State Highway Patrol's (MSHP) criminal history database and sexual offender registry; the Family Care Safety Registry (FCSR) or the central registry of child abuse and neglect of the Children's Division (CD) of the Department of Social Services; Missouri Case.net; and other databases required by law or by the district.

Driving Records – Traffic-related offenses contained in the Missouri Department of Revenue's databases.

Rap Back – A program designed to provide school districts automatic criminal history updates about individuals who have been previously fingerprinted. "Rap" is an acronym for "record of arrest and prosecution." Rap Back is available on the state and federal level.

Employees

Generally, the district will conduct criminal background checks in accordance with law on all new employees authorized to have contact with students prior to the employees working with students; however, the district may forgo a criminal background check when:

1. A teacher is employed to work on a part-time or substitute basis within one year of having retired from the Raytown C-2 School District.
2. An employee or potential employee has had a background check conducted by another Missouri public school within the past year and the district receives a copy of the background check directly from the other district or obtains electronic access to the previous background check.
3. An employee or potential employee has successfully completed a criminal background check, including a check of the FCSR, as part of the professional license application process within one year prior to employment.

In order to participate in Rap Back, the district must conduct its own background checks and may not use any of the above exceptions. Any offer of employment is contingent upon the satisfactory outcome of the criminal background check, when required by the district. The district has the sole and absolute discretion to determine whether the outcome is satisfactory.

Drivers

The district will conduct a criminal background check on all bus drivers the district employs. The district may allow bus drivers to operate district transportation pending the results of the criminal background check.

If the district contracts for student transportation services, the contract will require the transportation company to conduct background checks on the company's employees who will have contact with district students. The contract will require the company to exclude persons who have exhibited behavior that is violent or harmful to children or adults.

Volunteers

The district will conduct a search of the MSHP's criminal history database and the FCSR or the CD's central registry of child abuse and neglect on all persons volunteering in situations where a volunteer might be left alone with a single child, and the superintendent may also require a search of the FBI's criminal history files. Volunteers may be subject to additional types of criminal background checks in accordance with the district's policy and procedure for school volunteers. If the volunteer is a sponsor, advisor or coach of a district-sponsored activity, he or she must satisfactorily complete the criminal background check required of employees.

~~The superintendent or designee is directed to identify any additional volunteer positions in the district that will also require a criminal background check. The superintendent or designee must receive the results of the background check and officially approve the volunteer before he or she may begin service in the identified volunteer position.~~

Payment

In general, applicants for employment and volunteers are responsible for the cost of the criminal background check, but the district may later reimburse the person at the district's discretion. The cost for volunteer checks would be paid by the district if funds are available. However, when an applicant or volunteer has had a background check conducted by another Missouri public school within the past year and the district receives a copy of the background check directly from the other district or obtains electronic access to the previous background check, the district will not require an additional background check as a condition of employment unless the district pays the cost, in accordance with law.

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The district will pay the expenses associated with conducting and renewing criminal background checks for current employees. In cases where the district requires independent contractors to conduct criminal background checks, payment for the background checks will be determined by the contract.

Updating Information

The district reserves the right to require any employee or volunteer to submit to additional criminal background checks at the district's expense or to rerun background checks at any time. The district will provide the Department of Elementary and Secondary Education (DESE) the relevant personnel information necessary to conduct postemployment background checks as allowed by law.

The district may update all criminal background checks required under this policy at least every five years if the person is still volunteering or working for the district or working on district property. The district may update the driving records for all drivers of district transportation every six months. Any employee refusing to submit to a background check may be disciplined or terminated. The district may decline to utilize the services of volunteers or contractors who refuse to participate.

Ongoing Background Checks

The district may participate in the state and federal Rap Back programs, which automatically notify the district when a district employee is arrested for a reportable offense after the district has conducted an initial background check under the program. Once notified, the superintendent or designee will discuss the incident with the employee. The superintendent or designee is authorized to take appropriate action as allowed by law and district policy and to contact the district's attorney to discuss any legal concerns. Continued participation in the program requires all employees to be fingerprinted every six years and comply with each program's terms and conditions.

District Notification

As a condition of continuing to work within the district, all employees and other persons required to submit to a criminal background check pursuant to this policy must notify the district if they are charged, convicted, plead guilty to or are otherwise found guilty of any misdemeanor or felony, regardless of the imposition of sentence. This notification must be made as soon as possible, but no later than five business days after the event, and is in addition to any reporting requirement established by law.

Reporting Requirements

~~The district will report to DESE when information is obtained that a certificated person has pled guilty or no contest to or been found guilty of a crime or offense, regardless of whether a sentence has been imposed, in this state, another state or another country that may put the person's certificate~~

~~in jeopardy pursuant to Missouri law.~~ The superintendent or designee shall immediately provide written notice to the State Board of Education and the attorney general upon learning that a certificated employee has pled guilty to or was found guilty of any offense that would authorize the State Board to seek discipline of or revoke a teaching certificate.

In accordance with law, the district will notify the Public School Retirement System (PSRS), the Public Education Employee Retirement System (PEERS) or any other relevant state retirement system when an employee or former employee is charged with or convicted of any of the following crimes committed in direct connection with or directly related to the employee's or former employee's duties as an employee with the district when the charge or conviction is a felony:

1. Stealing under § 570.030, RSMo., when the offense involved money, property or services valued at \$5,000 or more;
2. Receiving stolen property under § 570.080, RSMo., as it existed before January 1, 2017, when such offense involved money, property or services valued at \$5,000 or more;
3. Forgery under § 570.090, RSMo.;
4. Counterfeiting under § 570.103, RSMo.;
5. Bribery of a public servant under § 576.010, RSMo.;
6. Acceding to corruption under § 576.020, RSMo.; or
7. Any substantially similar offense under federal law.

Confidentiality

Information received by the district pursuant to a criminal background check is confidential. Except as allowed by law, the district will only use this information for the district's internal purposes in determining the suitability of an applicant, employee, volunteer or other worker on district property. The district will keep this information in a location that is only accessible to persons who need to know the information to carry out their responsibilities with the district. Any person submitting to a criminal background check may receive a copy of the background check information received by the district during the time period the district has access to the information.

Pursuant to state law and upon the written request of an employee or former employee, the district may transfer a criminal background check to another school district within one year of receiving the background check.

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Pursuant to state and federal law, information submitted to the MSHP for background checks will be shared with state and national Rap Back criminal background check programs. The information, including fingerprints, shall be retained by the state central repository and the FBI and shall be searched against other fingerprints on file, including latent fingerprints. Applicant fingerprints, while retained, may continue to be compared against other fingerprints submitted to or retained by the FBI, including latent fingerprints.

Consequences

When considering prior criminal offenses, the district will evaluate, when applicable: the nature and gravity of the applicant's offense, facts or circumstances of the offense, the time that has passed since the conviction or completion of the sentence, number of offenses, length and consistency of employment history before and after the offense, rehabilitation efforts, and the nature of the job the applicant is seeking, including but not limited to, the nature and scope of expected interaction with students.

The superintendent or designee is directed to exclude from employment or to take action to terminate individuals whose criminal background checks reveal that they have exhibited behavior that is violent or harmful to children or adults and may terminate any employee or exclude any applicant if the background check reveals behavior that would make him or her unsuitable for the position in the discretion of the superintendent or designee. A person whose background check reveals behavior that would make the person unsuitable to volunteer in the district will not be allowed to volunteer. Employees who fail to keep background check results confidential as required by law or this policy or who violate any portion of this policy or district procedure will be subject to disciplinary action up to and including termination.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 02/12/2007, eff. 07/01/2007

Revised: 06/28/2010; 12/10/2012; 08/11/2014; 08/10/2015; 05/09/2016;

Cross Refs: **EHBC, Data Governance and Security**
IICC, School Volunteers

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Legal Refs: §§ 43.540, .543, 105.669, 168.071, .133, 576.050, RSMo.

Raytown C-2 School District, Raytown, Missouri