

## GBCD

### CRIMINAL HISTORY AND BACKGROUND CHECKS

A fundamental belief of the Rochester School Board is that the School Department and its officials have a duty to provide a safe learning environment for students (see Policy AE). In order to carry out the safety function with regard to staff members and others who provide services to students, and in compliance with RSA 189:13(a), the Rochester School Department will conduct a background investigation, including a criminal history records check, on every selected applicant for employment in any position in the school district prior to a final offer of employment.

As part of the application process, each applicant for a position shall be asked whether they have ever been convicted of any crime, and whether there are any criminal charges pending against them at the time of application. 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 immediate discharge from employment.

#### A. Definitions

1. *Annual basic compensation:* The annualized gross amount paid to a School Department employee in wages or salary for his or her regular duties, exclusive of benefits, overtime, extra-curricular contracts, or other bonuses.
2. *Background investigation:* An investigation into the past employment and/or other background information for an applicant for employment, for a contractor, or for a volunteer in the Rochester School Department, with the intent of determining: (1) whether the applicant is qualified for, and likely to be successful in, the position for which he or she has applied, and (2) whether the individual is guilty of any actions listed under RSA 189:13(a), Paragraph V that would make him or her ineligible for employment in a New Hampshire school district. Said investigation shall include written and/or verbal testimony from individuals having personal knowledge of the applicant, including the immediate past supervisor for an applicant seeking employment.
3. *Casual employee:* An individual whose employment with the Rochester School Department depends on a day by day invitation to work, such as a substitute teacher, and for whom continued employment is not guaranteed without specific action to terminate.
4. *Casual volunteer:* A volunteer who provides service to the Rochester School Department, its staff and students, fewer than four times in a single year. For example, a parent who accompanies a class on a field trip.
5. *Contractor:* (1) An individual, corporation, partnership, or other entity that provides goods or services through a professional service contract or other contract, except for an employment contract. (2) The officials, agents, and employees of said entity who provide direct services to the Rochester School Department.
6. *Criminal history records check:* A check of state and federal criminal records as defined in the New Hampshire Revised Statutes, Annotated. The criminal history records check shall include submission of fingerprints for the selected applicant, employee, contractor or volunteer.
7. *Entry level teacher salary (ELTS):* The basic salary amount paid to a teacher with a Bachelors Degree and no previous teaching experience as shown in the "BA + 0" line on the salary scale shown in the Master Agreement between the Rochester School Board and the

- Rochester Federation of Teachers for the year in which a background investigation and criminal history records check are conducted.
8. *Exempt contractor:* A contractor who does not provide direct services to or have direct contact with students.
  9. *Exempt volunteer:* A casual or regular volunteer who does not provide direct services to, or have direct contact with, students. For example, a volunteer who maintains athletic fields during summer months.
  10. *Regular employee:* An employee who is (a) under an employment contract with the Rochester School Board for a specific period of time, or (b) in a position not requiring a contract, but for which continued employment is expected unless specific action is taken by the Superintendent or Board to terminate said employment.
  11. *Regular volunteer:* A volunteer who provides service to the Rochester School Department, its staff and students more than three times in a single year.
  12. *Selected applicant:* The final applicant for a position in the Rochester School Department who has been, or will be, recommended by the Superintendent of Schools to the School Board for employment.
  13. *Supervised contact:* Contact with a student or students by an adult employee, contractor or volunteer in the presence of a teacher, administrator, or other professional educator employed by the Rochester School Department. For purposes of this policy, “teacher” shall include any employee covered under the Master Agreement between the Rochester School Board and the Rochester Federation of Teachers. The individual subject to supervision may be unaccompanied by the supervising professional employee for periods of up to two hours, but is not to be left alone with fewer than three students (e.g. a chaperone on a field trip should “check in” at least every two hours.)
  14. *Unsupervised contact:* Contact with a student or students by an adult employee, contractor, or volunteer with no teacher, administrator, or other professional educator employed by the Rochester School Department present.
- B. Individuals who are subject to the background investigation and criminal history records check:
1. The selected applicant for any regular full-time or part-time position.
  2. Regular employees in full-time or part-time positions prior to August 2, 1997, will not be subject to a background check under this policy unless the employee’s employment with the Rochester School Department is severed, then reinstated. For purposes of this policy, an individual’s employment with the School Department will not be considered to have been severed if the employee’s contract is temporarily non-renewed (1) because of a reduction in force, (2) pending completion of the state certification renewal process, providing that the process is completed prior to expiration of the old certification, or (3) because of another similar reason, so long as no work days are lost as a result of said temporary non-renewal caused by the above named circumstances.
  3. Casual employees such as substitute teachers, substitutes for non-teaching positions, and other individuals employed on a day-to-day basis,
  4. Any volunteers who provide direct service to students and/or have unsupervised contact,
  5. Contractors who provide direct service to students and/or have unsupervised contact.

C. Individuals who are not subject to the background investigation and criminal history records check:

1. Casual volunteers, but said volunteers are to have supervised contact only.
2. Exempt volunteers.
3. Exempt contractors.

D. Responsibility for payment of criminal history records check

1. Any selected applicant for a regular position (full- or part-time) or any current employee in such a position who is subject to the criminal history records check, whose annual basic compensation is greater than or equal to seventy-five percent of the entry level teacher salary (ELTS), shall pay one hundred percent of the cost of the criminal history records check, including fingerprinting and processing costs.
2. All contractors, except for exempt contractors, shall pay one hundred percent of the cost of the criminal history records check, including fingerprinting and processing costs.
3. Any selected applicant for a regular position (full- or part-time) or any current employee in such a position who is subject to the criminal history records check, whose annual basic compensation is less than seventy-five percent of the entry level teacher salary, shall pay a pro-rated portion of the criminal history records check as follows:

Percent of ELTS	Employee Cost	School Dept. Cost
50% to 74%	75%	25%
35% to 49%	50%	50%
25% to 34%	25%	75%
Less than 25%	0%	100%

4. Rochester School Department will pay the full cost of the criminal history records check, including fingerprinting and processing costs, for all volunteers and substitutes subject to said check.

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E. Conditional Employment – People who have been selected for employment may be hired on a conditional basis, pending a successful completion of the State and FBI Criminal Records Check.

No selected applicant for employment shall be extended a conditional offer of employment until the Superintendent, or his/her designee, has initiated the formal State and FBI Criminal Records Check process and has completed a background investigation.

All employees are offered conditional employment; until satisfactory completion of a Criminal Records Check.

All persons employed under a conditional offer of employment may be covered under the District's health insurance program, at the sole discretion of the Board, and in accordance with Board policies and/or collective bargaining agreements, if applicable. However, any such coverage will immediately cease and will not be subject to extension under COBRA, if the Board does not tender the person a final offer of employment by reason of application of this Policy.

F. Final Offer of Employment – A person who has been extended a conditional offer of employment may be extended a final offer of employment upon the completion of a Criminal Records Check

which is satisfactory to the Board.

No person with a conditional offer of employment shall be extended a final offer of employment if such person has been convicted of the following offenses or is pending disposition, as referenced in RSA 189:13-a V: (1) murder, or (2) child pornography, or (3) aggravated felonious sexual assault, (4) felonious sexual assault, (5) kidnapping, (6) manufacturing, selling, administering, dispensing or distributing any controlled substance(s) on school property, or (7) sexual misconduct within an education setting in this state; or where such person has been convicted of the same conduct in another state, territory, or possession of the United States, or where such person has been convicted of the same conduct in a foreign country.

In addition to the felonies listed above, a person may be denied a final offer of employment if he/she has been convicted of ANY felony. Such determination will be made by the Board, on a case by case basis.

When the District received a notification of a felony conviction from the State Police on a particular person which it finds unsatisfactory, the Superintendent shall dismiss said person within twenty-four (24) hours of the receipt of such report, excluding Saturdays, Sundays, or legally recognized holidays.

For misdemeanor level offenses, an applicant will be automatically disqualified if he/she has been convicted of any of the Section V violations as a misdemeanor and/or any of the following types of offenses (sex offenses, sexual assault, weapons violations, child abuse, or domestic violence). Other misdemeanors (and felonies which are older than 5 years) will be assessed on a case-by-case basis by the Superintendent. Considerations that will be taken into account for this determination are as follows:

- The nature of the arrest offense compared to the nature of the conviction;
- Age of the conviction;
- Age of the applicant at the time of the offense;
- Type of offense in consideration of the type of position applied for;
- Number of offenses;
- Other consideration(s) the Superintendent deems relevant to the position sought.

G. If any provision of this policy is found to be contrary to law, the remainder shall remain in effect.

**Legal Reference:** RSA 189:13-a

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