BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK

Background Investigation

The Superintendent, or his/her designee, shall conduct a thorough investigation into the past employment history, and other applicable background, of any person considered for employment with the district. This investigation shall be completed prior to making an offer of employment.

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations which have been done.

As part of the application process, each applicant for a position shall be asked whether he/she has ever been convicted of a crime and whether there are any criminal charges pending against him/her 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.

Criminal Records Check

Each person considered for employment by the board whose duties require regular contact with pupils must submit to a State and FBI Criminal Records Check.

Persons regularly in contact with students means a person or persons who, in the performance of his/her duties, (1) comes in direct contact with pupils on a daily basis for any period of time; (2) meets regularly, e.g., once or twice a week, with students, including, but not limited to, an art, music, or physical education teacher; (3) a substitute teacher who comes in direct contact with pupils on a limited basis; or (4) any other persons whom the Superintendent believes, by virtue of their duties and contact with students, should appropriately undergo a Criminal Records Check. School volunteers, whose activities place them in regular contact with students, are required to submit to a State and FBI Criminal Records Check.

The Superintendent is responsible to establish all necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check. All criminal records history information must be kept confidential. If there is no criminal record, the SAU or school district must destroy the criminal history records information immediately after reviewing it. If, however, the criminal history records information lists one of the crimes in RSA 189:13-a,V, the SAU or school district must destroy the information within 30 days of receiving it.

Any person for whom the board requires a Criminal Records Check, except school volunteers, shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the Criminal Records Checks, unless otherwise determined by the board. The board agrees to pay the fee for school volunteers.

Conditional Employment

Persons 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.

Any person who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her contract and continuation of employment is entirely conditioned upon the completion of a Criminal Records Check which is satisfactory to the district.

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.

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, or has charges pending disposition for, the following offenses, as referenced in RSA 189:13-a-V.: (1) murder, (2) child pornography, (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, or has charges pending disposition for, the same conduct in a foreign country.

Following is the list of felonies, for which a person has been convicted, or has charges pending disposition for, in addition to those named in RSA 189:13-a V, that disqualifies an applicant from being hired. The list refers to crimes by reference to specific RSA’s and also includes some misdemeanors:

- RSA 630:1 - Capital murder;
- RSA 630:1-a - First degree murder;
- RSA 630:1-b - Second degree murder;
- RSA 630:2 - Manslaughter
- RSA 632-A:2 - Aggravated felonious sexual assault;
- RSA 632-A:3 - Felonious sexual assault;
- RSA 632-A:4 - Sexual Assault - misdemeanor;
- RSA 633:1 - Kidnapping;
- RSA 639:2 - Incest;
RSA 639:3 - Endangering the Welfare of a Child or Incompetent Person - both misdemeanors and Class B Felonies;

RSA 645:1, I - Misdemeanor indecent exposure and lewdness for purposely performing any act of sexual penetration or sexual contact on himself or herself or another in the presence of a child who is at least 13 years of age and less than 16 years of age;

RSA 645:1, II - Class B felony indecent exposure and lewdness;

RSA 645:1, III - Class A felony of indecent exposure and lewdness;

RSA 645:2 - Prostitution and Related Offenses

RSA 649-A:3 Possession of Child Sexual Abuse Images

RSA 649-A3-a Distribution of Child Sexual Abuse Images;

RSA 649-A3-b Manufacture of Child Sexual Abuse Images;

RSA 649-B:3 - Computer pornography;

RSA 649-B:4 - Using computer services to solicit a child or someone believed to be a child to commit any sexual assault under RSA 632-A; indecent exposure and lewdness under RS 645:1,II or endangering a child as defined in RSA 639:3;

RSA 650:2 - Obscenity where the act involves a child.

All felony convictions, or felonies for which an individual has charges pending, can be grounds for rejecting applicants for employment or volunteer services. This policy does not require the rejection of all applicants for employment or for volunteer services who ever have been convicted of any other felony; instead the school board and the superintendent will decide case-by-case whether an applicant’s felony conviction warrants rejection of his or her application.

When the district receives a Criminal Records Check 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.

Additionally, a person may be denied a final offer of employment if the Superintendent becomes aware of other conduct which he or she determines would render the person unsuitable to perform the responsibilities of the position involved. Such determinations shall be made on a case-by-case basis.
DISCLOSURE OF CRIMINAL CHARGES

It is in the interest of the school district, its students, and its employees for the Superintendent of Schools to be informed when employees or volunteers of the school district are arrested for or convicted of crimes that have not been annulled by a court. In order to enable the Superintendent to dispel unfounded rumors and to take any necessary steps to investigate alleged misconduct and to protect students and employees, an employee who has been arrested for or convicted of a crime that has not been annulled by a court shall notify the Superintendent or his designee within 24 hours (excluding weekends and holidays) of being arrested or convicted. Notification of the Superintendent or his designee shall include the date, place, and nature of the crime for which the employee has been arrested and/or convicted. A “crime” shall mean any misdemeanor or felony.

Merely being arrested for or charged with a crime shall not, by itself, serve as the basis for termination of employment or for imposition of other discipline against an employee.