

Martha's Vineyard Public Schools (MVPS) Background Checks Policy

It shall be the policy of the Martha's Vineyard Public Schools to obtain federal and state background check information through both SAFIS (Statewide Applicant Fingerprint Identification Services) and CORI (Criminal Offender Record Information), as allowed by law, of all employees including educators, student teachers/interns, maintenance staff, food service workers and bus drivers and prospective employees of the school department including any individual who regularly provides school related transportation to children. Any fees associated with such background checks shall be the responsibility of the individual.

The Superintendent may require that volunteers, subcontractors, or other outside laborers, who may have direct and unmonitored contact with children, submit to National Criminal History Record Checks through SAFIS. *Volunteers who chaperone overnight trips will be required to do so.* Any fees associated with such background checks shall be reimbursed by the District upon successful completion.

The Superintendent or designee shall periodically, but not less than every three years, obtain all available CORI information from the criminal history systems board on all employees, individuals who regularly provide school related transportation to children, including taxicab company employees, and volunteers, subcontractors, or other outside laborers, who may have direct and unmonitored contact with children, during their term of employment or volunteer service.

Direct and unmonitored contact with children means contact with a child when no other cleared employee of the school or district is present. A person having only the potential for incidental unsupervised contact with children in commonly used areas of the school grounds, such as hallways, shall not be considered to have the potential for direct and unmonitored contact with children. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized and separated by sight or sound from other staff) that are accessible to students.

If an individual is required to submit to a SAFIS or CORI criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints for SAFIS or information for CORI. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

All background check information is subject to strict state and federal laws, rules, and regulations. Criminal history information cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Federal laws provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of Criminal history information.

The Superintendent or designee may also have access to CORI information for any volunteer, subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with children, and shall notify them of this requirement and comply with the appropriate provisions of this policy.

Criminal history record information shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with laws, rules and regulations have been implemented to ensure the security and confidentiality of information. Each individual involved in the handling of such information is to familiarize himself/herself with these safeguards. In addition to the above, each individual involved in the handling of such information will strictly adhere to the portions of this policy on the storage, retention and destruction of such information.

SAFIS and CORI results are not subject to the public records law.

Federal law prohibits the repurposing or dissemination of SAFIS results beyond its initial requested purpose. Once an individual's criminal record information is received, it will be securely retained in internal district documents for the following purposes only:

- Historical reference and/or comparison with future requests,
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the criminal record.

Criminal record information will be kept for the above purposes in a locked cabinet, separate from personnel files, in the Superintendent's Office.

Access to SAFIS and CORI material must be restricted to those individuals certified to receive such information. In the case of prospective employees or volunteers, such material should be obtained only where the Superintendent has determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

The hiring authority, subject to applicable law, reserves the exclusive right concerning any employment decision. The employer may consider the following factors when reviewing SAFIS and/or CORI results: the type and nature of the offense; the date of the offense and whether the individual has been subsequently arrested, as well as any other factors the employer deems relevant. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

For SAFIS results, a record of the suitability determination will be retained. The following information will be included in the determination – the name and date of birth of the employee or applicant; the date on which the school employer received the national criminal history check results; and the suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

For CORI results, if a criminal record is received from the Criminal History Systems Board (CHSB), the Superintendent will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.

If inclined to make an adverse decision based on an individual's criminal record, the school district will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her record used in making the adverse decision;
- Provide the individual with a copy of this policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her record; and
- Provide the individual with information on the process for updating, changing, or correcting the record.

If an individual's criminal record is released to another authorized entity (the individual or the DESE), a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

Pursuant to state law and regulation, if the school district dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the school district shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within thirty (30) days of the employer action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation, as well as a copy of the criminal record check results. The school district shall notify the employee or applicant that it has made a report pursuant to the regulations to the Commissioner.

Pursuant to state law and regulation, if the school district discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to regulation, the school district shall report to the Commissioner in writing within thirty (30) days of the discovery, regardless of whether the school district retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to regulation to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of the employment or volunteer service the school district is required by law to obtain appropriate federal or state criminal record information for any employee, individual who regularly provides school related transportation, or volunteer who

may have direct and unmonitored contact with children. Current employees, persons regularly providing school related transportation, and volunteers shall also be informed in writing by the Superintendent prior to obtaining their Criminal Offender Record Information (CORI).

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.

LEGAL REFS.: M.G.L.6:167-178; 15D:7-8; 71:38R, 151B, 276:100A
P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b)
42 U.S.C. § 16962
603 CMR 51.00
803 CMR 2.00
803 CMR 3.05 (Chapter 149 of the Acts of 2004)

FBI Criminal Justice Information Services Security Policy

Procedure for correcting a criminal record

FAQ – Background Checks

SOURCE: MASC 2014

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