

**Policy GBEC: CRIMINAL BACKGROUND CHECKS**

Status: DRAFT

Original Adopted Date: 04/21/2010 | Last Revised Date: 07/15/2020

**24B UPDATE  
EXPLANATION**

Senate Bills 28, 40, and 186 (2023) amended the state statute governing school district participation in the federal Rap Back program, which allows the fingerprints of school employees to remain on file and automatically notifies the school district if those persons are arrested, charged, or convicted of a crime. The amendment removed the requirement that fingerprints be submitted every six years.

Senate Bill 50 created a new law, § 195.817, RSMo., which requires the district to conduct a background check on adult students who enroll in a course on a district campus where district K-12 students also attend. If the background check reveals crimes or offenses like those for which a teacher's license may be disciplined—that is, any of those listed in subsection 6 of § 168.071, RSMo.—the adult may not enroll in the course. MSBA has added language to this policy. See policy JEC, also in this update, for more details on this new law.

The district is committed to providing a safe learning 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 present 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 all of the following:

1. The Federal Bureau of Investigation's (FBI) criminal history files;
2. The Missouri State Highway Patrol's (MSHP) criminal history database and sexual offender registry;
3. 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;
4. Missouri Case.net; and
5. 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 Smithville R-II 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 employment offer is contingent upon the satisfactory outcome of any district-required

criminal background checks. 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 criminal background check on all individuals volunteering in positions where they may be periodically left alone with students or have access to student records. Volunteers who chaperone students on overnight trips or are sponsors, advisors, or coaches of district-sponsored activities must satisfactorily complete a criminal background check.

The district is not required to conduct a background check on volunteers who have had a background check conducted by another Missouri public school within the past year if the district receives a copy of the background check directly from the other district or obtains electronic access to the previous background check.

In addition to the volunteers who are required by law to receive a full background check, the superintendent or designee may require other volunteers to undergo a background check or the district may conduct a search of the MSHP's criminal history database and the FCSR or the CD's central registry of child abuse and neglect.

## **Contracted Services**

If the district contracts with another person or entity to provide services to students, the district may include in the contract a requirement that a criminal background check be conducted on any person who will have regular contact with students. Staff members of an early childhood education program that is under contract with the district will undergo criminal background checks as required by law.

## **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. However, when an applicant 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 or unless the district pays the cost, in accordance with law.

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 check the driving records of 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 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 use this information only 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 accessible only 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.

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 if the district opts to use these 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

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 employees or exclude any applicants if the background check reveals behavior that would make him or her them unsuitable for the position in the discretion of the superintendent or designee. A person Individuals whose background checks reveals behavior that would make them 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.

## Admissions for Adult Learners

Adults taking courses on district property during the school day may be required to undergo a background check in accordance with law and policy JEC.

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**Policy Reference Disclaimer:** These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

### State References

§ 105.669, RSMo.  
§ 163.018, RSMo.  
§ 168.071, RSMo.  
§ 168.133, RSMo.  
§ 171.097, RSMo.  
§ 43.539, RSMo.  
§ 43.540, RSMo.  
§ 43.543, RSMo.  
§ 576.050, RSMo.

### Description

[State Statute](#)  
[State Statute](#)  
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[State Statute](#)  
[State Statute](#)

### Cross References

EHBC  
EHBC-AP(1)  
EHBC-AP(2)  
EHBC-AP(3)  
EHBC-AP(4)  
IICC  
IICC-AP(1)  
JEC

### Description

[DATA GOVERNANCE AND SECURITY](#)  
[DATA GOVERNANCE AND SECURITY - \(Incident and Data Breach Response Plan\)](#)  
[DATA GOVERNANCE AND SECURITY - \(Data Management\)](#)  
[DATA GOVERNANCE AND SECURITY - \(Account Management\)](#)  
[DATA GOVERNANCE AND SECURITY - \(Security Controls\)](#)  
[SCHOOL VOLUNTEERS](#)  
[SCHOOL VOLUNTEERS](#)  
[SCHOOL ADMISSIONS](#)