

POLICY TITLE: JOB APPLICANT BACKGROUND INVESTIGATION (BI) POLICY

General

Idaho Code 33-130 provides that all school district employees submit to a criminal history check through the Idaho State Department of Education. It shall be the responsibility of the Chief Executive Officer (CEO) to ensure these checks are conducted. In addition, COSSA may require additional reference checks as set forth below. Background checks will be required from all employees except students doing summer work, and from all contractors and volunteers having direct contact with children.

Reference Check

A reference check for applicants shall consist of at least the following:

1. An up-to-date placement file including references for all positions held during the past ten years; or
2. Three written references when an up-to-date placement file is not available. In addition, inquiries shall be made of the applicant's employers for the past ten years for certificated applicants and the past five years for classified applicants.

Criminal History/Background Checks

It is the policy of the Agency not to employ or to continue the employment of classified, professional or administrative personnel who may be deemed unsuited for service by reason of arrest and/or criminal conviction. While an arrest or conviction of a crime, in and of itself, may not be an automatic bar to employment, if an arrest or conviction relates to suitability of the individual to perform duties in a particular position, such person may be denied employment or, in the case of current employees, may face disciplinary action up to and including termination.

It is the policy of this Agency to perform criminal history checks as required by Idaho law and to perform other types of background checks on employees or volunteers including, but not limited to:

1. Contacting prior employers for references;
2. Contacting personal references; and/or
3. Contacting other persons who, in the discretion of the Agency, could provide valuable information to the Agency.

Where a prior conviction is discovered, the Agency will consider the nature of the offense, the date of the offense, and the relationship between the offense and the position for which application is sought, or the person is employed. Any individual convicted of a felony offense listed in I.C. § 33-1208(2) shall not be hired.

If an applicant or employee makes any misrepresentation or willful omissions of fact regarding prior criminal history, such misrepresentation or omission shall be sufficient cause for disqualification of the applicant or termination of employment.

Initial Hires

In order to protect the health, safety, and welfare of the students of the Agency, Idaho law requires the following employees hired on or after July 1, 2008 to submit to criminal history checks. The list is to include, but is not limited to:

1. Certificated and non-certificated employees;
2. All applicants for certificates;
3. Substitute staff;
4. Individuals involved in other types of student training such as practicums and internships; and
5. All individuals who have unsupervised contact with students.

A criminal history check shall be based on a complete ten-finger fingerprint card or scan and include, at a minimum, the following:

1. Idaho bureau of criminal identification;
2. Federal bureau of investigation (FBI) criminal history check; and
3. Statewide sex offender registry.

Employees will be required to undergo a criminal history check within five days of starting employment or unsupervised contact with students, whichever is sooner.

A fee for the criminal history check will be charged. All criminal history check records will be kept on file at the state department of education. A copy of the records will be given to the employee upon request.

Employee Arrest or Conviction

All employees shall have the continuing duty to notify the Agency of any arrest or criminal conviction that occurs subsequent to being hired by the Agency. In the event that any employee, whether full-time or part-time, probationary or non-probationary, classified or certified, is arrested, charged, or indicted for a criminal violation of any kind, whether misdemeanor or felony, with the exception of minor traffic infractions, he or she is required to report such arrest promptly to the employee's supervisor or department head within one business day unless mitigating circumstances exist. This reporting requirement applies regardless of whether such arrest has occurred on-duty

or off-duty. Failure to comply with this reporting requirement shall be grounds for disciplinary action, up to and including termination.

Additionally, if an employee has a protection order served against him or her, the employee shall follow the same reporting requirements as outlined above.

Supervisors or department heads shall contact the Superintendent or designee upon receiving notification that an employee has been arrested or has a protection order served against him or her. The Agency reserves the right to determine appropriate disciplinary action in such cases, up to and including termination, depending upon the facts and circumstances surrounding the incident.

It is the discretion of the Agency to terminate or take other action against any employee that has either been convicted of one or more of the felony offenses set forth in I.C. § 33-1208 or made a material misrepresentation or omission on their job application.

Substitute Teachers

The State Department of Education shall maintain a statewide list of substitute teachers. To remain on the statewide substitute teacher list, the substitute teacher shall undergo a criminal history check every five years. If a substitute teacher has undergone a criminal history check within five years as a result of employment with another District, the Agency may in its sole discretion, not require a substitute to undergo a criminal history check. If the Agency does desire a substitute teacher who has undergone a criminal history check within the last five years to undergo an additional criminal history check, the Agency will pay the costs of such check.

Other Employees

The Agency may require that any employee be subjected to criminal history checks. If required, the Agency will pay the costs of such checks.

Volunteers

Any volunteer in the Agency who has regular unsupervised access to students, as determined by the Superintendent or the Superintendent's designee, shall submit to a fingerprint criminal background investigation conducted by the appropriate law enforcement agency prior to consideration for volunteering in the schools of this Agency.

Any requirement of a volunteer to submit to a fingerprint background check shall be in compliance with the Volunteers for Children Act of 1998 and applicable federal regulations. If a volunteer has any prior record of arrest or conviction by any local, state, or federal law enforcement agency for an offense other than a minor traffic violation, the facts must be reviewed by the Superintendent, who shall decide whether the volunteer

is suitable to be in the presence of the students in the Agency. Arrests resolved without conviction shall not be considered in the hiring process unless the charges are pending.

Contractors

The Agency maintains a safe environment for students by developing a system that cross-checks all contractors or other persons who have irregular contact with students against the statewide sex offender register.

Confidentiality

Outstanding warrants, criminal charges, and/or protective orders may be confidential. An employee who is provided access to such information relating to another employee shall ensure that the information remains confidential. If an employee discloses such information without authorization, the employee shall be subject to disciplinary action.

LEGAL REFERENCE:

I.C. § 33-130	Criminal History Checks for School District Employees or Applicants for Certificates
I.C. §33-512	Governance of Schools
I.C. §74-106	Records Exempt from Disclosure
Public Law 105-251,	Volunteers for Children Act

POLICY HISTORY:

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