

1 CRIMINAL BACKGROUND SEARCH REQUIRED

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3 A criminal background search shall be conducted on all final candidates who will be
4 recommended for employment to the Transylvania County Board of Education (the “Board”) and
5 on independent contractors under consideration for roles that may require them to work directly
6 with students. Criminal background searches shall be conducted in accordance with applicable
7 state law, policies of the North Carolina State Board of Education (the “State Board”), and any
8 local procedures established by the Superintendent. Criminal background searches required by
9 this policy shall be conducted at the school system’s expense. Any candidate who refuses to
10 consent to a criminal background search, including an independent contractor, shall not be
11 considered for employment or awarded a contract for services.
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13 EMPLOYMENT DECISIONS

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15 All offers of employment are conditional until the Superintendent/designee receives the results of
16 the applicant’s criminal background search. If a final candidate for employment or appointment
17 as an independent contractor is found to have a criminal history other than for minor traffic
18 offenses, then the Superintendent shall determine whether the individual is qualified for
19 employment or appointment despite the criminal history by considering, among other factors,
20 whether the individual poses a threat to the safety or well-being of students or personnel, or has
21 demonstrated that he or she does not have the integrity or honesty to fulfill the duties of the
22 position. If the Superintendent recommends such a candidate for employment by the Board, then
23 the Board must be notified of the candidate’s criminal history and the basis for the
24 Superintendent’s determination.
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26 No applicant shall be denied employment based solely upon the results of a criminal background
27 search without confirmation of the criminal history by certified copy of the conviction or other
28 means permitted by State Board rules.
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30 No individual who is a registered sex offender subject to the provisions of policy ACAC
31 (“Registered Sex Offenders”) shall be employed in any position by the Board. Additionally,
32 each contract executed by the Board with an independent contractor or for the services of
33 independent contractors shall require the contractor to check sex offender registries as specified
34 in policy ACAC (“Registered Sex Offenders”) for all of its employees who will have direct
35 interaction with students as part of their job or service.
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37 Providing false or misleading information regarding criminal history on an application for
38 employment shall constitute grounds for an individual’s denial of, or dismissal from,
39 employment by the Board. Providing false or misleading information regarding criminal history
40 by an independent contractor shall constitute grounds for the Board’s denial or termination of the
41 contract.
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43 MAINTENANCE OF RECORDS

44
45 Records received in conjunction with criminal background searches shall be maintained in a
46 locked, secure place, separate from the individual’s application or personnel file. These records
47 shall be accessible only to the Superintendent/designee and other authorized personnel who have
48 appropriately secured permission prior to accessing the records.

49
50 NOTIFICATION REQUIRED

51
52 Applicants for employment and current employees of the Board must immediately notify the
53 Superintendent/designee if they are arrested, charged with, or convicted of a criminal offense
54 (including entering a plea of guilty or *nolo contendere*) other than a minor traffic violation
55 (including speeding, parking, or lesser violations). Notice must be made in writing, must include
56 all relevant facts, and must be delivered to the Superintendent/designee no later than the next
57 scheduled business day following the arrest, charge, or conviction, unless the applicant is
58 hospitalized or incarcerated, in which case the applicant must report the alleged violation within
59 twenty-four hours of his or her release. Upon judicial action in the matter, the applicant or
60 current employee must report the disposition and relevant facts in writing to the Superintendent/
61 designee no later than the next business day following adjudication.

62
63 CERTAIN REPORTING REQUIRED

64
65 The Superintendent shall forward to the Superintendent of Public Instruction, in accordance with
66 applicable state law and State Board policy, the criminal history of any applicant or employee
67 who is licensed, certificated, or certified by the State Board.

68
69 Legal References: N.C.G.S. § 114-19.2, § 115C-36, § 115C-47, § 115C-332, §115C-332.1, §
70 14-208.18; 16 N.C.A.C 6C.0312, 16 N.C.A.C 6C.0313; *Fair Credit Reporting Act*, 15 U.S.C.
71 1681 et seq.

72
73 Cross References: Policy ACAC (“Registered Sex Offenders”)

74
75 **~~Application of Policy~~**

76
77 ~~A criminal history check will be conducted on all final candidates who will be recommended to~~
78 ~~the Board of Education for school personnel positions, including independent contractors who~~
79 ~~are being considered for positions which require them to work directly with students.~~

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81 ~~School personnel positions are defined as all certified and non-certified positions based in the~~
82 ~~school. School personnel positions also include central office positions in which the duties~~
83 ~~require significant access to students.~~

84
85 **~~Required Criminal History Check~~**

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87 A reasonable effort will be made to ascertain whether the final candidate for a school personnel
88 position has any criminal history. The superintendent or designee is authorized to use local,
89 state, or national repositories of records as necessary to conduct a reasonable review.
90

91 The applicant will be fingerprinted and asked to provide the information necessary to conduct the
92 criminal history check [GBN E(1)]. The criminal history check will be conducted at the school
93 system's expense. Any applicant who refuses to consent to a criminal history check, including an
94 independent contractor, will not be considered for a school personnel position.
95

96 **Employment Decisions**

97
98 Any offer of employment is conditional until the superintendent receives the results of the
99 applicant's criminal history check. If a final candidate or contractor has a criminal history, the
100 employment decision will include written documentation of how the criminal history information
101 was used, including a determination of whether the final candidate/independent contractor (1)
102 poses a threat to the physical safety of students or personnel, or (2) has demonstrated that he/she
103 does not have the integrity or honesty to fulfill the duties of the position.
104

105 An applicant will not be denied a position based upon the criminal history check by the Justice
106 Department without confirmation of the criminal history by certified copy of the conviction or
107 other means permitted by State Board rules.
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109 False information on an employment application or contract regarding criminal history will be a
110 basis for denying employment or immediate dismissal.
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112 **Maintenance of Records**

113
114 Records received from the Justice Department will be maintained in a locked, secure place,
115 separate from the individual's application or personnel file. The records will be accessible only
116 to the superintendent/designee(s) or to other personnel who have obtained prior permission from
117 the superintendent/designee.
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119 **Reporting Requirement**

120
121 The superintendent will forward to the State Board, in accordance with State Board rules, the
122 criminal history of any applicant who is licensed, certificated, or certified by the State Board.
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124 Legal References: G.S. 114-19.2(a), 115C-36, 16 N.C.A.C. 6C.0300.
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126 APPROVED BY BOARD
127 AND EFFECTIVE 5/6/96

128 **REVISED** _____