

Dr. Robert B. Ingram, Board Member

**SUBJECT: PROPOSED PROMULGATION OF NEW SCHOOL BOARD RULE:
*EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL
EMPLOYEES***

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

At the School Board meeting of August 2, 2006, Item B-3 (Proposed Amendment of School Board Rule: 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*) was presented to the Board for its consideration and approval. After the Item was discussed, it was tabled. It was also determined that a workshop be scheduled in order to address this issue further. Subsequently, a School Board Workshop was scheduled to address this matter on October 25, 2006. However, due to absence of a quorum, it had to be cancelled. Consequently, I'm renewing my request that the Board consider this matter, and recommend the approval of the initiation of rulemaking and thereby establish a new Board rule, which is attached for your review.

This item is being presented to the Board for its consideration in order to begin the process of promulgating a new Rule, that while ensuring that only individuals of good moral character remain employed by the school system, will--at the same time--ensure that the District's fingerprinting review process does not adversely impact current employees by subjecting them to disciplinary action for criminal matters that were previously cleared by the District. Accordingly, it is requested that the Board approve the initiation of rulemaking in the manner prescribed herein.

**ACTION PROPOSED BY
DR. ROBERT B. INGRAM:**

That The School Board of Miami-Dade County, Florida, request that the Superintendent initiate rulemaking proceedings in accordance with the Administrative Procedure Act to promulgate a new School Board Rule entitled *Employment Standards and Fingerprinting of All Employees*, which attached hereto.

Activities**FINGERPRINTING OF ALL EMPLOYEES PRIOR TO EMPLOYMENT**

Pursuant to Florida Statute 1012.32, it is the intent of the School Board to ensure that only individuals of good moral character be employed by the school system. The Miami-Dade County Public Schools work force is mobile and an employee in the course of a career may be assigned to various work locations where students are present. It is thus necessary to perform the appropriate security checks on all applicants.

1. All applicants for full-time and part-time jobs shall be fingerprinted for employment. The cost of the fingerprinting and the fingerprint processing shall be borne by the applicants, except applicants who are K-12 Miami-Dade County Public Schools students. Miami-Dade County Public Schools shall bear the costs for the K-12 students.
2. All applicants, full-time and part-time, will not be permitted to work pending fingerprint processing and determination, based on results of the fingerprint check, of compliance with standards of good moral character. Applicants not found to be of good moral character will not be eligible for employment.

For purposes of this rule, good moral character means exemplifying the acts and conduct which would cause a reasonable person to have confidence in an individual's honesty, fairness and respect for the rights of others and for the laws of the state and nation.

3. Miami-Dade County Public Schools shall review fingerprint reports and determine if an applicant's criminal record contains crimes involving moral turpitude. For purposes of this rule, moral turpitude means "a crime that is evidenced by an act of baseness, vileness or depravity in the private and social duties, which, according to the accepted standards of the time a man owes to his or her fellow man or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude." Rule 6B-4.009(6), FAC.

Applicants found through fingerprint processing to have been convicted of a crime involving moral turpitude will not be eligible for employment. The following is not intended to be a complete list of all qualifying criminal offenses:

Miami-Dade County Public Schools (M-DCPS) will not consider hiring (List A):

- Adult abuse, neglect or exploitation of aged persons or disabled adults (Section 825.103 F.S.)
- Aggravated Assault (Section 784.021 F.S.)
- Aggravated Battery (Section 784.045 F.S.)
- Arson (Section 806.01 F.S.)
- Child Abuse or Child Neglect (Section 827.03 F.S.)
- Contributing to the Delinquency or Dependency of a Child (Section 827.04 F.S.)
- Currently has a pending case for conduct appearing on List A or List B (no statute)
- Currently has a pending case for Driving Under the Influence of alcohol (DUI) (no statute)

- Domestic Violence (felony) (Section 741.28 F.S.)
- Exhibiting a Firearm or Weapon within 1,000 feet of a school (Section 790.115 F.S.)
- Extortion (Section 836.05 F.S.)
- Felony Battery/Assault (Section 784.041 F.S.)
- Felony Drug Possession, Sale or Distribution (Section 893.13 F.S.)
- Incest (Section 826.04 F.S.)
- Indecent Exposure (Section 800.03 F.S.)
- Kidnapping/False Imprisonment (Section 787.01, 787.02 F.S.)
- Killing of an unborn child by injury to the mother (Section 782.09 F.S.)
- Lewd and Lascivious Behavior (Section 798.02, 800.04 F.S.)
- Manslaughter (Section 782.07 F.S.)
- Murder (Section 782.04 F.S.)
- Pornography (Distribute or possess to sell obscene material) (Section 847.011 F.S.)
- Prostitution/Solicitation of Prostitution (Section 796.07 F.S.)
- Removing Children from the State or Concealing Children contrary to court order (Section 787.04 F.S.)
- Robbery (Section 812.13 F.S.)
- Sexual Assault/Sexual Battery (Section 794.011 F.S.)
- Sexual Performance by a child (Section 827.071 F.S.)
- Vehicular Homicide (Section 782.071 F.S.)

M-DCPS will not consider hiring if offenses are less than ten (10) years old. M-DCPS will consider and carefully review if older than ten (10) years old (List B):

- Burglary (Section 810.02 F.S.)
- Counterfeiting (Section 831.28 F.S.)
- Forgery (Section 831.01 F.S.)
- Fraud (Section 817.03 F.S.)
- Grand Larceny (Section 812.014 F.S.)
- Grant Theft (Section 812.014 F.S.)
- Possession of a concealed weapon (felony) (Section 790.01 F.S.)
- Sale of alcohol to a minor (Section 562.11 F.S.)
- Welfare/Unemployment/Worker's Compensation Fraud (Sections 443.071, 440.105 F.S.)

M-DCPS will not consider hiring if offenses are less than five (5) years old. M-DCPS will consider and carefully review if over five (5) years old (List C):

- Battery/Assault (Sections 784.03, 784.011 F.S.)
- Drug and/or Paraphernalia (misdemeanor) (Section 893.13 F.S.)
- Possession of a concealed weapon (misdemeanor) (Section 790.01 F.S.)
- Resisting Arrest with violence (Section 843.01 F.S.)

M-DCPS will conduct a review of specific circumstances surrounding these offenses (List D):

- Currently on probation for conduct listed on List B or List C (no statute)
- Disorderly Conduct (Section 870.01 F.S.)
- Domestic Violence (misdemeanor) (Section 741.28 F.S.)
- Driving Under the Influence/Driving While Intoxicated (Section 316.193 F.S.)

- Loitering (Section 856.021 F.S.)
- Multiple Arrests (no statute)
- Other Criminal Traffic offenses (various statutes)
- Petty Theft/Larceny/Theft to Deprive/Retail Theft/Shoplifting (Sections 812.014, 812.015 F.S.)
- Resisting Arrest without violence (Section 843.02 F.S.)
- Trespassing (Section 810.08 F.S.)
- Worthless Checks (Sections 831.09, 831.02 F.S.)

In addition to the above, Miami-Dade County Public Schools will not consider applicants seeking employment with the Miami-Dade County Public Schools Police Department who have received a dishonorable discharge from any of the Armed Forces of the United States, or with a conviction of a misdemeanor involving perjury, or a false statement.

4. Applicants who are disqualified for employment due to their criminal history records will receive certified written notification by mail. Disqualified applicants have the right to request an appeal conference. A written request for an appeal conference must be submitted to the Office of Professional Standards no later than 15 calendar days from the receipt of the disqualification notice or the Post Office notice regarding the same whichever occurs first. An appeal conference will be conducted by the Office of Professional Standards within 30 workdays of the receipt of a timely request from the applicant/employee.
5. Personnel who have been fingerprinted and processed in accordance with this rule and who have had a break in service shall be required to be re-fingerprinted in order to be re-employed.

Specific Authority: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: 1012.32; 943.0585(6) F.S.

History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

New: 1-10-90

Amended: 10-9-96; 3-12-03; 7-13-05

Permanent Personnel

EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES

I. INTRODUCTION

Pursuant to Florida Statute 1012.32, it is the intent of the School Board to ensure that only individuals of good moral character remain employed by the school system. The Miami-Dade County Public Schools work force is mobile and an employee in the course of a career may be assigned to various work locations where students are present. It is thus necessary to perform the appropriate security checks on all employees of the District. Employees not found to be of good moral character will not be eligible for continued employment.

For purposes of this rule, good moral character means exemplifying the acts and conduct which would cause a reasonable person to have confidence in an individual's honesty, fairness and respect for the rights of others and for the laws of the state and nation.

1. Florida statutes require periodic re-fingerprinting of employees to remain employed. Upon re-fingerprinting, any new criminal history that was not previously reported and appropriately dealt with may result in disciplinary action up to, and including dismissal.
2. Current employees who are seeking instructional positions and who are required to be re-fingerprinted as part of the certification process may be subject to disciplinary action, up to and including dismissal, for any new criminal history that was not previously disclosed/discovered and appropriately dealt with. Any criminal offenses that were previously cleared by the Office of Professional Standards will not be considered for disciplinary action under this rule.
3. Personnel who have been fingerprinted and processed in accordance with Board rules and who have had a break in service shall be required to be re-fingerprinted in order to be re-employed.
4. The cost of the fingerprinting and the fingerprint processing shall be borne by the Miami-Dade County Public School District.

Employees found through the re-fingerprint process to have been convicted of a crime (regardless of adjudication or guilty plea, no contest plea and Pretrial Intervention) may be subject to disciplinary action up to, and including dismissal. Any criminal offenses that were previously cleared by the Office of Professional Standards will not be considered for disciplinary action under this rule.

The following is not intended to be a complete list of all qualifying criminal offenses, which may result in disciplinary action up to, and including dismissal:

- Adult abuse, neglect or exploitation of aged persons or disabled adults (Section 825.103 F.S.)
- Aggravated Assault (Section 784.021 F.S.)
- Aggravated Battery (Section 784.045 F.S.)
- Arson (Section 806.01 F.S.)
- Child Abuse or Child Neglect (Section 827.03 F.S.)

- Contributing to the Delinquency or Dependency of a Child (Section 827.04 F.S.)
- Currently has a pending case for Driving Under the Influence of alcohol (DUI) (no statute)
- Domestic Violence (felony) (Section 741.28 F.S.)
- Exhibiting a Firearm or Weapon within 1,000 feet of a school (Section 790.115 F.S.)
- Extortion (Section 836.05 F.S.)
- Felony Battery/Assault (Section 784.041 F.S.)
- Felony Drug Possession, Sale or Distribution (Section 893.13 F.S.)
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- Killing of an unborn child by injury to the mother (Section 782.09 F.S.)
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- Manslaughter (Section 782.07 F.S.)
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- Prostitution/Solicitation of Prostitution (Section 796.07 F.S.)
- Removing Children from the State or Concealing Children contrary to court order Section 787.04 F.S.)
- Robbery (Section 812.13 F.S.)
- Sexual Assault/Sexual Battery (Section 794.011 F.S.)
- Sexual Performance by a child (Section 827.071 F.S.)
- Vehicular Homicide (Section 782.071 F.S.)
- Burglary (Section 810.02 F.S.)
- Counterfeiting (Section 831.28 F.S.)
- Forgery (Section 831.01 F.S.)
- Fraud (Section 817.03 F.S.)
- Grand Larceny (Section 812.014 F.S.)
- Grant Theft (Section 812.014 F.S.)
- Possession of a concealed weapon (felony) (Section 790.01 F.S.)
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- Battery/Assault (Sections 784.03, 784.011 F.S.)
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- Possession of a concealed weapon (misdemeanor) (Section 790.01 F.S.)
- Resisting Arrest with violence (Section 843.01 F.S.)
- Currently on probation (no statute)
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- Domestic Violence (misdemeanor) (Section 741.28 F.S.)
- Driving Under the Influence/Driving While Intoxicated (Section 316.193 F.S.)
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In addition to the above, Miami-Dade County Public Schools will not consider retaining employees within the Miami-Dade County Public Schools Police Department who have received a dishonorable discharge from any of the Armed Forces of the United States, or with a conviction of a misdemeanor involving perjury, or a false statement.

5. Employees who are disqualified from continued employment due to their criminal history records will receive certified written notification by mail. Disqualified employees have the right to request an appeal conference. A written request for an appeal conference must be submitted to the Office of Professional Standards no later than 15 calendar days from the receipt of the disqualification notice or the Post Office notice regarding the same whichever occurs first. An appeal conference will be conducted by the Office of Professional Standards within 30 workdays of the receipt of a timely request from the applicant/employee. This period of time for the filing of an appeal conference may be extended upon the agreement of the employee and the Office of Professional Standards.

II. APPLICATION

This Employment Standard applies to all employees of Miami-Dade County School District. The term "employee" as used herein, applies to all groups of employees regardless of full, part time or temporary status.

Specific Authority: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.;
Law Implemented, Interpreted, or Made Specific: 1012.32; 1012.465 F.S.;
943.0585(6) F.S.

History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
New: 11-21-06

