

Freddie Woodson, Associate Superintendent
School Operations

SUBJECT: PROPOSED AMENDMENT TO SCHOOL BOARD RULE: INITIAL READING 6Gx13- 4C-1.021, FINGERPRINTING OF ALL EMPLOYEES PRIOR TO EMPLOYMENT

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

LINK TO DISTRICT

STRATEGIC PLAN: EVALUATE AND REDESIGN CURRENT DISTRICT-WIDE RECRUITING AND HIRING PROCESSES

At the School Board meeting of December 13, 2006, Item B-5 (Requested Review and Amendment of School Board Rule 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*) was presented by School Board member Dr. Solomon C. Stinson, and approved by the Board. The item requested that stakeholders with assistance from the School Board Attorney's office, conduct a comprehensive review of School Board Rule as described in this Item, and recommend necessary amendments, if any, and that the Superintendent initiate rulemaking proceedings to amend the Rule consistent with any proposed changes.

A comprehensive review of School Board Rule 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*, has been completed with the assistance of the School Board Attorney's Office. As a result, certain specific revisions, as indicated in the attached proposed Rule amendment, are being suggested in order to ensure uniformity in the application and appeals process outlined by the Rule, particularly as it relates to the background screening requirements mandated by law, and undertaken by the District.

Attached are the Notice of Intended Action and the Rule proposed for amendment. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of School Board Rule 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on March 14, 2007, its intention to amend School Board Rule, 6Gx13- 4C-1.021, *Fingerprinting of All Employees Prior to Employment*, at its meeting of April 18, 2007.

PURPOSE AND EFFECT: The purpose of amending this rule is to ensure uniformity in the application and appeals delineated in the Rule for applicants seeking employment with the District, which must undergo background screening requirements, including fingerprint processing.

SUMMARY: The proposed amendments to the Rule clarify and ensure uniformity in the application of the fingerprinting requirements to prospective applicants for employment and in the subsequent appeals process.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2); 1001.42(23); 1001.43(10), F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1012.32; 943.0585, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF April 18, 2007, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by April 9, 2007, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by the School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

A COPY OF THE PROPOSED AMMENDED RULE is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Dr. Solomon C. Stinson
Date: March 7, 2007

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.)
- Assault, if the victim was a minor (Section 784.011 F.S.)
- Aggravated Battery (Section 784.045 F.S.)
- Arson (Section 806.01 F.S.)
- Battery, if the victim was a minor (Section 784.03 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 90.115 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.)
- Grand Larceny (Section 812.014 F.S.)
- Grand Theft (Section 812.014 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.)
- Resisting Arrest with violence (Section 843.01 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.)~~
- ~~Grand 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/Workers 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.)

Any omissions, changes, or typographical errors in the statutory citations shall not be grounds for waiver of application of this Rule to any applicant for employment.

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 notification by U.S. Mail or return receipt post office notification, 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 for the holding of the appeal conference may be extended upon the agreement of the applicant and the Office of Professional Standards.~~

5.4. 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.

Internal Appeal Process

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 notification by U.S. Mail or return receipt post office notification, 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 for the holding of the appeal conference may be extended upon the agreement of the applicant and the Office of Professional Standards.

During the internal appeal process, the District administrator conducting the appeal may consider the specific facts, which led to the conviction, and may consider any mitigating factors in rescinding the disqualification. During this internal appeals process, it will be the appellant's burden to provide verifiable documentation in support of his or her claims of mitigation. The decision of the District administrator conducting the appeal will be final.

Specific Authority: 1001.41(1)(2); 1001.42(~~22~~) (23); 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