

Freddie Woodson, Associate Superintendent
School Operations

**SUBJECT: PROPOSED PROMULGATION OF NEW SCHOOL BOARD
RULE: INITIAL READING 6Gx13- 4C-1.022, EMPLOYMENT
STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES**

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

**LINK TO DISTRICT
STRATEGIC PLAN: DEVELOP AND IMPLEMENT NEW PROCESSES TO IMPROVE
STAFF SATISFACTION AND RETENTION**

At the School Board meeting of November 21, 2006, an action presented by Dr. Robert B. Ingram, School Board Member, and approved by the School Board directed the Superintendent to 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*. Due to substantive changes in the appeal process that were recommended at the School Support Accountability School Board Committee Meeting of March 8, 2007, the item was withdrawn and is being resubmitted for an initial reading.

Attached are the Notice of Intended Action and the proposed new rule.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the promulgation of a new School Board Rule 6Gx13- 4C-1.022, Employment Standards and Fingerprinting of All Employees.

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 promulgate new School Board Rule 6Gx13- 4C-1.022, Employment Standards and Fingerprinting of All Employees.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on April 18, 2007, its intention to promulgate new School Board Rule 6Gx13- 4C-1.022, Employment Standards and Fingerprinting of All Employees, at its meeting of June 13, 2007.

PURPOSE AND EFFECT: To clarify a process to determine continued employability and advancement opportunities based on the District's fingerprinting review process.

SUMMARY: This item is being presented to ensure that only individuals of good moral character remain employed by the school system, and at the same time, provide 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.

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; 1012.465 F.S.; 943.0585(6) 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 Administration Building, 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 to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., were requested to do so in writing by May 14, 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 NEW RULE is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 Northeast Second Avenue, Miami, Florida 33132.

Originator: Dr. Robert B. Ingram
Date: March 29, 2007

ACTIVITIES

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 records of criminal offenses that were properly disclosed and previously cleared by the Office of Professional Standards will not be a cause for disciplinary action under this Rule upon subsequent review of the employee's history.

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.

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 records of criminal offenses that were properly disclosed and previously cleared by the Office of Professional Standards will not be a cause for disciplinary action under this Rule upon subsequent review of the employee's history. However, if the prior criminal offense or conviction was in anyway related to or involved child abuse or child neglect, including sexual assault/sexual battery, the prior criminal offense or conviction shall be considered for the purpose of taking appropriate employment or disciplinary action, regardless

of whether it was previously disclosed by the employee or previously cleared by the Office of Professional Standards.

Once an employee has previously disclosed his or her criminal history record and is cleared for employment with the District, said criminal history may not be used as an impediment to a promotion if the employee applied for same, fulfilled all the requirements thereto, and has otherwise qualified for said promotion.

Notwithstanding the foregoing, the school district shall not be precluded from considering a current employee's criminal history background when making future employment/placement decisions (e.g. workplace, type of position), such as whether an employee with a prior conviction may be limited from holding a position of trust. Accordingly, administration has the discretion to review an employee applicant's prior criminal history in making appropriate placement decisions.

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) (Section 316.193 F.S.)
- 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.)
- 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.)
- 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/Worker's Compensation Fraud (Sections 443.071, 440.105 F.S.)
- 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.)
- Currently on probation or community control (Section 948 F.S.)
- 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.)
- 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.); with violence (Section 843.01)
- Trespassing (Section 810.08 F.S.)
- Worthless Checks (Sections 831.09, 831.02 F.S.)
- Any crime involving moral turpitude (Sections 1012.32, 1012.33 F.S.)

Any omissions, changes, or typographical errors in the statutory citations shall not be a defense for the employee. 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.

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.

III. INTERNAL APPEAL PROCESS

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 upon 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 of time for the holding of an appeal conference may be extended upon the agreement of the employee 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 with the approval of the Superintendent or designee.

Specific Authority: 1001.41(1),(2); 1001.42(23); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: 1012.32; 1012.465 F.S.;
943.0585(6) F.S.

History:
New:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA