

Personnel Management and Services
Dr. Magaly C. Abrahante, Chief Personnel Officer

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

COMMITTEE: LEGISLATIVE RELATIONS AND POLICY DEVELOPMENT

This item is submitted for consideration by the School Board to amend School Board rule 6Gx13- 4C-1.021, Fingerprinting of All Employees Upon Application and Employment, which sets forth policy and procedures for ensuring that only individuals of good moral character are employed by the school system. Effective September 23, 2002, the digital fingerprinting process, initiated by the Florida Department of Education, commenced. Applicants are digitally fingerprinted and the results are received electronically within 72 hours. This process requires revisions to the current board rule to prevent the hiring of applicants convicted of a crime involving moral turpitude.

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 Upon Application and 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 Upon Application and Employment.

MCA:sm

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on January 15, 2003, its intention to amend School Board Rule 6Gx13- 4C-1.021, Fingerprinting of All Employees Upon Application and Employment, at its meeting of March 12, 2003.

PURPOSE AND EFFECT: To prevent the hiring of applicants convicted of a crime involving moral turpitude.

SUMMARY: The rule provides policies and practices for ensuring that only individuals of good moral character be employed by the school system.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 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.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF March 12, 2003, 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 to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by February 11, 2003, 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 AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Dr. Magaly C. Abrahante
Supervisor: Mr. Merrett R. Stierheim
Date: December 19, 2002

Activities**FINGERPRINTING OF ALL EMPLOYEES UPON APPLICATION AND PRIOR TO EMPLOYMENT**

Pursuant to Florida Statute 1012.32 ~~234.02~~, 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 ~~newly hired personnel~~.

1. All applicants for full-time and part-time jobs shall be fingerprinted ~~at the time of application~~ for employment. ~~When the applicant is hired, the district shall file a complete set of fingerprints on the new hire with the Florida Department of Law Enforcement (FDLE). FDLE will process and submit the fingerprints to the Federal Bureau of Investigation (FBI) for federal processing.~~ The cost of the fingerprinting and the fingerprint processing shall be borne by the applicant employee.
2. All applicants new employees, full-time and part-time, shall ~~be on probationary status~~ 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 Employees not found to be of good moral character will have their ~~probationary employment terminated~~ 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. The Miami-Dade County Public Schools shall review fingerprint reports and determine if an employee's 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 person man owes to other people 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 ~~Employees~~ found through fingerprint processing to have been convicted of a crime involving moral turpitude will be terminated from employment not be eligible for employment.

Crimes which may demonstrate moral turpitude include but are not limited to:

1. Murder (Section 782.04 F.S.)
2. Manslaughter (Section 782.07 F.S.)
3. Vehicular homicide (Section 782.071 F.S.)
4. Killing of an unborn child by injury to the mother (Section 782.09 F.S.)
5. Assault upon a minor (Section 784.011 F.S.)
6. Aggravated assault (Section 784.021 F.S.)
7. Aggravated assault relating to battery upon a minor (Section 784.03 F.S.)
8. Aggravated battery (Section 784.045 F.S.)
9. Kidnapping (Section 787.01 F.S.)
10. False imprisonment (Section 787.02 F.S.)
11. Removing children from the state or concealing children contrary to court order (Section 787.04 F.S.)
12. Sexual battery (Section 794.011 F.S.)
13. Carnal intercourse with an unmarried person under 18 years of age (Section 794.05 F.S.)
14. Prostitution (Chapter 796 F.S.)
15. Arson (Section 806.01 F.S.)
16. Robbery (Section 812.13 F.S.)
17. Incest (Section 826.04 F.S.)
18. Aggravated child abuse (Section 827.03 F.S.)
19. Child abuse (Section 827.04 F.S.)
- ~~20. Negligent treatment of children (Section 827.05 F.S.)~~
- ~~20~~4. Sexual performance by a child (Section 827.071 F.S.)
- ~~21~~2. Exploitation of an elderly person or disabled adult (Section 825.102 F.S.)
- ~~22~~3. Drug abuse if the offense was a felony or if any other person involved in the offense was a minor (Chapter 893 F.S.)

If the administration finds it appropriate upon consideration of the particular circumstances of an applicant's/~~employee's~~ case (timing, persons involved, specific mitigating facts), a determination may be made finding that such crime as applied to the applicant/~~employee~~ does not involve moral turpitude.

4. An applicant denied employment ~~A probationary employee terminated~~ because of a lack of good moral character including but not necessarily limited to conviction of a crime involving moral turpitude shall have the right to appeal such decision to the Office of Human Resources and Staff Development or the Office of Professional Standards Labor Relations and Personnel Management. The request for appeal must be filed within 15 days following notification of denial of employment termination.
5. Personnel who have been fingerprinted and processed in accordance with this rule and who have had a break in service of more than 90 days shall be required to be re-fingerprinted in order to be re-employed.

Specific Authority: ~~230.22(2)~~; 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: ~~234.02(2)(b)~~; 1012.32; 943.0585(6)
F.S.

History

New: 1-10-90

Amended: 10-9-96

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA