

Office of Human Resources
Paul M. Cholak, Chief Personnel Officer

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

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

This item is submitted for consideration by the School Board to amend School Board rule 6Gx13- 4C-1.021, Fingerprinting of All Employees Prior to 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 establish hiring guidelines for applicants with criminal records including guilty pleas regardless of adjudication, no contest pleas, and pre-trial intervention/diversion. This process will also establish Miami-Dade County Public Schools (M-DCPS) as the responsible party for the cost of the fingerprinting and fingerprint processing for applicants who are K-12 M-DCPS students.

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.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on May 18, 2005, its intention to amend School Board Rule 6Gx13- 4C-1.021, Fingerprinting of All Employees Prior to Employment, at its meeting of July 13, 2005.

PURPOSE AND EFFECT: To establish hiring guidelines for applicants with criminal records including guilty pleas regardless of adjudication, no contest pleas, and pre-trial intervention/diversion and to establish Miami-Dade County Public Schools (M-DCPS) as the responsible party for the cost of fingerprinting and fingerprint processing for applicants who are K-12 M-DCPS students.

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 July 13, 2005, 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 June 14, 2005, 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 to the public for inspection and copying at cost in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

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Originator: Paul M. Cholak
Supervisor: Rudolph F. Crew, Ed.D.
Date: May 4, 2005

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:

~~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. Sexual performance by a child (Section 827.071 F.S.)~~
- ~~21. Exploitation of an elderly person or disabled adult (Section 825.102 F.S.)~~
- ~~22. Drug abuse if the offense was a felony or if any other person involved in the offense was a minor (Chapter 893 F.S.)~~

Miami-Dade County Public Schools (MDCPS) 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 (Sections 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 (Sections 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.)

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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/Worker's Compensation Fraud (Sections 443.071, 440.105 F.S.)

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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):

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- 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):

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- 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.

DELETED

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

~~4. An applicant denied employment 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 Professional Standards. The request for appeal must be filed within 15 days following notification of denial of employment.~~

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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.

ADDED

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: 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

New: 1-10-90

Amended: 10-9-96; 3-12-03

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA