

Freddie Woodson, Associate Superintendent
School Operations

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE:
 INITIAL READING 6Gx13- 3F-1.024, SCREENING CRITERIA
 FOR CONTRACTED PERSONNEL IN ACCORDANCE WITH
 THE JESSICA LUNSFORD ACT**

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

**LINK TO DISTRICT
STRATEGIC PLAN: ENSURE ADEQUATE AND INTERNAL CONTROLS AND
 OPERATIONAL EFFICIENCY**

This item is submitted for consideration by the School Board to amend School Board Rule 6Gx13- 3F-1.024, Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act. The proposed amendment incorporates changes to the Jessica Lunsford Act (JLA) enacted by the Florida Legislature, which took effect on July 1, 2007.

At the School Board meeting of July 11, 2007, Agenda Item D-9, requested approval of retroactive application of recent JLA amendments to non-instructional contractors that were previously screened under prior law. Agenda Item D-9 also requested authorization to initiate rulemaking proceedings to amend School Board Rule 6Gx13- 3F-1.024 to conform to the 2007 statutory amendments to the JLA. The item was presented and approved by the Board.

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 to amend School Board Rule 6Gx13- 3F-1.024, Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act.

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- 3F-1.024, Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act.

FW/LMG:lv

**Revised
D-45**

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 1, 2007, its intention to amend School Board Rule, 6Gx13- 3F-1.024, Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act, at its meeting of September 5, 2007.

PURPOSE AND EFFECT: The purpose of amending this rule is to ensure that its provisions conform to the 2007 amendments to the Jessica Lunsford Act by the Florida legislature.

SUMMARY: The proposed amendment incorporates changes made to the Jessica Lunsford Act by the Florida Legislature, including, but not limited to, exemptions to required fingerprinting for non-instructional contractors.

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; 1012.467 and 1012.468; 943.0585, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF September 5, 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 August 27, 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 AMENDED 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: Mr. Freddie Woodson
Date: July 19, 2007

Contracts and Documents**SCREENING CRITERIA FOR CONTRACTED PERSONNEL IN ACCORDANCE WITH THE JESSICA LUNSFORD ACT**

Pursuant to Florida Statute 1012.465, the Jessica Lunsford Act ("JLA"), "contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in § 1012.32." The term "contractual personnel" includes "any vendor, individual, or entity under contract with a school or the school board." } Added

As mandated by the JLA, the affected individuals must meet the screening requirements provided in § 1012.32, F.S., which provides that: "Persons . . . found through fingerprint processing to have been convicted of a crime involving moral turpitude shall not be employed, engaged to provide services, or serve in any position requiring direct contact with students. . . ." This proscription includes those individuals that are providing services through a contracted vendor.

Pursuant to the JLA, an individual, contracted by a vendor or other entity, has a criminal history record, which indicates that the contracted individual has been convicted of certain crimes (as indicated herein), the contracted individual will be disqualified from engaging in any of the three (3) activities delineated in the JLA.

DISQUALIFYING CRIMINAL OFFENSES:

The School Board has determined that individuals who have been identified through level 2 screening as having been convicted of a crime involving moral turpitude will not have access to school grounds. In Rule 6Gx13- 4C-1.021 (*Fingerprinting of All Employees Prior to Employment*), The School Board has identified the criminal offenses that disqualify individuals from being employed by the school district. In accordance with the JLA those offenses listed in Rule 4C-1.021 may also be used to comply with the JLA screening requirements and the School Board has determined that said criminal offenses will also be used for JLA screening purposes.

Anyone providing school-related services will be screened according to the District's Employment Standards. As to all other individuals, the following types of crimes will be considered for purposes of disqualification. The lists are not intended to be a complete list of all relevant qualifying criminal offenses, but it does demonstrate the types of crimes that are presently considered as requiring disqualification:

The following Category 1 criminal offenses are absolute disqualifiers subject to appeal only as to identification and final disposition:

- Child Abuse or Child Neglect (Section 827.03 F.S.)
 - Contributing to the Delinquency or Dependency of a Child (Section 827.04 F.S.)
 - Exhibiting a Firearm or Weapon within 1,000 feet of a school (Section 790.115 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.)
 - Lewd and Lascivious Behavior (Section 798.02, 800.04 F.S.)
 - Manslaughter (Section 782.07 F.S.)
 - Murder (Section 782.04 F.S.)
 - Removing Children from the State or Concealing Children contrary to court order (Section 787.04 F.S.)
 - Sexual Performance by a child (Section 827.071 F.S.)
 - Sale of alcohol to a minor (Section 562.11 F.S.)
- } Added

The following Category 2 criminal offenses may result in disqualification:

- Killing of an unborn child by injury to the mother (Section 782.09 F.S.)
 - Felony Battery/Assault (Section 784.041 F.S.)
 - Felony Drug Possession, Sale or Distribution (Section 893.13 F.S.)
 - ~~Indecent Exposure (Section 800.03 F.S.)~~
 - ~~Kidnapping/False Imprisonment (Section 787.01, 787.02 F.S.)~~
 - ~~Lewd and Lascivious Behavior (Section 798.02, 800.04 F.S.)~~
 - Pornography (Distribute or possess to sell obscene material) (Section 847.011 F.S.)
 - Prostitution/Solicitation of Prostitution (Section 796.07 F.S.)
 - Sexual Assault/Sexual Battery (Section 794.011 F.S.)
- } Delete

The following Category 3 criminal offenses may result in disqualification if the individual is to have access to or control of school funds:

- 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.)
- Petty Theft/Larceny/Theft to Deprive/Retail Theft/Shoplifting (Sections 812.014, 812.015 F.S.)
- Robbery (Section 812.13 F.S.)
- Worthless Checks (Sections 831.09, 831.02 F.S.)
- Welfare/Unemployment/Worker's Compensation Fraud (Sections 443.071, 440.105 F.S.)

Any omissions, changes, or typographical errors in the statutory citations shall not be a defense for the individual undergoing the level 2 screening process.

STATUTORY EXEMPTIONS

Pursuant to the 2007 amendments to the JLA enacted by the Florida Legislature, the provisions of this Rule shall be inapplicable to non-instructional contracted personnel who qualify for exemption from level 2 screening requirements as provided under § 1012.468, Fla.Stat. (2007).

} Revised

In addition, the provisions of § 1012.467, Fla.Stat. (2007) are incorporated herein by reference, and any provisions of this Rule that may be inconsistent with, contrary to, or determined to be in conflict with § 1012.467, will be superseded by said statute.

INTERNAL JLA APPEALS PROCESS:

Contracted personnel who are disqualified due to their criminal history records will receive certified written notification by mail. Disqualified individuals have the right to request an appeal conference. A written request for an appeal conference must be submitted to the Office of Employment Standards no later than 15 calendar days from the receipt of the disqualification notice or the Post Office notice regarding the disqualification, whichever occurs first. A three-person panel made up of an administrator from the Office for Employment Standards, from School Operations, and from Risk Management will conduct the appeal conference. The appeal shall be held within 30 workdays of the receipt of a timely request from the individual.

For Category 1 criminal offenses, an appeal is available only as to identification and final disposition. For Category 2 and Category 3 criminal offenses, the panel conducting the appeal may consider the specific facts, which led to the conviction, and may consider any mitigating factors in rescinding the disqualification. When considering the specific facts and mitigating factors, the panel's primary concern will be the impact the conviction has on the health, safety, and welfare of the students and the school community. 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 panel conducting the appeal will be final.

Specific Authority: 1001.41(1)(2); 1001.42(23); 1001.43 (10) F.S.

Law Implemented, Interpreted, or Made Specific: 1012.32; 1012.465; 1012.467; 1012.468; 943.0585, F.S.

History

New: 4-18-07

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA