

Office of the General Counsel
Walter J. Harvey, General Counsel

SUBJECT: **FINAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 3120, EMPLOYMENT OF INSTRUCTIONAL PERSONNEL; 1121.01, EMPLOYMENT STANDARDS AND FINGERPRINTING; AND 3121.01, 4121.01, EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES**

COMMITTEE: **PERSONNEL, STUDENT, SCHOOL & COMMUNITY SUPPORT**

LINK TO STRATEGIC PLAN: **HIGHLY EFFECTIVE TEACHERS, LEADERS, & STAFF**

Consistent with the Board's statutory responsibility to review and update policies to conform to legislative changes, authorization is requested to amend Board Policies 3120, *Employment of Instructional Personnel*; 1121.01, *Employment Standards and Fingerprinting*; and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, to conform to SB 676 (2023), HB 5101 (2023), and amendments to Florida Administrative Code ("F.A.C.") Rule 6A-4.004, *Florida Educator's Certificates with Academic, Administrative, Degreed Career and Technical, and Specialty Class Coverages*.

Policy 3120, *Employment of Instructional Personnel*, is proposed for amendment to conform with changes made to F.A.C. Rule 6A-4.004, which revises the validity period of a nonrenewable, temporary teaching certificate from three (3) years to five (5) years. The policy is also proposed for amendment to incorporate the requirements of HB 5101 (2023), which requires school districts to provide information specified by the Florida Department of Education when they employ eligible honorably discharged or retired military veterans or retired first responders.

Policies 1121.01, *Employment Standards and Fingerprinting*, and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, are also proposed for amendment to better delineate the factors that render candidates for employment ineligible for certification or employment in any position that requires direct contact with students. These policies are additionally proposed for amendment to clarify that beginning January 1, 2025, the Agency for Health Care Administration, the chief health policy and planning entity for the state, will be charged with determining the eligibility of employees in any position that requires direct contact with students in a District school.

The Notice of Intended Action was published in the Miami Daily Business Review on September 11, 2023, and posted in various places for public information and mailed to various organizations representing persons affected by the adopted and amended Board policies and individuals requesting notification. The time to request a hearing or protest the adoption and amendment of these policies has elapsed.

The policy amendments were drafted in collaboration with, and reviewed by the Superintendent, Cabinet, and District staff. The Notice of Intended Action and policies with strikethroughs and underlines are attached.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, amend Board Policies 3120, *Employment of Instructional Personnel*; 1121.01, *Employment Standards and Fingerprinting*; and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, and authorize the Superintendent to file the policies with The School Board of Miami-Dade County, Florida, to be effective October 11, 2023.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on September 6, 2023, its intention to amend Board Policies Board Policies 3120, *Employment of Instructional Personnel*; 1121.01, *Employment Standards and Fingerprinting*; and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, at its meeting of October 11, 2023.

PURPOSE AND EFFECT: Board Policies 3120, *Employment of Instructional Personnel*; 1121.01, *Employment Standards and Fingerprinting*; and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, to conform to SB 676 (2023), HB 5101 (2023), and amendments to Florida Administrative Code ("F.A.C.") Rule 6A-4.004, *Florida Educator's Certificates with Academic, Administrative, Degreed Career and Technical, and Specialty Class Coverages*.

SUMMARY: Policy 3120, *Employment of Instructional Personnel*, is proposed for amendment to the validity period of a nonrenewable, temporary teaching certificate from three (3) years to five (5) years. The policy is also proposed for amendment to incorporate the requirements of HB 5101 (2023), which requires school districts to provide information specified by the Florida Department of Education when it employs an eligible honorably discharged or retired military veterans or retired first responders. Policies 1121.01, *Employment Standards and Fingerprinting*, and 3121.01, 4121.01, *Employment Standards and Fingerprinting of all Employees*, are proposed for amendment to delineate disqualifying factors for employment and to clarify that beginning January 1, 2025, employee eligibility requirements will be within the purview of the Agency for Health Care Administration.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.32(2); 1001.41(1), (2); 1001.42(5), (7).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 1001.10, 1001.43(11), 1012.27, , 1012.315, 1012.32, 1012.39, 1012.42, 1012.43 (11), 1012.55, 1012.56, 1012.57, 1012.715, 435.09, 943.0585, 943.059; F.A.C. 6A-1.0502, 6A-1.0503, 6A-4.001, 6A-4.0012, 6A-4.004, 6A-6.010, 6A-6.014; and 20 U.S.C. ss. 6301, 7801.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF September 6, 2023, 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 in Section 120.54(1), F.S., must do so in writing by October 3, 2023, to the Superintendent, 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)

COPIES OF THE PROPOSED AMENDED POLICY are 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.



Book	Policy Manual
Section	October 11, 2023- <u>Final</u> Reading
Title	EMPLOYMENT OF INSTRUCTIONAL PERSONNEL
Code	3120
Status	<u>Final</u> Reading

3120 - **EMPLOYMENT OF INSTRUCTIONAL PERSONNEL**

The term instructional personnel refers to K-12 staff members whose functions include the provision of direct instructional services to students. Instructional personnel also include K-12 staff members whose functions provide direct support in the learning process of students as defined by F.S. 1012.01.

Any person employed in an instructional position requiring certification shall possess a valid certificate issued pursuant to Florida law and shall file the certificate with the District.

Misstatement of fact material to qualification for employment or the determination of salary shall constitute grounds for dismissal.

A candidate shall be disqualified from employment in any position that requires direct contact with students if the candidate is ineligible for such employment under F.S. 1012.315.

Upon recommendation of the Superintendent, the School Board shall approve employment of instructional personnel.

Qualifications of instructional personnel shall be as required by law and Florida Administrative Code. To be eligible for appointment in any instructional position in the District, a person must be of good moral character; must have attained the age of eighteen (18) years; and must, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Board, except when employed pursuant to F.S. 1012.55 or under the emergency provisions of F.S. 1012.24.

Instructional personnel must meet the requirements for their position and follow the employment procedures as set forth in Florida statutes and State Board of Education Rules, including but not limited to: F.S. 1012.24, 1012.35, 1012.36, 1012.39, 1012.43, and 1012.56; and F.A.C. 6A-1.0502, 6A-1.0503, 6A-4.001, [6A-4.0012](#), [6A-4.004](#), 6A-6.010, and 6A-6.014, as they may be amended from time to time.

Certification of Instructional Personnel

A. State Certification

Any person employed in a position requiring certification shall possess a valid teaching certificate issued pursuant to Florida law. Instructional personnel who teach classes or provide support services shall be certified or licensed as defined in F.S. 1012.56, and F.A.C. 6A-1.0502 and 6A-1.0503.

B. District Certification

Pursuant to F.S. 1012.39, 1012.55, and 1012.57, with regard to the employment of temporary instructors, teachers of adult education, non-degreed teachers of career technical education (CTE), adjunct educators, and experts in the field, the District will establish the minimum requirements for the issuance of District certificates. Such certificates establish eligibility for employment but confer no right to employment.

The Superintendent may revoke or suspend a District certificate.

The application fee for the District certificate shall be the same as a State issued Educator's Certificate.

Any employee who does not achieve a passing score on any subtest of the general knowledge examination shall be provided information regarding the availability of State-level and District-level supports and instruction to assist them in achieving a passing score.

Certification for Expert in the Field - Full-Time Instructional

Current teachers who hold a temporary certificate and have completed all requirements for professional certification but have not worked enough days to complete the work related requirements, may be eligible for a District expert in the field certificate.

The application for the District expert in the field certificate shall be submitted to the Office of Instructional Certification. Following the clearance of fingerprints and employment in a full-time instructional position, the Office of Instructional Certification will issue to the employee a District expert in the field certificate valid for one (1) school year beginning July 1st and ending June 30th. This certificate will be issued on a one-time basis and is non-renewable.

District Adjunct Teaching Certificate

The District may issue an adjunct teaching certificate for a part-time or full-time teaching position. However, an adjunct teaching certificate issued for a full-time teaching position is valid for no more than ~~three~~-five (5) years and is nonrenewable. The District will post requirements on its website for the issuance of an adjunct teaching certificate, and also specify the subject area test through which an applicant demonstrates subject area mastery.

Heroes in the Classroom

An honorably discharged or retired military veteran or retired first responder who commits to joining the teaching profession as a full-time classroom teacher is eligible for a one-time sign-on bonus administered by the Florida Department of Education, subject to legislative appropriation. An eligible veteran or first responder may receive an additional bonus for teaching a course in a high-demand teacher need area, as identified by the department. For any such eligible veteran or first responder employed by it, the Board will provide any necessary information requested by the department and, in a manner established by the department, notify the eligible veteran or first responder that employment may impact their pension from a previous employer.

Effective 07.01.2011

Revised 06.17.2015

Revised 04.29.2020

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Legal References:

F.S. 1012.01

F.S. 1012.24

F.S. 1012.315

F.S. 1012.35

F.S. 1012.36

F.S. 1012.39

F.S. 1012.42

F.S. 1012.43

F.S. 1012.55

F.S. 1012.56

F.S. 1012.57

F.S. 1012.715

F.A.C. 6A-1.0502

F.A.C. 6A-1.0503

F.A.C. 6A-4.001

F.A.C. 6A-4.0012

F.A.C. 6A-4.004

| [F.A.C. 6A-6.010](#)

F.A.C. 6A-6.014
20 U.S.C. 6301
20 U.S.C. 7801

Adoption Date: 05.11.2011



Book	Policy Manual
Section	October 11, 2023- <u>Final</u> Reading
Title	EMPLOYMENT STANDARDS AND FINGERPRINTING
Code	1121.01
Status	<u>Final</u> Reading

1121.01 - **EMPLOYMENT STANDARDS AND FINGERPRINTING**

The School Board shall employ only individuals of good moral character. Employees not found to be of good moral character will not be eligible for continued employment. This policy applies to all employees whether full-time, part-time, or temporary.

Good moral character means exemplifying the acts and conduct that would cause a reasonable person to have confidence in an individual's honesty, fairness and respect for the rights of others and for State and Federal laws.

A. Fingerprinting

1. Fingerprints of candidates for employment (or re-employment if there has been a break in service) shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for Federal criminal records checks. Periodic re-fingerprinting of employees is required to remain employed. Personnel who have had a break in service shall also be required to be re-fingerprinted in order to be re-employed. Upon re-fingerprinting, any new criminal history that was not previously reported and appropriately addressed may result in non-reemployment, or 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 addressed. 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 upon subsequent review of the employee's history.

3. Employees found through the re-fingerprinting 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. However, if the prior criminal offense or conviction was 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.

4. Once an employee has previously disclosed his/her criminal history record and is cleared for employment with the District, the criminal history may not be used as an impediment to promotion if the employee applied, fulfilled all the requirements, and is otherwise qualified for promotion.
5. The School District shall not be precluded, however, from considering a current employee's criminal history background when making future employment/placement decisions, such as whether an employee with a prior conviction may be prohibited from holding a position of trust. Accordingly, the Superintendent has the discretion to review an employee applicant's prior criminal history when making placement decisions.
6. The cost of the fingerprinting and the fingerprint processing shall be borne by the District.
7. Individuals whose fingerprints have not been retained by the FDLE must be re-fingerprinted and re-screened upon re-employment or re-engagement to provide services in order to comply with the law.

B. Disqualifying Criminal Offenses

Criminal offenses, which may result in disciplinary action up to and including dismissal include, but are not limited to:

1. adult abuse, neglect or exploitation of aged persons or disabled adults (F.S. 825.103)
2. aggravated assault (F.S. 784.021)
3. aggravated battery (F.S. 784.045)
4. arson (F.S. 806.01)
5. child abuse or child neglect (F.S. 827.03)
6. contributing to the delinquency or dependency of a child (F.S. 827.04)
7. currently has a pending case for Driving Under the Influence of alcohol (DUI) (F.S. 316.193)
8. domestic violence (felony) (F.S. 741.28)

9. exhibiting a firearm or weapon within 1,000 feet of a school (F.S. 790.115)
10. extortion (F.S. 836.05)
11. felony battery/assault (F.S. 784.041)
12. felony drug possession, sale, or distribution (F.S. 893.13)
13. incest (F.S. 826.04)
14. indecent exposure (F.S. 800.03)
15. kidnapping/false imprisonment (F.S. 787.01, 787.02)
16. killing of an unborn child by injury to the mother (F.S. 782.09)
17. lewd and lascivious behavior (F.S. 798.02, 800.04)
18. manslaughter (F.S. 782.07)
19. murder (F.S. 782.04)
20. distribute or possess to sell obscene material (F.S. 847.011)
21. prostitution/solicitation of prostitution (F.S. 796.07)
22. removing children from the State or concealing children contrary to court order (F.S. 787.04)
23. robbery (F.S. 812.13)
24. sexual assault/sexual battery (F.S. 794.011)
25. sexual performance by a child (F.S. 827.071)
26. vehicular homicide (F.S. 782.071)
27. burglary (F.S. 810.02)
28. counterfeiting (F.S. 831.28)
29. forgery (F.S. 831.01)

- 30.fraud (F.S. 817.03)
- 31.grand larceny (F.S. 812.014)
- 32.grand theft (F.S. 812.014)
- 33.possession of a concealed weapon (felony) (F.S. 790.01)
- 34.sale of alcohol to a minor (F.S. 562.11)
- 35.welfare/unemployment/worker's compensation fraud (F.S. 443.071, 440.105)
- 36.battery/assault (F.S. 784.03, 784.011)
- 37.drug and/or paraphernalia (misdemeanor) (F.S. 893.13)
- 38.possession of a concealed weapon (misdemeanor) (F.S. 790.01)
- 39.resisting arrest with violence (F.S. 843.01)
- 40.currently on probation or community control (F.S. 948)
- 41.disorderly conduct (F.S. 870.01)
- 42.domestic violence (misdemeanor) (F.S. 741.28)
- 43.driving under the influence/driving while intoxicated (F.S. 316.193)
- 44.loitering (F.S. 856.021)
- 45.other criminal traffic offenses (various statutes)
- 46.petty theft/larceny/theft to deprive/retail theft/shoplifting (F.S. 812.014, 812.015)
- 47.resisting arrest without violence (F.S. 843.02); with violence (F.S. 843.01)
- 48.trespassing (F.S. 810.08)
- 49.worthless checks (F.S. 831.09, 831.02)
- 50.any crime involving moral turpitude (F.S. 1012.32, 1012.33)

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

The District will not retain employees within the School 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.

C. Appeal Process

Employees who are disqualified from continued employment because of criminal history will receive written notification by regular and certified mail. Disqualified employees may request an appeal conference. A written request for an appeal conference must be submitted to the Office of Professional Standards no later than fifteen (15) calendar days from 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 thirty (30) workdays of the receipt of a timely request from the applicant/employee. The period of time for holding an appeal conference may be extended upon agreement of the employee and the Office of Professional Standards.

The District administrator conducting the appeal may consider the specific facts which led to the conviction and may consider mitigating factors. It is the employee's burden to provide verifiable documentation in support of his/her mitigation claim. The decision of the District administrator conducting the appeal will be final with the approval of the Superintendent.

D. Employment History Check & Educator Screening Tool

Before employing a person in any position that requires direct contact with students, the Superintendent shall conduct employment history checks of each of the candidate's previous employer(s), review each affidavit of separation from previous employers pursuant to F.S. 1012.31, screen instructional personnel and school administrators, as defined in F.S. 1012.01, through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document efforts to contact the employer (F.S. 1012.27(6)).

A person is ineligible for educator certification or employment in any position that requires direct contact with students if:

- A. they are on the disqualification list maintained by the Florida Department of Education under F.S. 1001.10(4)(b);
- B. they are registered as sex offender as described in 42 U.S.C. 9858f(c)(1)(C);
- C. they are ineligible based on a security background investigation under F.S. 435.04;
- D. they would be ineligible for an exemption under F.S. 435.07(4)(c); or
- E. they have been convicted or found guilty of, have had adjudication withheld for, or have pled guilty or nolo contendere to (a) any criminal act in another state or under federal law which, if committed in Florida, constitutes a disqualifying offense under F.S. 435.04(2) or (b) any delinquent act committed in Florida or any delinquent or criminal act committed in another state or under Federal law which, if committed in Florida, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under F.S. 943.0435.

Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of employees in any position that requires direct contact with students in a District school.

~~D.—A candidate shall be disqualified from employment in any position that requires direct contact with students if the candidate is ineligible for such employment under F.S. 1012.315 and is ineligible for educator certification or employment in any position that requires direct contact with students if the person is on the disqualification list maintained by the department pursuant~~

~~to F.S. 1001.10(4)(b), is registered as a sex offender as described in 42 U.S.C. 9858f(c)(1)(C), or has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to any of the felony offenses listed in F.S. 1012.315.~~

Effective 07.01.2011

Revised 12.15.2021

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Legal References:

F.S. 1012.27(6)

F.S. 1012.56

F.S. 1012.32

F.S. 943.059(4)(a)

F.S. 943.0585(4)(a)

F.S. 435.09

F.S. 435.07

Adoption Date: 05.11.2011



Book	Policy Manual
Section	October 11, 2023- <u>Final</u> Reading
Title	EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES
Code	3121.01
Status	<u>Final</u> Reading

3121.01 - EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES

The School Board shall employ only individuals of good moral character. Employees not found to be of good moral character will not be eligible for continued employment. This policy applies to all employees whether full-time, part-time, or temporary.

Good moral character means exemplifying the acts and conduct that 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.

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1. Fingerprints of candidates for employment (or re-employment if there has been a break in service) shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for Federal criminal records checks. Periodic re-fingerprinting of employees is required to remain employed. Personnel who have had a break in service shall also be required to be re-fingerprinted in order to be re-employed. Upon re-fingerprinting, any new criminal history that was not previously reported and appropriately addressed may result in non-reemployment, or 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 addressed. 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 upon subsequent review of the employee's history.

3. Employees found through the re-fingerprinting 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. However, if the prior criminal offense or conviction was 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.

4. Once an employee has previously disclosed his/her criminal history record and is cleared for employment with the District, the criminal history may not be used as an impediment to promotion if the employee applied, fulfilled all the requirements, and is otherwise qualified for promotion.
5. The School District shall not be precluded, however, from considering a current employee's criminal history background when making future employment/placement decisions, such as whether an employee with a prior conviction may be prohibited from holding a position of trust. Accordingly, the Superintendent has the discretion to review an employee applicant's prior criminal history when making placement decisions.
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6. contributing to the delinquency or dependency of a child (F.S. 827.04)
7. currently has a pending case for driving under the influence of alcohol (DUI) (F.S. 316.193)
- ~~8. domestic violence (felony) (F.S. 741.28)~~

9. exhibiting a firearm or weapon within 1,000 feet of a school (F.S. 790.115)
10. extortion (F.S. 836.05)
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26. vehicular homicide (F.S. 782.071)
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28. counterfeiting (F.S. 831.28)
- ~~29.~~ forgery (F.S. 831.01)

- 30.fraud (F.S. 817.03)
- 31.grand larceny (F.S. 812.014)
- 32.grand theft (F.S. 812.014)
- 33.possession of a concealed weapon (felony) (F.S. 790.01)
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- ~~50.any crime involving moral turpitude (F.S. 1012.32, 1012.33)~~

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The District administrator conducting the appeal may consider the specific facts, which led to the conviction, and may consider mitigating factors. It is the employee's burden to provide verifiable documentation in support of his/her mitigation claim. The decision of the District administrator conducting the appeal will be final with the approval of the Superintendent.

D. Employment History Check & Educator Screening Tool

Before employing a person in any position that requires direct contact with students, the Superintendent shall conduct employment history checks of each of the candidate's previous employer(s), review each affidavit of separation from previous employers pursuant to F.S. 1012.31, screen instructional personnel and school administrators, as defined in 1012.01, through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document efforts to contact the employer (F.S. 1012.27(6)).

A person is ineligible for educator certification or employment in any position that requires direct contact with students if:

~~A. the person is~~ they are on the disqualification list maintained by the department pursuant to Florida Department of Education under F.S. 1001.10(4)(b);

~~A.~~

~~B. is~~ they are registered as a sex offender as described in 42 U.S.C. 9858f(c)(1)(C);

~~C. they are ineligible based on a security background investigation under F.S. 435.04;~~

~~D. they would be ineligible for an exemption under F.S. 435.07(4)(c); or~~

~~E. has~~ they have been convicted or found guilty of, has have had adjudication withheld for, or has have pled guilty or nolo contendere to any of the felony offenses listed in F.S. 1012.315(a) any criminal act in another state or under federal law which, if committed in Florida, constitutes a disqualifying offense under F.S. 435.04(2) or (b) any delinquent act committed in Florida or any delinquent or criminal act committed in another state or under Federal law which, if committed in Florida, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under F.S. 943.0435.

Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of employees in any position that requires direct contact with students in a District school.

~~D. A candidate shall be disqualified from employment in any position that requires direct contact with students if the candidate is ineligible for such employment under F.S. 1012.315 and is ineligible for educator certification or employment in any position that requires direct contact with students if the~~

~~person is on the disqualification list maintained by the department pursuant to F.S. 1001.10(4)(b), is registered as a sex offender as described in 42 U.S.C. 9858f(c)(1)(C), or has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to any of the felony offenses listed in F.S. 1012.315.~~

Effective 07.01.2011

Revised 12.15.2021

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Legal References:

[F.S. 435.04](#)

[F.S. 435.07](#)

F.S. 435.09

F.S. 943.0585(4)(a)

F.S. 943.059(4)(a)

F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56

Adoption Date: 05.11.2011



Book	Policy Manual
Section	October 11, 2023- <u>Final</u> Reading
Title	EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES
Code	4121.01
Status	<u>Final</u> Reading

4121.01 - EMPLOYMENT STANDARDS AND FINGERPRINTING OF ALL EMPLOYEES

The School Board shall employ only individuals of good moral character. Employees not found to be of good moral character will not be eligible for continued employment. This policy applies to all employees whether full-time, part-time, or temporary.

Good moral character means exemplifying the acts and conduct that 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.

A. Fingerprinting

1. Fingerprints of candidates for employment (or re-employment if there has been a break in service) shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for Federal criminal records checks. Periodic re-fingerprinting of employees is required to remain employed. Personnel who have had a break in service shall also be required to be re-fingerprinted in order to be re-employed. Upon re-fingerprinting, any new criminal history that was not previously reported and appropriately addressed may result in non-reemployment, or 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 addressed. 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 upon subsequent review of the employee's history.

3. Employees found through the re-fingerprinting 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. However, if the prior criminal offense or conviction was 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.

4. Once an employee has previously disclosed his/her criminal history record and is cleared for employment with the District, the criminal history may not be used as an impediment to promotion if the employee applied, fulfilled all the requirements, and is otherwise qualified for promotion.
5. The School District shall not be precluded, however, from considering a current employee's criminal history background when making future employment/placement decisions, such as whether an employee with a prior conviction may be prohibited from holding a position of trust. Accordingly, the Superintendent has the discretion to review an employee applicant's prior criminal history when making placement decisions.
6. The cost of the fingerprinting and the fingerprint processing shall be borne by the District.
7. Individuals whose fingerprints have not been retained by the FDLE must be re-fingerprinted and re-screened upon re-employment or re-engagement to provide services in order to comply with the law.

B. Disqualifying Criminal Offense

Criminal offenses, which may result in disciplinary action up to, and including dismissal include, but are not limited to,:

1. adult abuse, neglect or exploitation of aged persons or disabled adults (F.S. 825.103)
2. aggravated assault (F.S. 784.021)
3. aggravated battery (F.S. 784.045)
4. arson (F.S. 806.01)
5. child abuse or child neglect (F.S. 827.03)
6. contributing to the delinquency or dependency of a child (F.S. 827.04)
7. currently has a pending case for driving under the influence of alcohol (DUI) (F.S. 316.193)
8. domestic violence (felony) (F.S. 741.28)

9. exhibiting a firearm or weapon within 1,000 feet of a school (F.S. 790.115)
10. extortion (F.S. 836.05)
11. felony battery/assault (F.S. 784.041)
12. felony drug possession, sale or distribution (F.S. 893.13)
13. incest (F.S. 826.04)
14. indecent exposure (F.S. 800.03)
15. kidnapping/false imprisonment (F.S. 787.01, 787.02)
16. killing of an unborn child by injury to the mother (F.S. 782.09)
17. lewd and lascivious behavior (F.S. 798.02, 800.04)
18. manslaughter (F.S. 782.07)
19. murder (F.S. 782.04)
20. distribute or possess to sell obscene material (F.S. 847.011)
21. prostitution/solicitation of prostitution (F.S. 796.07)
22. removing children from the State or concealing children contrary to court order (F.S. 787.04)
23. robbery (F.S. 812.13)
24. sexual assault/sexual battery (F.S. 794.011)
25. sexual performance by a child (F.S. 827.071)
26. vehicular homicide (F.S. 782.071)
27. burglary (F.S. 810.02)
28. counterfeiting (F.S. 831.28)
29. forgery (F.S. 831.01)

- 30.fraud (F.S. 817.03)
- 31.grand larceny (F.S. 812.014)
- 32.grand theft (F.S. 812.014)
- 33.possession of a concealed weapon (felony) (F.S. 790.01)
- 34.sale of alcohol to a minor (F.S. 562.11)
- 35.welfare/unemployment/workers' compensation fraud (F.S. 443.071, 440.105)
- 36.battery/assault (F.S. 784.03, 784.011)
- 37.drug and/or paraphernalia (misdemeanor) (F.S. 893.13)
- 38.possession of a concealed weapon (misdemeanor) (F.S. 790.01)
- 39.resisting arrest with violence (F.S. 843.01)
- 40.currently on probation or community control (F.S. 948)
- 41.disorderly conduct (F.S. 870.01)
- 42.domestic violence (misdemeanor) (F.S. 741.28)
- 43.driving under the influence/driving while intoxicated (F.S. 316.193)
- 44.loitering (F.S. 856.021)
- 45.other criminal traffic offenses (various statutes)
- 46.petty theft/larceny/theft to deprive/retail theft/shoplifting (F.S. 812.014, 812.015)
- 47.resisting arrest without violence (F.S. 843.02); with violence (F.S. 843.01)
- 48.trespassing (F.S. 810.08)
- 49.worthless checks (F.S. 831.09, 831.02)
- 50.any crime involving moral turpitude (F.S. 1012.32, 1012.33)

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

The District will not retain employees within the School 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.

C. Appeal Process

Employees who are disqualified from continued employment because of criminal history will receive written notification by regular and certified mail. Disqualified employees may request an appeal conference. A written request for an appeal conference must be submitted to the Office of Professional Standards no later than fifteen (15) calendar days from 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 thirty (30) workdays of the receipt of a timely request from the applicant/employee. The period of time for holding an appeal conference may be extended upon agreement of the employee and the Office of Professional Standards.

The District administrator conducting the appeal may consider the specific facts which led to the conviction, and may consider mitigating factors. It is the employee's burden to provide verifiable documentation in support of his/her mitigation claim. The decision of the District administrator conducting the appeal will be final with the approval of the Superintendent.

D. Employment History Check & Educator Screening Tool

Before employing a person in any position that requires direct contact with students, the Superintendent shall conduct employment history checks of each of the candidate's previous employer(s), review each affidavit of separation from previous employers pursuant to F.S. 1012.31, screen instructional personnel and school administrators, as defined in 1012.01, through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document efforts to contact the employer (F.S. 1012.27(6)).

A person is ineligible for educator certification or employment in any position that requires direct contact with students if:

- A. they are on the disqualification list maintained by the Florida Department of Education under F.S. 1001.10(4)(b);
- B. they are registered as sex offender as described in 42 U.S.C. 9858f(c)(1)(C);
- C. they are ineligible based on a security background investigation under F.S. 435.04;
- D. they would be ineligible for an exemption under F.S. 435.07(4)(c); or
- E. they have been convicted or found guilty of, have had adjudication withheld for, or have pled guilty or nolo contendere to (a) any criminal act in another state or under federal law which, if committed in Florida, constitutes a disqualifying offense under F.S. 435.04(2) or (b) any delinquent act committed in Florida or any delinquent or criminal act committed in another state or under Federal law which, if committed in Florida, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under F.S. 943.0435.

Beginning January 1, 2025, or a later date as determined by the Agency for Health Care Administration, the Agency for Health Care Administration shall determine the eligibility of employees in any position that requires direct contact with students in a District school.

~~D.—A candidate shall be disqualified from employment in any position that requires direct contact with students if the candidate is ineligible for such employment under F.S. 1012.315 and is ineligible for educator certification or employment in any position that requires direct contact with students if the person is on the disqualification list maintained by the department pursuant~~

~~to F.S. 1001.10(4)(b), is registered as a sex offender as described in 42 U.S.C. 9858f(c)(1)(C), or has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to any of the felony offenses listed in F.S. 1012.315.~~

Effective 07.01.2011

Revised 12.15.2021

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Legal References:

[F.S. 435.07](#)

F.S. 435.09

F.S. 943.0585(4)(a)

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F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56

Adoption Date: 05.11.2011