

## **4112.51/4212.51 EMPLOYMENT/REFERENCE CHECKS**

The Salisbury Board of Education (Board) believes that it is critical that references on an application be checked prior to an offer of employment. Also, in order to create a safe and orderly environment for students, all offers of employment will be conditional upon the successful outcome of a criminal record check. In addition, any person applying for employment with the Board shall submit to a record check of the Department of Children and Families Child Abuse and Neglect Registry before the person may be hired.

### **Requirements for Applicants**

The Board, as an eligible school operator, in collaboration with the Superintendent at Central Office shall not offer employment to an applicant for a position, including any position which is contracted for, if such applicant would have direct student contact, prior to the Board requiring of such applicant to provide:

1. Contact information for current and former employers, including those that were education employers or if the employment otherwise involved contact with children. The contact information must include the name, address and telephone number of each current or former employer.
2. Written authorization that consents to and authorizes such former employers to disclose information and related records about him or her that is requested on the State Department of Education (SDE) designated standardized form that interviewing employers send. The authorization also must consent to and authorize SDE to disclose information and related records to the District upon request and release such former employees and the SDE from any liability that may arise as a result of such disclosure or release.

**“Former employer”** means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

3. To provide a written statement of whether he or she:
  - a. was the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated;
  - b. was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families (DCF), or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated

by DCF of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct; or

c. has ever had a professional or occupational license or certificate suspended or revoked or has ever surrendered one while an allegation of abuse or neglect was pending or under investigation by DCF, or an investigation of sexual misconduct was pending or under investigation, or because an allegation substantiated by DCF of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct.

d. has ever been convicted of a crime or whether criminal charges are pending at the time of the application for a position and, if charges are pending, a statement of the charges and the court in which such charges are pending.

### **Reference Checking Procedures**

The Superintendent or their designee shall conduct a review of the applicant's employment history by contacting those employers listed in the required information provided by the applicant. Such review shall be conducted using the SDE form that requests:

1. the dates of employment of the applicant;
2. a statement as to whether the employer has knowledge that the applicant was the subject of an allegation of abuse or neglect or sexual misconduct for which there is an investigation pending with any employer, state agency or municipal police department or which has been substantiated; was disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct; or has ever had a professional or occupational license, certificate, authorization or permit suspended or revoked or has ever surrendered such a license, certificate, authorization or permit while an allegation of abuse or neglect or sexual misconduct was pending or under investigation, or due to a substantiation of abuse or neglect or sexual misconduct.

Such review may be conducted by telephone or through written communication, not later than five business days after any such current or former employer of the applicant receives a request for such information, and responds with such information. The Board may request more information concerning any response made by a current or former employer. Such employer shall respond not later than five business days after receiving such request; and

The Superintendent or their designee shall also request information from SDE concerning:

1. the eligibility status for employment of any applicant for a position requiring a certificate, authorization or permit;

2. whether SDE has knowledge that a finding has been substantiated by the Department of Children and Families of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding;
3. whether SDE has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

The Board, in collaboration with the Superintendent, shall notify SDE if it receives information that an applicant for a position with the District or a current employee has been disciplined for a finding of abuse or neglect or sexual misconduct.

The Board will not employ an applicant for a position involving direct student contact who does not comply with the provisions of this policy.

### **Temporary Hires**

The Board may employ or contract with an applicant on a temporary basis for a period not to exceed ninety days, pending the Board's review of the required and submitted applicant information provided:

1. The applicant has submitted to the District the three required disclosures;
2. The Board, has no knowledge of information pertaining to the applicant that would disqualify him/her from employment; and
3. The applicant affirms that he or she is not disqualified from employment with the Board.

### **Employment Agreements**

The Board shall not enter into any collective bargaining agreement, employment contract, resignation or termination agreement, severance agreement or any other contract or agreement or take any action that:

1. Has the effect of suppressing information relating to an investigation of a report of suspected abuse or neglect or sexual misconduct by a current or former employee;
2. Affects the ability of the local or regional Board of Education, council or operator to report suspected abuse or neglect or sexual misconduct to appropriate authorities; or
3. Requires the Board, to expunge information about an allegation or a finding of suspected abuse or neglect or sexual misconduct from any documents maintained by the Board, unless after investigation such allegation is dismissed or found to be false.

## **Substitute Teachers**

The Board, in collaboration with the Superintendent, shall only hire applicants for substitute teaching positions who comply with this policy and who fulfill the disclosure requirements and after requesting information from the applicant's prior employers and SDE. The Superintendent shall determine which such persons are employable as substitute teachers and maintain a list of such persons. The Board shall hire only substitutes who are on such list.

Approved substitutes shall remain on such list as long as he or she is continuously employed by the Board as a substitute teacher, provided the Board does not have any knowledge of a reason that such person should be removed from the list.

## **Student Teachers**

Student teachers must give a written statement about whether they have ever been convicted of a crime or have criminal charges pending against them when they apply to work in a District school, along with the charge and court where they are pending. They must also submit to a DCF child abuse and neglect registry check before beginning their student teaching experience and submit to state and national criminal history checks within 60 days before the start of student teaching.

## **Adult Education Teachers**

Persons employed by the Board as a teacher for a non-credit adult class or adult education activity, as defined in C.G.S. [10-67](#), who is not required to hold a teaching certificate for his/her position shall/shall not undergo state and national criminal history records checks. (Board is permitted to determine)

## **Contractors and Their Employees**

In the case of an applicant who is a contractor, the contractor shall require any employee with such contractor who would be in a position involving direct student contact to supply to the contractor all information required of any applicant for a position in the district as previously described in this policy. The contractor shall contact any current or former employer of such employee that was a Board of Education, council or operator or if such employment caused the employee to have contact with children, and request, either by telephone or through written communication, any information concerning whether there was a finding of abuse or neglect or sexual misconduct against such employee.

Such employer shall report to the contractor any such finding, either by telephone or through written communication. If the contractor receives any information indicating such a finding or otherwise has knowledge of such a finding, the contractor shall, immediately forward such information to the Board of Education with which the contractor is under contract, either by telephone or through written communication.

Any Board of Education that receives such information shall determine whether such employee may work in a position involving direct student contact at any school under the Board's jurisdiction. No determination by a Board of Education that any such employee shall not work under any such contract in any such position shall constitute a breach of such contract.

### **Falsification of Records/Information**

Any applicant who knowingly provides false information or knowingly fails to disclose information required by this policy in compliance with applicable statutes shall be subject to discipline by the Board. Such discipline may include denial of employment, or termination of the contract of a certified employee.

It is understood that any employer and SDE who provide information to the Board and in accordance with this policy shall be immune from criminal and civil liability, provided the employer or SDE did not knowingly supply false information.

### **Communication**

The District, as required, shall communicate with other education employers and also between an education employer and SDE, about findings of abuse or sexual misconduct by applicants or employees. The Board will notify SDE when it receives information that applicants or employees have been disciplined for a finding of abuse or sexual misconduct. In addition, the Board will provide, upon request, to any other education employer or to the Commissioner of Education, information it may have about a finding of abuse or sexual misconduct for someone being vetted for hire as a direct employee of an education employer or a contractor's employee.

The Board, in compliance with federal law, shall not disseminate the results of any national criminal history records check, except as required to the State Board of Education.

### **Definitions**

**“Eligible school operator”** means a school or school district authorized to receive national criminal history record information from the FBI and includes local or regional boards of education, the Technical Education and Career System, the governing council of charter schools and interdistrict magnet school.

**“Sexual misconduct”** means any verbal, nonverbal, written or electronic communication, or any other act directed toward or with a student that is designed to establish a sexual relationship with the student, including a sexual invitation, dating or soliciting a date, engaging in sexual dialog, making sexually suggestive comments, self-disclosure or physical exposure of a sexual or erotic nature and any other sexual, indecent or erotic contact with a student;

**“Abuse of a child or youth”** is defined as (a) inflicting physical injury or non-accidental injuries; (b) inflicting injuries that do not match the story associated with their origin; or (c)

maltreatment, including malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment, or cruel punishment; and

**“Neglect of a child or youth”** is defined as (a) abandonment; (b) denial of proper care and attention physically, educationally, emotionally, or morally; or (c) allowing the child to live under conditions, circumstances, or associations injurious to the child's well-being.

**“Abuse and neglect”** also includes sexual assault as defined in the statutes. (C.G.S. [46b-120](#), and includes any violation of section [53a-70](#), [53a-70a](#), [53a-71](#), [53a-72a](#), [53a-72b](#) or [53a-73a](#)).

**“Former employer”** means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, the state, any political subdivision of the state, any governmental agency, or any other entity that such applicant was employed by during any of the previous twenty (20) years prior to applying for a position with the Board of Education, governing council of a state or local charter school or inter-district magnet school operator.

### **Offer of Employment**

Prior to offering employment to an applicant, the Board shall make a documented good faith effort to contact each current and any former employer that was a Board of Education, council or operator or if such employment otherwise caused the applicant to have contact with children of the applicant in order to obtain information and recommendations which may be relevant to the applicant's fitness for employment, provided such effort shall not be construed to require more than three telephone requests made on three separate days.

The Board shall not offer employment to any applicant who had any previous employment contract terminated by a Board, council or operator or who resigned from such employment, if such person has been convicted of abuse or neglect or sexual misconduct.

### **Sex Offender Registry Checks**

The Board requires school district personnel to cross-reference the Connecticut Department of Public Safety's Sexual Offender Registry prior to hiring any new employee. Registration as a sexual offender constitutes grounds for denial of employment opportunities.

Pursuant to the federal Every Student Succeeds Act (ESSA), the Board prohibits the Board, individual Board members, and any individual or entity who is a District employee, contractor or agent of the District from assisting a District employee, contractor, or agent in obtaining a new job/position if the Board, individual, or entity knows, or has probable cause to believe, that such District employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative file does not violate this prohibition.

This prohibition does not apply under certain conditions specified by ESSA such as:

1. The matter has been reported to law enforcement authorities and it has been officially closed or the school officials have been notified by the prosecutor or police after an investigation that there is insufficient information to establish probable cause, or;
2. The individual has been acquitted or otherwise cleared of the alleged misconduct, or;
3. The case remains open without charges for more than four (4) years after the information was reported to a law enforcement agency.

This policy shall not apply to a student employed by the Board.

### **Credit Checks**

The District may ask an applicant for a credit report for certain district positions, where the receipt of such report is substantially related to the employee's potential position. Substantially related means "the information contained in the credit report is related to the position for which the applicant who is the subject of the report is being evaluated." A credit report will be requested if the position is (1) a managerial position which involves setting the direction or control of the district; (2) involves access to employees' personal or financial information; (3) involves a fiduciary responsibility to the District, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (4) provides an expense account or District debit or credit card; or (5) involves access to the District's nonfinancial assets valued at two thousand five hundred dollars or more.

In requesting a credit report as part of the employment process, written notification will be provided to the prospective employee regarding the use of credit checks. That notification must be provided in a document separate from the employment application. The notification must state that the District may use the information in the consumer credit report to make decisions related to the individual's employment.

Consent will be obtained prior to performing the credit checks. When an action adverse to a potential employee based on the credit report is taken, the District will provide the applicant with a copy of the report which the District used in making the adverse decision, as well as a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act," provided by the company that submits the results of the credit check.

The District will notify the prospective employee the adverse action was taken based on the information in the consumer report. That notice will include the name, address and phone number of the consumer reporting company that supplied the credit report; a statement that the company that supplied the report did not make the decision to take the unfavorable action and cannot provide specific reasons for the District's actions; and a notice of the person's right to dispute the accuracy or completeness of any information the consumer reporting company furnished, and to get an additional free report from the company if the person asks for it within sixty (60) calendar days.

(cf. [4112.5](#) – Security Check/Fingerprinting)

(cf. [4121](#) – Substitute Teachers)

Legal References: Connecticut General Statutes

[1](#)-200 through [1](#)-241 of the Freedom of Information Act.

[5](#)-193 through [5](#)-269 State Personnel Act

[10](#)-151c Records of teacher performance and evaluation not public records.

[10](#)-221d Criminal history records checks of school personnel. Fingerprinting.

Termination or dismissal. (as amended by PA 19-91)

[10](#)-222c Hiring policy. (as amended by PA 16-67 and PA 17-220)

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L.

93-568, codified at 20 U.S.C. 1232g)

Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs.

implementing FERPA enacted as part of 438 of General Educ. Provisions Act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.

Elementary and Secondary Education Act, reauthorized as the Every Student Succeeds Act (ESSA), P.L. 114-95 codified as U.S.C. §1001 et seq.

PA 16-67 An Act Concerning the Disclosure of Certain Educational Personnel Records

20 U.S.C. 7926 Prohibition on aiding and abetting sexual abuse

P.A. 17-220 An Act Concerning Mandate Relief

Adopted by the Salisbury Board of Education: October 25, 2021



## **4112.51R/4212.5R          REFERENCE CHECKS - REGULATION**

In checking references, the following guidelines shall be followed:

1. All reference questions must be directly related to the applicant's qualifications and ability to perform the position in question.
2. Questions, which are impermissible in the application/interview context, are equally improper when checking references.
3. As in the interview context, nothing is "off the record." Contents of reference checks are discoverable in litigation.
4. The use of an appropriate reference check form specifically related to the qualifications for the position in question should be developed and used consistently.
5. Consider the statutory safeguards with respect to obtaining employment and educational references.

### **Connecticut Personnel Files Act:**

- Private employers may only verify dates of employment, position and salary.
- Further disclosure of personnel information is prohibited unless:
  - (i) the employee provides written consent for such disclosure; or
  - (ii) one of the specific statutory exemptions applies such as a lawfully issued subpoena or response to a government audit/investigation.

### **Connecticut Freedom of Information Act:**

- Applicable to all public employers.
- Personnel files and similar files are exempt from disclosure only if disclosure would result in an invasion of privacy. The "invasion of privacy" standard is construed strictly, favoring disclosure.
- A public employer is only required to produce existing public records upon request. It does not require a public employer to create records or to provide verbal comments regarding an employee.
- C.G.S. 10-151c exempts records of teacher performance from disclosure unless the teacher has provided written consent for such disclosure.

### **Family Educational Rights and Privacy Act ("FERPA")**

- Applies to all educational institutions receiving federal aid.
- Prohibits disclosure of student records without written consent, unless a specific exemption applies.

(cf. [5125](#) - Student Records)

Legal References: Connecticut General Statutes

[1](#)-200 through 1-241 of the Freedom of Information Act.

[5](#)-193 through 5-269 -State Personnel Act

[10](#)-151c Records if teacher performance and evaluation not public Records.

[10](#)-221d Criminal history records checks of school personnel. Fingerprinting.

Termination or dismissal.

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93 568, codified at 20 U.S.C.1232g.).

Dept. of Educ. [34 C.F.R. Part 99](#) (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. provisions act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.

Regulation approved by the Salisbury Board of Education: