

## Support Staff Recruiting/Hiring

### Background checks

Prior to hiring and in accordance with state law, the personnel office must:

1. Conduct a background check through the Colorado Department of Education (the department) to determine the applicant's fitness for employment.

The department's records must indicate if the applicant has been convicted of, pled *nolo contendere* to, received a deferred sentence, or had their license or authorization denied, annulled, suspended or revoked for a felony or misdemeanor crime involving unlawful sexual behavior, unlawful behavior involving children, or domestic violence. The department must provide any available information to indicate whether the applicant has been dismissed by or resigned from a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, or an allegation of a sexual act involving a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act, which was supported by a preponderance of evidence according to information provided to the department by a school district and confirmed by the department in accordance with state law. The department must also provide information regarding whether the applicant's license or certification has ever been denied, suspended, revoked, or annulled in any state, including but not limited to any information gained as a result of an inquiry to a national teacher information clearinghouse.

Information of this type that is learned from a different source must be reported by the district to the department.

The department will not disclose any information reported by a school district unless and until the department confirms that the allegation resulted in the person's name being placed on the state central registry of child protection.

2. Contact previous employers of the applicant to obtain information or recommendations relevant to the applicant's fitness for employment.

### Credit reports

The personnel office will not obtain a credit report on an applicant unless the office has first notified the individual in writing, in a document consisting solely of the notice, that the district would like to obtain a credit report and requesting the individual's written authorization to obtain the report. A credit report will only be requested when the applicant submits a written authorization.

The personnel office will not rely on a credit report in denying an application unless

the office has first supplied the applicant with a disclosure that includes a copy of the credit report and a summary of the applicant's rights. If an application for employment is denied because of the credit report, the personnel office will give the applicant notice that the action has been taken, as well as:

1. the name, address and phone number of the credit bureau supplying the report;
2. a statement that the credit bureau was not involved in the decision to deny the application; and
3. a notice of the applicant's right to dispute the information in the report.

### **Fingerprinting**

1. All applicants selected for employment in a support staff position must submit a complete set of fingerprints taken by a qualified law enforcement agency, an authorized district or BOCES employee, or any third party approved by the Colorado Bureau of Investigation.
2. Applicants selected for employment must also submit a completed form, as required by state law, to certify, under penalty or perjury, either that they have never been convicted of a felony or misdemeanor charge, not including any misdemeanor traffic offense, or that they have been convicted of a felony or misdemeanor charge (not including any misdemeanor traffic offense). The form must specify the felony or misdemeanor, the date of conviction, and the court entering judgment.
3. The school district will release the fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. When the results of the fingerprint-based criminal history record check reveal a record of arrest without a disposition, the district must require the employee to submit a name-based judicial record check. Criminal history record information must be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.
4. Although an applicant may be conditionally employed prior to receiving the results, they may be terminated if the results are inconsistent with the information provided on the form. In accordance with state law, the employee or applicant must be terminated or disqualified from district employment if the results disclose a conviction for any of the following offenses:

- a. felony child abuse, as described in C.R.S. 18-6-401;
- b. a crime of violence, as defined in C.R.S. 18-1.3-406 (2);
- c. a felony involving unlawful sexual behavior, as defined in C.R.S. 16-22-102 (9);
- d. felony domestic violence, as defined in C.R.S. 18-6-800.3;
- e. a felony drug offense, as described in C.R.S. 18-18-401 *et seq.*, committed on or after August 25, 2012;
- f. felony indecent exposure, as described in C.R.S. 18-7-302;
- g. attempt, solicitation or conspiracy to commit any of the offenses described in items a-f; or
- h. an offense committed outside of this state, which if committed in this state would constitute an offense described in items a-g.

The district must notify the district attorney of inconsistent results for action or possible prosecution.

5. The school district will charge the applicant a nonrefundable fee to be determined by the Board to cover the direct and indirect costs of fingerprint processing. *[NOTE: This fee may be an amount equal to the direct and indirect costs to the district of fingerprint processing.]*

The applicant may pay the fee over a period of 60 days after employment. The fee will be credited to the fingerprint processing account.

### **Information report to state**

1. In accordance with federal and state law, the personnel office will report the name, address and social security number of every new employee to the Colorado State Directory of New Hires via the online portal at <https://newhire.state.co.us/> or via mail to Colorado State Directory of New Hires, P.O. Box 2920, Denver, Colorado 80201-2920.
2. This report, due within 20 days of the date of the hire or on the first payroll after the 20 days have expired, must be submitted even if the employee quits or is terminated before the report is due. Upon termination, the employee's last known address, the fact of the termination, and the name and address of the employee's new employer, if known, must be reported to the applicable court or agency.
3. Upon receiving a Notice of Wage assignment, the district must remit the designated payment within seven days of withholding the income according to instructions contained in the Notice. Child support withholding takes priority over other legal actions against the same wages.

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*NOTE 1: District personnel must submit the name, date of birth and social security number for each nonlicensed employee to the Colorado Department of Education (CDE) as required by state law. C.R.S. 22-32-109.8 (11). The district must notify CDE at the beginning of each semester about nonlicensed persons who are no longer employed by the district. The purpose of this reporting requirement is to keep a central database at CDE so the Colorado Bureau of Investigation (CBI) can communicate with the district about any criminal activity involving school district employees whose fingerprints are on file with the CBI.*

*NOTE 2: Regarding the requirement that an applicant submit a completed form certifying his or her criminal history, state law defines "convicted" as: "[A] conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a guilty plea accepted by a court, a plea of nolo contendere, and the imposition of a deferred sentence or suspended sentence by the court." C.R.S. 22-32-109.8 (8)(a). Any district form used to certify an applicant's criminal history should reflect this broad definition of "convicted" to ensure that applicants disclose the legally required information.*

*NOTE 3: When CBI provides an update to CDE regarding those school employees previously subject to a fingerprint-based background check, CDE must provide that update to school districts. Each school district must then cross-check its employee list with the update and take appropriate action if necessary. C.R.S. 22-2-119 (4)(b).*

*NOTE 4: An employee who is terminated or an applicant who is disqualified from district employment for a felony domestic violence and/or a felony drug offense may reapply for district employment after five years have passed since the date the offense was committed. C.R.S. 22-32-109.8 (6.5)(b). For a felony domestic violence offense, the applicant must also show successful completion of any court-ordered treatment. Other exceptions to this provision allow the district to conduct an assessment to determine if the applicant poses a risk to district students or staff, and also allow the applicant to submit a written request for reconsideration by the district. C.R.S. 22-32-109.8 (6.5)(d). The law includes the specific factors the district must consider. Id.*

*NOTE 5: Pursuant to the Job Application Fairness Act, C.R.S. 8-2-131, initial job applications cannot include any requirement for an applicant to provide their age, date of birth, and date(s) they attended or graduated from an educational institution. Additional documents, such as transcripts and certifications, may be requested if the applicant is notified they may redact age-related information from the documents. However, during the hiring process, a district may ask an applicant to verify compliance with age requirements imposed by a bona fide occupational qualification or state or federal law. A bona fide occupational qualification is a narrow exception to discrimination laws that permits employers to make hiring decisions based on age, religion, sex, national origin, or other protected classes if the qualification is necessary to the operation of the business. See U.S. Code § 2000e-2; C.R.S. 24-34-402(4)(a). If the district believes it has an employee who may need to demonstrate that they meet a bona fide occupational qualification, it is recommended to discuss the matter further with the district's attorney.*