

GREENFIELD PUBLIC SCHOOLS

Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes.

Effective March 20, 2014, the Greenfield Public Schools will begin compliance with the state-mandated fingerprinting program, using approved vendors and procedures of the Commonwealth's Department of Elementary and Secondary Education. The School Committee shall require the Superintendent to assure full school system compliance by the beginning of the 2016 – 2017 school year.

Where such checks are allowable by law, the following practices and procedures will be followed:

I. Requesting CHRI checks

Fingerprint-based CHRI checks will only be conducted as authorized by M.G.L. c. 71, §38R and 42 U.S.C. § 16962, in accordance with all applicable state and federal rules and regulations, and in compliance with M.G.L. c. 6, §§ 167-178 and 803 CMR §§ 2.00, et seq. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment. At the time of this document, individuals may register at <http://www.identogo.com/FP/Massachusetts.aspx>, and the Provider Identification Number necessary for registration is the DESE organizational code for the Greenfield Public Schools, 01140000.

Unless otherwise specified, all persons employed by the Greenfield Public School District shall submit to and bear the cost of the Fingerprint-based CHRI checks, and further, be determined to have a record suitable for work with children as a condition of employment. The current fee shall not exceed \$55 for employees who are certified pursuant to M.G.L. chapter 71 section 38G and shall not exceed \$35 for employees who are not certified pursuant to M.G.L. chapter 71 section 38G.

Non-contract employees, paid hourly at a rate of \$17.00 per hour, or less, will be eligible for reimbursement on the grounds of financial hardship. Employees employed as on-call substitutes for full-time positions shall be eligible for reimbursement after completing ten (10) complete days of service to the school system.

Fingerprint-based CHRI checks shall be required for all Sub-Contractors/Laborers commissioned by the school employer, or employed by the city or town, to perform work on school grounds, who may have direct and unmonitored contact with children, with the CHRI results forwarded to the Greenfield Public Schools prior to commencing work within the school system. The Sub-Contractor shall bear the cost of fingerprinting.

Volunteers who may have direct and unmonitored contact with children shall be subject to fingerprinting, but will be eligible for reimbursement from the school system if fingerprinting is required, and, the volunteer is approved to work in the school system. In determining whether to require discretionary fingerprint-based background check, the Greenfield Public School District may consider all relevant factors depending on the circumstances, such as the likelihood of direct and unmonitored contact, duration of potential contact (e.g. chaperones on day trips versus overnight field trips), and the ability of the district to limit potential for unmonitored contact (e.g. by means of escorting, physical separation, restrictions on hours of access to school facility). If the Superintendent does not require a fingerprint based background check for a volunteer, a Massachusetts Criminal Offender Registry Information check shall still be completed prior to work in the schools.

II. Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Title 28, U.S.C. § 534, Pub. L. 92-544 and Title 28 C.F.R. 20.33(b) provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

III. Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CJIS Security Policy, have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

IV. Retention and Destruction of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes **only**:

- Historical reference and/or comparison with future CHRI requests,
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in a locked file cabinet located within the Central Office, or, alternatively, in a secured, electronic form of the school district server, so that in either instance, access is limited to individuals involved in the handling of the school districts CHRIs.

When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of the Greenfield Public School District.

V. CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the Greenfield Public School District will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

VI. Determining Suitability

Factors considered in determining suitability may include, but are not limited to, the following:

- a. The nature of the position held or sought, and the work to be performed;
- b. The number of offenses;
- c. The nature and gravity of the crime(s) and/or offense(s) and the underlying conduct;
- d. The time that has passed since the offense(s);
- e. The age of the individual at the time of the offense;
- f. Conviction and/or completion of the sentence;
- g. Whether the applicant has pending charges;
- h. Any relevant evidence of rehabilitation, or lack thereof;
- i. Seriousness and specific circumstances of the offense;
- j. Any other relevant information, including information submitted by the candidate or requested by the hiring authority

A record of the suitability determination will be retained. The following information will be included in the determination:

- a. The name and date of birth of the employee or applicant;
- b. The date on which the school employer received the national criminal history check results; and,
- c. The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

VII. Relying on Previous Suitability Determination.

The Greenfield Public School District may in certain instances, at its sole discretion, rely upon the suitability determination of an individual made by another school employer. If the Greenfield Public Schools chooses to require the individual to perform a new national criminal history check rather than rely on a previous favorable suitability determination, the school district shall bear the cost of such a new check. Nothing in this provision shall be contrary to 603 CMR 51.06.

VIII. Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the Greenfield Public School District will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of this CHRI Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time depending on the particular circumstances to correct or complete the accuracy of the CHRI.

IX. Secondary Dissemination of CHRI

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log:

1. Subject Name;
2. Subject Date of Birth;
3. Date and Time of the dissemination;
4. Name of the individual to whom the information was provided;
5. Name of the agency for which the requestor works;
6. Contact information for the requestor; and
7. The specific reason for the request.

X. Reporting to Commissioner of Elementary and Secondary Education

Pursuant to M.G.L. ch 71, § 71R and 603 CMR 51.07, if the Greenfield Public School District dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the Greenfield Public School District shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation, as well as a copy of the criminal record check results. The Greenfield Public School District shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(1) to the Commissioner.

Pursuant to M.G.L. ch 71, § 71R and 603 CMR 51.07, if the Greenfield Public School District discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to 603 CMR 7.15(8)(a), the Greenfield Public School District shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether the Greenfield Public School District retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(2) to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.