

Parker School District	NEPN Code: GCDB
Policy Reference Manual	

**NONCRIMINAL JUSTICE APPLICANT’S PRIVACY RIGHTS
Criminal Justice Background Check Policy**

As an applicant who is the subject of a national (FBI) fingerprint based criminal history record check for a noncriminal justice purpose (such as an application for employment), you have certain rights, which are discussed below.

- You must be provided written notification that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared.
- If the FBI criminal background check reveals that you have a criminal history record, the officials making a determination of your suitability for the employment must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or update of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council. FBI rules prohibit the District from providing you a copy of the FBI record. You may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <https://www.fbi.gov/services/cjis/identityhistorysummarychecks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI.

Alternatively, you may send your challenge directly to the FBI. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)

The Parker School District is committed to providing a safe learning and working environment. As part of this effort, and in accordance with state and federal law, regulations, and policies, the district will require each person over eighteen years of age hired by the district, or are employed by an entity that provides the Parker School District direct or indirect student services shall be required to submit to a criminal background investigation, by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. The district and its employees, officers and agents will only obtain CHRI when authorized by law and will only use CHRI, or the personally identifiable information first obtained by the district in CHRI, for the purposes of determining whether a person should be employed by the district.

In accordance with law and to protect the district's students, criminal background checks on persons who are employed in the district, or are employed by an entity that provides the Parker School District direct or indirect student services shall be required. The Division of Criminal Investigation shall do the criminal background investigation by means of fingerprint checks. If no disqualifying record is identified at the state level, the Division of Criminal Investigation shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The district and district employees will comply with state and federal law, rules, procedures and policies regarding the receipt, use and dissemination of criminal history record information of any individual.

Designations

1. The Superintendent, as the Agency Representative, is responsible for signing the SD Division of Criminal Investigation (SDDCI) User Agreement on behalf of the District.
2. The Superintendent shall be the District's Point of Contact (POC) and Noncriminal Agency Coordinator (NAC) to act as the primary contact person for the District, shall serve as the liaison between the District and SD Division of Criminal Investigation, and will fulfill all responsibilities of the POC/NAC, including but not limited to being the contact person when SDDCI sends out Audit information, shall be the contact person when an onsite Audit is scheduled, and responsible for notifying SDDCI when a new employee starts or an employee leaves so SDDCI can keep CJIS Security training records current.
3. The Superintendent is designated to be the Local Agency Security Officer (LASO) to act as liaison with SDDCI to ensure the agency is in compliance with security procedures. The LASO shall be knowledgeable in CHRI, policies and mandated rules and regulations as well as knowledge of IT security procedures. The LASO shall actively represent the District in all matters pertaining to information security, dissemination of information security alerts and other material within the District, and responsible for contacting SDDCI if there has been misuse of CHRI.

Criminal Background Checks

1. Each person over eighteen years of age hired by the district or is employed by an entity that provides the Parker School District direct or indirect student services shall be required to submit to a criminal background investigation.
2. The school district shall submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee or volunteer enters into service.
3. If no disqualifying record is identified at the state level, the Division of Criminal Investigation shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

4. The district shall pay any fees charged for the cost of fingerprinting or the criminal background investigation for any person whose employment with the district is subject to the requirements of this section.
5. Any person hired to officiate, judge, adjudicate, or referee a public event sponsored by a school district is not required to submit to a criminal background investigation.
6. Any person whose employment is subject to the requirements of this section may enter into service on a temporary basis pending receipt of results of the criminal background investigation. The district may, without liability, withdraw its offer of employment or terminate the temporary employment or status as a volunteer without notice if the report reveals a disqualifying record.
7. The criminal investigation required by this section with respect to a student teacher the district shall conduct completing requirements for teacher certification, and the district may rely upon the results of that investigation for employment of that person as an employee of the district. The district may rely upon results of a criminal background investigation conducted by another South Dakota public school district of a student teacher, hired by the district.
8. A district employee who is employed simultaneously with another school district is only required to obtain one criminal background investigation, if the background investigation was conducted less than five years before the district first employed the person.
9. No person may be employed by the district, either directly or by contract, and no person employed by a contract provider and who would have direct student responsibilities may provide direct student services, if the person has been convicted of a crime of violence (murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact, felony child abuse, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device), sex crimes (including but are not limited to, rape, felony sexual contact with a minor under sixteen, sexual contact with a person incapable of consenting, possessing, manufacturing, or distributing child pornography, and sexual exploitation of a minor), or distribution or trafficking in controlled substances or distribution of marijuana.
 - a. The district may also refuse to employ a person who has been convicted of a crime involving moral turpitude. "Moral turpitude" is defined "an act done contrary to justice, honesty, principle, or good morals, as well as an act of baseness, vileness, or depravity in the private and social duties which a person owes to his fellow man or to society in general.
 - b. The district may consider any criminal conviction in making a hiring decision. The district has the sole and absolute discretion to determine whether the results of a criminal background investigation disqualify a person from employment within the district.
 - c. For purposes of this policy, the term conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere (no contest) in this state or any other state.
10. The district's employment application form shall inform applicants that if no SD statutorily disqualifying conviction is identified at the state level the fingerprints will be forwarded by the S.D. Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check.

11. The application form shall also inform applicants that if the applicant believes the criminal background result is incorrect or incomplete in any respect and the applicant wishes changes, corrections or updating of the alleged deficiency, the applicant should make application directly to the agency which contributed the questioned information or direct the applicant's challenge as to the accuracy or completeness of any entry on the applicant's [record](#) to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306.
12. Should an applicant be disqualified from employment due to the results of a criminal background check, the district shall inform the applicant that the criminal background check results prohibit the district from employing the person. The district will not delay the employment hiring decision solely because the applicant seeks to correct his or her FBI criminal history record information (CHRI).
13. Before a person's conditional employment is terminated as a result of the person's CHRI, the district shall inform the person whose conditional employment is subject to termination that the criminal background report reveals a conviction which prohibits the district from employing the person, and inform the person of his or her right to appeal the accuracy or completeness of the CHRI to the SDDCI or FBI. Employees shall be afforded procedural due process consistent with their employment status (i.e., whether the person is an employee-at-will, a school-year employee, or a ten month or twelve month employee) should termination of conditional employment be a possibility following the district's receipt of the CHRI.
14. All employees and other persons required to submit to a criminal background check pursuant to this policy must notify the district in writing if they are convicted of any offense of domestic violence, child abuse, sex offense, drug (including marijuana) or any felony offense. This notification must be made as soon as possible, but no later than five business days after the event.
15. The district reserves the right to require any employee or volunteer to submit to additional criminal background checks at the district's expense. The district reserves the right to require any employee of an entity which provides the district direct or indirect student services to submit to additional criminal background checks which shall be at the entity's or person's expense.
16. As required by state law, SDCL 13-10-15, if, as the result of a criminal conviction the school board suspends an employee without pay, or an employee resigns, or an employee is terminated, the superintendent shall within ten days of the date of the suspension or the date the employment is severed report the circumstances and the name of the employee to the S.D. Department of Education.

Training

The Parker School District will ensure that all employees who have access to CHRI shall be trained by SDDCI on the rules and responsibilities for the confidentiality, receipt, use and dissemination of the CHRI.

Confidentiality

1. Before requesting CHRI on any individual, the district will give the individual written notification that his or her fingerprints will be used to obtain the CHRI of the individual, and the district will provide the individual a copy of the statement "Noncriminal Justice Applicant's Privacy Rights." Exhibit GCDB-E (1).
2. Information received by the district pursuant to a criminal background check is confidential. Only authorized persons within the district may access, view or use CHRI.

Authorized persons may not share or otherwise disclose information contained in CHRI to unauthorized persons unless explicitly allowed for in this procedure.

3. Unless otherwise allowed by law, the district will only use this information for the district's internal purposes in determining the suitability of an applicant, employee, or other worker on district property. The district will note in an employee or applicant's personnel file that the background check was completed and if the person was disqualified by the CHRI for employment or assignment. The district will keep the CHRI in a separate file in a location that is only accessible to persons who need to know the information to carry out their responsibilities with the district.
4. Individuals that have access to CHRI will receive CJIS security training provided by SD DCI. Once the individual has completed the CJIS online training and has taken the test each individual will receive and acknowledge in writing the receipt of the following:(1) User Rules of Behavior Acknowledgement form, (2) CHRI Disciplinary Policy, and (3) Acknowledgment Statement of Misuse. The district will keep a copy of the signed documents in each individual's personnel file.

Access and Retention

1. The Parker School District may print or electronically share records when necessary to determine whether the person is authorized to work for the district. In those situations, the physical or electronic copy will be destroyed immediately after the decision is made.
2. If the district runs a background check on employees of a contractor that does business with the district, the district will not provide the CHRI to the contractor. Instead, the district will provide a clearance letter notifying the contractor whether the employee is cleared to provide services in the district.
3. The district will not disseminate CHRI across state lines.
4. Upon request the district will provide a copy of the SDDCI CHRI to the person who is the subject of the background check. The SDDCI CHRI will only be released to the individual and not to relatives, spouses or friends. The district will note in the dissemination log that a copy was provided to the individual.
5. FBI rules prohibit the district from providing a copy of the FBI CHRI to the person who is the subject of the criminal background check.
6. The results of the background investigation done by the district shall be transferred to another South Dakota public school district if the other public school district, or current district employee, submits a written request to the district that the results be transferred to the other public school district. The district employee who was the subject of the criminal background investigation must sign a written release authorizing the transfer. The information will be sent by U.S. Mail or encrypted email.

Recordkeeping

A Secondary Dissemination Log shall be maintained in which all authorized disseminations of FBI and State DCI criminal background check results are recorded. The following shall be recorded in the District's Secondary Dissemination Log:

1. Name of District;
2. Name of person subject to the criminal background check review;
3. Date of birth of person subject to the criminal background check review;
4. SD public school district requesting FBI and DCI criminal background check results and person/title requesting on behalf of the SD public school district;
5. Written request signed by person subject to the criminal background check review for a copy of the SDDCI criminal background check results, attached to the Secondary

Dissemination Log; NOTE: FBI CHRI cannot be released to the person who is the subject of the criminal background check.

6. Date of release of criminal background check results;
7. Description of the record that was shared;
8. How the record was sent or received
9. Person to whom criminal background check results were disseminated;
10. Signature of District employee disseminating the criminal background check review pursuant to a valid request.

The Secondary Dissemination Log shall be maintained until the onsite audit is complete and the District receives from the SD Division of Criminal Investigation written notice of a successful Policy Compliance Review, unless the log is needed or required for other purposes

Security

The Parker School District will provide for the security of any CHRI received, including the appropriate administrative, technical and physical safeguards to provide for the security and confidentiality of the information. This includes, but is not limited to, the following:

1. The LASO shall maintain a list of school district authorized persons who have access to CHRI.
2. In those cases when the district has physical copies of CHRI, the district will restrict access to authorized persons only. Physical copies of CHRI, if any, will be maintained in a controlled, secure environment, such as a locked cabinet in a room that is free from public or unauthorized access. The room or the locked cabinet will include an "Authorized Personnel Only" sign.
3. The district will not routinely maintain electronic copies of CHRI; however, in the rare instance where the district has electronic copies of CHRI, the district will restrict access to authorized persons only. Electronic data will be protected with encryption as designated by the state or federal government or will only be accessible by individual password. Computers, printers and monitors used to access CHRI must be situated to prevent unauthorized viewing of the information. CHRI cannot be accessed using computers available to the general public or personal devices. CHRI will not be stored on a server that is unprotected or accessible by an unauthorized entity.
4. CHRI will not be relocated, transmitted or transported outside a secure location unless encrypted according to FBI standards or transported in a locked container or in folders where the information is not visible to the public. A log must be kept if electronic information systems, such as a laptop, flash drive or CD with CHRI information on it, leave a secured area.
5. The district will dispose of records securely. Physical records will be cross-shredded or incinerated. If the district contracts out for record destruction, the destruction must be supervised. The district shall notify SDDCI of the entity with whom the district contracts for records destruction and must receive SDDCI approval to use the contractor for purposes of disposing of CHRI. Electronic records will be deleted and overwritten as required by the SDDCI or FBI.
6. The district will not provide auditor's access to CHRI unless the SDDCI or the FBI authorizes the auditor.

Security Incident Response Plan

All Parker School District employees will immediately report to the LASO information security incidents such as the theft or loss of physical records or the hacking or failure of electronic

systems or suspicions that an incident has or will take place. The LASO will document receipt of all reports, investigate incidents and report incidents to SDDCI. LASO documentation will include (1) date of security incident, (2) location of security incident, (3) systems affected, (4) method of detection, (5) nature of security incident, (6) description of security incident, (7) actions taken/resolution, (8) current date, and (9) contact information for LASO.

Consequences

Employees who fail to keep background check results confidential or fail to follow this policy or any laws or rules regarding the access, receipt, use or dissemination of CHRI as required by law will be subject to disciplinary action up to and including termination. Unauthorized requests, receipts, release, interception, dissemination or discussion of CHRI may also result in criminal prosecution.