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Job Applicant with a Past?

Criminal Background Checks for
School District Employees and
the Rap Back System

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DIFFERENT
BY DESIGN

Frequently Asked Questions Regarding Missouri's Required Background Checks- Applicants

- What questions can you ask regarding criminal history on an application?
- In what stage of the application process can you conduct a background check?
- Can a school district employee start working before the background check is completed?
- What can/should you do if you receive information about an arrest/charge/conviction after an offer of employment is made?

Frequently Asked Questions Regarding Missouri's Required Background Checks- Hired Employees

- Can you terminate an employee for false information regarding criminal charges/convictions/arrests on application?
- What must a school district report to DESE if it receives information regarding a certificated employee?
- How does a school district decide what criminal infractions should lead to termination? Is there a set list?

Missouri's Background Check Requirements- Section 168.133 RSMo

For all school district employees who will have contact with students:

- ✓ Fingerprint Check through the Missouri Highway Patrol's System
- ✓ Fingerprint Check through the FBI Database
 - Typically run by the Missouri Highway Patrol
- ✓ MO Case.net Search: "A search of any information publicly available in an electronic format through a public index or single case display."

Missouri's Background Check Requirements- Section 168.133 RSMo

- Family Care Safety Registry?
 - DHSS does not interpret 168.133 to require FCSR check for School District employees
 - However, if an employee has undergone this check and a criminal background check as part of their certification within one year of employment, requirements of 168.133 are considered to be met.
 - Still a VERY GOOD idea to run an FCSR check on all employees who will have contact with students
 - DHSS interpretation isn't necessarily controlling
 - Only way for District to check for substantiated findings of child abuse that did not lead to a conviction

Missouri's Background Check Requirements- Section 168.133 RSMo

- DESE Background Check?
 - Under the statute, DESE is required to facilitate an **annual** check of **certificated** employees.
 - DESE Check **currently includes**:
 - Missouri Highway Patrol Criminal Registry (Fingerprint Check)
 - Federal Criminal Registry (FBI Check)
 - Sexual Offender Registry
 - DESE Check **does not include** substantiated findings of child abuse that do not lead to criminal convictions.

The Rap Back System

- Facilitated by the Missouri Highway Patrol
- All employees fingerprinted after July 1, 2015, are enrolled
- Districts are required to “Opt In” to receive Rap Back alerts
- Covers ONLY Missouri records
- Fingerprint based- If employee is fingerprinted during an arrest, the District receives an alert.
- Alerts are almost real time. Can be as quick as a few hours after arrest.

Frequently Asked Questions Regarding the Rap Back System

- How is an employee added if they were fingerprinted before July 1, 2015? Should school districts enroll these employees? What about employees who leave the school district?
- Should school districts notify employees/applicants of enrollment in Rap Back? Sign off on application?
- Is there a risk in having arrest information vs. charges / convictions? Is there a way to receive this information and minimize the risk?
- Who should know about the arrests?
- Should employees be required to report arrests to the school district? What if they don't report an arrest, and the school district receives a Rap Back Alert?

Best Practices Regarding Background Checks

- If you receive a negative background check (or other criminal information) regarding an **applicant**, what should you do?
 - Applicant cannot start work until the background check process is complete.
 - Allow the applicant to explain the results of the check.
 - If the applicant was dishonest on his/her application, can be grounds for termination.
 - Depends on language in application/policies
 - Still should be allowed an opportunity to explain- mistakes can be made
 - Document the entire process.
 - Respond consistently and in line with District policies.

Best Practices Regarding Background Checks

- If you receive a negative background check (or other criminal information) regarding a **current employee**, what should you do?
 - Allow the employee to explain the situation.
 - Document the entire process.
 - Respond consistently and in line with District policies.
 - Consider administrative leave.
 - Review EEOC guidance.

Best Practices for Facilitating Background Checks and the Rap Back

- Best to have the person who receives the results be separate and uninvolved in hiring/employment decision.
- All results should remain confidential
 - Only employees with a “need to know”
 - Should be stored in a private area without open access
 - Crime to share this information inappropriately
 - However, employee is entitled to copy

Conclusion

- Document, Document, Document
- Be consistent in your use of background checks.
- Be fair to the employee/applicants
- Keep information confidential
- Be aware of relevant laws and policies-
AND FOLLOW THEM

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