

District Code: GCDB

Criminal Background Investigation Policy and Procedure

I. Purpose

To ensure that Rapid City Area Schools (“District”) is a safe and secure environments of all constituents, including students, employees and visitors.

II. General Statement of Policy

The District is committed to the selection of quality staff and volunteers to provide a safe environment for students and staff. As part of that commitment, the district will obtain background checks on school employees and may obtain background checks on school volunteers or employees of contracted vendors pursuant to this policy and in accordance with federal and state law.

III. Definitions

As used in this Criminal Background Policy, the following terms have the indicated meaning:

- A. Criminal Conviction means a verdict that results when a court of law finds a defendant guilty of a **crime**.
- B. Crime of Moral Turpitude means a conduct that is considered contrary to community standards of justice, honesty or good **morals**.
- C. Final Disposition of Charges means how a case was finally resolved. This could be through a jury verdict, a dismissal or conviction through a guilty or no contest plea.
- D. Felony means a crime, typically one involving violence, regarded as more serious than a misdemeanor, and usually punishable by imprisonment for more than one year.
- E. Gross Misdemeanor means a crime which is more serious than a regular misdemeanor, but is still classified as a minor crime, as opposed to serious crimes. Such crimes may include petty theft, simple assault or driving under the influence of alcohol and/or other drugs. Typically, the maximum sentence is one year in county jail and/or \$5,000 in fines.
- F. Sole discretion means the legal ability to hold the deciding power over a given situation.

IV. Procedure

- A. Employees: Any offer of employment is contingent upon the satisfactory outcome of a criminal background check. The district has the sole discretion to determine whether the outcome of a criminal background check is satisfactory. In making a determination, the district:
1. Shall adhere to all applicable federal and state laws that disqualify an individual from employment by a school district; and
 2. May consider the conviction of any crime of moral turpitude; and
 3. May consider any criminal conviction, including convictions not disclosed by the applicant.
 4. The District shall pay any fees charged for the cost of fingerprinting and/or the criminal background investigation for any person who is offered employment contingent of a criminal background check.

This policy shall not apply to persons performing services for the district under the authority of the South Dakota High School Activities Association. This policy applies to all other employment agreements, whether written or oral.

- B. Independent Contractors and Volunteers: Any organization that contracts with the district for service shall be required to certify to the district, in writing, that individuals employed by the service provider have been subjected to a criminal background check. At the discretion of the superintendent, this requirement may be waived if individuals employed by the service provider do not have contact with students.
- C. Additional Background Checks: The Superintendent is charged with developing, recruiting and hiring procedures that insure all district employees have been subject to relevant background checks, including education and employment history. The district may, at its discretion, require a criminal background check on any volunteer which would be paid by the district. An employee returning to the district requiring a background study following an absence of one year or more of not working for the district, regardless of reason of the absence, will be required to have a new criminal background check completed prior to direct contact with any children under the age of 18.
- D. Financial Background Check: Any individual employed as the district's business official shall, prior to employment, be subject to a financial background check. A financial

background check may include a credit check, financial delinquencies, corporate interests and any other examination of the individual's financial trustworthiness.

Individuals applying for financially sensitive positions will be subject to a financial background check prior to employment.

E. Change in Criminal History

1. To assure the protection of persons served, if a current employee is arrested for or charged with a crime, including felonies and gross misdemeanors, or if a supervisor/manager receives credible information regarding possible criminal acts, and the crime or possible crime is related to the employee's position, the employee will be suspended until final disposition of the charges. If final disposition of the charges does not occur within 60 days from the date of the arrest or charge, the District will conduct an investigation of the circumstances, which may lead to termination of employment.
2. An employee will notify the District in writing of a conviction for a violation of a criminal felony and/or gross misdemeanor drug charge no later than five calendar days after such conviction.
3. The procedure to determine the employee's eligibility for employment will be the same as the procedure established for the criminal background check.
4. An employee who fails to notify his/her supervisor of a change in criminal history during the course of employment, may be terminated. An employee returning to a position requiring a background study following an absence of 12 consecutive months of not working, regardless of reason of the absence, will be required to have a new criminal background check completed prior to direct contact in any licensed program.

V. Confidentiality

The District will ensure that all employees who have access to CHRI shall be trained by SDDCI on the rules and responsibilities to insure all confidentiality safeguards. Information received as the result of this policy shall remain confidential and shall not be released to any other individual or entity.

VI. Dissemination of Policy:

This policy shall appear on the District's website.

Adopted: 11/28/2000

Revised: 08/12/2002

Revised: 03/27/2003
Revised: 05/12/2003
Revised: 08/19/2010
Revised: 06/27/2016
Revised: 09/27/2017
Approved: 11/27/2017

Legal References:

State of South Dakota:

SDCL 13-10-12 – Criminal background investigation of prospective employees and student teachers— temporary employment pending results—Fees—Exemptions
SDCL 13-10-12.1 – Single investigation required of employee of multiple school districts— Condition—procedure for transfer of report.
SDCL 13-10-13 –Criminal conviction as factor in hiring decision.
SDCL 13-10-14 – Persons continuously employed from July 1, 2000, exempt from criminal background check.
SDCL 13-10-15 – Suspension or resignation of employee for criminal conviction—reporting.
SDCL 13-10-16 – Conviction defined.
SDCL 22-1-2(9) – Definition of terms – “Crime of Violence”...
SDCL 22-1-2(25) – Definition of terms – “Moral Turpitude”...
SDCL 22-24B-1 – Sex crimes defined.
SDCL 26-7A-27 – Police records of children taken into temporary custody—Confidentiality.
SDCL 23A-27-14 – Discharge and dismissal of probationer on completion of conditions—No judgment entered—Limitation to one time.

Federal:

CFR Title 28 § 16.34 Procedures to obtain change correction or updating ID card
CFR Title 28 § 50.12 Exchange of FBI Individual Records