



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
School Board Policy Executive Summary
 Form D

Policy Number:	3121.01
Title of Policy:	Criminal Background and Employment History Checks
Cabinet Member:	Dr. Beth Thedy
Purpose of Revisions:	The purpose of the proposed revisions to the policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.
Tentative Schedule:	<ul style="list-style-type: none"> • Cabinet – 11/15/2021 • Work Session – 12/14/2021 • Rule Development Workshop – 1/18/2022 • School Board Meeting Information – 1/18/2022 • School Board Meeting Approval – 2/8/2022 • Effective Date – upon approval
Summary of Proposed Policy Revisions:	<ul style="list-style-type: none"> • This policy is being revised for technical changes only. • Particular areas of revision include the following: Addition of suggested NEOLA language and inclusion of all staff (Support & Instructional) • These proposed revisions encompass the suggested language from NEOLA.
Specific Authority:	<i>§§435.09, 943.058(4)(a), 943.059(4)(a), 1001.10(5), 1012.27(6), 1012.315, 1012.32, 1012.56;F.S.</i>
Next Steps:	<ul style="list-style-type: none"> • Revisions to internal procedures • Training for BPS employees regarding revisions to policy and revised procedures

**Current
Version**

BPS Current

3121.01 - CRIMINAL BACKGROUND AND EMPLOYMENT HISTORY CHECKS

Policy Statement

The safety of its students is of paramount importance to the District. Consistent with this concern for student safety, and in compliance with Florida law, the District requires that, prior to initial employment, or re-employment, if there has been any break in service, all candidates for all instructional positions shall be subject to a criminal background check to determine eligibility for employment.

Prior to employing instructional personnel in any position that requires direct contact with students, the Superintendent or his/her designee shall conduct employment history checks of each of the applicant's previous employer(s), screen the applicant through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document all efforts to contact the employer (F.S. 1012.27(6)).

Procedure

The application for employment shall inform the applicant that they are subject to criminal background and employment history checks. Any failure by the applicant to accurately disclose criminal arrest history shall automatically disqualify the applicant from being considered for employment for a period of one (1) calendar year from the date of application.

The cost of the background screening related to initial employment or re-employment after a break in service will be borne by the applicant for employment and shall be payable at the point of submission.

Applicants for Initial Employment

Fingerprints of applicants for employment shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for nationwide criminal records checks. Any candidate who is found ineligible for employment under F.S. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.

Applicants for Re-Employment

Fingerprints of applicants for re-employment, if there has been any break in service, shall be submitted to the FDLE for Statewide criminal and juvenile records checks and to the FBI for nationwide criminal records checks. Any applicant who is found ineligible for employment under F.S. 1012.315 or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.

Re-employment applicants whose fingerprints have not been previously submitted by the District and stored in the FDLE FALCON database must be re-fingerprinted and re-screened upon re-employment or re-engagement to provide services as an instructional staff member in order to comply with Florida law.

Compliance

The fingerprints of all instructional staff members who are employed by the District and have no break in service must be re-submitted to the FDLE and to the FBI every five (5) years so that subsequent statewide criminal and juvenile records checks and Federal criminal records checks can be completed as required by law. Instructional staff whose fingerprints have not been previously submitted by the Board and stored in the FDLE FALCON database must be re-fingerprinted and re-screened to provide services as an instructional staff member in order to comply with Florida law. The cost of this re-submission and subsequent background screening will be borne by the Board.

The information contained in reports received from the FDLE and the FBI is confidential.

If information received as a result of the criminal history records check indicates that a certificated instructional staff member has been convicted of certain crimes enumerated by law, the Superintendent or his/her designee shall report this information to the Florida Department of Education per Policy 8141 - Mandatory Reporting of Misconduct by Certificated Employees.

Pursuant to State law, all instructional staff members employed by the District must self-report arrests for serious offenses (see AP 3121.01).

Pursuant to State law, the District will, however, share information received as the result of the criminal background check with other school districts.

Revised 9/27/05
Revised 4/10/07
Revised 4/28/09
Revised 10/28/14

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F.S. 435.09

F.S. 943.0585(4)(a)

F.S. 943.059(4)(a)

F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56

Neola Template

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3121.01 - **CRIMINAL BACKGROUND AND EMPLOYMENT HISTORY CHECKS**

The safety of its students is of paramount importance to the District. Consistent with this concern for student safety, and in compliance with Florida law, the District requires that, prior to initial employment or re-employment if there has been a break in service, all candidates for all positions shall be subject to a criminal background check to determine eligibility for employment.

The application for employment shall inform the applicants that they are subject to criminal background and employment history checks.

The cost of the background screening related to initial employment or re-employment after a break in service will be borne by the

() School Board.

() candidate for employment.

Fingerprints of candidates for employment or re-employment if there has been a break in service shall be submitted to the Florida Department of Law Enforcement (FDLE) for Statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for Federal criminal records checks. A person who is found ineligible for employment under F.S. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in [] any position [] any position that requires direct contact with students. [] For purposes of this policy, "convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in F.S. 943.0435.

[DRAFTING NOTE: Regarding the options in the paragraph above, we have added an option for the Board to adopt a more stringent hiring standard than that which is currently mandated by Florida law. Current Florida law limits the automatic exclusion from employment to those individuals who would have direct contact with students. If the School Board opts to adopt the more stringent standard, we recommend also adopting the option that defines the term "convicted" to make clear that even if adjudication is withheld, an individual would still be excluded from consideration for employment.]

Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.

Individuals whose fingerprints have not been retained by the FDLE must be re-fingerprinted and re-screened upon re-employment or re-engagement to provide services as an instructional staff member in order to comply with the law.

Furthermore, before employing instructional personnel in any position that requires direct contact with students, the Superintendent shall conduct employment history checks of each of the candidate's previous employer(s), screen the candidate through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document efforts to contact the employer (F.S. 1012.27(6)).

Pursuant to State law, all instructional staff members employed by the District must self-report arrests for serious offenses (see AP 3121.01).

Additionally, the fingerprints of all instructional staff members who are employed by the District and have no break in service must be re-submitted to the FDLE and to the FBI every five (5) years so that subsequent Statewide criminal and juvenile records checks and Federal criminal records checks can be completed as required by law.

The cost of this subsequent background screening will be borne by the

Board.

employee.

The information contained in reports received from the FDLE and the FBI is confidential.

Pursuant to State law, the District will, however, share information received as the result of the criminal background check with other school districts.

Although permissible by State law, the District will not share information received as the result of the criminal history background check with other school districts.

Furthermore, if information received as a result of the criminal history records check indicates that a certificated instructional staff member has been convicted of certain crimes enumerated by law, the Superintendent must report this information to the Florida Department of Education per Policy 8141 - Mandatory Reporting of Misconduct by Certificated Employees.

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F.S. 1012.23

F.S. 1001.42

F.S. 1001.41

F.S. 435.09

F.S. 943.0435

F.S. 943.0585(4)(a)

F.S. 943.059(4)(a)

F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56

F.A.C. 6A-10.083

Cross References

po8141 - MANDATORY REPORTING OF MISCONDUCT BY CERTIFICATED EMPLOYEES

ap3121.01 - CRIMINAL BACKGROUND AND EMPLOYMENT

**Redline
Draft**

BPS PROPOSED~~Current~~

3121.01 - CRIMINAL BACKGROUND AND EMPLOYMENT HISTORY CHECKS

Policy Statement

The safety of its students is of paramount importance to the District. Consistent with this concern for student safety, and in compliance with Florida law, the District requires that, prior to initial employment, or re-employment, if there has been any break in service, all candidates for all positions for all instructional positions~~shall~~ be subject to a criminal background check to determine eligibility for employment.

The application for employment shall inform the applicants that they are subject to criminal background and employment history checks.

Fingerprints of applicants for employment or re-employment shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for nationwide criminal records checks. Any candidate who is found ineligible for employment under F.S. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position. For purposes of this policy, "convicted" means that there has been a determination of guilt as a result of a trial or the entry of the plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes adjudication of delinquency of a juvenile as specified in F.S. 943.0435. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.

Prior to employing ~~instructional~~-personnel in any position~~-that requires direct contact with students~~, the Superintendent or his/her designee shall conduct employment history checks of ~~each of~~ the applicant's previous employer(s); and, for instructional personnel, screen the applicant through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document all efforts to contact the employer (F.S. 1012.27(6)).

Procedure

The application for employment shall inform the applicant that they are subject to criminal background and employment history checks. Any failure by the applicant to accurately disclose criminal arrest history shall automatically disqualify the applicant from being considered for employment for a period of one (1) calendar year from the date of application.

The cost of the background screening related to initial employment or re-employment after a break in service will be borne by the applicant for employment and shall be payable at the point of submission.

Applicants for Initial or Re-Employment

~~Fingerprints of applicants for employment or re-employment shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for nationwide criminal records checks. Any candidate who is found ineligible for employment under F.S. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. For purposes of this policy, "convicted" means that there has been a determination of guilt as a result of a trial or the entry of the plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes adjudication of delinquency of a juvenile as specified in F.S. 943.0435. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.~~

Applicants for Re-Employment

~~Fingerprints of applicants for re-employment, if there has been any break in service, shall be submitted to the FDLE for statewide criminal and juvenile records checks and to the FBI for nationwide criminal records checks. Any applicant who is found ineligible for employment under F.S. 1012.315 or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.~~

Re-employment applicants whose fingerprints have not been ~~previously submitted~~ retained by the District and stored in the FDLE ~~FALCON~~ database must be re-fingerprinted and re-screened upon re-employment or re-engagement ~~to provide services as an instructional staff member~~ in order to comply with Florida law.

Compliance

The fingerprints of all instructional staff members who are employed by the District and have no break in service must be re-submitted to the FDLE and to the FBI every five (5) years so that subsequent statewide criminal and juvenile records checks and Federal criminal records checks can be completed as required by law. ~~Instructional staff whose fingerprints have not been previously submitted by the Board and stored in the FDLE FALCON database must be re-fingerprinted and re-screened to provide services as an instructional staff member in order to comply with Florida law.~~ The cost of this re-submission and subsequent background screening will be borne by the Board^[TRS1].

The information contained in reports received from the FDLE and the FBI is confidential. Pursuant to State law, the District will, however, share information received as the result of the criminal background check with other school districts.

If information received as a result of the criminal history records check indicates that a ~~certificated instructional~~ staff member that requires direct contact with students has been convicted of certain crimes enumerated by law, the Superintendent or his/her designee shall report this information to the Florida Department of Education per Policy 8141 - Mandatory Reporting of Misconduct by Certificated Employees.

Pursuant to State law, all instructional staff members employed by the District must self-report arrests for serious offenses (see AP 3121.01).

~~Pursuant to State law, the District will, however, share information received as the result of the criminal background check with other school districts.~~

Revised 9/27/05
Revised 4/10/07
Revised 4/28/09
Revised 10/28/14
Revised new date

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Legal
F.S. 435.09

F.S. 943.0585(4)(a)

F.S. 943.059(4)(a)

F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56

**Clean
Version**

BPS PROPOSED

3121.01 - **CRIMINAL BACKGROUND AND EMPLOYMENT HISTORY CHECKS**

- A. The safety of its students is of paramount importance to the District. Consistent with this concern for student safety, and in compliance with Florida law, the District requires that, prior to initial employment, or re-employment, if there has been any break in service, all candidates for all positions shall be subject to a criminal background check to determine eligibility for employment.
- B. The application for employment shall inform the applicants that they are subject to criminal background and employment history checks.
- C. Fingerprints of applicants for employment or re-employment shall be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for nationwide criminal records checks. Any candidate who is found ineligible for employment under F.S. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position. For purposes of this policy, "convicted" means that there has been a determination of guilt as a result of a trial or the entry of the plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes adjudication of delinquency of a juvenile as specified in F.S. 943.0435. Probationary persons subject to this section who are terminated because of their criminal record have the right to appeal such decisions.
- D. Prior to employing personnel in any position, the Superintendent or his/her designee shall conduct employment history checks of the applicant's previous employer(s); and, for instructional personnel, screen the applicant through use of the educator screening tools described in F.S. 1001.10(5), and document the findings. If unable to contact a previous employer, the Superintendent shall document all efforts to contact the employer (F.S. 1012.27(6)).
- E. The application for employment shall inform the applicant that they are subject to criminal background and employment history checks. Any failure by the applicant to accurately disclose criminal arrest history shall automatically disqualify the applicant from being considered for employment for a period of one (1) calendar year from the date of application.
- F. The cost of the background screening related to initial employment or re-employment after a break in service will be borne by the applicant for employment and shall be payable at the point of submission.
- G. Re-employment applicants whose fingerprints have not been retained by the District and stored in the FDLE database must be re-fingerprinted and re-screened upon re-employment or re-engagement in order to comply with Florida law.
- H. The fingerprints of all instructional staff members who are employed by the District and have no break in service must be re-submitted to the FDLE and to the FBI every five (5) years so that subsequent statewide criminal and juvenile records checks and Federal criminal records checks can be completed as required by law. The cost of this re-submission and subsequent background screening will be borne by the Board.

- I. The information contained in reports received from the FDLE and the FBI is confidential. Pursuant to State law, the District will, however, share information received as the result of the criminal background check with other school districts.
- J. If information received as a result of the criminal history records check indicates that a staff member that requires direct contact with students has been convicted of certain crimes enumerated by law, the Superintendent or his/her designee shall report this information to the Florida Department of Education per Policy 8141 - Mandatory Reporting of Misconduct by Certificated Employees.
- K. Pursuant to State law, all instructional staff members employed by the District must self-report arrests for serious offenses (see AP 3121.01).

Revised 9/27/05
Revised 4/10/07
Revised 4/28/09
Revised 10/28/14
Revised new date

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F.S. 435.09

F.S. 943.0585(4)(a)

F.S. 943.059(4)(a)

F.S. 1001.10(5)

F.S. 1012.27(6)

F.S. 1012.315

F.S. 1012.32

F.S. 1012.56