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| Policy Title: EMPLOYEE BACKGROUND CHECKS | Policy No. | No. of Pages |
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- I. **PURPOSE:** To establish the process and criteria for the Corporation and Schools for processing employee background checks when the check reveals potentially negative information.

- II. **POLICY:** No person shall be employed without full compliance with Hawaii Revised Statutes §302A-601.5 and Hawaii Administrative Rules Title 8, Subtitle 2, Chapter 7, Public School Personnel: Criminal History Record, Employment History, and Background Checks. Employees and volunteers may be employed conditionally based on having submitted the employee background check documentation. However, such conditional employment shall be on a temporary basis and subject to termination pending the results of the employee background check.
 1. Background checks are required of all persons who are employed, whose services are engaged, or who are seeking employment in any position that places them in close proximity to children are subject to this policy.
 2. Background checks shall include a criminal history record check which includes a search for fingerprints in the national criminal history record files and a criminal history record check conducted by the Hawaii criminal justice data center.
 3. Information obtained under this policy shall be used exclusively by the employer to determine whether a person is suitable for working in close proximity to children. All such decisions shall conform to federal and state law.
 4. The employer may refuse to employ or terminate the employment status of any person who is found by reason of the nature and circumstances of a crime to pose a risk to the health, safety, or well-being of children to include, but not limited to, a crime of:
 - i. Violence,
 - ii. Alcohol or drug abuse,
 - iii. Sex offense,
 - iv. Offenses involving children, or
 - v. Any other offense which indicates that the applicant or employee may pose a risk to the health, safety, or well-being of children.

- III. **GENERAL:**
 1. The refusal to employ, or termination of employment, may be based on:
 - i. Conviction of a crime, other than a minor traffic offense involving a fine of \$50 or less,
 - ii. Other information or evidence which reflect upon the character and fitness of the

- person which indicates the person is a risk to children,
- iii. Failure to accurately and fully complete and submit employment application documents,
 - iv. Failure to declare, concealing, or falsifying criminal history record check requirements,
 - v. Failure to complete the employee background check documentation process in the time proscribed by the employer.
2. No employee shall be denied employment based on an arrest record alone without conviction and/or plea bargaining.
 3. The following factors shall be considered when evaluating conviction and/or plea bargaining information on applicants or employees:
 - i. Relationship of the crime to employment in a school and around children to include the impact on children, staff, parents, and community.
 - ii. Relationship of the crime to the nature of the job (i.e., financial responsibilities, property control, driving and transportation, etc.)
 - iii. Age of the applicant or employee at the time of conviction.
 - iv. Nature and gravity of the offense for which convicted.
 - v. Amount of time that has elapsed since the applicant's conviction and/or completion of sentence.
 4. In regards to (v) above, public schools may make exceptions to the ten (10) year limit that normally applies to use of conviction information in determining suitability for jobs working in close proximity to children.

IV. APPEALS:

1. Any employee, applicant, or volunteer who is denied employment under this policy based on an employee background check may appeal the decision to the Corporation Executive Director, who shall consider the basis for denial and the employee's appeal, and who shall render a final decision. This procedure does not extend any due process procedures to volunteers whose services may be denied or terminated without further justification or documentation.
2. If an employee, applicant, or volunteer wishes to challenge the accuracy of the criminal history record check, the Corporation Director of Human Resources shall inform the individual of his/her rights under 28 CFR 16.34 which states:

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted

the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

V. INFORMATION HANDLING, STORAGE, AND MISUSE:

1. Criminal history information shall be kept in a secure location in the Corporation office. The Corporation Executive Director and Director of Human Resources shall be the only individuals with access to criminal history information and shall be responsible for its handling, storage, and use.
2. In the event of visitors to the Corporation office, The Corporation Executive Director and Director of Human Resources shall escort visitors at all times to ensure the security of criminal history information.
3. Use of and/or access to criminal history information in any other manner except as mentioned above could constitute a misuse of confidential criminal history information. In the event of suspected misuse and/or access, the Corporation Executive Director shall: a) report to the Hawaii Criminal Justice Data Center (HCJDC) Information Security Officer the suspected misuse; b) notify all individuals that their confidential information may have been inappropriately and illegally accessed and to contact the HCJDC for further questions; and 3) conduct an investigation. If misuse by any employee is found to have occurred, the Executive Director may impose disciplinary action, up to and including termination of employment.
4. Criminal history information shall be retained for a maximum of five (5) years following the termination of employment. Criminal history information shall not be retained for individuals not selected for employment and shall be destroyed.
5. In accordance with FBI CJIS Security Policy, HC shall sanitize, that is, overwrite at least three times or degauss digital media prior to disposal or release for reuse by unauthorized individuals. Inoperable digital media shall be destroyed (cut up, shredded, etc.).
6. In accordance with FBI CJIS Security Policy, physical media shall be securely disposed of when no longer required. Physical media shall be destroyed by shredding or incineration.

VI. REFERENCES:

FBI Criminal Justice Information Services Security Policy
HRS, §302A-601.5
HAR, Title 8, Chapter 7
HRS, §378-3(3)