

BACKGROUND CHECKS

Effective July 2016 it shall be the policy of the school district that, as required by law, a state and national fingerprint criminal background check will be conducted to determine the suitability of full or part time current and prospective school employees, who may have direct and unmonitored contact with children. School employees shall include, but not be limited to any apprentice, intern, or student teacher or individuals in similar positions, who may have direct and unmonitored contact with children. The school committee shall only obtain a fingerprint background check for current and prospective employees for whom the school committee has direct hiring authority. In the case of an individual directly hired by a school committee, the chair of the school committee shall review the results of the national criminal history check. The superintendent shall also obtain a state and national fingerprint background check for any individual, who regularly provides school related transportation to children. The school committee, superintendent or principal as appropriate may obtain a state and national fingerprint criminal background check for any volunteer, subcontractor or laborer commissioned by the school committee, school or employed by the city or town to perform work on school grounds, who may have direct and unmonitored contact with children. School volunteers and subcontractors/laborers who may have direct and unmonitored contact with children must continue to submit state CORI checks.

The fee charged by the provider to the employee and educator for national fingerprint background checks will be \$55.00 for school employees subject to licensure by DESE and \$35.00 for other employees, which fee may from time to time be adjusted by the appropriate agency. The employer shall continue to obtain periodically, but not less than every 3 years, from the department of criminal justice information services all available criminal offender record information (CORI) for any current and prospective employee or volunteer within the school district who may have direct and unmonitored contact with children.

Direct and unmonitored contact with children is defined in DESE regulations as contact with a student when no other employee who has received a suitability determination by the school or district is present. "Contact" refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

I. Requesting CHRI checks

Fingerprint-based CHRI checks will only be conducted as authorized by the Department of Criminal Justice Information Services (DCJIS) and/or the FBI in accordance with all applicable state and federal rules and regulations, and in compliance with M.G.L. c. 6, §§ 167-178 and 803 CMR §§ 2.00, *et seq.* If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the

applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment (e.g., IdentoGO web site address, Provider Identification Number (Provider ID))

II. Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with other entities for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Title 28, U.S.C, § 534, Pub. L. 92-544, and Title 28 C.F.R. 20.33(b) provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged with federal and state crimes for the willful, unauthorized disclosure of CHRI.

III. Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent FBI CJIS Security Policy, have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage and destruction of CHRI.

IV. Retention of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes only:

- Historical reference and/or comparison with future CHRI requests
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in hard copy form in the office of the superintendent.

IV. CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at the Wareham Public Schools will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

In addition to the above, all personnel authorized to receive and/or review CHRI must undergo Security Awareness Training on a biennial basis. This training will be accomplished using the training materials

made available by the DCJIS along with the web-based training system known as CJIS Online (www.CJISonline.com).

V. Determining Suitability

In determining an individual's suitability, the following factors will be considered but not necessarily be limited to: the nature and gravity of the crime and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the district.

VI. Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, the Wareham Public Schools will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of the Wareham Public Schools CHRI Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time to correct or complete the CHRI.

VII. Secondary Dissemination of CHRI

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log:

- (1) Subject Name;
- (2) Subject Date of Birth;
- (3) Date and Time of the dissemination;
- (4) Name of the individual to whom the information was provided;
- (5) Name of the agency for which the requestor works;
- (6) Contact information for the requestor; and
- (7) The specific reason for the request.

VIII. Local Agency Security Officer

Each NCJA receiving CHRI is required to designate a Local Agency Security Officer (LASO). An individual designated as LASO is:

- An individual who will be considered part of the NCJA's "authorized personnel" group.

- An individual that has completed a fingerprint-based background check and found appropriate to have access to CHRI.
- An employee directly involved in evaluating an individual's qualifications for employment or assignment.

The Wareham Public Schools LASO is Dr. Kimberly Shaver-Hood, Superintendent of Schools.

The LASO is responsible for the following:

- Identifying who is using or accessing CHRI and/or systems with access to CHRI.
- Identifying and documenting any equipment connected to the state system.
- Ensuring that personnel security screening procedures are being followed as stated in this policy.
- Ensuring the approved and appropriate security measures are in place and working as expected.
- Supporting policy compliance and ensuring the DCJIS Information Security Officer (ISO) is promptly informed of security incidents.

When changes in the LASO appointment occur, the Wareham Public Schools shall complete and return a new LASO appointment form. The most current copy of the LASO appointment form will be maintained on file indefinitely by the agency.

IX. Personnel Security

All Personnel

All personnel requiring access to CHRI must first be deemed "Authorized Personnel." Prior to being allowed access to CHRI, such individuals shall complete a fingerprint-based CHRI background check. The DCJIS will review and determine if access is appropriate. Access is denied if the individual has ever had a felony conviction, of any kind, no matter when it occurred. Access may be denied if the individual has one or more recent misdemeanor convictions.

In addition to the above, an individual believed to be a fugitive from justice, or having an arrest history without convictions, will be reviewed to determine if access to CHRI is appropriate. The DCJIS will take into consideration extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

Persons already having access to CHRI and who are subsequently arrested and/or convicted of a crime will:

- a. Have their access to CHRI suspended until the outcome of an arrest is determined and reviewed by the DCJIS in order to determine if continued access is appropriate.
- b. Have their access suspended indefinitely if a conviction results in a felony of any kind.
- c. Have their access denied by the DCJIS where it is determined that access to CHRI by the person would not be in the public's best interest.

Whenever possible, access to CHRI by support personnel, contractors, and custodial workers will be denied. If a need should arise for such persons to be in an area(s) where CHRI is maintained or processed (at rest or in transit); they will be escorted by, or be under the supervision of, authorized personnel at all times while in these area(s).

Personnel Termination

The LASO shall terminate access to CHRI immediately upon notification of an individual's termination of employment.

- a. notification will occur in writing
- b. disconnection of the individual's CHRI access is to be completed within 24 hours
- c. individual with access to physical CHRI media shall return any keys to buildings, offices, and/or files
- d. individual's e-mail account or access to the agency's electronic CHRI system of records will be disabled

In addition to the above, the LASO shall notify the DCJIS of the termination of any individual authorized to access CHRI who is also a SAFIS-R User. This notification shall be made immediately upon the termination of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us.

Personnel Transfer

Individuals with access to CHRI who have been reassigned or transferred shall have their access reviewed by the LASO to ensure access is still appropriate. If continued access is determined to be inappropriate, the LASO shall immediately suspended access following the steps below:

- a. LASO will review access to CHRI upon effective date of reassignment or transfer
- b. disconnection of CHRI access is to be completed within 24 hours
- c. If it is determined the employee no longer requires access to physical CHRI media to perform his/her daily job responsibilities, the individual will return any keys to buildings, offices, and/or files.
- d. e-mail accounts or access to the agency's electronic CHRI system of records will be disabled

In addition to the above, the LASO shall notify the DCJIS of the transfer of any individual authorized to access CHRI who is also a SAFIS-R User and for whom it is determined that CHRI access is no longer appropriate. This notification shall be made immediately upon the termination of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us.

Sanctions

Persons found non-compliant with state or federal laws, the current FBI CJIS Security Policy, DCJIS policies or regulations, or other applicable rules or regulations, including the Wareham Public Schools Information Security Policy, will be formally disciplined. Discipline can include, but may not be limited to, counseling, the reassignment of CHRI responsibilities, dismissal, civil penalties, or prosecution. Discipline will be based on the severity of the infraction and the discretion of the Wareham Public Schools and/or the CSO of the MSP.

When an individual is sanctioned for such non-compliance, the LASO shall notify the DCJIS CSO in writing of the infraction(s) and of the discipline imposed within 5 business days. Additionally, if the discipline imposed includes denying access to CHRI and the individual is also a SAFIS-R User, the

LASO shall immediately notify the DCJIS by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us.

X. Media Protection

All media containing CHRI is to be protected and secured at all times. The following is established and to be implemented to ensure the appropriate security, handling, transporting, and storing of CHRI media in all its forms.

Media Storage and Access

Electronic and physical CHRI media shall be securely stored within physically secured locations or controlled areas. Access to such media is restricted to authorized personnel only and shall be secured at all times when not in use or under the supervision of an authorized individual.

Physical CHRI media:

- a. Is to be stored within employee records when feasible or by itself when necessary.
- b. Is to be maintained within a lockable filing cabinet, drawer, closet, office, safe, vault, or other secure container.

Electronic CHRI media:

- a. Is to be secured through encryption as specified in the FBI CJIS Security Policy.
- b. Electronic storage media devices (such as discs, CDs, SDs, thumb drives, DVDs, etc.) are to be maintained within a lockable filing cabinet, drawer, closet, office, safe, or vault, or other secure container.

Media in Transit (Electronic and/or Physical)

Should the need arise to move any form of CHRI media, including physical CHRI media (paper/hard copies) and electronic CHRI media (e.g., laptops, computer hard drives, or any removable, transportable digital memory media, such as magnetic tape or disk, optical disk, flash drives, external hard drives, or digital memory card), outside of the secured location or controlled area, the transport of the CHRI media will be conducted by authorized personnel **only**.

The Wareham Public Schools has established and implemented the following security controls to prevent compromise of the data while in transit.

- a. The LASO or Point of Contact will handle and transport CHRI media.
- b. The transport is to occur upon justification and approved by the LASO.
- c. The transport of media will occur by use of a locked container, sealed envelope, or encryption of certain electronic devices when applicable.
- d. The media is to remain in the physical possession of the designated authorized employee until the CHRI media is delivered to its intended destination.

Electronic Media Sanitization and Disposal

Once electronic CHRI media is determined to be no longer needed by the agency, it shall be sanitized and disposed of appropriately. This includes, but is not limited to, devices used to store electronic CHRI

and/or used for dissemination (fax machines, scanners, computers, laptops, etc.). The devices shall be sanitized prior to disposal, recycling, or reuse by other non-authorized personnel.

The sanitization of CHRI media will be conducted in the following manner:

- a. The LASO shall witness or conduct sanitization of the media. If not the LASO, the Information Technology Coordinator.
- b. For individual files the method(s) of sanitization will be Secure Empty, SDelete, Overwrite and/or physically shred the drive and/or incinerate.
- c. The sanitization will occur on or prior to the expiration of the file on record.

Disposal of Physical Media

Once physical CHRI media (paper/hard copies) is determined to be no longer needed by the agency, it shall be destroyed and disposed of appropriately. Physical CHRI media shall be destroyed by shredding, cross cut shredding, or incineration. The Wareham Public Schools will ensure such destruction is witnessed or carried out by authorized personnel:

- a. The LASO shall witness or conduct disposal. If not the LASO, the Point of Contact.
- b. Destruction by shredding will be used by the agency.
- c. This is to occur upon date of expiration of the record.

XI. Incident Response

The agency will identify responsibilities for information security incidents and include how and who to report such incidents to. An agency will ensure appropriate security incident capabilities exist, and should incorporate the lessons learned from ongoing incident handling activities. Agency will ensure procedures exist and are implemented for a follow-up action of a security breach and for the collection of evidence in cases of legal action. All individuals with direct or indirect access to CHRI shall be trained on how to handle an information security incident, and such training is to be included within the agency's Security Awareness Training. Procedures shall be in place to track and document information security incidents, whether physical or electronic, on an ongoing basis.

The security of information and systems in general, and of CHRI in particular, is a top priority for the Wareham Public Schools. Therefore, we have established appropriate operational incident handling procedures for instances of an information security breach. It is each individual's responsibility to adhere to established security guidelines and policies and to be attentive to situations and incidents which pose risks to security. Furthermore, it is each individual's responsibility to immediately report potential or actual security incidents to minimize any breach of security or loss of information. The following security incident handling procedures must be followed by each individual:

- a. An incident is to be reported to the Information Specialist, the Information Technology Coordinator, the Point of Contact, and the LASO.
- b. If an incident of breach in security occurs, the following steps are taken:
 1. Identify location of breach
 2. Remove network access, if applicable, to help eliminate the changes of propagation
 3. Notify Administration of breach
 4. Sweep system for any existing malware, viruses, or corrupt files
 5. Re-image hard drive using Symantec Ghost
 6. Confirm security breach has been removed

- c. The following steps will be taken for appropriate collection of evidence:
 - 1. Review firewall logs and timestamps based on time of entry
 - 2. If IP address is available via the firewall logs, the IP Address or IP Addresses in the range will be blocked.
 - 3. Notification will be given to the Administration and possible notification to local authorities.
 - 4. Continued monitoring of firewall logs will continue until breach has been contained.
 - d. Information for security incidents will be tracked by a spreadsheet that will be available to the specific contacts listed above. Notification of updates to the spreadsheet will be done by both phone and email to the other specified contacts. Periodic meetings may occur depending on the incident or amount of incidents noted on the spreadsheet.
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In addition to the above, the LASO shall report all security-related incidents to the DCJIS ISO within 48 hours. The LASO shall complete an NCJA Security Incident Report Form and shall email it to the DCJIS ISO at safis@state.ma.us.

XII. Controlled Area

As required by DCJIS and FBI regulations and policies, controls have been established and implemented in order to ensure a physically secured location for CHRI media. The Wareham Public Schools has designated the Superintendent's Office as a controlled area for the purpose of day to day access and storage of CHRI.

In addition, the following security controls are in place:

- a. Access is limited to the controlled area during CHRI processing times to authorized personnel approved by the agency to access or view CHRI.
- b. CHRI will be locked and secured to prevent unauthorized access to the extent possible when unattended.
- c. Information system devices and documents containing CHRI will be positioned in such a way as to prevent access or viewing by unauthorized individuals.
- d. Appropriate encryption has been implemented for electronic storage of CHRI.

LEGAL REFS.: M.G.L.6:167-178; 15D:7-8; 71:38R, 151B, 276:100A

P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b)

42 U.S.C. § 16962

603 CMR 51.00

803 CMR 2.00

803 CMR 3.05 (Chapter 149 of the Acts of 2004)

[FBI Criminal Justice Information Services Security Policy](#)

[Procedure for correcting a criminal record](#)

[FAQ – Background Checks](#)

NOTE: The Department of Criminal Justice Information Services (DCJIS) has adopted regulations requiring that it maintain a model CORI policy and that any written policy must meet the minimum standards as found in the model. Therefore, MASC recommends that school districts

retain both the school district specific policy incorporated here and the DCJIS model policy attached as GBCC-R.

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