

<p style="text-align: center;"><b>POLICY</b></p> <p style="text-align: center;">Spencerport Central School District</p>	<p style="text-align: right;">2001 <span style="float: right;">6112</span>  Page 1 of 4</p> <p style="text-align: right;">Personnel</p>
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**SUBJECT: FINGERPRINTING OF PROSPECTIVE SCHOOL EMPLOYEES**

The District shall not employ or utilize a prospective school employee, as defined below, unless such prospective school employee has been granted a “full” clearance for employment by the State Education Department (SED). The School District shall require a prospective school employee who is not in the SED criminal history file to be fingerprinted for purposes of a criminal history record check by authorized personnel of the designated fingerprinting entity. For purposes of this provision of law, the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the Division of Criminal Justice Services (DCJS) and the Federal Bureau of Investigation (FBI).

Prior to initiating the fingerprinting process, the District shall furnish the applicant with written notice on a form prepared by the Commissioner of Education addressing the fingerprinting requirements and the applicant's right to obtain, review and seek correction of his/her criminal history information. Additionally, where the prospective school employee is not already in the SED criminal history file, the District shall obtain the signed, informed consent of the applicant to perform the criminal history check. Every set of fingerprints taken shall be promptly submitted to the Commissioner of Education for purposes of clearance for employment.

Where the prospective school employee is already in the SED criminal history file, the District shall request the clearance for employment on forms or an equivalent manner prescribed by SED. Furthermore, the District shall notify SED, in a manner prescribed by the Department, of a prospective school employee who has commenced employment with or began providing services for the District, the date of the commencement of such employment or service, and the position held by such individual. Similarly, the District shall notify SED, in a manner prescribed by the Department, of a fingerprinted employee who has been separated from employment with the District or ceased providing services for the School District, and the date of such separation from employment or cessation of services. All criminal history records processed by DCJS and the FBI and sent to the Commissioner of Education are confidential. The records may not be published or in any way disclosed to persons other than the Commissioner unless otherwise authorized by law.

Unless otherwise exempted pursuant to law, the applicant shall be responsible for the payment of fees to SED for a criminal history record check. However, if approved by Board resolution, the District may authorize the payment of such fees on behalf of prospective employees. The Board is also authorized to waive the payment of such fees in cases of unreasonable financial hardship to the applicant or his/her family. If the Board decides to waive payment of the fees for the prospective employee, payment of the fees becomes the District's responsibility.

**Who Must Be Fingerprinted**

All "prospective employees" of the School District on, or after July 1, 2001, must be fingerprinted.

For purposes of this policy and the applicable provisions in law and Commissioner's Regulations, "prospective school employee" shall mean any individual who will reasonably be expected by the School District to provide services which involve direct contact, meaning in person, face-to-face communication or interaction, with students under the age of twenty-one (21) and who is either:

- a) seeking a compensated position with the District and is not currently employed by the District or a student enrolled in the instructional program of a grade level in the School District; or
- b) an employee of a provider of contracted services to the School District who is to be placed within the District; or
- c) a worker who is to be placed within the District under a public assistance employment program pursuant to Title 9-B of Article 5 of the Social Services Law, directly or through contract.

### **Individuals Who Are Specifically Excluded**

Individuals excluded from a criminal history record check/fingerprinting pursuant to this provision of law and regulation are those individuals who:

- a) are seeking a position as a school bus driver or school bus attendant and are cleared for employment pursuant to the Vehicle and Traffic Law; or
- b) have provided services to the District in the previous school year either in a compensated position, or as an employee of a provider of contracted services to the District, or as a worker placed within the School District under a public assistance employment program pursuant to Title 9-B of Article 5 of the Social Services Law directly or through contract; or
- c) will reasonably be expected by the School District to provide services for the District on no more than five (5) days in the school year in which services are to be performed, provided that the District provides in-person supervision of such individual by one or more employees of the District while that individual is providing such services. Individuals providing such time-limited and supervised services may include but shall not be limited to artists, guest lecturers and speakers, and sports officials; or
- d) a student currently enrolled in the district.

Any prospective employee who previously has been fingerprinted in order to obtain certification, and whose fingerprints remain on file with the Division of Criminal Justice Services (DCJS), will not be required to be fingerprinted again for purposes of a criminal history record check.

### **Removal from the SED Criminal History File**

Where individuals have been separated from employment at the School District and have not become employed in this District or another school district, BOCES or charter school within twelve (12) months of such separation, SED shall notify DCJS of such separation for the purpose of destroying the fingerprints of that individual. Further, upon request of such individual, SED shall notify DCJS prior to the expiration of such twelve-month period for the purpose of destroying his/her fingerprints. Such individuals shall be removed from the SED criminal history file.

### **Conditional Appointments/Emergency Conditional Appointments**

#### Conditional Appointments

Upon the recommendation of the Superintendent of Schools, the Board of Education may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded

to the Commissioner of Education along with the prospective employee's fingerprints as mandated pursuant to law. Such conditional appointment shall not commence until notification by the Commissioner that the prospective employee has been conditionally cleared for employment, and such conditional employment shall terminate when the School District is notified of the determination by the Commissioner to grant or deny full clearance; however, if full clearance is granted, the appointment shall continue and the conditional status shall be removed.

Prior to commencement of such conditional appointment, the District must obtain a signed statement for conditional employment from the prospective employee indicating whether, to the best of his/her knowledge, the prospective employee has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

### Emergency Conditional Appointments

Upon the recommendation of the Superintendent of Schools, the Board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such an appointment is made, the process for conditional appointment as enumerated above must also be initiated.

Emergency conditional appointment may commence prior to notification from the Commissioner of Education on conditional clearance but shall terminate twenty (20) business days from the date such appointment commences or when the District is notified by the Commissioner that conditional clearance is either granted or denied, whichever occurs earlier; however, if conditional clearance is granted, the appointment shall continue as a conditional appointment.

Prior to the commencement of such appointment, the District must obtain a signed statement for emergency conditional appointment from the prospective employee indicating whether, to the best of his/her knowledge, the prospective employee has a pending criminal charge or criminal conviction in any jurisdiction.

An unforeseen emergency vacancy shall be defined as:

- a) A vacancy that occurred less than ten (10) business days before the start of any school session including summer school, or during any school session including summer school, without sufficient notice to allow for clearance or conditional clearance (however, this provision shall not apply if the Board of Education finds that the School District has been unable to fill the vacancy despite good faith efforts to fill the vacancy in a manner that would have allowed sufficient time for full clearance or conditional clearance); and
- b) When no other qualified person is available to fill the vacancy temporarily; and
- c) When the emergency conditional appointment is necessary to maintain services which the District is legally required to provide or services necessary to protect the health, education or safety of students or staff.

### Safety of Students

The District will develop internal building or program procedures to help ensure the safety of students who have contact with an employee holding conditional appointment or emergency conditional appointment. The opportunity for additional supervision of employees holding Conditional Appointments and Emergency Conditional Appointments will depend upon the particular appointment, the nature and location of the duties to be performed and other individual circumstances. However, District personnel will, in the case of each Conditional Appointment and Emergency Conditional Appointment, consider the

feasibility of providing additional supervision of the appointee (continuous or periodic) by an adult District employee in buildings during school hours and non-school hours and during events, whether held on or off school grounds. The building administrator will determine the appropriate level of supervision.

Education Law Sections 305(30),1604, 1709, 1804,  
1950, 2503, 2554, 2854, 3004-b and 3004-c, and 3035  
Correction Law Article 23-A  
Executive Law Section 296(16)  
Social Services Law Article 5, Title 9-B  
8 New York Code of Rules and Regulations (NYCRR)  
Section 80-1.11 and Part 87

Adopted: 11/13/01