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| Book | Policy Manual |
| Section | 800 Operations |
| Title | Contracted Services Personnel |
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Purpose

In its effort to provide cost-effective programs, the Board **uses outside independent contractors for a variety of purposes. The district is required to ensure that such contractors comply with certain legal requirements regarding contractor employees involved in the delivery of services to the district. This policy is adopted to outline those requirements and the manner in which the district shall direct and monitor contractor compliance.** ~~may need to utilize contracted services. The district shall monitor and evaluate such services to assure their effectiveness. This policy is adopted to assist the Board in procuring and maintaining qualified and legally certified services.~~

Definition

For purposes of this policy, contractor employee shall include an individual who:

- 1. Is employed or offered employment by an independent contractor or a subcontractor of an independent contractor, or is an individual independent contractor; and**
- 2. Has or will have direct contact with children.**

Direct Contact with Children - the possibility of care, supervision, guidance or control of children or routine interaction with children.[\[1\]](#)

For purposes of this policy, independent contractor shall mean an individual or entity that contracts with the district to provide services.

Authority

The ~~district Board~~ is required by law to ensure that independent contractors and ~~contractor their~~ employees, ~~who have or will have direct contact with children,~~ comply with the mandatory background check requirements for criminal history and child abuse certifications, the employment history review requirement, and the arrest and conviction reporting requirements and any other requirements that may be required by law during the term of the contract.[\[2\]](#)[\[3\]](#)[\[4\]](#)~~[8]~~

Guidelines

Prior to using contracted services, a written contractual agreement shall be entered into between the district and the independent contractor and maintained centrally by the district in a manner similar to that for other contracts. Requests for proposals, bid specifications for proposals and resulting contracts shall specify the following:

1. Mandatory requirements for criminal history **background checks**, child abuse **certifications**, **employment history reviews**, and **arrest and conviction reporting** for contracted services **involving direct contact with children, as mandated by law and set forth in this policy.**^[5]
2. **A requirement that all contracted transportation providers provide a program of drug and alcohol testing for covered drivers. A covered driver shall include any contractor employee who drives, operates or is in the actual physical control or movement of a school bus or a commercial vehicle owned, leased or operated by the independent contractor in connection with school district services.**^{[6][7][8][9][10]}
3. **That failure to comply with this policy and the requirements for **criminal history background checks and child abuse certifications**, **employment history reviews**, and **required reporting** of employee **arrests, convictions or other misconduct** by an independent contractor or **contractor employee** shall **be grounds for termination** of the contract.**

The Superintendent or designee shall review all information provided pursuant to this policy and determine if information is disclosed that precludes employment or continued service of an independent contractor or contractor employee.^{[2][3][4][5][11]}

Information submitted by an independent contractor or contractor employee in accordance with this policy shall be maintained centrally in a manner similar to that for school employees.

Pre-Employment Requirements

Employment History Review -

Independent contractors shall conduct an employment history review, in compliance with state law, prior to ~~issuing an offer of employment to a candidate or prior to~~ assignment of a contracted ~~current~~ employee to perform work for the district in a position or assignment involving direct contract with children. ~~Failure to accurately report required information shall subject the candidate or employee to discipline up to, and including, denial of employment or termination if already hired, and may subject the candidate or employee to civil and criminal penalties.~~ The independent contractor may use the information for the purpose of evaluating an applicant's fitness to be hired or for continued employment of a current contractor employee and may report the information as permitted by law.^[9]

Independent contractors shall inform the district, in writing, upon receipt of an affirmative response to any of the abuse and sexual misconduct background questions for a contractor employee. If the district objects to the assignment, the independent contractor may not assign the contractor employee to the district.^[4]

Independent contractors shall, upon request, provide the district to which a contractor employee is assigned access to the employee's employment history review records.

Criminal History -

Prior to assignment of contractor employees to perform work for the district in a position or assignment involving direct contact with children, contractor employees shall submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law.^{[2][3]}

~~Contractor~~ ~~Independent contractors and their~~ employees, ~~who have or will have direct contact with children,~~ shall report, on the designated form, all arrests and convictions as specified on the form. ~~Contractor~~ ~~contractors and their~~ employees shall likewise report arrests and/or convictions that occur subsequent to initially submitting the form. Failure to accurately report such arrests and convictions

may subject the individual to denial of employment/contract, termination if already hired/contracted, and/or criminal prosecution.[\[4\]\[8\]](#)

Tuberculosis Test -

Contractor employees providing services for students shall undergo a test for tuberculosis in accordance with the regulations and guidance of the Pennsylvania Department of Health.[\[12\]](#)
[\[13\]](#)

Arrest and Conviction Reporting Requirements

All independent contractors shall adopt policies and procedures that require their employees, who are providing services to the district and have ~~or will have~~ direct contact with children, to ~~immediately~~ notify the independent contractor, in writing, within seventy-two (72) hours of occurrence, of an arrest or conviction required to be reported by law. Contractor employees shall also be required to report to the independent contractor, within seventy-two (72) hours of notification, that the employee has been ~~named~~~~listed~~ as a perpetrator in a founded or indicated report of pursuant to the ~~the Statewide database, in accordance with the~~ Child Protective Services Law. The policies and procedures shall also include the provision that the failure on the part of contractor employees to make such a timely notification shall subject them to disciplinary action, including termination.[\[3\]\[11\]](#)~~[\[4\]\[10\]](#)~~

If the independent contractor receives notice of such arrest or conviction or that the contractor notification that the employee has been ~~named~~~~listed~~ as a perpetrator in a founded or indicated report, the Statewide database, from either the contractor employee or a third party, the independent contractor shall immediately report, in writing, that information to the Superintendent or designee~~school district~~.

The independent contractor shall immediately require a contractor employee to submit new certifications when there is a reasonable belief that the employee was arrested for or has been convicted of an offense required to be reported by law, was named as a perpetrator in a founded or indicated report, or has provided written notice of such occurrence.[\[3\]\[11\]](#)

{ } Contractor employees who provide transportation services shall immediately notify the independent contractor and the district's transportation supervisor of any traffic citations or the suspension, revocation or cancellation of operating privileges.[\[14\]](#)

Educator Misconduct

If the Superintendent reasonably suspects that conduct being reported involves an incident required to be reported under the Educator Discipline Act, the Superintendent or designee shall notify the Pennsylvania Department of Education, in accordance with applicable law, regulations and Board policy 317.1.[\[15\]](#)[\[16\]](#)

Training

Independent contractors shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, the following topics:[\[1\]](#)

1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.
2. Provisions of the Professional Educator Discipline Act, including mandatory reporting requirements.
[\[17\]](#)~~[\[11\]](#)~~

3. District policy related to reporting of suspected abuse and sexual misconduct. [\[18\]](#)~~[\[7\]](#)~~

4. Maintenance of professional and appropriate relationships with students. [\[19\]](#)

Employees of independent contractors who have direct contact with children are required to complete a minimum of three (3) hours of training every five (5) years. [\[1\]](#)

Contractor employees shall attend orientation and training sessions, as appropriate to the nature of their service. When training is provided for school employees relating to the legal obligations of employers and educational institutions, consideration shall be given to which contractor employees should also receive that training.

Child Abuse Reporting

All contractor employees who have reasonable cause to suspect that a child is the victim of child abuse shall make a report of suspected child abuse in accordance with applicable law, Board policy and administrative regulations. [\[18\]](#)[\[20\]](#)

Confidentiality

No contractor employee shall be permitted access to confidential student information unless the district has determined that such access is necessary for the contractor employee to fulfill his/her responsibilities. Contractor employees with access to confidential student information shall maintain the confidentiality of that information in accordance with Board policies and procedures and applicable law. If a contractor employee has questions about the confidentiality of student information, the contractor employee should consult with the building principal. [\[21\]](#)[\[22\]](#)

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| Legal | 1. 24 P.S. 1205.6 |
| | 4. 24 P.S. 111 |
| | 7. Pol. 806 |
| | 8. 23 Pa. C.S.A. 6344 |
| | 9. 24 P.S. 111.1 |
| | 10. 23 Pa. C.S.A. 6344.3 |
| | 11. 24 P.S. 2070.1a et seq |
| | 22 PA Code 8.1 et seq |
| | 23 Pa. C.S.A. 6301 et seq |
| | Pol. 610 |

Last Modified by Janet Nahay on October 24, 2018