

**Staff**

**0520-12-01-07**



**Shelby County Schools**

**Division of Early Childhood**

**TDOE Notebook**



**0520-12-01-07 Criminal Background Checks for Teachers and Teacher Assistants  
(2022-2023)**

All required background checks are completed (TBI fingerprinting, vulnerable person, DCS review, sex offender) for employees in all Exceptional Children Preschool Classrooms.

*T. Sharifaye Cleaves*

Human Resources  
160 S. Hollywood St.  
Memphis, TN 38112

*09/08/22*  
Date



**0520-12-01-07 Criminal Background Checks for Substitute Teachers  
(2022-2023)**

All rules related to substitutes found in Chapter 0520-12-01-07 of Tennessee State Board of Education rule are being followed by the Shelby County Schools.



Human Resources  
160 S. Hollywood St.  
Memphis, TN 38112



Date



**0520-12-01-07 Criminal Background Checks for Substitute Teachers  
(2022-2023)**

All rules are being followed by Shelby County Schools regarding background check and fingerprinting of substitutes in all Exceptional Children Preschool classrooms.

*D. Marie Leque Cleaves*

Human Resources  
160 S. Hollywood St.  
Memphis, TN 38112

*09/08/22*  
Date

Shelby County Board of Education

4053

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Revised: 12/05/17; 10/25/16; 11/24/15; 06/30/15;  
11/26/13; 06/11/13

## BACKGROUND CHECKS

### I. PURPOSE

To ensure the safety of the educational and work environments of students and employees of the Shelby County Schools (SCS).

### II. SCOPE

This policy applies to prospective employees; current employees; vendors; school volunteers, and adult student interns.

### III. DEFINITIONS

Background Check - process of verifying information provided by an individual that the District is considering for employment or as a vendor, volunteer, adult intern.

This may include, but is not limited to a check of child abuse and neglect registries and federal and state criminal records.

Direct Contact - Circumstances in which an individual, as part of his or her regular job duties, has face-to-face interaction with or unsupervised access to children.

*Adopted from State of Tennessee Department of Children's Services Administrative Policies and Procedures: 4.1 - Employee Background Checks*

Prospective employee - applicant who will receive an offer of employment with the District pending outcome of an initial background check and other District requirements.

Vendor - an entity that provides goods and/or services to the District. For the purpose of this policy and administrative regulations, a vendor shall include (1) any person who is employed and/or contracted by any person, corporation, or other entity who enters into or renews a contract with the District; and (2) athletic game officials/referees.



Volunteer - A person who renders aid, performs a service, or assumes an obligation of his/her own free will and is not paid for said services by the District.

#### **IV. POLICY STATEMENT**

The District is committed to providing a safe environment for its students and employees. In an effort to ensure the safety and welfare of students and employees, the District shall require background checks on all prospective employees accepting a position with the District; vendors (see definition); school volunteers, and adult interns. The District reserves the right to conduct background checks on current employees at any time.

The Board assigns to the Superintendent or his/her designee the duty to conduct background checks as required by law and Board policy/regulations and to advise individuals that all hiring or service decisions are contingent upon satisfactory results of such checks.

##### **A. Prospective Employees Selected as the Successful Applicant for a Job**

The District shall require background checks of all prospective employees upon a conditional offer of employment. Prospective employees will be informed if the results of his/her background check preclude employment with the District. Any costs incurred in conducting a background check shall be paid by the prospective employee upon hiring.

##### **1. Teaching and Other Positions Requiring Proximity to Students**

Any prospective employee applying for a position requiring proximity to school children, shall be required to disclose in writing, in advance of employment, on an application provided by the District, whether the prospective employee: (1) has been convicted of a misdemeanor or a felony in this state or in any other state; (2) has been dismissed for any of the causes enumerated in T.C.A. § 49-2-203 or § 49-5-511; and (3) has or will provide a copy of a written resignation to the most recent local board where the person was employed at least thirty (30) days prior to the beginning date of the person's employment with the District.

These requirements shall be conspicuously displayed on the District's employment application.

Knowingly falsifying the information required above shall be sufficient grounds for termination of employment and shall also constitute a Class A misdemeanor that must be reported to the district attorney general for prosecution.

The District's application shall also conspicuously advise applicants that the accuracy of the information provided on the application may be verified by fingerprint and criminal history record checks conducted by the Tennessee Bureau of Investigation pursuant to T.C.A. § 49-5-413(a).

## **2. Non-Teaching Positions Not Requiring Proximity to Students**

Any prospective employee applying for a non-teaching position not requiring proximity to students shall be required to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause. If it is discovered that a prospective employee has failed to make such disclosures, he/she shall not be hired. If the information is discovered after prospective employee has been hired, the employee may be subject to disciplinary measures up to and including termination from employment.

## **3. Disclosure of Parking and Moving Violations**

Prospective employees are not required to disclose parking or moving violations if the maximum sanction provided by law for the violation does not include a period of confinement. Exceptions shall apply for prospective employees who, during the course of their regular work duties, shall be required to drive District-owned/leased vehicles or use their privately-owned vehicles to frequently travel between work locations (e.g., itinerant teachers).

## **B. Current Employees -Background Checks and Duty to Report Convictions**

At the discretion of the District, current employees may be required to complete a background check. The cost for background checks conducted on any/all current employees shall be incurred by the District.

### *Disclosure of Charges or Convictions*

Any SCS employee charged or convicted of (1) a misdemeanor that involves theft of property, alcohol/drug use, or assault; (2) a felony offense; (3) abuse against a child; and/or (4) selling drugs to a minor child must report it to the SCS Department of Human Resources. Failure to report such charges or convictions may constitute grounds for immediate termination. Individual reported cases will be reviewed and District, action as deemed appropriate shall be taken.

## **C. Vendors (see definition)**

Criminal background checks shall be required on vendors in accordance with law and provisions of this policy/administrative rules and regulations.



It is the responsibility of the vendor to ensure that fingerprint samples are submitted; that criminal background checks are conducted by the Tennessee and Federal Bureaus of Investigation; and that the results of such checks are provided to the District.

Exceptions

In accordance with State law, criminal background checks shall not be required for the following:

1. Government personnel engaged in law enforcement, medical or emergency health services;
2. Utility personnel, where utility means any entity created or authorized by law to provide electricity, gas, water, wastewater services, telecommunications services, or any combination thereof; or
3. Delivery or pick-up service providers, not including non-district student transportation service providers, where those services involve only scheduled visits under the supervision of school personnel. However, in accordance with provisions of this policy, District contractual agreements may require providers of such services to submit to background checks.
4. A person whose contract is for the performance of a service at a school-sponsored activity, assembly or event at which school officials or employees are present when the service is performed and where the activity, assembly, or event is conducted under the supervision of school officials or employees.

Any costs incurred in conducting such investigations shall be paid by the vendor.

**E. Volunteers and Adult Student Interns (excluding students attending any k-12 school)**

Volunteers whose volunteer activity requires them to work alone with children outside the presence and direct supervision of school personnel must receive a criminal background check that requires fingerprinting (i.e., an FBI and/or TBI background check). Certain volunteers who work with children in the presence and under the direct supervision of school personnel must receive a criminal background check that does not require fingerprinting (i.e., a web-based background checks of local and national criminal databases). Individuals refusing to submit to any criminal background check and/or to supply a fingerprint sample required under this policy shall be ineligible to serve as volunteers. Prospective volunteers shall be required to make a full disclosure of any prior charges and/or convictions of a felony. The District reserves the right to conduct additional background checks at any point in the volunteer's period of approved services as warranted.



The cost of background checks required for volunteers, excluding interns from college/university preparatory programs, shall be paid for by the District.

The provisions outlined above for volunteers shall apply to adult student interns.

#### **F. Confidentiality**

Background check information received by the District in accordance with this policy shall be confidential and used solely for assessing the suitability of the prospective individual for employment or vendor, volunteer, or adult intern for services.

### **IV. RESPONSIBILITY**

- A. It is the applicant's responsibility to provide complete and accurate information to the Superintendent or designee.
- B. It is the employee's responsibility to report if he/she has been charged with and/or convicted of a felony in accordance with this policy.
- C. It is the employee's responsibility to report if he/she has been legally charged with or convicted of abuse against a child and/or with selling drugs to a minor child in accordance with this policy.
- D. It is the responsibility of the vendor to supply a fingerprint sample and submit to a criminal background check prior to permitting the person to have contact with the children or enter school grounds.
- E. It is the volunteer's responsibility to provide complete and accurate information; submit fingerprints when applicable; and report if he/she has been charged with and/or convicted of a felony in accordance with this policy.
- F. The Superintendent is responsible for ensuring that this policy is followed.

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#### **Legal References:**

- 1. C.A. 49-5-406
- 2. T.C.A. 49-5-413
- 3. T.C.A. 49-5-404
- 4. Tennessee State Board of Education Rule § 0520-1-3-.08(2)(f)
- 5. T.C.A. 49-5-501
- 6. T.C.A. 10-7-504
- 7. T.C.A. 49-5-202
- 8. T.C.A. 49-5-405
- 9. T.C.A. 49-2-301
- 10. T.C.A. 49-2-303
- 11. T.C.A. 39-17-417

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#### **Cross References:**

12. T.C.A. 49-6-2117
13. Immigration Reform and Control Act of 1986
14. IRS Provisions – “Common Law Rules
15. Fair Labor Standard Act

**Shelby County Board of Education**

**Issued Date: 03/05/13**

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*Administrative Rules and Regulations*  
**BACKGROUND CHECKS**

**A. Prospective Employees Selected as the Successful Applicant for a Job**

Prior to extending an offer of employment with the District, the responsible department (i.e., nutrition services, transportation) shall submit the name of a prospective employee to the Department of Children Services. Any prospective employee who is found to have committed child abuse shall not be eligible for employment.

The Department of Human Resources may extend an offer of employment to a prospective employee if the result of the criminal background check conducted by the Department of Children Services is acceptable.

A prospective employee who accepts an offer of employment from the District shall be required to provide fingerprints and sign an informed background check consent form. Refusal to provide the District with fingerprints and/or a completed consent form will result in the withdrawal of the offer of employment.

Background checks indicating criminal convictions shall be reviewed by the appropriate staff in the Department of Human Resources to determine if a cause for concern exists for the safety of the students, employees, and/or property of the District. The prospective employee shall be provided an opportunity to view the report and, if applicable, dispute the accuracy of information. Upon verification of the results, the Director of the Department of Human Resources shall make a final decision. The prospective employee shall be notified in writing if a decision is made to withdraw an offer of employment based on an unsatisfactory criminal background check.

Prospective employees who are subsequently hired shall have any cost incurred for conducting background checks paid through payroll deduction.



## **B. Current Employees**

SCS reserves the right to conduct random and periodic criminal background checks on current employees. Any employee who is randomly selected for a criminal background check and does not have a completed consent form and/or useable fingerprints on file shall be required to submit such within the timeframe designated by the Department of Human Resources. Refusal by a current employee to provide a consent form and/or useable fingerprints may result in disciplinary actions up to and including termination.

A criminal background check of a current employee that indicates a criminal conviction shall be reviewed by the Director of the Department of Human Resources or designee in order to determine if a cause for concern exists for the safety of the students, employees, and/or property of the District. Upon verification of the results, the Director of the Department of Human Resources or designee shall render a final decision for any action taken as a result of an unsatisfactory report. The Director of the Department of Human Resources or designee shall provide written notification to the employee and the appropriate supervisor/Division Director if a decision is made to take action against the employee as a result of an unsatisfactory report.

Any costs incurred in conducting criminal background checks shall be paid by the District.

### *Disclosure of Charges or Convictions*

Any SCS employee charged or convicted of a misdemeanor that involves theft of property, alcohol/drug use, or assault (including domestic violence against another District employee) must report it to the Department of Human Resources within seven (7) working days of the charge or conviction. Individual cases will be reviewed and appropriate actions will be taken when deemed necessary.

Any SCS employee charged or convicted of a felony offense must report it to the Department of Human Resources within seven (7) working days of the charge or conviction. Failure to report such charge or conviction may constitute grounds for immediate termination. Additionally, an employee charged or convicted of a felony offense may be terminated. Individual cases will be reviewed and appropriate actions will be taken.

Any employee who has been legally charged with abuse against a child and/or selling drugs to a minor child must report it to the SCS Department of Human Resources within seven (7) working days of the charge or conviction. Failure to

report such charges or convictions may constitute grounds for immediate termination. Additionally, an employee convicted of abuse against a child and/or selling drugs to a minor child shall be terminated.

Employees who drive District owned and/or leased vehicles as part of their employment must report a suspended or revoked driver's license to the Department of Human Resources within seven (7) working days of the notification of the suspension or revocation. Failure to disclose information may result in disciplinary actions up to and including termination.

### **C. Volunteers**

School volunteers play a vital role and are a valuable resource to the District. While the use of school volunteers is encouraged, the District must maintain the safety and security of its students and staff. Individuals desiring to provide volunteer services must complete (1) a volunteer application in accordance with rules and regulations established under the policy on School Volunteers (7010) and (2) a background check. Background checks are based on the specific type of volunteer service as outlined below.

#### Level I: Special Event Volunteer

The name of the prospective volunteer shall be checked against the Sexual Offender Registry.

Screening for Level I volunteers shall be conducted every school year.

#### Level II: Monitored Volunteer

A criminal background check, excluding fingerprinting, is required.

Renewal screenings will be conducted every year.

#### Level III: Unmonitored Volunteer

A criminal background check, including fingerprinting, is required. Favorable results of the criminal background check must be received by the District prior to performance of duties as an unmonitored volunteer.

Renewal screenings will be conducted every year.

#### Criminal Background Check Results

Prospective volunteers who have pending charges or who have been convicted of child abuse/neglect against a child, of selling drugs to or of committing any criminal offense involving a minor and/or committing any of the following offenses will not be eligible to serve as a volunteer: aggravated child abuse and neglect, aggravated rape, aggravated sexual battery, aggravated spousal rape,

spousal rape and spousal sexual battery, incest, rape, rape of a child, sexual battery by an authority figure, sexual battery, and statutory rape.

Individual circumstances may be considered prior to preventing an individual from providing volunteer services based on committing offenses other than those listed above. Criminal background checks indicating criminal convictions shall be reviewed by the offices responsible for parent and community engagement and school security to determine if a cause for concern exists for the safety of the students, employees, and/or property of the District. The applicant shall be provided an opportunity to view the report and, if applicable, dispute the accuracy of the information. Upon verification of the results, the offices responsible for parent and community engagement and school security shall make a final decision.