

School Committee Policy ADDA:

CRIMINAL RECORD REQUIREMENTS

It shall be the policy of the Concord Public Schools and the Concord - Carlisle Regional School District (acting through the Superintendent, Principal, or others designated by them and certified by the Criminal History Systems Board) to obtain all available Criminal Offender Record Information (C.O.R.I.) from the Massachusetts Criminal History Systems Board of prospective employee(s) or volunteer(s) of the school department, including any individual who regularly provides school related transportation to children, who may have direct and unmonitored contact with children, prior to hiring the employee(s) or to accepting any person as a volunteer. State law requires that school districts obtain C.O.R.I. data for employees of taxicab companies that have contracted with the schools to provide transportation to pupils.

The Superintendent, Principal, or their certified designees shall periodically, but not less than every three years, obtain all available Criminal Offender Record Information from the Criminal History Systems Board on all employees, individuals who regularly provide school-related transportation to children, including taxicab company employees, and volunteers who may have direct and unmonitored contact with children, during their term of employment or volunteer service.

The Superintendent, Principal or their certified designees may also have access to Criminal Offender Record Information for any subcontractor or laborer who performs work on school grounds, and who may have direct and unmonitored contact with children, and shall notify them of this requirement and comply with the appropriate provisions of this policy

Pursuant to a Department of Education C.O.R.I. Law Advisory dated February 17, 2003, "'Direct and unmonitored contact with children' means contact with a child when no other C.O.R.I.-cleared employee of the school or district is present. A person having only the potential for incidental unsupervised contact with children in commonly used areas of the school grounds, such as hallways, shall not be considered to have the potential for direct and unmonitored contact with children. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized and separated by sight or sound from other staff) that are accessible to students."

In accordance with state law, all current and prospective employees, volunteers, and persons regularly providing school-related transportation to children of the school district shall sign a request form authorizing receipt by the district of all available C.O.R.I. data from the Criminal History Systems Board. In the event that a current employee has questions concerning the signing of the request form, he/she may meet with the Principal or Superintendent; however, failure to sign the C.O.R.I. request form may result in a referral to legal counsel for appropriate action. Completed request forms must be kept in secure files. The School Committee, Superintendent, Principals or their designees certified to obtain information under this policy, shall prohibit the dissemination of C.O.R.I. information for any purpose other than to further the protection of school children.

C.O.R.I. is not subject to the public records law and must be kept in a secure location, separate from personnel files and may be retained for not more than three years. C.O.R.I. may be shared with the individual to whom it pertains, upon his or her request, and in the event of an inaccurate report the individual should contact the Criminal History Systems Board.

Access to C.O.R.I material must be restricted to those individuals certified to receive such information. The Superintendent shall ensure that all such individuals are thoroughly familiar with the educational materials made available by the Criminal History System Board. In the case of prospective employees or volunteers, C.O.R.I material should be obtained only where the Superintendent has determined that the applicant is qualified and may forthwith be recommended for employment or volunteer duties.

If a criminal record is received from the Criminal History Systems Board, the Superintendent, Principal or certified designee will closely compare the record provided by CHSB with the information on the C.O.R.I. request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.

If the Superintendent, Principal or certified designee reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in district policy, then the determination of suitability for the position will be made. The hiring authority, subject to applicable law, reserves the exclusive right concerning any employment decision made, pursuant to State law. Without limiting that discretion, and unless otherwise provided by law, the hiring authority may consider, among others, the following factors in determining suitability:

- (a) Relevance of the crime to the position sought;*
- (b) The nature of the work to be performed;*
- (c) Time since the conviction;*
- (d) Age of the candidate at the time of the offense;*
- (e) Seriousness and specific circumstances of the offense;*
- (f) The number of offenses;*
- (g) Whether the applicant has pending charges;*
- (h) Any relevant evidence of rehabilitation or lack thereof;*
- (i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.*

If the district is inclined to make an adverse decision based on the results of the C.O.R.I. check, the applicant will be notified promptly. The applicant shall be provided with a copy of the criminal record, the district's C.O.R.I. policy, and information concerning the process for correcting a criminal record, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an

opportunity to dispute the accuracy and relevance of the C.O.R.I. record.

Applicants challenging the accuracy of the policy shall be provided a copy of the Criminal History Systems Board's (CHSB) Information Concerning the Process in Correcting a Criminal Record. If the CORI record provided does not exactly match the identification information provided by the applicant, the Superintendent will make a determination based on a comparison of the CORI record and documents provided by the applicant. The Superintendent may contact the CHSB and request a detailed search consistent with CHSB policy.

The Superintendent will notify the applicant of the final decision and the basis of the decision in a timely manner.

The Superintendent shall ensure that on the application for employment and/or volunteer form there shall be a statement that as a condition of employment or volunteer service the school district is required by law to obtain Criminal Offender Record Information for any employee, individual who regularly provides school-related transportation, or volunteer who may have direct and unmonitored contact with children. Current employees, persons regularly providing school-related transportation, and volunteers shall also be informed in writing by the Superintendent prior to the periodic obtaining of their Criminal Offender Record Information.

The Superintendent shall amend employment applications to include questions concerning criminal records which may lawfully be asked of prospective employees, and to advise applicants of their rights not to disclose sealed records, in accordance with State law.

Records sealed pursuant to law shall not operate to disqualify a person in any appointment to a position on behalf of the schools.

The Superintendent shall revise contracts with special education schools and other providers to require a signed statement that the provider has met all the legal requirements of the state where it is located relative to criminal background checks for employees and others having direct and unmonitored contact with children.

As soon as possible after the district obtains the certification from the Criminal History Systems Board to receive C.O.R.I. data, the Superintendent shall obtain such data for any person then providing volunteer service, as a condition of continued service.

File: ADDA-E

**INFORMATION CONCERNING THE PROCESS FOR CORRECTING A
CRIMINAL RECORD**

If you have undergone a background check by an agency that has received a criminal record from the Criminal History Systems Board (the "CHSB"), you may ask the agency to provide you with a copy of the criminal record. You may also request a copy of your adult criminal record from the Criminal History Systems Board, 200 Arlington Street, Suite 2200, Chelsea, MA 02150 by calling (617) 660-4640 or go to www.mass.gov/chsb/cori/cori_forms.html#pers.

The CHSB charges \$25.00 fee to provide an individual with a copy of his/her criminal record. You may complete an affidavit of indigency and request that the CHSB waive the fee.

Upon receipt, review the record. If you need assistance in interpreting the entries or dispositions, please review the disposition code and "how to read a BOP" on the CHSB's website www.mass.gov/chsb/cori/cori_bop.html. The CHSB does not offer "walk- in" service but you may call the CHSB's Legal Division at (617) 660-4760 for assistance or the CORI Unit of the Office of the Commissioner of Probation at (617) 727-5300.

If you believe that a case is opened on your record that should be marked closed, you may contact the Office of the Commissioner of Probation CORI Unit at (617) 727-5300 for assistance, or you may go to the Probation Department at the court where the charges were brought and request that the case(s) be updated.

If you believe that a disposition is incorrect, contact the Chief Probation Officer at the court where the charges were brought or the CORI Unit at the Office of the Commissioner of Probation and report that the court incorrectly entered a disposition on your criminal record.

If you believe that someone has stolen or improperly used your identity and was arraigned on criminal charges under your name, you may contact the Office of the Commissioner of Probation CORI Unit or the Chief Probation Officer in the court where the charges were brought. For a listing of courthouses and telephone numbers please see:

www.mass.gov/chsb/cori/cori_codes_court.html.

In some situations of identity theft, you may need to contact the CHSB to arrange to have a fingerprint analysis conducted.

If there is a warrant currently outstanding against you, you need to appear at the court and ask that the warrant be recalled. You cannot do this over the telephone.

If you believe that an employer, volunteer agency, housing agency or municipality has been provided with a criminal record that does not pertain to you, the agency should contact the CORI Unit for assistance at (617) 660-4640.

QUESTIONS CONCERNING CRIMINAL RECORDS

Employers may ask the following series of questions:

1. Have you been convicted of a felony? Yes or no?

2. Have you been convicted of a misdemeanor within the past five years (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?

3. Have you completed a period of incarceration within the past five years for any misdemeanor (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?

4. If the answer to question number 3 above is "yes" please state whether you were convicted more than five years ago for any offense (other than a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray or disturbance of the peace)? Yes or no?

Any inquiry into the criminal record of an applicant must also contain language pursuant to M.G.L. c. 276, § 100A.

It is unlawful for an employer to make any inquiry of an applicant or employee regarding:

1. An arrest, detention or disposition regarding any violation of law in which no conviction resulted.
2. First convictions for the misdemeanors of drunkenness, simple assault, speeding, minor traffic violations, affrays or disturbance of the peace. For this purpose "minor traffic violations" include any moving traffic violation other than reckless driving, driving to endanger and motor vehicle homicide.
3. Any conviction of a misdemeanor where the date of the conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, occurred five or more years prior to the date of such inquiry, unless such person has been convicted of any offense within five years immediately preceding the date of the inquiry.

No person shall be held under any provision of any law to be guilty of perjury or of otherwise giving false statement by reason of his failure to recite or acknowledge such information as he or she has a legal right to withhold.

Approved April 11, 2006