

## **BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK**

To help assure the safety of Lionheart Classical Academy students, it is the policy of the Board of Trustees that before any person is employed, or are otherwise placed into positions whereby they have frequent close contact with - or supervision of - students, that the administration conducts proper investigation into such person's background, including, without limitation, a criminal history records check under RSA 189:13-a – 189:13-c.

**A. Definitions.** As used in this policy:

1. **“Applicant”** shall mean and include an applicant for employment or any person seeking to serve in any position falling within the term “Covered Person” as defined below, who is selected by the school for further consideration for such position.

2. **“Background investigation”** means an investigation into the past employment and other background of an Applicant with the intent of determining whether:

a. The applicant/covered person is qualified for the position for which he/she has applied, will/would be assigned, or will/would perform, and

b. The applicant has been found guilty of any criminal activity or conduct that would make him/her ineligible or unsuitable for employment or service at the school.

3. **“Conditional offer of employment”** means an offer of employment extended to a selected Applicant subject to a successful completed criminal history record check (defined below) which is satisfactory to the school.

4. **“Contractor”** means a private business or agency or an employee or employees of the contractor which contracts with Lionheart Classical Academy provide services including but not limited to:

a. cafeteria workers,

b. school bus drivers,

c. custodial personnel,

d. any other direct service or services to students of the school.

5. **“Covered Person”** shall mean every employee, stipend position (e.g., coach, trainer, drama coach, etc.), candidate, designated volunteer (whether direct or through a volunteer organization), or any other service where the contractor or employees of the

contractor provide services directly to students of the school, or any applicant/person seeking to serve in any of those positions. NOTE: Only those volunteers who meet the definition of “Designated Volunteer” below are considered “Covered Person”. See Board policy IJOC for additional provisions relating to all volunteers.

6. **“Criminal History Records Check”** or “CHRC” means a criminal history records inquiry under RSA 189:13-a – 13-c, conducted by the New Hampshire State Police through its records and through the Federal Bureau of Investigation.

7. **“Designated Volunteer”** is any volunteer who: ***See Lionheart Board of Trustees Policy IJOC.*** The Executive Director or designee shall have the responsibility of determining whether a volunteer position is a “Designated Volunteer.”

8. **“Educator Candidate”** means a student at an institution of higher education who has been selected to participate in a K-12 educator preparation program (RSA 189:13-c, I(b)). This definition includes both Educator Candidates who are placed as student teachers.

9. **“Section V Offense(s)”** are those criminal offenses listed in RSA 189:13-a, V, as that list may be amended by the Legislature from time to time. The current of offenses may be accessed at: [Link: Section V Offenses - RSA 189:13-a](#), If the results of the record check disclose that the Applicant or Covered Person has either been convicted or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment.

**Section V Offense:** If the results of the record check disclose that the Applicant or Covered Person has either been convicted or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment<sup>1</sup>:

- Capital Murder
- Endangering the Welfare of Child or Incompetent
- First Degree Murder
- Indecent Exposure and Lewdness
- Second Degree Murder
- Prostitution and Related Expenditures
- Manslaughter
- Child Pornography
- Aggravated Felonious Sexual Assault
- Possession of Child Sexual Abuse Images

---

<sup>1</sup> At the time of the policy adoption, this is the current list of Section V Offenses. Please reference RSA 189:13-a for a complete and updated list.

- Sexual Assault (Misdemeanor Level)
- Certain Uses of Computer Services Prohibited
- Kidnapping
- Obscene Matter Offenses
- Trafficking in Persons (Human Trafficking)
- Computer Pornography/Child Exploitation Prevention

“**Non-Section V Offenses**” are all other criminal offenses, whether felonies or misdemeanors.

10. “**Designee**” shall mean, a person designated by the Executive Director to receive and inspect results of the Criminal History Records Check (CHRC). Under RSA 189:13-a, II, the Designee for purposes of CHRC may only be an assistant Executive Director, head of human resources, the personnel director, the business administrator or the finance director.

## **B. Background Investigation and Restrictions on Hiring or Appointing Individuals with Revoked or Suspended Credentials.**

1. General Requirements. The Executive Director will require a Background Investigation of any Applicant or Covered Person as defined in this policy, ***including but not limited to reviewing the most recent NHED List of Revoked & Suspended Credentials.*** The Executive Director may assign the Background Investigation (but not the CHRC) to someone other than Designee, but the Background Investigation shall be completed prior to making a final offer of employment, approving the contract with an individual contracting directly with the school, student teacher, or a Designated Volunteer to work or serve within the school. For Covered Persons who are employed by a third-party contractor, the Executive Director or Designee may waive the Background Investigation and instead rely on suitable assurances from the contracting company or agency regarding a background investigation. The requirement for a Criminal History Records Check under paragraph D, below, however, may not be waived.

As part of the application process, each Applicant shall be asked whether he/she has ever been convicted of any crime and whether there are any criminal charges pending against him/her at the time of application. The Applicant will also be directed to report any criminal charges brought against him or her after the application is submitted and until either hired or until notified that they will not be hired. Failure to report will be treated in the same manner as falsification of information under Section C, below.

General record (e.g., checklist and or source documentation) of completion of a Background Investigation (but not copies of the results of a CHRC) shall be retained in an employee's personnel file.

**2. Prohibition against hiring/appointment of individuals with revoked or suspended credentials.** Lionheart Classical Academy will not hire any individual whose education license, certification or other credential ("credential") issued by the Department of Education is currently revoked or suspended, unless: (1) the individual's prospective employment would begin after the reinstatement of that individual's credential; or, (2) the individual retains an active endorsement in one or more areas in which the individual remains eligible for employment, even though the endorsement in another area is under revocation or suspension.

No person whose credential issued by the Department of Education has been revoked or is under current suspension, may be appointed as, or serve as, a volunteer for any service or activity, designated or otherwise. In the instance of a person with no current endorsement, the suspension or revocation would preclude hiring or appointing that person to any position within the school.

**C. False Information.** The falsification or omission of any information on a job application, during the pendency of the application, or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment, withdrawal of any offer of employment, or immediate discharge from employment.

#### **D. Criminal History Records Check**

**1. General.** As part of the school's Background Investigation, each Applicant must submit to a Criminal History Records Check ("CHRC") through the State of New Hampshire in full compliance with RSA 189:13-a. No Covered Person/Applicant shall be employed, extended a Conditional Offer of Employment, or begin service in the school, until the Executive Director, or designee, has initiated a CHRC.

The Applicant shall provide the school with a criminal history records release form as provided by the New Hampshire State Police along with a full set of fingerprints taken by a qualified law enforcement agency according to RSA 189:13-a, II.

Refusal to provide the required criminal history records release form (with fingerprints) and any other required releases to authorize the CHRC will result in immediate disqualification of the Applicant/Covered Person and will not be considered for the position.

## **2. Special Provisions for Educator Candidates & Bus Drivers.**

**a. Educator Candidates.** Educator Candidates who are placed in the school as a student teacher shall undergo a CHRC prior to beginning in the school. For Educator Candidates in the school under a status other than student teacher (e.g., observation, Methods Course or Practicum student), the Executive Director or Designee will determine whether to require a CHRC using the same parameters included in the Designated Volunteer definition, above.

**b. Bus Drivers.** Pursuant to RSA 189:13-a, VI and RSA 189:13-b, criminal history records checks for bus drivers shall be processed through the New Hampshire Department of Education (“NHED”). Although NHED will conduct the CHRC, the Executive Director or designee shall require a Background Investigation in accordance with paragraph

**3. Results of Criminal History Records Check.** The results of the CHRC shall be delivered to the Executive Director or designee who shall be responsible for maintaining their confidentiality. The Executive Director or Designee shall destroy all results and reports of any CHRC within sixty (60) days of receiving said information.

**4. Pending Charges or Convictions for Section V Offenses.** If the results of the CHRC disclose that the Applicant has either been convicted of or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment. Additionally, the Executive Director (not the Executive Director’s Designee), shall notify NHED through its Investigator or the Chief of the Governance Unit.

**5. Non-Section V Offenses and/or Past Charges of Section V Offenses.** If the results of a CHRC disclose that the Applicant has been charged (whether pending or previously concluded) with a Non-Section V Offense, or has been previously charged with a Section V Offense which the charge has been disposed of other than by a conviction, the Executive Director or Designee shall take such information into account prior to hiring or assigning such Applicant. In making a determination regarding such an Applicant, the Executive Director or Designee shall consider all reliable information, and assess whether, in light of the totality of the circumstances, the Applicant’s suitability for the position sought with student safety being the priority consideration. (Circumstances the Executive Director should consider, include, but are not limited to, nature and date of the charge, information about reduced charges, age at time of charge, relationship of the nature of the charged offense to the duties of the position sought).

If the Executive Director chooses to nominate, appoint or assign an Applicant who has a history of conviction or pending charges of a Non-Section V Offense, or of past

concluded charges of Section V Offenses that did not result in a conviction, then the final hiring decision or appointment of another Covered Person must be approved by the Board of Trustees. Pursuant to regulations of the United States Dept. of Justice, and RSA 189:13-a, the Executive Director may NOT share with the Board information directly gleaned from the CHRC regarding specific criminal charges, arrests, convictions etc., but may share the fact that they is nominating a person whose background investigation revealed information requiring the Executive Director to apply the criteria established by the Board in the preceding paragraph.

**6. Fees for Criminal History Records Check.** Any applicant for whom the Board requires a CHRC check, or, in the instance of third-party contractors/organizations, the Covered Person's employer/organization, shall pay the actual fees and costs associated with the fingerprinting process and/or the submission or processing of the CHRC, unless otherwise determined by the Board.

**E. Conditional Offer of Employment.** Applicants who have been selected for employment may be given a conditional offer of employment, with the final offer subject to the successful completion of the Background Investigation and CHRC, and a determination that there are no disqualifying pending charges or convictions. Any Applicant who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her employment or **approval to work within the school is entirely conditioned upon the results of a CHRC and Background Investigation being satisfactory to the school.**

**F. Administrative Protocols/Procedures.** The Executive Director is authorized to establish written protocols for Background Investigations, and such protocols may vary depending on the nature of the position(s) (e.g., verification of academic records and achievements for certified professionals, credit checks for personnel with fiscal responsibilities). The written protocols may include additional specific disqualifying misdemeanor or felony convictions or charges (e.g., prostitution, theft, etc.) in addition to the Section V Offenses.

**G. Contractor and Vendor Provisions.** The Executive Director shall take such steps as are necessary to assure third party agreements which involve covered personnel to include a provision for such personnel to complete CHRCs and Background Investigations as required under this policy, as well as training and information relative to child sexual abuse prevention as required under RSA 189:13-a, XII.

**I. Training of Executive Director/Designee.** The Executive Director or any Designee shall complete such training relative to the reading and interpretation of criminal records as required by NHED.

**J. Reports of Criminal Offenses Post-Hire or Commencement of Service.**

When the school receives a notification of a Covered Person being charged with or convicted of a Section V Offense or other crime which is evidence of the individual's unsuitability to continue in their role, the Executive Director shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to immediate discharge.

**References:**

- *RSA 189:13-a, School Employee and Designated Volunteer Background Criminal History Records Check*
- *RSA 189:13-b, School Bus Driver and Transportation Monitor Criminal History Records Check*
- *RSA 189:13-c, Credentialing Applicant and Candidate Criminal History Records Check Code of Conduct for New Hampshire Educators*

Committee Approved: 9/24/2024

Board Approved: 10/1/24