**Adult Sexual Misconduct: Prevention and Management**

**Overview of State Law and Policy Requirements for School Districts**

**Reporting Obligations for Professionals: C.R.S. 19-3-304 and 19-3-307**

Persons listed below who have reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who have observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department, local law enforcement agency, or through the statewide child abuse reporting hotline system. The individual must follow any oral report with a written report sent to the appropriate agency.

Persons required to report such abuse or neglect or circumstances or conditions include any:

1. Public or private school official or employee;
2. Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
3. Mental health professional;
4. Psychologist;
5. Physical therapist;
6. Peace officer as described in section 16-2.5-101, C.R.S.;
7. Licensed professional counselors;
8. Registered psychotherapists;
9. Worker in the state department of human services;
10. Juvenile parole and probation officers;
11. Child and family investigators, as described in section 14-10-116.5, C.R.S.; and
12. Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.

**Reporting Obligations for School Districts: C.R.S. 22-32-109.7**

If an employee of a school district is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which is supported by a preponderance of the evidence, within ten business days after the dismissal or resignation, the board of education of the school district shall notify the department of education and provide any information requested by the department concerning the circumstances of the dismissal or resignation.

Whenever a school district learns from a source other than the department of education that a current or past employee of the school district has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the school district shall notify the department of education.

**Background Checks for Licensed Personnel: C.R.S. 22-32-109.7**

Prior to the employment of any person by a school district, the board of education shall make an inquiry concerning such person to the department of education for the purpose of determining:

1. Whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for:
   1. a felony; or
   2. a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children;
2. Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information provided to the department by a school district and confirmed by the department; and
3. If a holder of an educator’s license or authorization, whether such person's license or authorization has ever been denied, annulled, suspended, or revoked … following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

During the employment of any person by a school district, the board of education may make an inquiry concerning such person to the department of education for the purposes described above.

The board of education shall also contact previous employers of such applicant for the purpose of obtaining information or recommendations which may be relevant to such person's fitness for employment.

**Background Checks for Non-licensed Personnel: C.R.S. 22-32-109.8**

All applicant for a non-licensed position of employment in a school district who is selected for such position must submit to a background check. An applicant is disqualified from employment if the applicant has been convicted of any of the following offenses:

1. Felony child abuse, as described in C.R.S. 18-6-401;
2. A crime of violence, as described in C.R.S. 18-1.3-406(2);
3. A felony involving unlawful sexual behavior, as defined in C.R.S. 16-22-102(9);
4. Felony domestic violence, as defined in C.R.S. 18-6-800.3;
5. A felony drug offense described in C.R.S. 18-18-401 *et seq.*, committed *on or after* August 25, 2012;
6. Felony indecent exposure, as described in C.R.S. 18-7-302; or
7. An offense committed in any other state, the United States, or any territory subject to the jurisdiction of the United States, which, if committed in this state, would constitute an offense described in items 1-6, above.

Persons convicted of felony domestic violence and/or a felony drug offense, as described above, are only ineligible for employment in the district for a period of five years following a conviction for either offense. After that time, such person shall be eligible for district employment. However, prior to employment, a person convicted of felony domestic violence must have successfully completed any court ordered treatment.

In addition, districts may to choose to employ persons convicted of felony domestic violence and/or a felony drug offense prior to the expiration of the five-year period after conducting an assessment to determine whether the applicant poses a risk to students or staff. A person who is ineligible for district employment as a result of a conviction for felony domestic violence and/or felony drug offense may submit a written request for reconsideration by the district. Upon receipt of such a request, the district must determine whether the person poses a current safety risk by considering the following factors: (1) the seriousness and nature of the disqualifying offense; (2) the time elapsed since the date the offense was committed; (3) the nature of the job/position; and (4) any other relevant information. The district’s decision with regard to the nature of the risk shall be final; therefore, districts should consult with district legal counsel before conducting a risk assessment of this nature.

**Background Checks for Persons Performing Service Contract: C.R.S. 22-32-122(4)**

All school district service contracts must include a provision requiring background checks for any person providing direct services to students under the contract, including any subcontractor or other agent of the contracting entity. Such services include but are not limited to transportation, food services or instruction. Background checks are only required for persons who have regular, not incidental, contact with students at least once a month.

**Mandatory Policies**

AC Nondiscrimination/Equal Opportunity

ADD Safe Schools

GBA Open Hiring/Equal Employment Opportunity

GBAA Sexual Harassment

GBEB Staff Conduct

GBEE Staff Use of the Internet and Electronic Communications

JB Equal Educational Opportunities

JBB Sexual Harassment

JICDE\* Bullying Prevention and Education

**Other Related Policies**

IJOA Field Trips

JLF (and accompanying regulation) Reporting Child Abuse

EEAG Transportation in Private Vehicles

**Additional Training Requirements**

***CASB Sample Policy AC Discrimination and Harassment***

* Students and district employees shall receive periodic training related to recognizing and preventing unlawful discrimination and harassment. District employees shall receive additional training related to handling reports of unlawful discrimination and harassment.

***CASB Sample Policy ADD Safe Schools***

* Training programs for staff and students in how to recognize and respond to behavior or other information that may indicate impending violence or other safety problems; and
* Training and support for students that aims to relieve the fear, embarrassment and peer pressure associated with reporting behavior that may indicate impending violence or other safety problems.

***CASB Sample Policy JICDE Bullying Prevention and Education***

* Training programs for staff and students in taking pro-active steps to prevent bullying from occurring.

**Colorado Association of School Boards**

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