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REVISED POLICY - VOL. 35, NO. 1 - NOVEMBER 2022

8121 - PERSONAL BACKGROUND CHECK – CONTRACTED SERVICES

To protect students and staff members, the Board of Managers requires an inquiry into the personal background of each **contractor, subcontractor, and** employee of a contractor or subcontractor who is likely to have direct, **on-going ongoing** contact with children within the scope of their **contracted service or** employment.

The Director shall establish the necessary procedures to provide that **(1) individuals serving as** contractors **and or** subcontractors **submit to a background check and (2) entities operating as contractors or subcontractors** conduct an inquiry into the background information of **these** their employees **who are likely to have direct, ongoing contact with children,** that shall include the following:

- A. an expanded criminal history check as defined by I.C. 20-26-2-1.5
- B. an Indiana expanded child protection index check as defined by I.C. 20-26-2-1.3
- C. **()an expanded child protection index check in other states**
- D. a search of the national sex offender registry maintained by the United States Department of Justice
- E. beginning July 1, 2017, a search of the State child abuse registry
- F. verification of enrollment in and use of the Federal E-Verify program to check eligibility to be employed (all employees)
- G. **(x)** an Indiana Bureau of Motor Vehicles driver history if the position involves driving

Personally identifiable information reported to the Cooperative in the implementation of this policy shall not be released except as necessary to implement this policy or to defend a decision made pursuant to this policy.

The Board shall not contract with a person who has been convicted of an offense requiring license revocation per I.C. 20-28-5-8(c) unless the conviction has been reversed, vacated, or set aside on appeal. Likewise, the Board shall cease contracting with or terminate the contract of a person who has been convicted of an offense requiring license revocation per I.C. 20-28-5-8(c) unless the conviction has been reversed, vacated, or set aside on appeal. If the contract is with an entity, no employee of that contractor or subcontractor who has been convicted of an offense requiring license revocation per I.C. 20-28-5-8(c) may provide services under the contract with the Corporation unless the conviction has been reversed, vacated, or set aside on appeal.

Each contractor and subcontractor providing services to the Cooperative shall notify the Director within two (2) business days of the:

- A. [☒] arrest and/or filing of criminal charges against the contractor, subcontractor, or an employee of the contractor or subcontractor and the disposition of such arrest or filing of charges;
- B. conviction of the contractor, subcontractor, or an employee of the contractor or subcontractor for a crime; and
- C. substantiated report of child abuse or neglect of which the contractor, subcontractor, or employee of the contractor or subcontractor is the subject.

Each individual serving as a contractor or subcontractor who is likely to have direct, ongoing contact with children in the course of providing services to the Cooperative shall be required to report the (☒) arrest and the filing of criminal charges against the contractor or subcontractor, [end of option] conviction of the contractor or subcontractor for a crime, and substantiated report of child abuse or neglect of which the contractor or subcontractor is the subject. Compliance with this requirement shall be verified by either:

- A. inclusion of the requirement as a material term of the contractor's or subcontractor's contract; or
- B. execution of a certificate of compliance with this policy which shall be maintained with the contract in the Corporation's files.

Each contractor and subcontractor providing services to the Cooperative shall screen all employees who are likely to have direct, on-going ongoing contact with children in the course of providing services to the Cooperative. Screening shall only be required only one (1) time during the period of the current contract with the Cooperative as long as the contractor has continuously screened new hires, required the same of its subcontractors, and required that these employees report the (☒) arrest and the filing of criminal charges against the employee, [end of option] conviction of the employee for a crime, and substantiated report of child abuse or neglect of which the employee is the subject. Compliance with this requirement shall be verified by either:

- A. inclusion of the requirement as a material term of the contractor's or subcontractor's contract; or
- B. execution of a certificate of compliance with this policy which shall be maintained with the contract in the Cooperative's files.

Non-compliance with these requirements shall be a breach of a material term of any contract between a contractor/subcontractor and the Cooperative.

The Cooperative may obtain an expanded criminal history check or an expanded child protection index check at any time if the Corporation has reason to believe that the contractor, subcontractor, or employee of a contractor or subcontractor:

- A. is the subject of a substantiated report of child abuse or neglect or
- B. has been charged with or convicted of one (1) of the following crimes:
 1. Murder (I.C. 35-42-1-1).
 2. Causing suicide (I.C. 35-42-1-2).

3. Assisting suicide (I.C. 35-42-1-2.5).
4. Voluntary Manslaughter (I.C. 35-42-1-3).
5. Reckless homicide (I.C. 35-42-1-5).
6. Battery (I.C. 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
7. Aggravated battery (I.C. 35-42-2-1.5).
8. Kidnapping (I.C. 35-42-3-2).
9. Criminal confinement (I.C. 35-42-3-3).
10. A sex offense under I.C. 35-42-4 (including criminal deviate conduct, I.C. 35-42-4-2, before its repeal).
11. Carjacking (I.C. 35-42-5-2) (before its repeal).
12. Arson (I.C. 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
13. Incest (I.C. 35-46-1-3).
14. Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (I.C. 35-46-1-4(b)(2) and (3)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
15. Child selling (I.C. 35-46-1-4(d)).
16. Contributing to the delinquency of a minor (I.C. 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
17. An offense involving a weapon under I.C. 35-47 or I.C. 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
18. An offense relating to controlled substances under I.C. 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
19. An offense relating to material or a performance that is harmful to minors or obscene under I.C. 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
20. An offense relating to operating a motor vehicle while intoxicated under I.C. 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
21. Domestic battery (I.C. 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.

22. Public indecency (I.C. 35-45-4-1) committed: (A) after June 30, 2003; or (B) before July 1, 2003, if the person committed the offense by, in a public place: (i) engaging in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5); (ii) appearing in a state of nudity with the intent to arouse the sexual desires of the person or another person, or being at least eighteen (18) years of age with the intent to be seen by a child less than sixteen (16) years of age; or (iii) fondling the person's genitals or the genitals of another person.
23. An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

The Director shall develop administrative guidelines to implement this policy. These procedures shall provide for the review of each reported (x) arrest and/or criminal charge, [end of option] criminal conviction of an a contractor, subcontractor or employee of a contractor or subcontractor, and substantiated report of child abuse or neglect of which the contractor, subcontractor, or employee of a contractor or subcontractor is the subject and for a response to the reported information that protects members of the school community from persons who may be dangerous to them. Failure of a contractor or subcontractor to remove an employee from direct contact with students, upon request from the Director, shall be considered to be a material breach of the contractor's or subcontractor's contract with the Cooperative.

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Legal

I.C. 5-2-22 I.C. 10-13-3

I.C. 20-26-2-1.3

I.C. 20-26-2-1.5

I.C. 20-26-5-10, -11, and -11.5