



Mitchell School District 17-2 POLICY

Category

Approval

Series 700: Foundations and
Basic Commitments

Adopted	Revised
6/26/00	6/27/05, 5/24/21
Reviewed	
6/24/13, 6/12/17	

CRIMINAL BACKGROUND PROCESS

MSD 745

Except as herein provided, all individuals who are approved for hire by the Mitchell Board of Education, July 1, 2000 or later, shall submit to a criminal background investigation by means of fingerprint checks by the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation. Any person granted employment subject to this policy is employed on a temporary basis conditioned upon no disqualifying record being received from the criminal background investigation. Continued employment with the Mitchell School District is contingent upon the background check. The individual's employment shall be terminated if the investigation reveals that the individual has been convicted of a crime of violence as defined by SDCL 22-1-2(9), has been convicted of a sex offenses as defined in SDCL 22-22-30 or has been convicted of trafficking in narcotics. The District has the right to terminate the employment of any person if the investigation discloses a conviction for any criminal offense other than those specified, and to consider the conviction in a hiring decision. There will be no further notice or hearing with a termination under these circumstances.

Individuals who are required to undergo a criminal background check are:

- All employees
- Paid chaperones including paid parent chaperones who chaperone dances, field trips, and other student events
- Other employees that the district must pay through its payroll account, in keeping with the IRS definition of 'employee'.
- All adults who work with children in district facilities, or on district grounds or in district vehicles, whether as paid employees or volunteers for agencies, clubs, sports, etc. not an official part of the Mitchell School District. Criminal background checks for such individuals shall not be reimbursed by the Mitchell School District. Such individuals shall have no contact with children in district buildings, grounds or vehicles until such time as the criminal background check has been submitted to and affirmatively reviewed by the Office of the Superintendent.
- Others as approved by the Superintendent of Schools or his/her designee.

Individuals who **are not** required to undergo a criminal background check are:

- Individuals who are employed on a continuous basis for consecutive years by the Mitchell School District 17-2 as of July 1, 2000
- Any person hired to officiate, judge, adjudicate, or referee an event conducted under the authority of the South Dakota High School Activities Association;
- Intermittent substitute teachers who substituted in the Mitchell School District during the 1999-2000 school year and who will continue to substitute during the 2000-2001 school year and in ensuing school years;
- Intermittent business and industry training teachers, adjunct faculty, and community education teachers who taught during the 1999-2000 school year and who will continue to teach during the 2000-2001 school year and in ensuing years;
- School Board Members
- Parents/legal guardians and parent-designated grandparents acting in their capacity as parents in classrooms and school activities including volunteering in their child's classroom and accompanying their child's classroom on field trips.

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g) Others as approved by the Superintendent of Schools or his/her designee.

An individual whose employment in the district terminates after July 1, 2000 and who subsequently seeks to be re-employed shall be required to undergo the criminal background check.

Any school district employee who is employed by more than one school district is only required to obtain one criminal background investigation, if the background investigation was conducted no more than five years before the person is first employed by the additional school district. The results of the background investigation shall be transferred to any additional school district from the initial school district that obtained the criminal background investigation if the additional school district requests in writing to the initial school district that the results be transferred and the school district employee who was the subject of the criminal background investigation signs a written release authorizing the transfer.

The superintendent of the Mitchell School District 17-2 must report to the Department of Education within 10 days the name of any employee who is terminated or allowed to resign as a result of a criminal conviction. The reporting form will be provided by DE. 'Conviction' is defined as meaning a plea or verdict of guilty or a conviction following a plea of nolo contendere in this state or any other state. If the superintendent fails to file this report, he/she is subject to sanctions found in SDCL 13-8-48.

Legal Reference: SDCL 13-10-12, 12.1, 13, 14, 15 & 16

6/27/05 revision allowed search of original background check in hiring decision and allowed criminal background check done by other school districts in the last 5 years to satisfy requirements when hired at Mitchell School District 17-2.

7/13/09 revision added provisions requiring non-district employees working with children in district facilities to have a criminal background check while excluding parents from this requirement when acting in their capacity as a parent.

5/24/21 Explain the process for requesting transfer of background checks