



Book	Regulations
Section	G - Personnel
Title	CRIMINAL HISTORY BACKGROUND SCREENING
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St. Mary's County Public Schools (SMCPS) recognizes the importance and necessity of properly vetting all employees, candidates for employment, board members, substitutes, student activity leaders, contractors, subcontractors and vendors who will work on our campuses and have contact with our students. This regulation is structured to further ensure the safety and security of students and staff by establishing background screening standards and procedures for all school system employees, candidates for employment, board members, substitutes, student activity leaders, contractors, subcontractors, and vendors. The procedures are consistent with the provisions contained in the Annotated Code of Maryland, Education Article § 6-113, Family Law Article § 5-560, § 5-561 specifically (b)(6), § 5-568, and the Code of Maryland Regulations (COMAR) 13A.01.04.03, 13A.12.01 .01 through 13A.12.05.08, and the Code of Federal Regulations (CFR) Title 28 section 16.30 through 16.34 and 50.12 (b). Criminal history background screenings reduce or eliminate the risk of liability for legal claims of negligent hiring, negligent retention, and negligent supervision.

An individual subject to this regulation is any person who receives compensation from SMCPS for work or services performed under the direct supervision of a staff member, supervisor, or director of SMCPS, or the Superintendent, by or through certification requirements governed by local, state or federal law, or any other form of agreement or contract endorsed by the Board of Education of St. Mary's County (Board) through current policies and regulations, and includes employees, candidates for employment, board members, substitutes, student activity leaders, contractors, subcontractors, vendors, part-time employees, paid coaches, and substitute teachers.

A criminal history background screening is a review of:

- Federal, state, and/or local arrest, conviction, and/or disposition records based on fingerprint analysis and identification;
- Records maintained by the Maryland Judiciary Records Information System (Maryland Judiciary Case Search);
- Federal, state and/or local sex offender registry records, to include social security verification including residency history conducted by designated SMCPS staff and a private commercial organization; and,
- Department of Social Services child abuse and/or neglect background records.

As deemed appropriate by the Superintendent or designee, a criminal history background screening may also include:

- A credit check in accordance with the Fair Credit Reporting Act;
- A requirement to complete a drug screening test conducted by designated SMCPS staff and a private commercial organization; and,
- A social media background check, with prior written authorization from the person being screened.

Compliance Oversight

The Director of Safety and Security shall ensure that all SMCPS employees, candidates for employment, board members, substitutes, student activity leaders, contractors, subcontractors, and vendors have had a criminal history background screening and that the results of this screening are provided to the Director of Human Resources, the Director of Transportation, or their designee as requested.

Criminal History Background Screenings

A criminal history background screening is required for all candidates for employment and student activity leaders. A criminal history background screening is required for all employees who did not have a criminal background screening as a candidate and returning past employees to include part-time employees, paid coaches, substitute teachers, and student activity leaders. A candidate, returning past employee, or a student activity leader shall not begin employment, work, or an assignment at any school site in any capacity until they have completed the required pre-requisite self-reporting of any criminal history to SMCPS utilizing the Criminal History Background Screening Application (form #SS160_20161206), Criminal History Background Screening Agreement, Authorization, and Release (form #SS161_20161206), and completed and passed a criminal history background screening with the Department of Safety and Security that may include a pre-employment drug screen. The results of a criminal history background screening will be forwarded in writing by the Department of Safety and Security to the Director of Human Resources and, as needed, the candidate's assigned Director or designee. No candidate for employment or student activity leader will begin employment or an assignment prior to final approval received from the Director of Human Resources or the candidate's assigned director or designee.

All returning past employees may be required to complete a revised criminal history background screening at the direction of the Director of Human Resources or the candidate's assigned director or designee, regardless of the length of separation from employment.

A returning past employee who has been separated from employment for a period of one year or more (specifically meaning they have not received compensation for employment from SMCPS within a single calendar year) or a student activity leader who has not volunteered for a period of one year MUST complete a revised criminal history background screening.

Pursuant to § 6-113 of the Education Article of the Annotated Code of Maryland, SMCPS may not knowingly hire or retain any individual who has been convicted of a crime involving:

- An offense under § 3-307 or §3-308 of the Criminal Law Article or an offense under the laws of another state that would constitute a violation of § 3-307 or §3-308 of the Criminal Law Article if committed in this State;
- Child sexual abuse under § 3-602 of the Criminal Law Article or an offense under the laws of another state that would constitute child sexual abuse under § 3-602 of the Criminal Law Article if committed in this State; or
- A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in this State. Specifically defined crimes of violence include:
 - Abduction, arson in the first degree, kidnapping, manslaughter (except involuntary manslaughter), mayhem, maiming, murder, rape, robbery, carjacking, armed carjacking, sexual offense in the first degree, sexual offense in the second degree, use of a handgun in the commission of a felony or other crime of violence, child abuse in the first degree, sexual abuse of a minor (as proscribed under § 3-602 of the Criminal Law Article), any attempt to commit the listed crimes, and;
 - A continuing course of conduct with a child (as proscribed under § 3-315 of the Criminal Law Article), assault in the first degree, assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit sexual offense in the first or second degree.

In accordance with (COMAR) 13A.12.01 .03 (D), any individual who has been convicted of, pleads guilty or nolo contendere with respect to, or receives probation before judgment with respect to, a crime against children as defined in §3-601 of the Criminal Law Article or a crime of violence, or an individual whose teaching certificate or other professional certification is suspended, revoked, or voluntarily surrendered in Maryland or in any other state for cause comparable to one for which suspension or revocations is required in Maryland is rendered ineligible for certification.

In addition, any person who is required to have a criminal history background screening who has a conviction, probation before judgment, stet docket entry, plea of guilty or nolo contendere (*non-contested plea*), or arrest pending disposition for the following offenses within the specified timeframes, may be required to provide an explanation and this information may be considered by the Department of Human Resources as grounds for ineligibility for employment.

Offense	Exam ples
Any Sex Offenses (May be permanently disqualifying)	Child molestation, rape, sexual assault, sex offenses, sexual battery, prostitution or the solicitation of prostitution, child pornography, and indecent exposure
Felony Offenses (May be permanently disqualifying)	Murder, aggravated assault, robbery, aggravated burglary, kidnapping, any civil rights violation, distribution or possession with intent to distribute any controlled dangerous substance (CDS)
Felony Offenses not specifically enumerated above (Occurring within the past 10 years and may be permanently disqualifying)	Arson, abuse or neglect of an adult, assault, assault with intent, breaking and entering, burglary, theft, carjacking, weapons, other controlled dangerous substance or drug offenses, manslaughter, or any others not listed
Crimes Against Children (May be permanently disqualifying)	Child abuse, child neglect, or child pornography
Misdemeanor Offenses (Occurring within the past 7 years)	Simple assault, simple battery, domestic violence, weapons, or breaking and entering
Misdemeanor Drug and Alcohol Offenses (Occurring within the past 7 years)	Drug possession

All other Misdemeanor Offenses (Occurring within the past 7 years)	Any other offenses considered to be a potential danger to children or directly related to the functions of the employee
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Any felony or misdemeanor offenses not listed, to include theft, bad check, uttering, traffic violations, public intoxication, driving while intoxicated or under the influence (for non-driving employee assignments only), and natural resources violations shall be reviewed by the Director of Safety and Security and the Director of Human Resources or the candidates assigned director or designee for a final determination of approval.

A court entry of "no/le prosequi" (we shall no longer prosecute) will require further investigation by SMCPS to determine the circumstances causing the court to create this docket entry before determining final approval for employment.

In accordance with the Equal Employment Opportunity Commission (EEOC) reliance on criminal history records and information that may have an adverse impact on employment must be job-related and consistent with business necessity. The following factors are also considered:

- The nature and gravity of the offense or conduct,
- The time that has passed since the offense, conduct and or completion of sentence, or
- The nature of the job (work duties) held or sought.

The EEOC further underscores the importance of an individualized assessment prior to excluding an applicant based on a criminal record. A reported arrest does not establish that criminal conduct has occurred. An arrest, however, may in some circumstances trigger an inquiry into whether the conduct underlying the arrest justifies an adverse employment action.

Application Process

The Department of Human Resources or the Department of Transportation shall refer all candidates, returning past employees, or student activity leaders to the Department of Safety and Security for a criminal history background screening and photograph. The Director of Human Resources or the candidate's assigned director or designee will ensure notification of referrals for criminal history background screening are completed and forwarded to the Department of Safety and Security through official transmittal via e-mail or facsimile a minimum of 24 hours prior to a candidate for employment contacting the Department of Safety and Security. Likewise, site administrators or their designee will forward notification of referrals for criminal background screening of student activity leaders to the Department of Human Resources. The Department of Human Resources or the candidates assigned director or designee will instruct all candidates, employees, or student activity leaders that they are to call the Department of Safety and Security to schedule a time for initiating the fingerprint process prior to responding to the department. It is understood that circumstances may result in the need to complete an emergency hiring; and under this circumstance, advanced notification would not occur. The candidates, employees, or student activity leaders shall report, in person, to the Department of Safety and Security as the result of a scheduled and confirmed appointment Monday through Friday. Additional accommodations will be made for fingerprinting of candidates for employment during the months of July through September for the purpose of ensuring appropriate staffing levels for the beginning of the school year. To accomplish this, resources from both the Department of Human Resources and the Department of Safety and Security may be provided throughout this time period.

The Director of Safety and Security or designee shall verify the identification of the referred candidate, employee, or student activity leader by requesting and recording the form of valid photo identification presented (driver's license, MVA Identification Card, military ID, or passport).

The candidates for employment, substitutes, student activity leaders, contractors, subcontractors, and vendors will be provided a copy of the Noncriminal Justice Applicant's Privacy Rights Statement (form #SS 165_20161206 or #SS 166_20161206). They will sign a second copy of the same document acknowledging receipt as required by the Federal Bureau of Investigation, complete the Criminal History Background Screening Application (form #SS160_20161206), Criminal History Background Screening Agreement, Authorization, and Release (form #SS161_20161206), and forward each document to the Director of Safety and Security, or designee, for processing. The candidate, employee, or student activity leader is required by law to make a sworn statement or affirmation disclosing the existence of any criminal conviction, probation before judgment disposition, not criminally responsible disposition, or pending criminal charges without a final disposition. The candidate, returning past employee, or student activity leader will be photographed at the time of application. A non-refundable fee of \$60.00 will be submitted with the application in the form of cash, check, money order, or authorization for employee payroll deduction (form #SS 163_20161206). This fee may be adjusted at the discretion of the Director of Safety and Security and with the approval of the Superintendent of Schools, based on current costs associated with completing any criminal history background screening.

No Criminal History Background Screening Application will be processed without payment. A receipt for payment will be provided to the candidate, returning past employee, or student activity leader by staff from the Department of Safety and Security. A reimbursement of fees for substitute employees and student activity leaders may be authorized as directed by the Director of Human Resources or designee.

The Director of Safety and Security or designee will ensure the immediate processing of the criminal history background screening. Digital or inked fingerprint impressions shall be taken from each candidate, employee, or student activity leader (digital live scanning shall be the preferred method) and forwarded to both the State of Maryland and Federal Bureau of Investigation for comparison against their criminal history records information database.

The Department of Safety and Security shall screen all candidates for employment, substitutes, student activity leaders, contractors, subcontractors and vendors through the Maryland Judiciary Records Information System (Maryland Judiciary Case Search), and all available local, state, and national sex offender registries before continuing the process to complete the Criminal History Background Screening Application (form #SS160_20161206). Staff performing the checks shall indicate on the Criminal History Background Screening Application that the candidate, employee, or student activity leader has been screened through the Maryland Judiciary Records Information System (Maryland Judiciary Case Search) and sex offender registry.

During the initial screening, the Department of Safety and Security shall review any employee, candidates for employment, substitutes, student activity leaders, contractors, subcontractors and vendors, disclosure (as required by Maryland Law) of prior criminal charges. If the candidate, employee, or student activity leader disclosure of prior criminal charges includes any offenses as enumerated in this regulation, staff performing the initial screening are authorized and will immediately cause the candidate, employee, or student activity leader to be interviewed by the Director of Safety and Security or designee to investigate and garner additional facts from the candidate, employee, or student activity leader pertaining to the disclosure of prior criminal charges. All information shall be forwarded to either the Director of Human Resources, the Director of Transportation or their designees, depending upon the position in question, for final consideration.

The Department of Safety and Security will forward all fees collected in connection with the criminal history background screening to the Department of Fiscal Services utilizing the Transmittal of Cash Receipts for Fees Collected (form #SS164_20161206). All funds collected will be deposited as soon as practical to designated staff in the Department of Fiscal Services for posting to an established local revenue account identified as Safety and Security Fees (Account number 12-219-5119). The fees collected from candidates, employees, or student activity leaders are based on governmental and private sector database access fees and SMCPs administrative fees for time and materials. All revenues generated from this fund will be used to support future funding needs for the Department of Safety and Security.

The Department of Safety and Security will monitor all requests for criminal background screenings and review and process each request as soon as possible. Generally, all results will be returned to the Department of Human Resources within seven business days from the date of submission. Delays can occur as SMCPs is dependent upon outside sources for the return of data. This includes a structured prioritization schedule established by the Federal Bureau of Investigation and the Maryland State Police that may cause extended return times especially during peak demand times (the summer months). In the event of exigent circumstances requiring expedited processing, the Director of Human Resources or the candidate's assigned Director or designee may coordinate efforts with the Director of Safety and Security or designee to complete the screening process as soon as possible.

The Director of Safety and Security or designee shall ensure the completion of the criminal history background screening to include completing any required investigation of facts to determine the circumstances surrounding any alleged criminal misconduct attributed to the candidate, employee, or student activity leader. The Director of Safety and Security or designee upon completion of the criminal history background screening and any required investigation of facts shall cause notification of the completed criminal history background screening, to include any findings, which will then be forwarded to the Department of Human Resources or the candidates assigned director or designee. This shall be done through transmittal of the Record of Criminal History Background Screening (form #SS162_20161206) which will include a status report for each candidate, employee, or student activity leader. This form shall be signed by the reviewing staff member and the Director of Safety and Security, or designee. The Director of Safety and Security will ensure the maintenance of an electronic database, documenting the tracking and all supporting documents pertaining to the results of all criminal history background screenings. The results of the investigation shall be forwarded to either the Director of Human Resources or the candidate's assigned director or designee depending upon the position in question for final consideration. In the event of any findings, notification shall be forwarded to the candidate, employee, or student activity leader by the Department of Safety and Security as soon as possible advising them of the results of the criminal history background screening.

The Director of Safety and Security or designee shall cause the notification to be forwarded to the candidate, employee, or student activity leader, as soon as possible, notifying them of the results of the criminal history background screening and ensuring that the candidate has the opportunity to confirm or challenge the accuracy of the information in the record, and provide the candidate a reasonable amount of time to correct the record or decline to challenge the record any further in accordance with 28 Code of Federal Regulations (CFR) § 16.34.

Identification

Employees and student activity leaders, except substitute employees, who complete the criminal history background screening and receive approval for employment from the Director of Human Resources or the candidate's assigned director or designee, shall be issued a SMCPs identification badge or access control card, using only their legal name (supported through required documentation), by the Department of Safety and Security, clearly identifying their employment status. Identification badges and access control cards shall be clearly visible at all times while on school property and at any school-related activity occurring off the school grounds. Identification badges and access control cards will be issued to the employee through internal office channels.

Notification of Criminal Charges for Current Employees

The Director of Safety and Security or designee shall cause all current and active employees, substitutes, student activity leaders, contractors, subcontractors and vendors and student activity leaders to be registered nationally (as available and allowed by law) to ensure SMCPs receives notifications from the State of Maryland's Department of Public Safety, other state Criminal Justice Information Systems, and the Federal Bureau of Investigation pertaining to any arrest or filing of criminal charges against a current employee or student activity leader who has completed a criminal history background screening with SMCPs.

The Director of Safety and Security, or designee, upon receipt of notification that a current employee has been arrested or charged with a sexual offense, child abuse, or crime of violence, as set forth in Section 6-113 of the Education Article of the Annotated Code of Maryland, or of any other offense of moral turpitude that bears on the employee's fitness to perform his or her duties, shall cause notification of this information to be forwarded to the Department of Human Resources or the employee's assigned director or designee, as appropriate. Unless directed otherwise by local law enforcement, the Director of Safety and Security or designee upon notification of a current employee arrest or filing of criminal charges, shall cause the immediate update of the employee criminal history background screening to include any required investigation of facts. Upon completion of the updated criminal history background screening, the Director of Safety and Security or designee will provide a status update to the Department of Human Resources or the employee's assigned director or designee, as appropriate.

The Director of Human Resources or the employee's assigned director or designee shall cause a notification to be forwarded to the current employee, as soon as possible, notifying them of the results of the updated criminal history background screening. This notification shall cite the results of the updated criminal history background, any administrative actions that were taken, and any level of employee disciplinary action to be taken as a result of the update, citing all applicable Board Policies and Regulations to include policy and regulation GDB and GDB-R.

Contractors, Subcontractors, and Vendors - Criminal History Screenings

Pursuant to § 6-113 of the Education Article of the Annotated Code of Maryland, SMCPS, any applicable contracts shall provide that a contractor or subcontractor for the school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the contractors, subcontractor, or vendor has been convicted of:

- An offense under § 3-307 or §3-308 of the Criminal Law Article or an offense under the laws of another state that would constitute a violation of § 3-307 or §3-308 of the Criminal Law Article if committed in this State; or
- Child sexual abuse under § 3-602 of the Criminal Law Article or an offense under the laws of another state that would constitute child sexual abuse under a violation of § 3-602 of the Criminal Law Article if committed in this State;
- A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in the State of Maryland. Specifically defined crimes of violence include:
 - Abduction, arson in the first degree, kidnapping, manslaughter (except involuntary manslaughter), mayhem, maiming, murder, rape, robbery, carjacking, armed carjacking, sexual offense in the first degree, sexual offense in the second degree, use of a handgun in the commission of a felony or other crime of violence, child abuse in the first degree, sexual abuse of a minor (as prescribed under § 3-602 of the Criminal Law Article), any attempt to commit the listed crimes, and;
 - A continuing course of conduct with a child (as proscribed under § 3-315 of the Criminal Law Article), assault in the first degree, assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first or second degree.

In addition, Maryland Law requires certain child sex offenders to register with the State and with the local law enforcement agency in the county in which they will reside, work and/or attend school. § 11-722(c) of the Criminal Procedures Article of the Annotated Code of Maryland states that "[a] person who enters into a contract with a county board of education or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant." §11-722(c) of the Criminal Procedures Article provides that "a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both."

All SMCPS contracts executed on behalf of the board will include a required "Certification of Compliance" documenting that a contractor, subcontractor, and/or vendor (where applicable) has complied and will continue to comply with the legal requirements as enumerated.

The Director of Safety and Security or designee shall cause the collection of records documenting the names of all employees of contractors, subcontractors, and vendors that are subject to the provisions of the referenced laws, policies, and regulations.

SMCPS reserves the right through the Superintendent or designee to identify any individual contractor or group of contractors who shall be required to participate in the SMCPS criminal history background screening process with the Department of Safety and Security. The focus of this requirement will be any individual contractor or group of contractors who, by nature of their work with SMCPS, will have a higher frequency of direct contact with students. This would include but not be limited to Special Education Services and temporary employment agencies that provide support to SMCPS for daily staffing vacancies. The Superintendent or designee can at their discretion authorize that SMCPS identification cards or access control cards be issued to identified contractors.

The Director of Safety and Security or designee shall cause the periodic audit of the records documenting the names of all employees of contractors, subcontractors, and vendors that are subject to the provisions of the referenced laws, policies, and regulations to ensure compliance by submitting contractors, subcontractors, and vendors.

Privacy and Records Retention

Documentation relating to criminal history background screenings shall be maintained by the Director of Safety and Security and all designees as highly confidential records and shall be properly secured in the office at all times. Any required review of the documentation by the Director of Human Resources or other Director or designee shall be completed by reporting directly to the Department of Safety and Security. The documentation must remain in the Department of Safety and Security at all times. No duplication of records is authorized. The employee disclosure of personal information, to include social security numbers, is required to complete this process.

Documentation pertaining to official notice is available and given under the Federal Privacy Act of 1974 and the Paperwork Reduction Act of 1995 (form #SS 100_20161206) upon request. Documentation relating to criminal history background screenings shall be maintained by the Director of Safety and Security in the Department of Safety and Security for the full period of employment of each employee. Documentation shall be released only in accordance with applicable state or federal law. All files containing criminal history information for candidates for employment who were not hired (employed) by SMCPS will be purged one year after the final determination regarding the status of a candidate for employment in accordance with federal law. Following a period not to exceed 90 days, with no activity or a final determination not to hire any prospective candidate for employment, all Criminal History Records Information (CHRI) shall be removed from files and shredded.

St. Mary's County Public Schools, Leonardtown, Maryland