

Holbrook Public Schools

**Criminal Background Checks**

As a part of its on-going commitment to providing a safe and appropriate learning and work environment for its students and staff, The Holbrook Public Schools will review available criminal history information on all individuals, who may have direct and unmonitored contact with children. In accordance with all applicable federal and state laws and regulations regarding Criminal Offender Record Information (“CORI”) and Criminal History Record Information (“CHRI”), the Holbrook Public Schools shall conduct individual criminal background checks before an applicant is hired or otherwise provides services and periodically, at least once every 3 years. The fee charged by the provider to the employee and educator for national fingerprint background checks will be \$55.00 for school employees subject to licensure by DESE and \$35.00 for other employees, which fee may from time to time be adjusted by the appropriate agency.

The Superintendent, Principal or their certified designees shall obtain all CORI and CHRI information from the Department of Criminal Justice Information Services (“DCJIS”) on all current employees and prospective individuals who may have direct and unmonitored contact with students,<sup>1</sup> which includes, but not limited to, the following:

- employees and applicants for employment, including promotions;
- volunteers and interns;
- student teachers;
- individuals who regularly provide school related transportation to children;
- subcontractors or laborers commissioned by the Holbrook Public Schools or employed by the town to perform work on school grounds or with students; or
- any other individuals who may have direct and unmonitored contact with students.

All individuals listed above, except volunteers, subcontractors or laborers, are required by law to submit to fingerprint based state and national criminal history record check. The Holbrook Public Schools, in its discretion, may require volunteers, subcontractors or laborers to submit to fingerprint based state and national criminal history record checks.

Any review of Criminal Offender Record Information (“CORI”) and/or state and national criminal history record information accessed through fingerprints (“CHRI”) available through the Department of Criminal Justice Information Services (“DCJIS”) will follow procedures and requirements established by the DCJIS, as authorized by Mass. Gen. Laws, c. 71, § 38R and 42 U.S.C. § 16962 in accordance with all applicable state and federal laws and regulations, and in compliance with Mass. Gen. Law, c. 6, §§167-18 and 803 CMR §§ 2.00.

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<sup>1</sup> Direct and unmonitored contact with children is defined as contact with students when no other employee for whom the school/district has made a suitability determination is present. “Contact” refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

When requesting CORI and other criminal history information, the following policy and procedures should be followed:

1. Requests for CORI.

The individual will be asked to complete a CORI Acknowledgement Form (Attachment A) and the school/district will confirm the individual's identity.

Unless a negative decision is made regarding suitability for employment, the individual will be required to submit his/her fingerprints following the procedures outlined in the attached instruction sheet. (Attachment B).

If an individual's CORI has already been accessed within a year that s/he signed the CORI Acknowledgement Form, the individual must be given seventy-two (72) hour notice that an additional CORI check will be conducted.

2. Access to CORI and CHRI.

All CORI/CHRI information must be treated as confidential and may only be accessed by individuals with a "need to know" which may include, but is not limited to, staff submitting or processing the criminal history requests and school officials making hiring decisions. A list of those individuals authorized to have access to, or view, CORI/CHRI information must be established and updated every six (6) months.

CHRI information cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations.

The Holbrook Public Schools may be audited by DCJIS and/or the FBI and could be subject to sanctions. Unauthorized disclosure of CORI/CHRI information may result in criminal charges.

3. CORI/CHRI Training.

An informed review of a criminal record requires training. All staff authorized to conduct CORI/CHRI checks and/or to review CORI/CHRI will review and become familiar with, the educational and relevant training materials regarding CORI/CHRI and Statewide Applicant Fingerprint Identification Services (SAFIS) made available by appropriate agencies, including the DCHIS.

4. Storage of CORI/CHRI.

CORI/CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards that are in compliance with the most recent CJIS Security Policy have been implemented to ensure the security and confidentiality of CORI/CHRI. The CJIS Security Policy can be found at <http://www.mass.gov/eopss/law-enforce-and-cj/cjis-security-policy.html>. Each individual involved in the handling of CORI/CHRI is to familiarize him/herself with these safeguards.

In addition to the above, each individual involved in the handling of CORI/CHRI will strictly adhere to the policy on the storage, retention and destruction of CORI/CHRI.

5. Retention and Destruction of CORI/CHRI.

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes only:

- Historical reference and/or comparison with future CHRI requests
- Dispute of the accuracy of the report
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CORI/CHRI will be kept for the above purposes in separate, secured, locked locations in the Office of the Superintendent.

When no longer needed, CHRI/CORI and any summary of CHRI/CORI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. If the shredding of paper copies of CHRI/CORI is performed by an outside vendor, an employee of the Holbrook Public Schools must supervise such shredding.

6. Use of Criminal History in Background Screening.

Information from CORI/CHRI records used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied and for current employees during periodic criminal background checks.

Unless otherwise provided by law, a criminal record will not automatically disqualify an individual from employment, contract work, volunteering or interning. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

7. Verifying a Subject's Identity.

If a criminal record is received from DCJIS, the information must be closely compared with the information on the Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI/CHRI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI/CHRI record and documents provided by the applicant.

8. Inquiring About Criminal History.

In connection with any decision regarding employment, internships or volunteer opportunities within the Holbrook Public Schools, the individual shall be provided with a copy of his/her criminal history record, whether obtained from DCJIS or from any other sources, prior to questioning the individual about his/her criminal history. The source(s) of the criminal history record is also to be disclosed to the individual.

9. Determining Suitability.

If a determination is made, based on the information as provided in section 7 of this policy, that the criminal record belongs to the individual under consideration, and the individual does not dispute the record's accuracy, then the determination of suitability for the position will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:

- Relevance of the record to the position sought;
- The nature of the position or work to be performed;
- Time that has passed since the [offense,] conviction and/or completion of the sentence;
- Age of the applicant at the time of the offense;
- Seriousness and specific circumstances of the offense;
- The number of offenses;
- Whether the applicant has pending charges;
- any relevant evidence of rehabilitation or lack thereof; and
- any other relevant information, including information submitted by the applicant or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

A record of the suitability determination must be retained for the period of the employee's employment or for seven (7) years, whichever is longer. The following information will be included in the determination:

- The name and date of birth of the employee or applicant;
- The date on which the school received the national criminal history check results; and
- The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the Holbrook Public Schools conducted a suitability determination.

10. Relying on Previous Suitability Determination.

Under certain circumstances, consistent with 603 CMR 51.06, the Holbrook Public Schools may rely on a suitability determination made by another school employer or DESE, if the following factors are met:

- Suitability determination was made within the last seven (7) years; and
- The applicant has not resided outside Massachusetts for any period longer than three (3) years since the suitability determination; and
- either (i) the individual has been continuously employed for one or more school employers or has gaps totaling no more than 2 years in his/her employment for school employers; or (ii) if the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made the favorable suitability determination.

Upon request of another school employer or the individual for whom the Holbrook Public Schools conducted the suitability determination, the Holbrook Public Schools shall provide documentation of the suitability determination.

11. Adverse Decisions Based on CORI/CHRI.

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check and/or CORI/CHRI, the following steps must be taken immediately prior to making a final adverse determination:

- Provide the applicant/employee with a copy of his/her CORI/CHRI used in making the adverse decision;
- Provide the applicant/employee a copy of the employer's CORI/CHRI policy;
- Identify the information in the individual's CORI/CHRI that is the basis for the potential determination;
- Provide the source(s) of the criminal history;
- Provide the applicant/employee with a copy of this CORI/CHRI Policy;
- Provide the applicant/employee the opportunity to complete or challenge the accuracy of his/her CORI/CHRI; and
- Provide the applicant/employee with information on the process for updating, changing, or correcting CORI/CHRI.

A final adverse decision based on an individual's criminal history/CORI/CHRI will not be made until the applicant/employee has been afforded a reasonable time depending on the particular circumstances no longer than 30 days to correct or complete the CORI/CHRI.

12. Secondary Dissemination of CORI/CHRI.

All CORI/CHRI obtained from the DCJIS is confidential and can only be disseminated as authorized by law or regulation. If an applicant/employee's CORI/CHRI is released outside of the Holbrook Public Schools, including dissemination at the request of the applicant/employee, a record of dissemination must be made in the secondary dissemination log. The central secondary dissemination log is subject to audit by DCJIS and the FBI.

The following information must be recorded in the log:

- Applicant/Employee Name;
- Date of Birth;
- Date and Time of the dissemination;
- Name of the individual to whom the information was provided;
- Name of the agency for which the requestor works;
- Contact information for the requestor; and\
- The specific reason for the request.

13. Reporting to the Commissioner of Elementary and Secondary Education.

Pursuant to M.G.L. c. 71, § 38R and 603 CMR 51.07, if XXX dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, XXX shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by the Department and shall include the reason for the action or resignation as well as a copy of the criminal record check results. XXX shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(1) to the Commissioner.

Pursuant to M.G.L. c. 71, § 38R and 603 CMR 51.07, if XXX discovers information from a state or national criminal record check about a licensed educator of an applicant for a Massachusetts educator license that implicates grounds for license action -pursuant to 603 CMR 7.15(8)(a), XXX shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether XXX retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(2) to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

SOURCE: SCMLLP

LEGAL REFS.: M.G.L.6:167-178; 15D:7-8; 71:38R, 151B, 276:100A  
P.L. 92-544; Title 28 U.S.C. § 534; Title 28 C.F.R. 20.33(b)  
42 U.S.C. § 16962  
603 CMR 51.00  
803 CMR 2.00  
803 CMR 3.05 (Chapter 149 of the Acts of 2004)  
[FBI Criminal Justice Information Services Security Policy Procedure for correcting a criminal record](#)  
[FAQ – Background Checks](#)

CROSS REF: File: ADDA-R C.O.R.I. Requirements

ADOPTED: August 20, 2003

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