

Adopted: MSBA/MASA Model Policy 404

Revised: 2022 (Originated 1995)

404 Employment Background Checks

[Note: The provisions of this policy substantially reflect statutory requirements.]

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment in the BrightWorks service cooperative in order to promote the physical, social, and psychological well-being of its students. To that end, the service cooperative will seek a criminal history background check for applicants who receive an offer of employment with the service cooperative. The service cooperative may also elect to do background checks of other volunteers, and independent contractors in the service cooperative.

II. GENERAL STATEMENT OF POLICY

- A. The BrightWorks service cooperative shall require that applicants for service cooperative positions who receive an offer of employment, The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the service cooperative that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the service cooperative.
- B. The service cooperative specifically reserves any and all rights it may have to conduct background checks regarding current employees, applicants, or service providers without the consent of such individuals.
- C. Adherence to this policy by the service cooperative shall in no way limit the service cooperative's right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, service providers, independent contractors, and student employees.

III. PROCEDURES

- A. Normally an individual will not commence employment or provide services until the service cooperative receives the results of the criminal history background check. The service cooperative may conditionally hire an applicant or allow an individual to provide services pending completion of the background check but shall notify the individual that the individual's employment or opportunity to provide services may be terminated based on the result of the background check. Background checks will be performed by the Minnesota Bureau of

Criminal Apprehension (BCA). The BCA shall conduct the background check by retrieving criminal history data as defined in Minnesota Statutes section 13.87. The service cooperative reserves the right to also have criminal history background checks conducted by other organizations or agencies.

- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching services to the service cooperative, the individual must sign a criminal history consent form, which provides permission for the service cooperative to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the service cooperative, at the election of the service cooperative, in an amount equal to the actual cost to the BCA and the service cooperative of conducting the criminal history background check. The cost of the criminal history background check is the responsibility of the individual unless the service cooperative decides to pay the costs for a volunteer or an independent contractor. If the individual fails to provide the service cooperative with a signed Informed Consent Form and fee at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.

[Note: If the service cooperative elects to receive payment, it may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and then pay the superintendent of the BCA directly to conduct the background check.]

- C. The service cooperative, in its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the Minnesota Professional Educator Licensing and Standards Board or the Minnesota Commissioner of Education within the 12 months preceding an offer of employment or permission to provide services.
- D. The service cooperative may use the results of a criminal background check conducted at the request of another school hiring authority if:
1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 2. the other school hiring authority conducted a criminal background check within the previous twelve months.
 3. the individual executes a written consent form giving the service cooperative access to the results of the check; and
 4. there is no reason to believe that the individual has committed an act



subsequent to the check that would disqualify the individual for employment or provision of services.

- E. For all non-state residents who are offered employment, the service cooperative shall request a criminal history background check on such individuals from the superintendent of the BCA and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the service cooperative that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the service cooperative. Such individuals must provide an executed criminal history consent form.
- F. When required, individuals must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.
- G. Copies of this policy shall be available in the service cooperative's employment office and will be distributed to applicants for employment. The need to submit to a criminal history background check may be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law.
- I. If the criminal history background check precludes employment with, or provision of services to, the service cooperative, the individual will be so advised.
- J. The service cooperative may apply these procedures to other volunteers, independent contractors, or student employees.

IV. CRIMINAL HISTORY CONSENT FORM

A form to obtain consent for a criminal history background check is included with this policy.

- Legal References:**
- Minn. Stat. § 13.04, Subd. 4 (Rights of Subjects of Data)
 - Minn. Stat. § 13.87, Subd. 1 (Criminal Justice Data)
 - Minn. Stat. § 123B.03 (Background Check)
 - Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child, Elder, and Individuals



with Disabilities Protection Background Check Act)
Minn. Stat. § 364.09(b) (Exception for School Districts)

Cross References: None