

Section 3000: Fiscal Management

3740-R Criminal History Background Checks- Independent Contractors/ 3740-R
Vendors

1. Definitions

A. An independent contractor/vendor for purposes of this policy is defined as follows:

1. An owner or employee of an entity that has a contract with Grand Rapids Public Schools ("GRPS"), and the contract with GRPS is for the purpose of providing food, custodial, transportation, counseling, administrative or instructional services to pupils or related and auxiliary services to special education pupils; or
2. To work on school property as an individual under a contract with GRPS for the purpose of providing food, custodial, transportation, counseling, administrative or instructional services to pupils or related and auxiliary services to special education pupils.
3. The term "independent contractor/vendor" does not apply to individuals of 19 years of age or less and who are enrolled as a general education pupil in GRPS or who are 26 years of age or less and are enrolled in special education programs or services in GRPS. However, before such individual is assigned to regularly and continuously work under contract, GRPS shall perform a criminal history check on that person using the department of state police's internet criminal history access tool ("ICHAT"). If the (ICHAT search reveals that the individual has been convicted of a listed offense then that individual shall not be assigned to work under contract with GRPS.

If the (ICHAT search reveals that the individual has been convicted of a felony other than a listed offense, then such individual shall not be assigned to work under contract with GRPS unless the superintendent and the Board of Education approve the work assignment in writing.

B. "School property" means a building, facility, structure or real property owned, leased or otherwise controlled by GRPS, or other than a building, facility, structure or real property that is no longer in use on a permanent, continuous basis but is still used to (1) impart educational instruction or (2) for use of

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students not more than 19 years of age for sports or other recreational activities.

- C. "Regularly and Continuously Assigned" means: The assignment requires the individual to be in the school or on school property at least once per week or two or more times per month for 60 days or more.
- D. Notwithstanding the above definitions, any contract employee who has direct one-on-one contact with students must undergo the criminal background checks.

2. Required Criminal Background Checks

A. Newly Assigned Independent Contractors/Vendors: Any individual who is newly assigned to regularly and continuously work under a vendor contract with GRPS in a school or school facility must:

- 1. Have a criminal background check through the Criminal Records Division of the Michigan Department of State Police, and
- 2. Such individual must have a criminal records check through the Federal Bureau of Investigation ("FBI").

The above criminal records checks must be completed before such individual is assigned to regularly and continuously work under any contract in a school or school facility. The individual must submit his or her fingerprints to the Department of Michigan State Police for the purpose of conducting a criminal records check with the FBI.

Payment of any fee associated with any criminal records check for the contract employee is the responsibility of the vendor and/or the contract employee.

B. Currently Assigned Independent Contractors/Vendors: Any individual who has been assigned to regular and continuous work under a vendor contract with GRPS in a school or school facility as of January 1, 2006, must undergo the following criminal background checks not later than July 1, 2008:

- 1. Have a criminal background check through the Criminal Records Division of the Michigan Department of State Police, and

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2. Such individual must have a criminal records check through the FBI, before such individual is assigned to regularly and continuously work under any contract in a school or school facility.
- C. To satisfy the criminal background checks for contract employees, the GRPS Board must have in its possession the results of the criminal records check with the Michigan State Police and a criminal records check with the FBI. [Individuals who are minors and who are not enrolled as either a regular education pupil or special education pupil with GRPS should have written consent from their parent/guardian.]
3. Results of Criminal Background Checks
 - A. If, as a result of the criminal background checks, or if GRPS learns through an authoritative source, that an independent contractor/vendor has been convicted of a listed offense, then that individual shall not be allowed to work under a contract with GRPS.
 - B. If the individual has been convicted of a felony other than a listed offense, then that individual shall not be allowed to work under a contract with GRPS unless the Superintendent and the Board of Education specifically approve in writing the work assignment in accordance with Board policy.
 - C. Listed offenses are those defined in MCL 28,722 and include the following:
 1. MCL 750.145a - Accosting, enticing or soliciting child (less than 16 years of age) for immoral purposes.
 2. MCL 750.145b - Accosting, enticing or soliciting child (less than 16 years of age) for immoral purposes - second or subsequent offenses.
 3. MCL 750.145c - Child (a person less than 18 years of age who has not been legally emancipated) sexually abusive activity or material, including possession of child sexually abusive material.
 4. MCL 750.158 - Crime against nature (i.e., sodomy and bestiality) if the victim is an individual less than 18 years of age.
 5. A third or subsequent violation of any combination of the following:

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- (a) MCL 750.167(1) - Indecent or obscene conduct in a public place;
 - (b) MCL 750.335a - Indecent exposure;
 - (c) A local ordinance of a municipality substantially corresponding to a section described in (A) or (B), supra.
6. Except for juvenile disposition or adjudication, a violation of:
 - (a) MCL 750.338 - Gross indecency between males; fellatio or masturbation;
 - (b) MCL 750.338a - Gross indecency between females; oral sex;
 - (c) MCL 750.338b - Gross indecency between male and female persons; If the victim is an individual less than 18 years of age.
7. MCL 750.349 - Kidnapping, if victim is an individual less than 18 years of age.
8. MCL 750.350 - Kidnapping; child under 14 years of age with intent to detain or conceal from child's parent/guardian.
9. MCL 750.448 - Soliciting or accosting by a person 16 years of age or older, if victim is an individual less than 18 years of age.
10. MCL 750.455 - Pandering.
11. MCL 750.420b - First degree criminal sexual conduct.
12. MCL 750.520c - Second degree criminal sexual conduct.
13. MCL 750.520d - Third degree criminal sexual conduct.
14. MCL 750.520e - Fourth degree criminal sexual conduct.
15. MCL 750.520g - Assault with intent to commit criminal sexual conduct.
16. Any other violation of a law of the state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.
17. MCL 750.10a - Offense by sexually delinquent person (i.e., "any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sexual

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relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16").

18. An attempt or conspiracy to commit an offense described in (1) through 17).
19. An offense substantially similar to an offense described in (1) through (17) under a law of the United States, any state, or any country or any tribal or military law.

4. Duty to Report

- A. Any independent contractor/vendor regularly and continuously working under a contract in a GRPS school or school facility, who is charged with a crime listed in Section 1535a(1), MCL 380.1535a(1) or Section 1539b(1), MCL 380.1539b(1) of the Revised School Code, or a substantially similar law of another state, political subdivision of this state or another state or of the United States, must do the following within three (3) business days of being arraigned for such a crime:
 1. Report the charge in writing to the Superintendent and the GRPS Human Resources Department, and
 2. On a form supplied by the State Department of Education report the charge to the State Department of Education.
- B. Any independent contractor/vendor regularly and continuously working under a contract in a GRPS school or school facility who enters a plea of guilty or no contest to or is subject of a finding of guilt by a judge or jury of any crime described in Section 1535a(1), MCL 380.1535a(1) or Section 1539b(1), MCL 380.1539b(1) must immediately:
 1. Disclose to the court on a form provided by the State Court Administrative Office that he or she is regularly and continuously working under a contract with GRPS in a school or school facility, and
 2. Provide a copy of such form (a) to the prosecuting attorney in charge of the case, (b) to the State Superintendent of Public Instruction and (c) to

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the Superintendent of GRPS and to the GRPS Human Resources Department.

C. Crimes in Section 1535a(1), MCL 380.1535a(1) and Section 1539b(1), MCL 380.1539b(1) for which an individual must make a report when they are charged or convicted of such crime include the following:

1. Any felony.
2. Any of the following misdemeanors:
 - (a) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
 - (b) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
 - (c) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
 - (d) MCL 333.7410 - Delivery or distribution to minors, students near school property; distribution of marijuana.
 - (e) MCL 750.115 - Breaking and entering or entering without breaking without permission.
 - (f) MCL 750.141 a - Consumption or possession of alcohol by minors or controlled substances at social gatherings.
 - (g) MCL 750.145a - Accosting, enticing or soliciting child or immoral purposes.
 - (h) MCL 750.359 - Removal or damage to any property belonging to, connected with, or used in construction of vacant building or structure.
 - (i) MCL 750.81 - Assault and assault and battery including domestic assault.
 - (j) MCL 750.81 a - Assault and infliction of serious injury.
 - (k) MCL 750.145d - Internet crime against a minor.
 - (l) MCL 750.335a - Indecent exposure.
 - (m) MCL 436.1701 - Prohibited sale of liquor to minors.

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- (n) Any misdemeanor that is a listed offense.
- 3. Any violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.
- D. A person who violates the above reporting requirements for criminal charges and/or convictions will be prohibited from working under a contract with GRPS.
- E. Reports of Criminal Charges and Convictions from Independent Contractor/Vendor
 - 1. Reports of Criminal charges will be evaluated on an individual basis. However, GRPS reserves the right to terminate the assignment of any contract employee who has been arraigned for criminal charges that must be reported under this section.
 - 2. GRPS will terminate the assignment of any independent contractor/vendor convicted of a listed offense or of a felony other than a listed offence. All other criminal convictions will be evaluated on an individual basis. However, the GRPS reserves the right to terminate the assignment of any contract employee who is required to report a criminal conviction.
 - 3. Upon receipt of a written request from an independent contractor/vendor and documentation verifying that such independent contractor/vendor has not been convicted of a crime after the completion of judicial proceedings resulting from reported criminal charges, GRPS shall delete any criminal report concerning such individual from its records.

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