

<b>TENNESSEE STATE BOARD OF EDUCATION</b>		
<b>APPLICATION AND EMPLOYMENT</b>		<b>5106</b>
<b>ADOPTED:</b> <b>July 28, 2017</b>	<b>REVISED:</b> <b>May 29, 2020</b>	<b>MONITORING:</b> <b>Review: Annually</b>

~~**Application.** An individual desiring a position with an authorized charter school shall apply to the school leader or designee on forms developed by the school. To ensure the safety and welfare of students and staff, the charter school shall require criminal history background checks and fingerprinting of applicants for teaching positions and any other positions that require proximity to children (including contractors and school volunteers).<sup>1</sup>~~

~~Knowingly falsifying employment information shall be sufficient grounds for termination of employment and shall also constitute a Class A misdemeanor which must be reported to the District Attorney General for prosecution.<sup>2</sup>~~

~~Any costs incurred to perform these background checks and fingerprinting shall be paid by the applicant. Each authorized charter school may adopt a policy for reimbursing applicants.<sup>3</sup>~~

~~**Professional Employees.** The application shall include whether such applicant has been dismissed for cause from a school system. If previously employed by a local board of education, the applicant shall provide evidence of acceptable resignation.~~

~~No person shall be employed by an authorized charter school:~~

- ~~(1) Who does not provide a transcript of credits earned at the colleges or universities attended;~~
- ~~(2) Who does not hold a valid license to teach from the State Board of Education;<sup>4</sup>~~
- ~~(3) Who does not present a physician's certificate showing a satisfactory health record or who has any contagious or communicable disease in such form that might endanger the health of school children if there is a reasonable suspicion that an individual has a contagious or communicable disease<sup>5</sup>;~~
- ~~(4) Who has not complied with the Immigration Reform and Control Act of 1986<sup>6</sup>;~~
- ~~(5) Who refuses to take and subscribe to an oath to support the Constitution of the State of Tennessee and of the United States of America<sup>7</sup>;~~
- ~~(6) Who fails to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause; or~~
- ~~(7) Who does not receive a satisfactory background check.<sup>8</sup>~~

~~**Support Employees.** No person shall be employed by an authorized charter school:~~

- ~~(1) Who does not present a physician's certificate showing a satisfactory health record or has any contagious or communicable disease in such form that might endanger the health of~~

school children if there is a reasonable suspicion that an individual has a contagious or communicable disease<sup>5</sup>;

- (2) Who has not complied with the Immigration Reform and Control Act of 1986<sup>6</sup>;
- (3) Who refuses to take and subscribe to an oath to support the Constitution of the State of Tennessee and of the United States of America<sup>7</sup>;
- (4) Who fails to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause; or
- (5) Who does not receive a satisfactory background check.

**Human Resources.** Each authorized charter school shall adopt human resources policies that address the following:

- (1) How employees are hired<sup>8</sup>;
- (2) The extent to which employees may provide professional services outside the school<sup>9</sup>;
- (3) The provision of fringe benefits, including leave and insurance<sup>10</sup>;
- (4) The use of recruiting expenses to attract personnel<sup>11</sup>;
- (5) Reimbursement for relocation costs<sup>12</sup>;
- (6) Compensation guides and contracts for certified personnel;
- (7) Salary schedule approval;
- (8) Differentiated pay;
- (9) Emergency and legal leave;
- (10) Sick leave, personal and professional leave, extended leave of absence, family and medical leave, maternity leave, physical assault leave; and
- (11) Vacation and holidays.

**Highly Effective Teachers and Paraprofessionals.** Each authorized charter school shall have a process in place to ensure that licensed, highly effective teachers and paraprofessionals are hired, including a formal plan to recruit and strategies/incentives to retain highly effective educators, including teachers and paraprofessionals from diverse backgrounds.

**Reporting Employee Misconduct.** The director of the charter school shall report anyone holding a license from Tennessee who is suspended, terminated, or resigns following allegations of conduct which, if substantiated, would warrant consideration for license formal reprimand, suspension or revocation under State Board rules. The director of the charter school shall make reports within thirty (30) days of the action using the form provided by the State of Tennessee. The forms shall be submitted directly to the State Board of Education through the disciplinary holds wizard in TN Compass, or, if necessary, by mail, facsimile, or electronic mail.<sup>14</sup> If the charter school does not have a director, the report shall be submitted by the charter school leader.

**Recommendations and File Transfers.**<sup>15</sup> Other than the routine transmission of administrative and personnel files, authorized charter school employees are prohibited from assisting a school employee, contractor, or agent in obtaining a new job if the individual knows, or has probable cause to believe, that the person seeking a job change engaged in sexual misconduct regarding a minor or student in violation of the law.

These requirements shall not apply if:

- ~~(1) The information giving rise to probable cause has been properly reported to the appropriate law enforcement agency; and~~
- ~~(2) The matter has been officially closed in one of the following ways:
  - ~~a. The prosecutor or police have investigated the allegations and notified school officials that there is insufficient information to establish probable cause;~~
  - ~~b. The employee, contractor, or agent has been charged and either acquitted or exonerated; or~~
  - ~~c. The case remains open, and there have been no charges or indictment filed within four (4) years of the date the information was reported to the law enforcement agency.~~~~

~~The authorized charter school may develop additional procedures to enforce this policy and comply with federal law.~~

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Legal References:

- <sup>1</sup> T.C.A. § 49-5-406(a)(1); T.C.A. § 49-5-413
- <sup>2</sup> T.C.A. § 49-5-406(a)(2)(A)
- <sup>3</sup> T.C.A. § 49-5-413(c)
- <sup>4</sup> T.C.A. § 49-5-403; T.C.A. § 49-5-101
- <sup>5</sup> T.C.A. § 49-5-404; TRR/MS 0520-01-03-08(2)(f)
- <sup>6</sup> Immigration Reform and Control Act of 1986; Pub. L. No. 99-603, 100 Stat. 3359
- <sup>7</sup> T.C.A. § 49-5-405
- <sup>8</sup> T.C.A. § 49-5-413(d)(3)(B); T.C.A. § 49-5-413(e)(7)
- <sup>9</sup> 2 C.F.R. § 200.430(a)(2)
- <sup>10</sup> 2 C.F.R. § 200.430(c)
- <sup>11</sup> 2 C.F.R. § 200.431
- <sup>12</sup> 2 C.F.R. § 200.463(b)
- <sup>13</sup> 2 C.F.R. § 200.464
- <sup>14</sup> TRR/MS 0520-02-03-09(5)
- <sup>15</sup> 20 U.S.C. § 7926

Cross References:

- Background Investigations 5118
- Personnel Hiring Procedures
- Child Abuse, Neglect, and Child Sexual Abuse 6409