

Background Checks (635A) Adopted 10.14.2014; Revised 10.19.2016

Shrewsbury Public Schools' Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

I. Requesting CHRI checks

Fingerprint-based CHRI checks will only be conducted as authorized by M.G.L. c. 71, §38R and 42 U.S.C. § 16962, in accordance with all applicable state and federal rules and regulations, and in compliance with M.G.L. c. 6, §§ 167-178 and 803 CMR §§ 2.00, *et seq.* If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, he/she shall be informed of this requirement and instructed on how to comply with the law. Such instruction will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment [e.g., Identogo web site address, Provider Identification Number (Provider ID)].

Shrewsbury Public Schools has considered the following factors in determining whether to conduct discretionary fingerprint-based background checks:

- *Likelihood of direct and unmonitored contact with students*
- *Duration of potential contact*
- *The ability of employees to limit potential for unmonitored contact*

After considering the factors listed above the Shrewsbury School Committee:

- *Will require overnight field trip volunteers to submit to the CHRI fingerprint background check*
- *Will require volunteers who may have extended, direct unmonitored contact with students (e.g. volunteer athletic coaches, volunteer club advisors, etc.) to submit to the CHRI fingerprint background check*
- *Will require Municipal employees who are based within or who frequently perform work in the schools and who may have direct unmonitored contact with students (e.g. custodians, maintenance workers, etc.) to submit to the CHRI fingerprint background check*

- *Will require all individuals in a teacher preparation program who are performing student teaching, classroom observations, or other pre-practicum activities to submit to the CHRI fingerprint background check*
- *Will require individuals not covered by other provisions of the statute or this policy, who will provide services to the Shrewsbury Public Schools, to submit to the CHRI fingerprint background check if the Superintendent of Schools, Director of Human Resources, or a designee determine it is necessary based on the factors listed above*
- *Will not require field trip volunteers without an overnight component to submit to the CHRI fingerprint background check*
- *Will not require classroom volunteers to submit to the CHRI fingerprint background check*
- *Will not require contractors/subcontractors to submit to the CHRI fingerprint background check, unless such individual will be working with students in a role where the Superintendent of Schools, Director of Human Resources, or a designee determine it is necessary based on the factors listed above*
- *Will appoint the School Committee chair, with the assistance of the Director of Human Resources, to review the results of the CHRI background check of the Superintendent of Schools*
- *Will require the Superintendent of Schools to review the CHRI background check of the Director of Human Resources*

II. Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Title 28, U.S.C, § 534, Pub. L. 92-544 and Title 28 C.F.R. 20.33(b) provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

III. Storage of CHRI

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, which are in compliance with the most recent CJIS Security Policy, have been implemented to ensure the security and

confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

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

IV. Retention and Destruction of 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 record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in the Director of Human Resources office, which is locked when the Director of Human Resources is not present.

When no longer needed, CHRI and any summary of CHRI 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. An employee of Shrewsbury Public Schools must supervise the shredding of paper copies of CHRI if an outside vendor is used for this purpose.

IV. CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at Shrewsbury Public Schools will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS, **along with the web-based training system known as CJIS Online (www.CJISonline.com)**.

V. Determining Suitability

*In determining an individual's suitability, the following factors will be considered **when reviewing information received from CHRI**:*

- *The nature and gravity of the crime and the underlying conduct*
- *The time that has passed since the offense*
- *The age of the individual at the time of the offense*

- *Conviction and/or completion of any sentence*
- *Nature of the position held or sought*
- *Number of offenses*
- *Any relevant evidence of rehabilitation or lack thereof*

A record of the suitability determination will be retained. The following information will be included in the determination:

- a. The name and date of birth of the employee or applicant;
- b. The date on which the school employer received the national criminal history check results; and,
- c. 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 school employer conducted a suitability determination.

VI. Adverse Decisions Based on CHRI (Previously section VII)

If inclined to make an adverse decision based on an individual's CHRI, Shrewsbury Public Schools will take the following steps prior to making a final adverse determination:

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of **the Shrewsbury Public Schools CHRI Policy**;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time, *but no more than 30 calendar days*, to correct or complete the CHRI.

VIIA. Secondary Dissemination of CHRI (Previous section VIII)

If an individual's CHRI is released to another authorized entity, a record of that dissemination must be made in the secondary dissemination log. The secondary dissemination log is subject to audit by the DCJIS and the FBI.

The following information will be recorded in the log:

1. Subject Name;
2. Subject Date of Birth;
3. Date and Time of the dissemination;

4. Name of the individual to whom the information was provided;
5. Name of the agency for which the requestor works;
6. Contact information for the requestor; and
7. The specific reason for the request.

VIIIB. Relying on Previous Suitability Determination. (Previously Section VI).

When an individual for whom a school employer or the Department of Elementary and Secondary Education has made a suitability determination applies to work for Shrewsbury Public Schools, Shrewsbury Public Schools may rely on a favorable suitability determination, if the following criteria are met:

- *The suitability determination was made within the last seven years; and*
- *The individual has not resided outside Massachusetts for any period longer than three years since the suitability determination was made; and either*
- *The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his or her employment for school employers; or*
- *If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made a favorable suitability determination. Shrewsbury Public Schools will request that the initial school employer provide documentation that the individual is still deemed suitable for employment by the initial school employer. If such documentation is not received Shrewsbury Public Schools will require the employee/applicant to submit to another CHRI background check*

In any instance where Shrewsbury Public Schools relies on a suitability determination made by another school employer or by the Department of Elementary and Secondary Education, Shrewsbury Public Schools will retain the following documentation:

- *A copy of the documentation received from the school employer or agency that made the relied-upon suitability determination, and;*
- *Documentation establishing that the individual met the criteria for suitability for employment by the relied-upon school district*

Shrewsbury Public Schools may choose to perform a new national criminal history check on an individual rather than rely on a previous suitability determination. In this circumstance, Shrewsbury Public Schools will bear the cost of the new national criminal history check.

VIII. Local Agency Security Officer

Each NCJA receiving CHRI is required to designate a Local Agency Security Officer (LASO).

An individual designated as LASO is:

- An individual who will be considered part of the NCJA's "authorized personnel" group.
- An individual that has completed a fingerprint-based background check and found appropriate to have access to CHRI
- An employee directly involved in evaluating an individual's qualifications for employment or assignment

Shrewsbury Public Schools LASO is Barbara A. Malone, Director of Human Resources

The LASO is responsible for the following:

- Identifying who is using or accessing CHRI and/or systems with access to CHRI
- Identifying and documenting any equipment connected to the state system
- Ensuring that personnel security screening procedures are being followed as stated in this policy
- Ensuring the approved and appropriate security measures are in place and working as expected
- Supporting policy compliance and ensuring the DCJIS Information Security Officer (ISO) is promptly informed of security incidents

When changes in the LASO appointment occur, Shrewsbury Public Schools shall complete and return a new LASO appointment form. The most current copy of the LASO appointment form will be maintained on file indefinitely by the agency.

IX. Personnel Security

All Personnel

All personnel requiring access to CHRI must first be deemed "Authorized Personnel." Prior to being allowed access to CHRI, such individuals shall complete a fingerprint-based CHRI background check. The DCJIS will review and determine if access is appropriate. Access is denied if the individual has ever had a felony conviction, of any kind, no matter when it occurred. Access may be denied if the individual has one or more recent misdemeanor convictions.

In addition to the above, an individual believed to be a fugitive from justice, or having an arrest history without convictions, will be reviewed to determine if access to CHRI is appropriate. The DCJIS will take into consideration extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

Persons already having access to CHRI and who are subsequently arrested and/or convicted of a crime will:

- Have their access to CHRI suspended until the outcome of an arrest is determined and reviewed by the DCJIS in order to determine if continued access is appropriate
- Have their access suspended indefinitely if a conviction results in a felony of any kind
- Have their access denied by the DCJIS where it is determined that access to CHRI by the person would not be in the public's best interest

Whenever possible, access to CHRI by support personnel, contractors, and custodial workers will be denied. If a need should arise for such persons to be in an area(s) where CHRI is maintained or processed (at rest or in transit); they will be escorted by, or be under the supervision of, authorized personnel at all times while in these area(s).

Personnel Termination

The LASO shall terminate access to CHRI immediately upon notification of an individual's termination of employment.

- Notification shall occur in writing, with a specified date for last day of employment
- The terminated employee shall have no access to the physical records or to the electronic CHRI website after employment ends (keys to the physical CHRI records will be submitted to the Superintendent of Schools or the Director of Human Resources on the last day of employment). Access to email, which may contain CHRI information, will also be terminated. CHRI/electronic access of any kind will be disconnected within 24 hours of the individual's written last day of employment
- If the LASO is the terminated employee, the Superintendent of Schools will be designated as the new LASO for Shrewsbury Public Schools, until such time as the Superintendent determines that a new LASO shall be appointed

In addition to the above, the LASO shall notify the DCJIS of the termination of any individual authorized to access CHRI who is also a SAFIS-R user. This notification shall be made immediately upon the termination of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us

Personnel Transfer

Individuals with access to CHRI who have been reassigned or transferred shall have their access reviewed by the LASO to ensure access is still appropriate. If continued access is determined to be inappropriate, the LASO shall immediately suspend access following the steps below:

- Barbara A. Malone, Director of Human Resources/LASO, will review access to CHRI. If the Director of Human Resources is not available, access to CHRI will be reviewed by the Superintendent of Schools

- Review will be initiated upon receipt of transfer notice, in writing, by the Director of Human Resources, or the Superintendent of Schools
- If deemed appropriate by the LASO, the transferred employee shall have no access to the physical records or to the electronic CHRI website after transfer (keys to the physical CHRI records will be submitted to the Superintendent of Schools or the Director of Human Resources on the last day of employment in the previous role). CHRI access will be disconnected within 24 hours of the individual's written last day of employment in the previous role
- If the LASO is the transferred employee, the Superintendent of Schools will be designated as the new LASO for Shrewsbury Public Schools, until such time as the Superintendent determines that a new LASO shall be appointed

In addition to the above, the LASO shall notify the DCJIS of the transfer of any individual authorized to access CHRI who is also a SAFIS-R user. This notification shall be made immediately upon the transfer of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us

Persons found non-compliant with state or federal laws, the current FBI CJIS Security Policy, DCJIS policies or regulations, or other applicable rules or regulations, including Shrewsbury Public Schools information security policies, will be formally disciplined. Discipline can include, but may not be limited to, counseling, the reassignment of CHRI responsibilities, dismissal, civil penalties, or prosecution. Discipline will be based on the severity of the infraction and at the discretion of the Superintendent of the Shrewsbury Public Schools and/or the the Chief Security Officer of the Massachusetts State Police.

When an individual is sanctioned for such non-compliance, the LASO shall notify the DCJIS Chief Security Officer in writing of the infraction(s) and of the discipline imposed within 5 business days. Additionally, if the discipline imposed includes denying access to CHRI and the individual is also a SAFIS-R User, the LASO shall immediately notify the DCJIS by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS UNIT at safis@state.ma.us.

X. Media Protection

All media containing CHRI is to be protected and secured at all times. The following is established and to be implemented to ensure the appropriate security, handling, transporting, and storing of CHRI media in all its forms.

Media Storage and Access

Electronic and physical CHRI media shall be securely stored within physically secured locations or controlled areas. Access to such media is restricted to authorized personnel only and shall be secured at all times when not in use or under the supervision of an authorized individual.

Physical CHRI media:

- Is to be stored by itself within an area designated for CHRI physical records

- Is to be maintained within a lockable filing cabinet, drawer, closet, office, safe, vault or other secure container

Electronic CHRI media:

- Is to be secured through encryption as specified in the FBI CJIS Security Policy
- Electronic storage media devices (such as discs, CDs, SDs, thumb drives, DVDs, etc.) are to be maintained within a lockable filing cabinet, drawer, closet, office, safe, or vault, or other secure container

Media in Transit (Electronic and/or Physical)

Should the need arise to move any form of CHRI media, including physical CHRI media (paper/hard copies) and electronic CHRI media (e.g., laptops, computer hard drives, or any removable, transportable digital memory media, such as magnetic tape or disk, optical disk, flash drives, external hard drives, or digital memory card), outside of the secured location or controlled area, the transport of the CHRI media will be conducted by authorized personnel **only**.

Shrewsbury Public Schools has established and implemented the following security controls to prevent compromise of the data while in transit:

- Only the LASO or designated SAFIS-R user will handle and transport CHRI media
- Transport shall only occur upon written approval of the LASO
- Transport shall only occur within a locked, secure area, accessible only to the LASO or SAFIS-R user for the duration of the transport
- The media is to remain in the physical possession of the designated authorized employee until the CHRI media is delivered to its intended destination

Electronic Media Sanitization and Disposal

Once electronic CHRI media is determined to be no longer needed by the agency, it shall be sanitized and disposed of appropriately. This includes, but is not limited to, devices used to store electronic CHRI and/or used for dissemination (fax machines, scanners, computers, laptops, etc.). The devices shall be sanitized prior to disposal, recycling, or reuse by other non-authorized personnel.

The sanitization of CRHI media will be conducted in the following manner:

Shrewsbury Public Schools Procedures:

- The LASO shall witness sanitization of the media.
- Sanitization method will be determined by the Superintendent of Schools
- Sanitization will occur on a schedule determined by the Superintendent of Schools

Disposal of Physical Media

Once physical CHRI media (paper/hard copies) is determined to be no longer needed by the agency, it shall be destroyed and disposed of appropriately. Physical CHRI media shall be destroyed by shredding, cross cut shredding, or incineration. Shrewsbury Public Schools will ensure such destruction is witnessed or carried out by authorized personnel.

Shrewsbury Public Schools Procedures:

- The LASO, Director of Human Resources, or Human Resources Representative shall witness or conduct disposal
- Disposal will be conducted by shredding
- Disposal will be conducted on a schedule determined by the Superintendent of Schools

XI. Incident Response

The security of information and systems in general, and of CHRI in particular, is a top priority for Shrewsbury Public Schools. Therefore, we have established operational incident handling procedures for instances of an information security breach. It is each individual's responsibility to adhere to established security guidelines and policies and to be attentive to situations and incidents which pose risks to security. Furthermore, it is each individual's responsibility to immediately report potential or actual security incidents to minimize any breach of security or loss of information. The following security incident handling procedures must be followed by each individual:

Shrewsbury Public Schools Procedures:

- Verbal reports of incidents shall be made as soon as practical to the LASO (Director of Human Resources), but no later than 24 hours at a maximum, from the time of the incident. If the LASO is not available verbal reports shall be made to the Superintendent of Schools
- The LASO, the Superintendent of Schools, or designee shall gather all relevant information, including but not limited to: the security breach that is thought to have occurred, the time and date as best can be determined of the security breach, the scope of the security breach, and possible causes of the security breach. Such information will be shared with the Superintendent of Schools in determining next steps, including steps outlined elsewhere in this policy
- Any incidents of security breaches will be logged with date, time, nature of incident, and outcome in a physical log kept by the LASO

In addition to the above, the LASO shall report all security-related incidents to the DCJIS ISO within 48 hours. The LASO shall complete an NCJA Security Incident Report Form and shall email it to the DCJIS ISO at safis@state.ma.us

XII. Controlled Area

As required by DCJIS and FMI regulations and policies, controls have been established and implemented in order to ensure a physically secured location for CHRI media. Shrewsbury Public Schools has designated to a locked file cabinet in the Director of Human Resources' office as a controlled area for the purpose of day to day access and storage of CHRI

In addition, the following security controls are in place:

- Access is limited to the controlled area during CHRI processing times to authorized personnel approved by Shrewsbury Public Schools to access or view CHRI
- CHRI will be locked and secured to prevent unauthorized access to the extent possible when unattended
- Information system devices and documents containing CHRI will be positioned in such a way as to prevent access or viewing by unauthorized individuals

The following passages from the previous policy shall be REMOVED:

IX. Reporting to Commissioner of Elementary and Secondary Education

Pursuant to M.G.L. ch 71, § 71R and 603 CMR 51.07, if *Shrewsbury Public Schools* 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, *Shrewsbury Public Schools* 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. *Shrewsbury Public Schools* 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. ch 71, § 71R and 603 CMR 51.07, if *Shrewsbury Public Schools* discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to 603 CMR 7.15(8)(a), *Shrewsbury Public Schools* shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether *Shrewsbury Public Schools* 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.

This policy will be reviewed five years from the policy effective date.