

EAST STROUDSBURG AREA SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: CONTRACTED SERVICES
PERSONNEL

ADOPTED: August 19, 2002

REVISED: December 15, 2008
August 17, 2009818. CONTRACTED SERVICES PERSONNEL

1. Purpose

In its effort to provide cost-effective programs, the Board uses outside independent contractors for a variety of purposes. may need to utilize contracted services. The district shall monitor and evaluate such services to assure their effectiveness. This policy is to assist the Board in procuring and maintaining qualified and legally certified services. The district is required to ensure that such contractors comply with certain legal requirements regarding contractor employees involved in the delivery of services to the district. This policy is adopted to outline those requirements and the manner in which the district shall direct and monitor contractor compliance.

2. Definition
SC 1205.6

For purposes of this policy, contractor employee shall include an individual who:

1. Is employed or offered employment by an independent contractor or a subcontractor of an independent contractor, or is an individual independent contractor; and
2. Has or will have direct contact with children.

Direct Contact with Children - the possibility of care, supervision, guidance or control of children or routine interaction with children.

For purposes of this policy, independent contractor shall mean an individual or entity that contracts with the district to provide services.

2. Authority
SC 111, 111.1
23 Pa. C.S.A.
Sec. 6344

The ~~Board~~district is required by law to ensure that independent contractors and ~~their~~contractor employees comply with the mandatory background check requirements for criminal history and child abuse certifications, the employment history review requirement, and the arrest and conviction reporting requirements.

4. Guidelines
SC 111.1

Prior to using contracted services, a written contractual agreement shall be entered into between the district and the independent contractor and maintained centrally by the district in a manner similar to that for other contracts. Requests for proposals, bid specifications for proposals and resulting contracts shall specify the following:

55 Pa Code 3490.132

1. Mandatory requirements for criminal history background checks, child abuse certifications, employment history reviews, and arrest and conviction reporting for contracted services involving direct contact with children, as mandated by law and set forth in this policy.

49 CFR Part 382

2. A requirement that all contracted transportation providers provide a program of

<p><u>67 Pa Code 71.3</u> <u>75 Pa C.S.A. 1612,</u> <u>3802</u> <u>Pol. 810.2</u></p>	<p><u>drug and alcohol testing for covered drivers. A covered driver shall include any contractor employee who drives, operates or is in the actual physical control or movement of a school bus or a commercial vehicle owned, leased or operated by the independent contractor in connection with school district services.</u></p> <p><u>3.—That failure to comply with this policy and the requirements for criminal history background checks and child abuse certifications, employment history reviews, and required reporting of employee arrests, convictions or other misconduct by an independent contractor or contractor employee shall be grounds for termination of the contract.</u></p> <p><u>The Superintendent or designee shall review all information provided pursuant to this policy and determine if information is disclosed that precludes employment or continued service of an independent contractor or contractor employee.</u></p> <p><u>Information submitted by an independent contractor or contractor employee in accordance with this policy shall be maintained centrally in a manner similar to that for school employees.</u></p>
<p>4.—Guidelines</p> <p><u>SC 111.1</u></p> <p><u>23 Pa C.S.A. 6344</u> <u>SC 111, 111.1</u></p>	<p><u>Pre-Employment Requirements</u></p> <p><u>Employment History Review-</u></p> <p>Independent contractors shall conduct an employment history review, in compliance with state law, prior to issuing an offer of employment to a candidate or prior to assignment of a current <u>contractor</u> employee to perform work for the district <u>in a position or assignment involving direct contact with children</u>. Failure to accurately report required information shall subject the candidate or employee to discipline up to, and including, denial of employment or termination if already hired, and may subject the candidate or employee to civil and criminal penalties. The independent contractor may use the information for the purpose of evaluating an applicant's fitness to be hired or for continued employment of a current <u>contractor</u> employee and may report the information as permitted by law.</p> <p><u>Independent contractors shall inform the district, in writing, upon receipt of an affirmative response to any of the abuse and sexual misconduct background questions for a contractor employee. If the district objects to the assignment, the independent contractor may not assign the contractor employee to the district.</u></p> <p><u>Independent contractors shall, upon request, provide the district to which a contractor employee is assigned access to the employee's employment history review records.</u></p> <p><u>Criminal History -</u></p> <p><u>Prior to assignment of contractor employees to perform work for the district in a position or assignment involving direct contact with children, contractor employees shall submit an official child abuse clearance statement and state and federal criminal history background checks (certifications) as required by law.</u></p>

<p>24 P.S. 1418 28 Pa Code 23.44</p> <p>3. Delegation of Responsibility SC 111 23 Pa. C.S.A. Sec. 6344</p> <p>SC 111, 111.1</p> <p>SC 111 23 Pa. C.S.A. Sec. 6344.3</p>	<p><u>Contractor employees shall report, on the designated form, all arrests and convictions as specified on the form. Contractor employees shall likewise report arrests and/or convictions that occur subsequent to initially submitting the form. Failure to accurately report such arrests and convictions may subject the individual to denial of employment/contract, termination if already hired/contracted, and/or criminal prosecution.</u></p> <p><u><i>Tuberculosis Test-</i></u></p> <p><u>Contractor employees providing services for students shall undergo a test for tuberculosis in accordance with the regulations and guidance of the Pennsylvania Department of Health.</u></p> <p>The Superintendent or designee shall ensure that all independent contractors and their employees shall not be employed until each has complied with the mandatory background check requirements for criminal history and child abuse and the district has evaluated the results of that screening process.</p> <p>Independent contractors and their employees shall report, on the designated form, all arrests and convictions as specified on the form. Independent contractors and their employees shall likewise report arrests and/or convictions that occur subsequent to initially submitting the form. Failure to accurately report such arrests and convictions may subject the individual to denial of employment/contract, termination if already hired/contracted, and/or criminal prosecution.</p> <p><u>Arrest and Conviction Reporting Requirements</u></p> <p>All independent contractors shall adopt policies and procedures that require their employees, who are providing services to the district and who have direct contact with children, to notify the <u>independent</u> contractor, in writing, within seventy-two (72) hours of the occurrence, of an arrest or conviction required to be reported by law. <u>Contractor</u> Eemployees shall also be required to report to the <u>independent</u> contractor, within seventy-two (72) hours of notification, that the employee has been <u>listed/named</u> as a perpetrator in the Statewide database, in accordance with the Child Protective Services Law <u>a founded or indicated report pursuant to the Child Protective Services Law. The policies and procedures shall also include the provision that the failure on the part of contractor employees to make such a timely notification shall subject them to disciplinary action, including termination.</u></p> <p>If the <u>independent</u> contractor receives notice of such arrest or conviction notification <u>or</u> that the <u>contractor</u> employee has been <u>listed/named</u> as a perpetrator in the Statewide database in a founded or indicated report, from either the <u>contractor</u> employee or a third party, the <u>independent</u> contractor shall immediately report, in writing, that information to the school district <u>Superintendent or designee</u>.</p> <p><u>The independent contractor shall immediately require a contractor employee to submit new certifications when there is a reasonable belief that the employee was arrested for or has been convicted of an offense required to be reported by law, was named as a</u></p>
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perpetrator in a founded or indicated report, or has provided written notice of such occurrence.

75 Pa. C.S.A. 1606

Contractor employees who provide transportation services shall immediately notify the independent contractor and the district's transportation supervisor of any traffic citations or the suspension, revocation or cancellation of operating privileges.

Educator Misconduct

24 P.S. 2070.9a
Pol. 317.1

If the Superintendent reasonably suspects that conduct being reported involves an incident required to be reported under the Educator Discipline Act, the Superintendent or designee shall notify the Pennsylvania Department of Education, in accordance with applicable law, regulations and Board policy 317.1.

Training

24 P.S. 1205.6

Independent contractors shall provide their employees who have direct contact with children with mandatory training on child abuse recognition and reporting. The training shall include, but not be limited to, the following topics:

1. Recognition of the signs of abuse and sexual misconduct and reporting requirements for suspected abuse and sexual misconduct.
2. Provisions of the Educator Discipline Act, including mandatory reporting requirements.
3. District policy related to reporting of suspected abuse and sexual misconduct.
- 4.—Maintenance of professional and appropriate relationships with students.
- 5.

24 P.S. 2070.1a
et seq

Pol. 806, 824

24 P.S. 1205.6

Employees of independent contractors who have direct contact with children are required to complete a minimum of three (3) hours of training every five (5) years.

Contractor employees shall attend orientation and training sessions, as appropriate to the nature of their service. When training is provided for school employees relating to the legal obligations of employers and educational institutions, consideration shall be given to which contractor employees should also receive that training.

Child Abuse Reporting

Pol. 806
23 Pa. C.S.A. 6311

All contractor employees who have reasonable cause to suspect that a child is the victim of child abuse shall make a report of suspected child abuse in accordance with applicable law, Board policy and administrative regulations.

Confidentiality

Pol. 113.4, 216

No contractor employee shall be permitted access to confidential student information unless the district has determined that such access is necessary for the contractor

employee to fulfill his/her responsibilities. Contractor employees with access to confidential student information shall maintain the confidentiality of that information in accordance with Board policies and procedures and applicable law. If a contractor employee has questions about the confidentiality of student information, the contractor employee should consult with the building principal.

Bidding Specifications

____ Policy 610

Mandatory background check requirements for criminal history and child abuse shall be included in all bidding specifications and/or requests for proposals for contractor services.

Language shall be included in all bidding specifications for contracted services notifying independent contractors that failure to comply with this policy and the requirements for background checks and reporting of employee misconduct by an independent contractor shall lead to cancellation of the contract.

References:

School Code – 24 P.S. Sec. 111, 111.1, 1362, 1418, 2070.9a,

Child Abuse Recognition and Reporting Training – 24 P.S. Sec. 1205.6

Educator Discipline Act – 24 P.S. Sec. 2070.1a et seq.

State Board of Education Regulations – 22 PA Code Sec. 8.1 et seq.

Child Protective Services Law – 23 Pa. C.S.A. Sec. 6301 et seq., 6311, 6344, 6344.3

28 Pa Code 23.44

49 CRF Part 382

55 PA Code 3490.132

67 Pa Code 71.3

75 Pa. C.S.A. 1606, 1601, 1612, 3802

Board Policy —113.4, 216, 317.1, 610, 806, 810, 810.2, 824