

A. General Principles

It is the policy of the Guilford County Board of Education to provide all applicants for employment with equal employment opportunities and to provide current employees with training, compensation, promotion, and other benefits of employment in accordance with policy 7101, Equal Opportunity Employment. All candidates will be evaluated on their merits and qualifications for positions. All employment decisions will be consistent with the board's objective of providing students with the opportunity to receive a sound basic education, as required by state law.

The board also is committed to diversity throughout the programs and practices of the school system. To further this goal, the recruitment and employment program should be designed to encourage a diverse pool of qualified applicants.

B. Recruitment

Recruitment for a specific vacancy will be undertaken only after the need and qualifications for the position are established and proper authorization is obtained.

All vacancies must be adequately publicized within the school system so that employees will be informed of opportunities for promotion or transfer to new jobs; however, the superintendent or designee may forgo publicizing a vacancy if the position will be filled through a reassignment of a current employee or if exigent circumstances necessitate that the position be filled immediately. Vacancies also may be publicized externally to attract qualified applicants.

C. Criminal History

[1. Criminal History and Sex Offender Registry Checks of Candidates for Employment](#)

A criminal history check and a check of sex offender registries must be conducted on all final candidates for employment with the school system. Criminal history checks must be conducted in accordance with state law and any procedures established by the superintendent. [The board will pay for costs associated with criminal history checks of candidates for employment.](#) School officials shall not require candidates to disclose expunged arrests, charges, or convictions and shall not ask candidates to voluntarily disclose such information without first advising that disclosure is not required. Special requirements are described in Section D of this policy for criminal history checks of candidates for certain positions working with pre-school children or working in afterschool or developmental day programs.

[2. Criminal History and Sex Offender Registry Checks for Contractors](#)

[Each contract executed by the board with an independent contractor or for services of independent contractors must require the contractor to check sex offender registries as specified in policy 5022, Registered Sex Offenders.](#)

Any individual contracted under G.S. 115C-253 to provide transportation services to students must also undergo a criminal history check before acting as a driver under the contract. The terms of the contract may require the individual to pay for the cost of the criminal history check. A new criminal history check will not be required if the board receives the results of a criminal history check performed on the individual by another North Carolina school system within the past three years in accordance with the requirements of G.S. 115C-332(k).

3. Exclusion from Hiring Based on Criminal Conduct

A final candidate for employment or for hiring as an independent contractor will be excluded from hiring based on criminal conduct only when doing so is job-related and consistent with business necessity. If a final candidate is found to have been convicted (including entering a plea of guilty or *nolo contendere*) of a criminal offense, other than a minor traffic violation, the superintendent or designee shall determine whether the individual is qualified for employment despite the criminal history by considering, among other things, whether the individual poses a threat to the safety of students or personnel or has demonstrated that ~~he or she does~~they do not have the integrity or honesty to fulfill the duties of the position.

The following factors will be considered in making this determination: (1) the nature and gravity of the offense or conduct; (2) the time that has passed since the offense or conduct and/or completion of the sentence; and (3) the nature of the job sought. ~~Before the superintendent or designee may exclude a final candidate based on his or her past criminal convictions, the superintendent must give the candidate the opportunity to demonstrate that the exclusion does not properly apply to them. The superintendent or designee must allow a finalist to respond before disqualifying them based on past criminal convictions.~~ The requirements of this paragraph do not apply to a child care provider who is determined to be disqualified by the Division of Child Development and Early Education on the basis of a criminal history check conducted pursuant to G.S. 110-90.2, 42 U.S.C. 9858f, and 45 C.F.R. 98.43. (See Section D of this policy).

The board has determined that every position with the school system, regardless of whether the position is located in a school or elsewhere, potentially entails contact with students, either on a regular, occasional, or emergency basis. For that reason, no individual who is a registered sex offender subject to the provisions of policy 5022, Registered Sex Offenders, will be hired for any position with the school system.

~~In addition, each contract executed by the board with an independent contractor or for services of independent contractors must require the contractor to check sex offender registries as specified in policy 5022, Registered Sex Offenders.~~

D. Criminal History Checks of Child Care Providers

For purposes of this section, a “child care provider” is:

RECRUITMENT AND SELECTION OF PERSONNEL

Policy: 7100

1. any person who works or is a final candidate seeking to work in a classroom or program licensed by the Department of Health and Human Services, Division of Child Development and Early Education (DCDEE); and
2. any person, including a volunteer, who has unsupervised contact with children enrolled in such classrooms or programs.

Before beginning initial employment or volunteer service and at least every five years thereafter, each child care provider must complete a criminal background check that meets the requirements of [G.S. 110-90.2](#), [42 U.S.C. 9858f](#), and [45 C.F.R. 98.43](#) and present a letter issued by DCDEE indicating that the individual is qualified to have responsibility for the safety and well-being of children based on the individual's criminal history.

Pursuant to regulations issued by the superintendent, no person shall (1) be employed, continue to be employed, or be permitted to volunteer as a child care provider, or to otherwise have unsupervised contact with students enrolled in a licensed classroom or program operated by the school system or (2) be counted in the staff/child ratio of such classroom or program, unless the person holds a current valid qualification letter issued by DCDEE. However, a child care provider with provisional status may be employed pending final results of the criminal background check but shall be subject to the restrictions established by [10A N.C.A.C. 09.2703\(f\)](#).

E. Selection

1. Qualifications

Candidates for employment must be selected based upon their assessed ability to fulfill duties identified in the job description as well as performance standards established by the board. The superintendent or designee may consider information including, but not limited to: application; education and training; licensure and certification (when applicable); relevant experience; personal interviews; and references and/or background checks.

2. Nepotism

a. For purposes of this subsection, the following definitions apply.

- i. "Relatives" are defined as individuals who are related by blood, marriage or adoption, including, but not limited to, the following relationships: spouse, child, step-child, parent, step-parent, grandparent, grandchild, sibling, step-sibling, half-sibling, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, any other relative living in the household of the official, a person who is engaged to be married to the official or who otherwise holds themselves out as, or is generally known as, the person whom the official intends to marry or with whom the official intends to form a

household, or any other natural person having the same legal residence as the official. A spouse is a partner in marriage.

ii. “Central office staff administrator” includes directors, supervisors, specialists, staff officers, assistant superintendents, superintendents, and principals.

b. Before a relative of any board of education member or central office staff administrator is employed by the board or engaged in any capacity as an employee, independent contractor, or otherwise, (1) the board member or central office staff administrator must disclose the familial relationship to the board and (2) the prospective employment or engagement must be approved by the board in a duly called open session meeting.

i. An employee who knowingly fails to disclose a familial relationship to the board as required will be subject to disciplinary action up to and including dismissal.

ii. Notification by the employee to the superintendent or designee will be deemed disclosure to the board. The superintendent or designee is responsible for conveying the disclosure to the board before the board takes action on the prospective employment or engagement.

c. When making recommendations for the selection and assignment of personnel, the superintendent shall attempt to avoid situations in which one employee occupies a position in which he or she has influence over the employment status, including hiring, salary, assignment, evaluation, and promotion, of another employee who is a member of the first employee’s immediate family.

d. Board of Education members shall refer to GCS Policy 2121, Board Conflict of Interest, in determining whether to abstain from voting on a recommendation.

e. No administrative or supervisory personnel may directly supervise a relative.

3. Employment Procedures

All applicants selected for employment must be recommended by the superintendent and approved by the board. In situations in which the employee must be hired between board meetings, the superintendent is authorized to approve hiring such personnel, contingent upon approval by the board at its next scheduled board meeting.

State guidelines must be followed in selection and employment procedures.

The superintendent may issue administrative regulations to implement this policy.

RECRUITMENT AND SELECTION OF PERSONNEL

Policy: 7100

Legal References: Age Discrimination in Employment Act of 1967, [29 U.S.C. 621](#) *et seq.*; Americans with Disabilities Act of 1990, [42 U.S.C. 12101](#) *et seq.*; Equal Educational Opportunities Act of 1974, [20 U.S.C. 1703](#); Equal Pay Act of 1963, [29 U.S.C. 206](#); Fair Credit Reporting Act, [15 U.S.C. 1681](#) *et seq.*; Genetic Information Nondiscrimination Act of 2008, [42 U.S.C. 2000ff](#) *et seq.*; Military Selective Service Act, [50 U.S.C. Appx. 453](#); Rehabilitation Act of 1973, [29 U.S.C. 794](#); Title VII of the Civil Rights Acts of 1964, [42 U.S.C. 2000e](#) *et seq.*; Title IX of the Education Amendments of 1972, [20 U.S.C. 1681](#) *et seq.*; Uniformed Services Employment and Reemployment Rights Act of 1994, [38 U.S.C. 4301](#) *et seq.*; [8 U.S.C. 1101](#) *et seq.*; [42 U.S.C. 9858f](#); [45 C.F.R. 98.43](#); *Bostock v. Clayton County*, 590 U.S. ___, 140 S. Ct. 1731 (2020); *Green v. Missouri Pacific Railroad*, 523 F.2d 1290 (8th Cir. 1975); *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, U.S. Equal Employment Opportunity Commission (April 25, 2012), available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm; [G.S. 14-208.18](#); [15A-153](#); [110-90.2](#); [115C-12.2](#), [-36](#), [-47](#), [-253](#), [-276\(j\)](#), [-332](#); [126-7.1\(i\)](#), [-16](#); [127A-202.1](#) *et seq.*; [127B-10](#), [-12](#), [-14](#); [143B-421.1](#), [-1209.11](#); *Leandro v. State*, 346 N.C. 336 (1997); [10A N.C.A.C. 09 .0102](#), [-2701](#), [-2702](#), [-2703](#); [16 N.C.A.C. 6C .0313](#); State Board of Education Policy [BENF-009](#)

Cross References: Board Authority and Duties (policy 1010), Board Conflict of Interest (policy 2121), Registered Sex Offenders (policy 5022)

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