

## The 2013 Florida Statutes

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[Title XLVII](#)  
CRIMINAL PROCEDURE AND  
CORRECTIONS

[Chapter 943](#)  
DEPARTMENT OF LAW  
ENFORCEMENT

[View Entire  
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**943.0542** Access to criminal history information provided by the department to qualified entities.—

(1) As used in this section, the term:

(a) “Care” means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(b) “Qualified entity” means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

(2)(a) A qualified entity must register with the department before submitting a request for screening under this section. Each such request must be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended. As a part of the registration, the qualified entity must agree to comply with state and federal law and must so indicate by signing an agreement approved by the department. The department may periodically audit qualified entities to ensure compliance with federal law and this section.

(b) A qualified entity shall submit to the department a request for screening an employee or volunteer or person applying to be an employee or volunteer by submitting fingerprints, or the request may be submitted electronically. The qualified entity must maintain a signed waiver allowing the release of the state and national criminal history record information to the qualified entity.

(c) Each such request must be accompanied by payment of a fee for a statewide criminal history check by the department established by s. [943.053](#), plus the amount currently prescribed by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended. Payments must be made in the manner prescribed by the department by rule.

(d) Any current or prospective employee or volunteer who is subject to a request for screening must indicate to the qualified entity submitting the request the name and address of each qualified entity that has submitted a previous request for screening regarding that employee or volunteer.

(3) The department shall provide directly to the qualified entity the state criminal history records that are not exempt from disclosure under chapter 119 or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in s. [943.056](#).

(4) The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be an employee or volunteer with a qualified entity. The department shall provide this national criminal history record information

directly to the qualified entity as authorized by the written waiver required for submission of a request to the department.

(5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity.

(6) The qualified entity must notify in writing the person of his or her right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening.

(7) The department may establish a database of registered qualified entities and make this data available free of charge to all registered qualified entities. The database must include, at a minimum, the name, address, and phone number of each qualified entity.

(8) A qualified entity is not liable for damages solely for failing to obtain the information authorized under this section with respect to an employee or volunteer. The state, any political subdivision of the state, or any agency, officer, or employee of the state or a political subdivision is not liable for damages for providing the information requested under this section.

(9) The department has authority to adopt rules to implement this section.

History.—s. 1, ch. 99-300; s. 3, ch. 2008-249; s. 20, ch. 2013-116.

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PERSONNEL

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### **1012.32 Qualifications of personnel.—**

(1) To be eligible for appointment in any position in any district school system, a person must be of good moral character; must have attained the age of 18 years, if he or she is to be employed in an instructional capacity; must not be ineligible for such employment under s. [1012.315](#); and must, when required by law, hold a certificate or license issued under rules of the State Board of Education or the Department of Children and Family Services, except when employed pursuant to s. [1012.55](#) or under the emergency provisions of s. [1012.24](#). Previous residence in this state shall not be required in any school of the state as a prerequisite for any person holding a valid Florida certificate or license to serve in an instructional capacity.

(2)(a) Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in any district school system or university lab school must, upon employment or engagement to provide services, undergo background screening as required under s. [1012.465](#) or s. [1012.56](#), whichever is applicable.

(b) Instructional and noninstructional personnel who are hired or contracted to fill positions in any charter school and members of the governing board of any charter school, in compliance with s. [1002.33](#)(12)(g), must, upon employment, engagement of services, or appointment, undergo background screening as required under s. [1012.465](#) or s. [1012.56](#), whichever is applicable, by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

(c) Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in an alternative school that operates under contract with a district school system must, upon employment or engagement to provide services, undergo background screening as required under s. [1012.465](#) or s. [1012.56](#), whichever is applicable, by filing with the district school board for the school district to which the alternative school is under contract a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

(d) Student teachers and persons participating in a field experience pursuant to s. [1004.04](#)(5) or s. [1004.85](#) in any district school system, lab school, or charter school must, upon engagement to provide services, undergo background screening as required under s. [1012.56](#).

Fingerprints shall be submitted to the Department of Law Enforcement for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation for federal criminal records checks. A person subject to this subsection who is found ineligible for employment under s. [1012.315](#), or

otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this subsection terminated because of their criminal record have the right to appeal such decisions. The cost of the background screening may be borne by the district school board, the charter school, the employee, the contractor, or a person subject to this subsection.

(3)(a) All fingerprints submitted to the Department of Law Enforcement as required by subsection (2) shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

(b) The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (a). Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing or contracting school district or the school district with which the person is affiliated. Each school district is required to participate in this search process by payment of an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of its instructional and noninstructional personnel whose fingerprints are retained under paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each school district for performing these searches and establishing the procedures for the retention of instructional and noninstructional personnel fingerprints and the dissemination of search results. The fee may be borne by the district school board, the contractor, or the person fingerprinted.

(c) Personnel whose fingerprints are not retained by the Department of Law Enforcement under paragraphs (a) and (b) must be refingerprinted and rescreened in accordance with subsection (2) upon reemployment or reengagement to provide services in order to comply with the requirements of this subsection.

**History.**—s. 706, ch. 2002-387; s. 9, ch. 2004-295; s. 27, ch. 2008-108; s. 69, ch. 2013-116; s. 6, ch. 2013-185.

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**1012.33 Contracts with instructional staff, supervisors, and school principals.—**

(1)<sup>2</sup>(a) Each person employed as a member of the instructional staff in any district school system shall be properly certified pursuant to s. [1012.56](#) or s. [1012.57](#) or employed pursuant to s. [1012.39](#) and shall be entitled to and shall receive a written contract as specified in this section. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: immorality, misconduct in office, incompetency, two consecutive annual performance evaluation ratings of unsatisfactory under s. [1012.34](#), two annual performance evaluation ratings of unsatisfactory within a 3-year period under s. [1012.34](#), three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory under s. [1012.34](#), gross insubordination, willful neglect of duty, or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.

(b) A supervisor or school principal shall be properly certified and shall receive a written contract as specified in this section. Such contract may be for an initial period not to exceed 3 years, subject to annual review and renewal. The first 97 days of an initial contract is a probationary period. During the probationary period, the employee may be dismissed without cause or may resign from the contractual position without breach of contract. After the first 3 years, the contract may be renewed for a period not to exceed 3 years and shall contain provisions for dismissal during the term of the contract only for just cause, in addition to such other provisions as are prescribed by the district school board.

(2) Any person so employed on the basis of a written offer of a specific position by a duly authorized agent of the district school board for a stated term of service at a specified salary, and who accepted such offer by telegram or letter or by signing the regular contract form, who violates the terms of such contract or agreement by leaving his or her position without first being released from his or her contract or agreement by the district school board of the district in which the person is employed shall be subject to the jurisdiction of the Education Practices Commission. The district school board shall take official action on such violation and shall furnish a copy of its official minutes to the Commissioner of Education.

(3) A professional service contract shall be renewed each year unless:

(a) The district school superintendent, after receiving the recommendations required by s. [1012.34](#), charges the employee with unsatisfactory performance and notifies the employee of performance deficiencies as required by s. [1012.34](#); or

(b) The employee receives two consecutive annual performance evaluation ratings of unsatisfactory under s. [1012.34](#), two annual performance evaluation ratings of unsatisfactory within a

3-year period under s. 1012.34, or three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory under s. 1012.34.

(4)(a) An employee who had continuing contract status prior to July 1, 1984, shall be entitled to retain such contract and all rights arising therefrom as prescribed by rules of the State Board of Education adopted pursuant to s. 231.36, Florida Statutes (1981), unless the employee voluntarily relinquishes his or her continuing contract.

(b) Any member of the district administrative or supervisory staff and any member of the instructional staff, including any school principal, who is under continuing contract may be dismissed or may be returned to annual contract status for another 3 years in the discretion of the district school board, at the end of the school year, when a recommendation to that effect is submitted in writing to the district school board on or before April 1 of any school year, giving good and sufficient reasons therefor, by the district school superintendent, by the school principal if his or her contract is not under consideration, or by a majority of the district school board. The employee whose contract is under consideration shall be duly notified in writing by the party or parties preferring the charges at least 5 days prior to the filing of the written recommendation with the district school board, and such notice shall include a copy of the charges and the recommendation to the district school board. The district school board shall proceed to take appropriate action. Any decision adverse to the employee shall be made by a majority vote of the full membership of the district school board. Any such decision adverse to the employee may be appealed by the employee pursuant to s. 120.68.

(c) Any member of the district administrative or supervisory staff and any member of the instructional staff, including any school principal, who is under continuing contract may be suspended or dismissed at any time during the school year; however, the charges against him or her must be based on immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, drunkenness, or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude, as these terms are defined by rule of the State Board of Education. Whenever such charges are made against an employee of the district school board, the district school board may suspend such person without pay; but, if the charges are not sustained, he or she shall be immediately reinstated, and his or her back salary shall be paid. In cases of suspension by the district school board or by the district school superintendent, the district school board shall determine upon the evidence submitted whether the charges have been sustained and, if the charges are sustained, shall determine either to dismiss the employee or fix the terms under which he or she may be reinstated. If such charges are sustained by a majority vote of the full membership of the district school board and the employee is discharged, his or her contract of employment shall be canceled. Any decision adverse to the employee may be appealed by the employee pursuant to s. 120.68, provided the appeal is filed within 30 days after the decision of the district school board.

(5) If workforce reduction is needed, a district school board must retain employees at a school or in the school district based upon educational program needs and the performance evaluations of employees within the affected program areas. Within the program areas requiring reduction, the employee with the lowest performance evaluations must be the first to be released; the employee with the next lowest performance evaluations must be the second to be released; and reductions shall continue in like manner until the needed number of reductions has occurred. A district school board may not prioritize retention of employees based upon seniority.

(6)(a) Any member of the instructional staff, excluding an employee specified in subsection (4), may be suspended or dismissed at any time during the term of the contract for just cause as provided

In paragraph (1)(a). The district school board must notify the employee in writing whenever charges are made against the employee and may suspend such person without pay; but, if the charges are not sustained, the employee shall be immediately reinstated, and his or her back salary shall be paid. If the employee wishes to contest the charges, the employee must, within 15 days after receipt of the written notice, submit a written request for a hearing. Such hearing shall be conducted at the district school board's election in accordance with one of the following procedures:

1. A direct hearing conducted by the district school board within 60 days after receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the district school board shall be required to sustain the district school superintendent's recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment; or

2. A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120. The recommendation of the administrative law judge shall be made to the district school board. A majority vote of the membership of the district school board shall be required to sustain or change the administrative law judge's recommendation. The determination of the district school board shall be final as to the sufficiency or insufficiency of the grounds for termination of employment.

Any such decision adverse to the employee may be appealed by the employee pursuant to s. 120.68, provided such appeal is filed within 30 days after the decision of the district school board.

(b) Any member of the district administrative or supervisory staff, including any principal but excluding an employee specified in subsection (4), may be suspended or dismissed at any time during the term of the contract; however, the charges against him or her must be based on immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, drunkenness, or being convicted or found guilty of, or entering a plea of guilty, regardless of adjudication of guilt, any crime involving moral turpitude, as these terms are defined by rule of the State Board of Education. Whenever such charges are made against an employee of the district school board, the district school board may suspend the employee without pay; but, if the charges are not sustained, he or she shall be immediately reinstated, and his or her back salary shall be paid. In cases of suspension by the district school board or by the district school superintendent, the district school board shall determine upon the evidence submitted whether the charges have been sustained and, if the charges are sustained, shall determine either to dismiss the employee or fix the terms under which he or she may be reinstated. If such charges are sustained by a majority vote of the full membership of the district school board and the employee is discharged, his or her contract of employment shall be canceled. Any decision adverse to the employee may be appealed by him or her pursuant to s. 120.68, provided such appeal is filed within 30 days after the decision of the district school board.

(7) The district school board of any given district shall grant continuing service credit for time spent performing duties as a member of the Legislature to any district employee who possesses a professional service contract, multiyear contract, or continuing contract.

(8) Notwithstanding any other provision of law, a retired member may interrupt retirement and be reemployed in any public school. A member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1).

(9) Notwithstanding this section or any other law or rule to the contrary, for the 2009-2010 and

2010-2011 fiscal years, district school boards should not enter into a new professional service contract if the only funds available to pay such contract are from nonrecurring Federal Stabilization Funds.

**History.**—s. 707, ch. 2002-387; s. 126, ch. 2003-1; s. 10, ch. 2004-295; s. 28, ch. 2008-108; s. 35, ch. 2009-59; s. 21, ch. 2009-209; s. 32, ch. 2010-154; s. 13, ch. 2011-1; s. 19, ch. 2011-37.

<sup>1</sup>**Note.**—Section 19, ch. 2011-1, provides that “[t]he amendments made by this act to s. 1012.33, Florida Statutes, apply to contracts newly entered into, extended, or readopted on or after July 1, 2011, and to all contracts entered into on or after July 1, 2014.”

<sup>2</sup>**Note.**—Section 17, ch. 2011-1, provides that “[c]hapter 2010-279, Laws of Florida, does not apply to any rulemaking required to administer this act.”



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**1012.465 Background screening requirements for certain noninstructional school district employees and contractors.—**

(1) Except as provided in s. [1012.467](#) or s. [1012.468](#), noninstructional school district employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in s. [1012.32](#). Contractual personnel shall include any vendor, individual, or entity under contract with a school or the school board.

(2) Every 5 years following employment or entry into a contract in a capacity described in subsection (1), each person who is so employed or under contract with the school district must meet level 2 screening requirements as described in s. [1012.32](#), at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening. If, for any reason following employment or entry into a contract in a capacity described in subsection (1), the fingerprints of a person who is so employed or under contract with the school district are not retained by the Department of Law Enforcement under s. [1012.32\(3\)\(a\)](#) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing or contracting school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under s. [1012.32\(3\)\(a\)](#) and (b). The cost of the state and federal criminal history check required by level 2 screening may be borne by the district school board, the contractor, or the person fingerprinted. Under penalty of perjury, each person who is employed or under contract in a capacity described in subsection (1) must agree to inform his or her employer or the party with whom he or she is under contract within 48 hours if convicted of any disqualifying offense while he or she is employed or under contract in that capacity.

(3) If it is found that a person who is employed or under contract in a capacity described in subsection (1) does not meet the level 2 requirements, the person shall be immediately suspended from working in that capacity and shall remain suspended until final resolution of any appeals.

**History.—**s. 14, ch. 2004-295; s. 21, ch. 2005-28; s. 6, ch. 2007-207.

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**1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—**

(1) As used in this section, the term:

(a) “Noninstructional contractor” means any vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for the school district or a school, but who is not otherwise considered an employee of the school district. The term also includes any employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.

(b) “Convicted” has the same meaning as in s. [943.0435](#).

(c) “School grounds” means the buildings and grounds of any public prekindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, or any combination of grades prekindergarten through grade 12, together with the school district land on which the buildings are located. The term does not include:

1. Any other facility or location where school classes or activities may be located or take place;
2. The buildings and grounds of any public prekindergarten, kindergarten, elementary school, middle school, junior high school, high school, or secondary school, or any combination of grades prekindergarten through grade 12, or contiguous school district land, during any time period in which students are not permitted access; or
3. Any building described in this paragraph during any period in which it is used solely as a career or technical center under part IV of chapter 1004 for postsecondary or adult education.

(2)(a) A fingerprint-based criminal history check shall be performed on each noninstructional contractor who is permitted access to school grounds when students are present, whose performance of the contract with the school or school board is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent and incidental. Criminal history checks shall be performed at least once every 5 years. For the initial criminal history check, each noninstructional contractor who is subject to the criminal history check shall file with the Department of Law Enforcement a complete set of fingerprints taken by an authorized law enforcement agency or an employee of a school district, a public school, or a private company who is trained to take fingerprints. The fingerprints shall be electronically submitted for state processing to the Department of Law Enforcement, which shall in turn submit the fingerprints to the Federal Bureau of Investigation for national processing. The results of each criminal history check shall be reported to the school district in which the individual is seeking access and entered into the shared system described in subsection (7). The school district shall screen the results using the disqualifying offenses in paragraph (g). The cost of the criminal history check may be borne by the district school board, the school, or the

contractor. A fee that is charged by a district school board for such checks may not exceed 30 percent of the total amount charged by the Department of Law Enforcement and the Federal Bureau of Investigation.

(b) As authorized by law, the Department of Law Enforcement shall retain the fingerprints submitted by the school districts pursuant to this subsection to the Department of Law Enforcement for a criminal history background screening in a manner provided by rule and enter the fingerprints in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprints entered into the statewide automated biometric identification system under s. 943.051.

(c) As authorized by law, the Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under paragraph (b).

(d) School districts may participate in the search process described in this subsection by paying an annual fee to the Department of Law Enforcement.

(e) A fingerprint retained pursuant to this subsection shall be purged from the automated biometric identification system 5 years following the date the fingerprint was initially submitted. The Department of Law Enforcement shall set the amount of the annual fee to be imposed upon each participating agency for performing these searches and establishing the procedures for retaining fingerprints and disseminating search results. The fee may be borne as provided by law. Fees may be waived or reduced by the executive director of the Department of Law Enforcement for good cause shown.

(f) A noninstructional contractor who is subject to a criminal history check under this section shall inform a school district that he or she has completed a criminal history check in another school district within the last 5 years. The school district shall verify the results of the contractor's criminal history check using the shared system described in subsection (7). The school district may not charge the contractor a fee for verifying the results of his or her criminal history check.

(g) A noninstructional contractor for whom a criminal history check is required under this section may not have been convicted of any of the following offenses designated in the Florida Statutes, any similar offense in another jurisdiction, or any similar offense committed in this state which has been redesignated from a former provision of the Florida Statutes to one of the following offenses:

1. Any offense listed in s. 943.0435(1)(a)1., relating to the registration of an individual as a sexual offender.
2. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.
3. Section 394.4593, relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.
4. Section 775.30, relating to terrorism.
5. Section 782.04, relating to murder.
6. Section 787.01, relating to kidnapping.
7. Any offense under chapter 800, relating to lewdness and indecent exposure.
8. Section 826.04, relating to incest.
9. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(3) If it is found that a noninstructional contractor has been convicted of any of the offenses listed in paragraph (2)(g), the individual shall be immediately suspended from having access to school

grounds and shall remain suspended unless and until the conviction is set aside in any postconviction proceeding.

(4) A noninstructional contractor who has been convicted of any of the offenses listed in paragraph (2)(g) may not be permitted on school grounds when students are present unless the contractor has received a full pardon or has had his or her civil rights restored. A noninstructional contractor who is present on school grounds in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If a school district has reasonable cause to believe that grounds exist for the denial of a contractor's access to school grounds when students are present, it shall notify the contractor in writing, stating the specific record that indicates noncompliance with the standards set forth in this section. It is the responsibility of the affected contractor to contest his or her denial. The only basis for contesting the denial is proof of mistaken identity or that an offense from another jurisdiction is not disqualifying under paragraph (2)(g).

(6) Each contractor who is subject to the requirements of this section shall agree to inform his or her employer or the party to whom he or she is under contract and the school district within 48 hours if he or she is arrested for any of the disqualifying offenses in paragraph (2)(g). A contractor who willfully fails to comply with this subsection commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. If the employer of a contractor or the party to whom the contractor is under contract knows the contractor has been arrested for any of the disqualifying offenses in paragraph (2)(g) and authorizes the contractor to be present on school grounds when students are present, such employer or such party commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(7)(a) The Department of Law Enforcement shall implement a system that allows for the results of a criminal history check provided to a school district to be shared with other school districts through a secure Internet website or other secure electronic means. School districts must accept reciprocity of level 2 screenings for Florida High School Athletic Association officials.

(b) An employee of a school district, a charter school, a lab school, a charter lab school, or the Florida School for the Deaf and the Blind who requests or shares criminal history information under this section is immune from civil or criminal liability for any good faith conduct that occurs during the performance of and within the scope of responsibilities related to the record check.

(8)(a) The Department of Education shall create a uniform, statewide identification badge to be worn by noninstructional contractors signifying that a contractor has met the requirements of this section. The school district shall issue an identification badge to the contractor, which must bear a photograph of the contractor. An identification badge shall be issued if the contractor:

1. Is a resident and citizen of the United States or a permanent resident alien of the United States as determined by the United States Citizenship and Immigration Services;
2. Is 18 years of age or older; and
3. Meets the background screening requirements under this section.

(b) The uniform, statewide identification badge shall be recognized by all school districts and must be visible at all times that a noninstructional contractor is on school grounds.

(c) The identification badge shall be valid for a period of 5 years. If a noninstructional contractor provides notification pursuant to subsection (6), the contractor shall, within 48 hours, return the identification badge to the school district that issued the badge.

(d) The Department of Education shall determine a uniform cost that a school district may charge a

noninstructional contractor for receipt of the identification badge, which shall be borne by the recipient of the badge.

(e) This subsection does not apply to noninstructional contractors who are exempt from background screening requirements pursuant to s. 1012.468.

History.—s. 7, ch. 2007-207; s. 33, ch. 2010-154; s. 122, ch. 2013-18; s. 1, ch. 2013-73; s. 70, ch. 2013-116.

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**1012.56 Educator certification requirements.—**

(1) **APPLICATION.**—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. [1012.59](#) and rules of the State Board of Education. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. [120.60](#), the department shall issue within 90 calendar days after the stamped receipted date of the completed application:

- (a) If the applicant meets the requirements, a professional certificate covering the classification, level, and area for which the applicant is deemed qualified and a document explaining the requirements for renewal of the professional certificate;
- (b) If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to paragraphs (6)(f) and (8)(b), a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or
- (c) If an applicant does not meet the requirements for either certificate, an official statement of status of eligibility.

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2)(d).

(2) **ELIGIBILITY CRITERIA.**—To be eligible to seek certification, a person must:

- (a) Be at least 18 years of age.
- (b) File an affidavit that the applicant subscribes to and will uphold the principles incorporated in the Constitution of the United States and the Constitution of the State of Florida and that the information provided in the application is true, accurate, and complete. The affidavit shall be by original signature or by electronic authentication. The affidavit shall include substantially the following warning:

**WARNING:** Giving false information in order to obtain or renew a Florida educator's certificate is a criminal offense under Florida law. Anyone giving false information on this affidavit is subject to criminal prosecution as well as disciplinary action by the Education Practices Commission.

(c) Document receipt of a bachelor's or higher degree from an accredited institution of higher learning, or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree, or higher. Each applicant seeking initial certification must have attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. The applicant may document the required education by submitting official transcripts from institutions of higher education or by authorizing the direct submission of such official transcripts through established electronic network systems. The bachelor's or higher degree may not be required in areas approved in rule by the State Board of Education as nondegreed areas. The State Board of Education may adopt rules that, for purposes of demonstrating completion of specific certification requirements, allow for the acceptance of college course credits recommended by the American Council for Education (ACE), as posted on an official ACE transcript.

(d) Submit to background screening in accordance with subsection (10). If the background screening indicates a criminal history or if the applicant acknowledges a criminal history, the applicant's records shall be referred to the Investigative section in the Department of Education for review and determination of eligibility for certification. If the applicant fails to provide the necessary documentation requested by the department within 90 days after the date of the receipt of the certified mail request, the statement of eligibility and pending application shall become invalid.

(e) Be of good moral character.

(f) Be competent and capable of performing the duties, functions, and responsibilities of an educator.

(g) Demonstrate mastery of general knowledge, pursuant to subsection (3).

(h) Demonstrate mastery of subject area knowledge, pursuant to subsection (5).

(i) Demonstrate mastery of professional preparation and education competence, pursuant to subsection (6).

**(3) MASTERY OF GENERAL KNOWLEDGE.**—Acceptable means of demonstrating mastery of general knowledge are:

(a) Achievement of passing scores on basic skills examination required by state board rule;

(b) Achievement of passing scores on the College Level Academic Skills Test earned prior to July 1, 2002;

(c) A valid professional standard teaching certificate issued by another state;

(d) A valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education; or

(e) Documentation of two semesters of successful teaching in a Florida College System institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program.

**(4) ALIGNMENT OF SUBJECT AREAS.**—The State Board of Education shall align the subject area examinations to the Next Generation Sunshine State Standards.

**(5) MASTERY OF SUBJECT AREA KNOWLEDGE.**—Acceptable means of demonstrating mastery of subject area knowledge are:

(a) Achievement of passing scores on subject area examinations required by state board rule, which may include, but need not be limited to, world languages in Arabic, Chinese, Farsi, French, German, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Portuguese, Russian, and Spanish;

(b) Completion of a bachelor's degree or higher and verification of the attainment of an oral

proficiency interview score above the intermediate level and a written proficiency score above the intermediate level on a test administered by the American Council on the Teaching of Foreign Languages for which there is no Florida-developed examination;

(c) Completion of the subject area specialization requirements specified in state board rule and verification of the attainment of the essential subject matter competencies by the district school superintendent of the employing school district or chief administrative officer of the employing state-supported or private school for a subject area for which a subject area examination has not been developed and required by state board rule;

(d) Completion of the subject area specialization requirements specified in state board rule for a subject coverage requiring a master's or higher degree and achievement of a passing score on the subject area examination specified in state board rule;

(e) A valid professional standard teaching certificate issued by another state; or

(f) A valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education.

School districts are encouraged to provide mechanisms for those middle school teachers holding only a K-6 teaching certificate to obtain a subject area coverage for middle grades through postsecondary coursework or district add-on certification.

(6) **MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.**—Acceptable means of demonstrating mastery of professional preparation and education competence are:

(a) Completion of an approved teacher preparation program at a postsecondary educational institution within this state and achievement of a passing score on the professional education competency examination required by state board rule;

(b) Completion of a teacher preparation program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by state board rule;

(c) A valid professional standard teaching certificate issued by another state;

(d) A valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the State Board of Education;

(e) Documentation of two semesters of successful teaching in a Florida College System institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education as having a quality program;

(f) Completion of professional preparation courses as specified in state board rule, successful completion of a professional education competence demonstration program pursuant to paragraph (8)(b), and achievement of a passing score on the professional education competency examination required by state board rule;

(g) Successful completion of a professional preparation alternative certification and education competency program, outlined in paragraph (8)(a); or

(h) Successful completion of an alternative certification program pursuant to s. 1004.85 and achievement of a passing score on the professional education competency examination required by rule of the State Board of Education.

(7) **TYPES AND TERMS OF CERTIFICATION.**—

(a) The Department of Education shall issue a professional certificate for a period not to exceed 5



years to any applicant who meets all the requirements outlined in subsection (2).

(b) The department shall issue a temporary certificate to any applicant who completes the requirements outlined in paragraphs (2)(a)-(f) and completes the subject area content requirements specified in state board rule or demonstrates mastery of subject area knowledge pursuant to subsection (5) and holds an accredited degree or a degree approved by the Department of Education at the level required for the subject area specialization in state board rule.

(c) The department shall issue one nonrenewable 2-year temporary certificate and one nonrenewable 5-year professional certificate to a qualified applicant who holds a bachelor's degree in the area of speech-language impairment to allow for completion of a master's degree program in speech-language impairment.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2)(g). The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

(8) PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION COMPETENCY PROGRAM.—

(a) The Department of Education shall develop and each school district may provide a cohesive competency-based professional development certification program by which members of a school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements specified in this subsection and rules of the State Board of Education. Participants must hold a state-issued temporary certificate. A school district that implements the program shall provide a competency-based certification program developed by the Department of Education or developed by the district and approved by the Department of Education. The program shall include the following components:

1. A minimum period of initial preparation before assuming duties as the teacher of record.
2. An option for collaboration between school districts and other supporting agencies or educational entities for implementation.
3. Experienced peer mentors. Each individual selected by the district as a peer mentor must hold a valid professional certificate issued pursuant to this section, must have earned at least 3 years of teaching experience in prekindergarten through grade 12, and must have earned an effective or highly effective rating on the prior year's performance evaluation under s. 1012.34 or be a peer evaluator under the district's evaluation system approved under s. 1012.34.
4. An assessment of teaching performance aligned to the district's system for personnel evaluation under s. 1012.34 which provides for:

- a. An initial evaluation of each educator's competencies to determine an appropriate individualized professional development plan.
  - b. A summative evaluation to assure successful completion of the program.
  5. Professional education preparation content knowledge that includes, but is not limited to, the following:
    - a. The state-adopted student content standards, including content literacy and mathematical practices, for each subject identified on the temporary certificate.
    - b. The educator-accomplished practices approved by the state board.
    - c. A variety of data indicators for monitoring student progress.
    - d. Methodologies for teaching students with disabilities.
    - e. Methodologies for teaching English language learners appropriate for each subject area identified on the temporary certificate.
    - f. Techniques and strategies for operationalizing the role of the teacher in assuring a safe learning environment for students.
  6. Required achievement of passing scores on the subject area and professional education competency examination required by State Board of Education rule. Mastery of general knowledge must be demonstrated as described in subsection (3).
- (b)1. Each school district must and a state supported public school or a private school may develop and maintain a system by which members of the instructional staff may demonstrate mastery of professional education competence as required by law. Each program must be based on classroom application of the Florida Educator Accomplished Practices and instructional performance and, for public schools, must be aligned with the district's evaluation system approved under s. 1012.34.
2. The Commissioner of Education shall determine the continued approval of programs implemented under this paragraph, based upon the department's review of performance data. The department shall review the performance data as a part of the periodic review of each school district's professional development system required under s. 1012.98.
- (c) The Commissioner of Education shall determine the continued approval of programs implemented under paragraph (a) based upon the department's periodic review of the following:
1. Evidence that the requirements in paragraph (a) are consistently met; and
  2. Evidence of performance in each of the following areas:
    - a. Rate of retention for employed program completers in instructional positions in Florida public schools.
    - b. Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers on statewide assessments using the results of the student learning growth formula adopted under s. 1012.34.
    - c. Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers aggregated by student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II), as a measure of how well the program prepares teachers to work with a variety of students in Florida public schools.
    - d. Results of program completers' annual evaluations in accordance with the timeline as set forth in s. 1012.34.
    - e. Production of program completers in statewide critical teacher shortage areas as defined in s. 1012.07.

(9) EXAMINATIONS.—

(a) The Commissioner of Education, with the approval of the State Board of Education, may contract for developing, printing, administering, scoring, and appropriate analysis of the written examinations required.

(b) The State Board of Education shall, by rule, specify the examination scores that are required for the issuance of a professional certificate and temporary certificate. Such rules must define generic subject area competencies and must establish uniform evaluation guidelines.

(c) The State Board of Education shall designate the certification areas for subject area examinations. All required examinations may be taken prior to graduation.

(d) The department shall provide procedures for an applicant who fails an examination developed by the department or by an entity under contract with the department to review his or her examination questions and his or her incorrectly answered responses to the questions. The applicant bears the actual cost for the department to provide an examination review pursuant to this subsection. Notwithstanding any other provisions of law, only an applicant who fails an examination within a score range established by rule of the State Board of Education is entitled to an examination review under this paragraph or to challenge the validity of the examination.

(e) For any examination developed by this state, the Department of Education and the State Board of Education shall maintain confidentiality of the examination, developmental materials, and workpapers, which are exempt from s. 119.07(1).

(f) The examinations used for demonstration of mastery of general knowledge, professional education competence, and subject area knowledge shall be aligned with student standards approved by the state board. The delivery system for these examinations shall provide for overall efficiency, user-friendly application, reasonable accessibility to prospective teachers, and prompt attainment of examination results. The examination of competency for demonstration of subject area knowledge shall be sufficiently comprehensive to assess subject matter expertise for individuals who have acquired subject knowledge either through college credit or by other means.

(g) All examination instruments, including developmental materials and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to this section shall be confidential and exempt from the provisions of s. 119.07(1) and from s. 1001.52. Provisions governing access to, maintenance of, and destruction of such instruments and related materials shall be prescribed by rules of the State Board of Education.

**(10) BACKGROUND SCREENING REQUIRED, INITIALLY AND PERIODICALLY.—**

(a) Each person who seeks certification under this chapter must be fingerprinted and screened in accordance with s. 1012.32 and must not be ineligible for such certification under s. 1012.315. A person who has been screened in accordance with s. 1012.32 by a district school board or the Department of Education within 12 months before the date the person initially obtains certification under this chapter, the results of which are submitted to the district school board or to the Department of Education, is not required to repeat the screening under this paragraph.

(b) A person may not receive a certificate under this chapter until the person's screening under s. 1012.32 is completed and the results have been submitted to the Department of Education or to the district school superintendent of the school district that employs the person. Every 5 years after obtaining initial certification, each person who is required to be certified under this chapter must be rescreened in accordance with s. 1012.32, at which time the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal records checks. If, for any reason after obtaining initial certification, the fingerprints

of a person who is required to be certified under this chapter are not retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b), the person must file a complete set of fingerprints with the district school superintendent of the employing school district. Upon submission of fingerprints for this purpose, the school district shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for federal criminal records checks, and the fingerprints shall be retained by the Department of Law Enforcement under s. 1012.32(3)(a) and (b). The cost of the state and federal criminal history checks required by paragraph (a) and this paragraph may be borne by the district school board or the employee. Under penalty of perjury, each person who is certified under this chapter must agree to inform his or her employer within 48 hours if convicted of any disqualifying offense while he or she is employed in a position for which such certification is required.

(c) If it is found under s. 1012.796 that a person who is employed in a position requiring certification under this chapter has not been screened in accordance with s. 1012.32, or is ineligible for such certification under s. 1012.315, the person's certification shall be immediately revoked or suspended and he or she shall be immediately suspended from the position requiring certification.

**(11) NONCITIZENS.—**

(a) The State Board of Education may adopt rules for issuing certificates to noncitizens who are needed to teach and who are legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services. The filing of a written oath to uphold the principles of the Constitution of the United States and the Constitution of the State of Florida, required under paragraph (2)(b), does not apply to individuals assigned to teach on an exchange basis.

(b) A certificate may not be issued to a citizen of a nation controlled by forces that are antagonistic to democratic forms of government, except to an individual who has been legally admitted to the United States through the United States Bureau of Citizenship and Immigration Services.

**(12) DENIAL OF CERTIFICATE.—**

(a) The Department of Education may deny an applicant a certificate if the department possesses evidence satisfactory to it that the applicant has committed an act or acts, or that a situation exists, for which the Education Practices Commission would be authorized to revoke a teaching certificate.

(b) The decision of the department is subject to review by the Education Practices Commission upon the filing of a written request from the applicant within 20 days after receipt of the notice of denial.

**(13) STATE BOARD RULES.—**The State Board of Education shall adopt rules pursuant to ss. 120.536 and 120.54, as necessary to implement this section.

**(14) PRIOR APPLICATION.—**Persons who apply for certification are governed by the law and rules in effect at the time of application for issuance of the initial certificate, provided that continuity of certificates is maintained.

**(15) PERSONNEL RECORDS.—**The Department of Education shall maintain an electronic database that includes, but need not be limited to, the academic preparation, professional training, and teaching experience of each person to whom a certificate is issued. The applicant or the district school superintendent shall furnish the information using a format provided by the department.

**(16) AUTHORITY OF COMMISSIONER.—**The Commissioner of Education may make decisions regarding an applicant's certification under extenuating circumstances not otherwise provided for in statute or by rule. However, an applicant for certification approved by the commissioner must possess the

credentials, knowledge, and skills necessary to provide quality education in the public schools.

(17) **COMPARISON OF ROUTES TO A PROFESSIONAL CERTIFICATE.**—Beginning with the 2003-2004 school year, the Department of Education shall conduct a longitudinal study to compare performance of certificateholders who are employed in Florida school districts. The study shall compare a sampling of educators who have qualified for a professional certificate since July 1, 2002, based on the following:

- (a) Graduation from a state-approved teacher preparation program.
- (b) Completion of a state-approved professional preparation and education competency program.
- (c) A valid standard teaching certificate issued by a state other than Florida.

The department comparisons shall be made to determine if there is any significant difference in the performance of these groups of teachers, as measured by their students' achievement levels and learning gains as measured by s. 1008.22.

History.—s. 728, ch. 2002-387; s. 43, ch. 2003-391; s. 170, ch. 2004-5; s. 16, ch. 2004-295; s. 61, ch. 2006-74; s. 30, ch. 2008-108; s. 25, ch. 2008-235; s. 104, ch. 2009-21; s. 184, ch. 2011-5; s. 41, ch. 2013-27; s. 8, ch. 2013-185.

**CHAPTER 11C-6  
CRIMINAL HISTORY RECORDS DISSEMINATION POLICY**

11C-6.003	System Security and Public Access (Repealed)
11C-6.004	Procedures for Requesting Criminal History Records
11C-6.005	Access to Criminal Justice Information for Research or Statistical Purposes
11C-6.009	Sale and Delivery of Firearms
11C-6.010	Retention of Applicant Fingerprints

**11C-6.003 System Security and Public Access.**

*Rulemaking Authority 943.03(4), 943.05(2)(d), 943.053 FS. Law Implemented 119.07, 943.053 FS. History—New 12-9-76, Formerly 11C-6.03, Amended 7-7-99, Repealed 5-21-12.*

**11C-6.004 Procedures for Requesting Criminal History Records.**

(1) Requests for Florida criminal history records contained in the systems of the Florida Department of Law Enforcement are to be directed to the following address:

Florida Department of Law Enforcement  
Division of Criminal Justice Information Services  
User Services Bureau  
Post Office Box 1489  
Tallahassee, Florida 32302-1489.

In order for the Department to respond to requests for Florida criminal history information, the person or entity who wishes to review or secure such information shall provide to the Department the subject's full name, race, sex, and date of birth or approximate age. If available, the social security number may be provided.

(2) All requests will be subject to processing in the following declining order of priorities:

(a) Requests from law enforcement and criminal justice agencies for criminal justice purposes, including criminal justice agency applicant processing;

(b) Requests for a personal record review pursuant to Rule 11C-8.001, F.A.C.;

(c) Requests from the Judicial Qualifications Commission, the Governor, and the President of the Senate or the appropriate Senate standing committee, select committee or subcommittee thereof relating to the appointment of officers;

(d) Requests from non-criminal justice agencies having specific statutory authority to receive criminal history information;

(e) Requests from other governmental agencies relying upon the Public Records Law (Chapter 119, F.S.);

(f) Requests from private individuals, businesses or organizations relying upon the Public Records Law.

(3) Fees.

(a) There shall be no charge for conducting record checks under paragraphs (2)(a) through (c).

(b) As provided in Section 943.053(3), F.S., a processing fee of \$24 shall be charged for each subject inquired upon under paragraphs (2)(d) through (f), except that a fee of \$8 shall be charged for each subject inquired upon for vendors of the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Elderly Affairs; a fee of \$15 shall be charged for each subject inquired upon pursuant to a state criminal history record check required by law to be performed by the Department of Agriculture and Consumer Services; a fee of \$18 shall be charged for each volunteer subject inquired upon under the National Child Protection Act of 1993, as amended; and no fee shall be charged for Florida criminal history information or wanted person information requested by the state offices of the Public Defender.

(c) The processing fee charged for each subject inquired upon via the internet shall be the fee authorized for inquiries from persons in the private sector in Section 943.053(3), F.S. This fee shall be assessed based on the inquiry regardless of whether the results show no criminal history record or some possible records. When an inquiry on one subject is made and more than one person is presented as possibly the same person, the customer will receive one criminal history record as a result of the prescribed payment. If the customer wants additional criminal history records from the list of persons presented for this same inquiry, a processing fee of \$24 shall be charged for each additional criminal record.

(4) Entities applying to the Florida Department of Law Enforcement to be qualified to receive criminal history records under the National Child Protection Act of 1993, as amended, must first complete and submit the following documents to the Florida

Department of Law Enforcement, in accordance with the instructions provided: VECHS Qualified Entity Application – Volunteer & Employee Criminal History System (NCPA 1; Rev. January 1, 2001). Entities that are qualified through the Florida Department of Law Enforcement to receive criminal history records under the National Child Protection Act must complete an electronic fingerprint submission for each person and submit it to the Florida Department of Law Enforcement for each request for a criminal history record. Qualified entities that release to another qualified entity any criminal history record information received pursuant to the National Child Protection Act must complete and maintain the following document, in accordance with the instructions provided: VECHS Dissemination Log – Volunteer & Employee Criminal History System (NCPA 4, Rev. January 1, 2001). These forms are incorporated by reference.

*Rulemaking Authority 943.03(4), 943.053(3), 943.0542, 943.056 FS. Law Implemented 943.053(3), 943.0542, 943.056 FS. History–New 12-30-76, Amended 11-7-83, Formerly 11C-6.04, Amended 9-1-88, 4-1-93, 7-7-99, 8-22-00, 7-29-01, 12-3-03, 6-9-08, 6-3-10, 5-21-12, 3-13-13.*

**11C-6.005 Access to Criminal Justice Information for Research or Statistical Purposes.**

(1) Each request of the Department of Law Enforcement for criminal justice information for research or statistical purposes shall be processed through the Director's Office of the Division of Criminal Justice Information Systems.

(2)(a) All requests shall be made in writing and directed to:

Florida Department of Law Enforcement  
Division of Criminal Justice Information Services  
Director's Office

Post Office Box 1489

Tallahassee, Florida 32302-1489

(b) All requests shall contain the name, address, and telephone number of the applicant; a brief summary of the project; the type of criminal justice information desired; and the intended use for the criminal justice information.

(3) Requests shall be processed on a priority basis for:

(a) Criminal Justice Agencies;

(b) Noncriminal Justice Government Agencies;

(c) Private entities; corporations and private individuals.

(4) All requests will be evaluated by the Director of the Division of Criminal Justice Information Services or the Director's designated assistant for the feasibility of compliance.

(5) If criminal justice information cannot be provided to the applicant as requested, written notice will be forwarded to the applicant within 21 days after receipt of the request, explaining why it is not feasible.

(6)(a) If the request can be met, written notice will be forwarded to the applicant within 21 days after receipt of the request and the applicant will be required to enter privacy and security agreement with the Department of Law Enforcement.

(b) The privacy and security agreement is intended to assure that criminal justice information disseminated for use in a research or statistical project is used only for the purpose stated in the original request.

(7) The privacy and security agreement should be completed and returned to the Division of Criminal Justice Information Services. The Division will complete the request as soon as practical upon receipt of the documents.

(8) Criminal justice information which has been sealed upon order of a court of competent jurisdiction will be disseminated only in accordance with applicable law.

(9) A processing fee shall be charged unless the Executive director of the department determines that the requested information would be in the interest of law enforcement or criminal justice.

*Rulemaking Authority 943.03(4), 943.053(1), 943.057 FS. Law Implemented 119.07, 943.0525, 943.053, 943.057 FS. History–New 11-12-81, Formerly 11C-6.05, Amended 7-7-99.*

**11C-6.009 Sale and Delivery of Firearms.**

(1) For a federally licensed firearm dealer (including licensed firearm importers, licensed firearm manufacturers and licensed firearm dealers pursuant to Title 27, C.F.R., Part 178) to complete a firearm transaction to another person, other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector, a United States Treasury Department, Bureau of Alcohol, Tobacco and Firearms (ATF) form ATF F-4473 [5300.9] Part 1 (10/01) (Firearms Transaction Record) incorporated here by reference, must be completed. These forms are available from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia

22153. The completion of the ATF F-4473 [5300.9] Part 1 (10/01) form must comply with Title 27, C.F.R. Part 178, Section 178.124, and with Section 790.065, F.S.

(2) Section A of the ATF F-4473 [5300.9] Part 1 (10/01) form must be completed by the potential buyer or transferee. The dealer must ensure that items 9-13 are completed by the buyer prior to the dealer contacting the Florida Department of Law Enforcement (FDLE). In addition to the above requirements, the social security number of the potential buyer or transferee may be recorded in block number 7 of ATF F-4473 [5300.9] Part 1 (10/01) form along with the additional types and dates of identification for any person who is not a United States citizen (i.e., utility bills or lease agreements). The dealer is required to advise the potential buyer that the disclosure of his or her social security number is voluntary, of the authority for the disclosure, and of the use to be made of the number.

(3) All federally licensed importers, licensed manufacturers, and licensed firearm dealers in Florida who intend to sell a firearm to another non-licensed person must provide dealership information to the FDLE and obtain an identification number and a toll-free telephone number. The identification number and toll-free telephone number must be used only by or for the dealer and must be used to obtain an approval number before a firearm can be transferred. The Florida Firearm Dealer Information Form (form number FDLE 40-019, February 1, 1991), incorporated here by reference, may be obtained from:

Florida Department of Law Enforcement  
Firearm Purchase Program  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
Telephone Number: (850) 410-8139

(4) The dealer must collect a \$5.00 non-refundable processing fee from the potential buyer or transferee before the processing of a criminal history record check of the state and national record systems will be accomplished.

(5) Using the provided toll-free telephone number, the dealer must contact FDLE immediately prior to each transaction involving the transfer of one or more firearms to obtain an approval number to complete the firearm transaction. The dealer will provide the dealer's identification number and all identification data of the potential buyer/transferee as contained on ATF form F-4473 [5300.9] Part 1 (10/01) to FDLE.

(6) FDLE will provide an approval, non-approval, conditional approval, conditional non-approval number or pending non-approval to the dealer based on the criminal history record of the potential buyer or transferee. Based on the status of the criminal history record, FDLE will provide an approval or non-approval number to the dealer during the call when possible or by return call or within the specified time frame as contained in Section 790.065, F.S. Unless compliance with the requirements of this section is excused as provided in subsection 790.065(10), F.S., if the dealer has not received an approval or non-approval number, conditional or otherwise, from FDLE within the time frame specified, the dealer must contact FDLE to inquire about the status of the request for approval, prior to completing the transaction. If a conditional non-approval number is issued, FDLE will attempt to determine the status of the criminal history record so as to respond to the dealer within the time frame contained in Section 790.065, F.S., with an approval or non-approval number. At the termination of the time period specified in Section 790.065(2)(c)5., F.S., if such a determination is not possible, the conditional non-approval number will become a conditional approval number. The approval number is valid for a single transaction and for a period not to exceed thirty calendar days after receipt of the number. Multiple firearms may be transferred in this transaction.

(7) The dealer will record the approval, non-approval or conditional approval or conditional non-approval number, or pending non-approval in box 19b and in the box in the top right corner labeled, Transferor's Transaction Serial Number of ATF form F-4473 (5300.9) Part 1 (10/01). When the transaction is approved, the dealer should complete Section B of the ATF form F-4473.

(8) To any potential buyer or transferee intending to formally appeal his non-approval, the dealer will provide a Firearm Purchase Non-Approval Appeal Form (form number FDLE 40-020, January 2002), incorporated herein by reference, and on file with Secretary of State, that must be completed by the dealer and the potential buyer or transferee. The potential buyer or transferee must take the form to a law enforcement agency, be fingerprinted there, and return the Non-approval Appeal form and fingerprints to FDLE within 21 calendar days. Using the procedures as described in Chapter 11C-8, F.A.C., FDLE will process the formal appeal request. A supply of the appeal forms will be provided by FDLE to dealers upon request. Such requests should be directed to:

Florida Department of Law Enforcement  
Firearm Purchase Program  
Post Office Box 1489



Tallahassee, Florida 32302-1489

Telephone Number: (850) 410-8139

As an alternative to this procedure, the potential buyer or transferee may at any time appeal his non-approval directly to the FBI, as authorized by Title 28, C.F.R., Section 25.10.

(9) Each month, FDLE will provide the dealer with an invoice of the fees due FDLE. Payment must be received by FDLE by the 1st of the month following the invoice date billing period (16th of two months previous through the 15th of the previous month). A business or personal check, money order, or cashier's check payable to FDLE will be accepted and must be returned with the return portion of the invoice in the envelope that is provided. Checks must be in U.S. dollars only.

(10) Questions about invoices received should be directed to:

Florida Department of Law Enforcement

Office of Finance and Accounting

Post Office Box 1489

Tallahassee, Florida 32302-1489

Telephone Number: (850) 410-7156

(11) Checks or money orders returned for any reason will be subject to the service fee as provided by Section 215.34, F.S. Failure to pay the amount of the check or money order plus the service fee by the date specified by FDLE will result in the termination of services provided by FDLE, until all outstanding fees are paid in full.

(12) An invoice for processing fees that is not paid within 10 days after the due date will result in the termination of services provided by FDLE. Services will be reactivated when all past due invoices are paid in full and payment is received by FDLE.

(13) All records where the transfer was approved must be maintained by dealers for 20 years as required by Title 27, C.F.R., Part 178. All records where the transfer was non-approved must be kept by dealers in a secure area and kept confidential for five (5) years. This would include the dealers's copy of the ATF Form F-4473 [5300.9] Part 1 (10/01) where the transfer of a firearm was non-approved. Records must be made available to federal, state, county and municipal law enforcement agencies in connection with their official duties upon request during business hours or other reasonable times if the dealer has no regular business hours.

(14) All records created by FDLE to conduct the criminal history record check shall be maintained in a secure area and shall be accessible only to authorized persons. Paper documents shall be shredded and computer records shall be automatically purged and destroyed in the time frames established in Section 790.065, F.S.

(15) Dealers who sell firearms from their inventory at gun shows in Florida must obtain approval numbers from FDLE before the transactions are completed. Out-of-state dealers (at gun shows) must comply with all federal and state laws, rules and regulations when transferring a firearm in Florida.

(16) Nonpayment or delayed payment of the processing fee by the potential buyer or transferee will be resolved by the dealer and the potential buyer or transferee. Dealers will be responsible to FDLE for payment for all record checks initiated using their identification number, whether a firearm is transferred or not.

(17) Firearms that are rented for a specific purpose and do not leave the premises, do not require an approval number. Firearms returned or replaced for repairs that are claimed by the owner of the firearms do not require an approval number. All pawned or consigned firearms require an approval number prior to transfer.

(18) Dealers are required to notify FDLE of any changes in their address, telephone number, or federal license status. Failure to do so will result in the dealer's identification number being suspended. When the correct address and telephone number can be verified, and all outstanding invoices satisfied, service can be reinstated.

(19) FDLE will provide a licensed dealer with a new identification number when the dealer believes that unauthorized use has been or may be made of that dealer's current identification number. It is the responsibility of the dealer to maintain the confidentiality of the assigned identification number and not release the toll-free telephone number.

(20) Any questions regarding these procedures for the sale and delivery of firearms or appeal of non-approval should be directed to:

Florida Department of Law Enforcement

Firearm Purchase Program

Post Office Box 1489

Tallahassee, Florida 32302-1489

Telephone Number: (850) 410-8139

#### 10C-6.010 Retention of Applicant Fingerprints.

(1) Upon official written request from an agency executive director, secretary, or designee, or from a qualified entity under Section 943.052, F.S., subject to the conditions specified in Section 943.03(2)(g), F.S., or as otherwise required by law, the Florida Department of Law Enforcement shall enter and retain in the Automated Fingerprint Identification System (AFIS) the applicant fingerprints submitted for state and national criminal history checks by such agencies or entities to participate in the Applicant Fingerprint Retention and Notification Program (AFRNP) for current and prospective employees, contractors, volunteers, and persons seeking to be licensed or certified.

(2) Such applicant fingerprints shall be submitted in a digitized format for entry into AFIS, and shall be retained in the AFRNP database in such a manner as to be distinct from the criminal history record database.

(3) Agencies or entities submitting applicant fingerprints upon request or as required by law shall notify individual applicants of the requirements of participation in the AFRNP.

(4) When the subject of fingerprints submitted for retention under this program is identified with fingerprints from an incoming Florida arrest, as confirmed by fingerprint comparison, the Department shall immediately advise the agency which submitted the applicant fingerprints of the arrest in writing. Arrests made in other states or by the federal government will not result in notification, as access to these arrests is restricted by federal law. The information on arrests for these applicants in other states and by the federal government is available only upon a fingerprint submission to the Federal Bureau of Investigation.

(5) The annual fee for participation in the AFRNP shall be \$6 per individual record retained.

(6) The initial entry of an applicant's fingerprints into the AFRNP database must be accompanied by a state or a state and national criminal history records check. There is no additional fee for the first year of participation in the program. For each succeeding year, the \$6 per record annual fee will be charged.

(7) Noninstructional contractors who are subject to criminal history checks and whose fingerprints are retained in the AFRNP for five years under Section 1012.467, F.S., shall pay the prescribed fee for the five-year retention period at initial submission of fingerprints. All other submissions which are retained will be charged this fee annually in advance on the anniversary of the individual applicant's initial entry into the program.

(8) As a condition of participation in the AFRNP, the agency must inform the Department in writing and receive written confirmation from the Department of all persons with retained fingerprints who are no longer employed, licensed, certified, or otherwise associated with the agency in order that such persons may be removed from the AFRNP database. Without regard to whether an applicant fingerprint entry is retained in the AFRNP database, data from an applicant fingerprint entry which would improve the quality or clarity of an arrest fingerprint entry will be merged with the arrest fingerprints, and the applicant print will be retained as part of the criminal history record database. An applicant fingerprint entry which is found to match a latent fingerprint taken from a crime scene will be retained as part of the criminal history database unless an arrest fingerprint offers a match that is at least as demonstrable.