



Thacher Montessori School Background Checks Policy

Thacher Montessori School (“Thacher” or the “School”) is committed to ensuring the safety of its students and staff. Thacher performs background checks on certain prospective and current employees, applicants, volunteers, contractors, and laborers as required and authorized by law, including guidance issued by the Criminal History Systems Boards (CHSB) and the Massachusetts Department of Elementary and Secondary Education (DESE).

The following practices and procedures concerning Criminal Offender Record Information (CORI) (Section I) and Criminal History Record Information (CHRI) fingerprints (Section II) will be followed:

Section I: CORI CHECKS

Thacher performs CORI background checks on the following categories of workers: current employees and volunteers, and otherwise qualified prospective employees and volunteers, including those individuals who regularly provide school-related transportation to children, who may have direct and unmonitored contact with children. In addition, Thacher may obtain CORI for any subcontractor or laborer commissioned by the school to perform work on school grounds when that individual may have direct and unmonitored contact with children. This includes school bus or van drivers who are employed by a transportation company with which the school has a contract. In performing such checks, the following practices and procedures will be followed.

A. CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the Department of Criminal Justice Information Services (DCJIS) and G.L. c. 6, § 172, and only after a CORI Acknowledgement Form has been completed. If a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours’ notice that a new CORI check will be conducted.

B. ACCESS TO CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a “need to know”. This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. Thacher must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

C. CORI TRAINING

An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at Thatcher will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Thacher is required by G.L. c. 6, s.171A, to maintain a CORI policy. Accordingly, all personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

D. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

E. VERIFYING A SUBJECT'S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant. If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

F. INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding employment or volunteer opportunities, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

G. DETERMINING SUITABILITY

If a determination is made that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) relevance of the record to the position sought;
- (b) the nature of the work to be performed;
- (c) time since the conviction;
- (d) age of the candidate at the time of the offense;
- (e) seriousness and specific circumstances of the offense;
- (f) the number of offenses;
- (g) whether the applicant has pending charges;
- (h) any relevant evidence of rehabilitation or lack thereof; and
- (i) any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant will be notified of the decision and the basis for it in a timely manner.

H. ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the School's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' *Information Concerning the Process for Correcting a Criminal Record*.

I. SECONDARY DISSEMINATION LOGS.

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record *any* dissemination of CORI outside this organization, including dissemination at the request of the subject.

Section II: FINGERPRINT CHECKS

This Section II applies to any fingerprint-based state and national criminal history record check made by Thacher. Thacher performs fingerprint background checks on the following categories of employees who may have direct and unmonitored contact with children: (a) all full or part time employees; (b) substitute employees; and (c) student teachers, apprentices, or interns. Thacher also performs such checks on any individual who regularly provides school-related transportation to children.

A. REQUESTING CHRI CHECKS

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

Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) Relevance of the record to the position sought, including likelihood of direct and unmonitored contact, duration of potential contact (e.g., chaperones on overnight field trips), ability of requesting entity to limit potential for unmonitored contact (e.g., by means of escorting, physical separation, restrictions on hours of access to school facility);
- (b) The nature of the work to be performed;
- (c) Time since the conviction;
- (d) Age of the candidate at the time of the offense;
- (e) Seriousness and specific circumstances of the offense;
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof; and
- (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

I. ACCESS TO CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI cannot be shared with any unauthorized entity for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Massachusetts Department of Criminal Justice Information Services (DCJIS) and the FBI, and failure to comply with such rules and regulations could lead to

sanctions. Title 28, U.S.C, § 534, Pub. L. 92-544 and Title 28 C.F.R. 20.33(b) provide that the exchange of records and information is subject to cancellation if dissemination is made outside of the receiving entity or related entities. Furthermore, an entity can be charged criminally for the unauthorized disclosure of CHRI.

II. STORAGE OF CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical, and physical safeguards, which are in compliance with the most recent CJIS Security Policy, have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards. In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage, retention and destruction of CHRI.

III. RETENTION AND DESTRUCTION OF CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes only:

- Historical reference and/or comparison with future CHRI requests,
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in a locked file cabinet in the office of the assistant head of school. When no longer needed, CHRI and any summary of CHRI data must be destroyed by shredding paper copies and/or by deleting all electronic copies from the electronic storage location, including any backup copies or files. The shredding of paper copies of CHRI by an outside vendor must be supervised by an employee of Thacher.

IV. CHRI TRAINING

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at Thacher will review and become familiar with the educational and relevant training materials regarding SAFIS and CHRI laws and regulations made available by the appropriate agencies, including the DCJIS.

V. DETERMINING SUITABILITY

In determining an individual's suitability, the following factors will be considered:

- (a) relevance of the record to the position sought;
- (b) the nature of the work to be performed;
- (c) time since the conviction;
- (d) age of the candidate at the time of the offense;

- (e) seriousness and specific circumstances of the offense;
- (f) the number of offenses;
- (g) whether the applicant has pending charges;
- (h) any relevant evidence of rehabilitation or lack thereof; and
- (i) any other relevant information, including information submitted by the
- (j) candidate or requested by the organization.

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

1. The name and date of birth of the employee or applicant;
2. The date on which the school employer received the national criminal history check results; and,
3. The suitability determination (either "suitable" or "unsuitable").

A copy of an individual's suitability determination documentation must be provided to another school employer, or to the individual, upon request of the individual for whom the school employer conducted a suitability determination.

VI. RELYING ON PREVIOUS SUITABILITY DETERMINATION

Under limited circumstances, and as authorized by law, Thacher may rely on a suitability determination made by another school employer. Relevant factors may include but not be limited to the date of previous suitability determination, type of organization that conducted the previous determination (public school district, private school), and state of residence of subject of suitability determination.

VII. ADVERSE DECISIONS BASED ON CHRI

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

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

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time depending on the particular circumstances to correct or complete the CHRI.

VIII. SECONDARY DISSEMINATION OF CHRI

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

The following information will be recorded in the log:

1. Subject Name;
2. Subject Date of Birth;
3. Date and Time of the dissemination;
4. Name of the individual to whom the information was provided;
5. Name of the agency for which the requestor works;
6. Contact information for the requestor; and
7. The specific reason for the request.

IX. REPORTING TO COMMISSIONER OF ELEMENTARY AND SECONDARY EDUCATION

Pursuant to G.L. c. 71, § 71R and 603 CMR 51.07, if Thacher dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, Thacher shall report such decision or action to the Commissioner of the Elementary and Secondary Education in writing within 30 days of the employer action or educator resignation. The report shall be in a form requested by DESE and shall include the reason for the action or resignation as well as a copy of the criminal record check results. Thacher shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(1) to the Commissioner.

Pursuant to G.L. 71, § 71R and 603 CMR 51.07, if Thacher discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to 603 CMR 7.15(8)(a), Thacher shall report to the Commissioner in writing within 30 days of the discovery, regardless of whether Thacher retains or hires the educator as an employee. The report must include a copy of the criminal record check results. The school employer shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(2) to the Commissioner and shall also send a copy of the criminal record check results to the employee or applicant.

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