



September 6, 2016

TO THE HONORABLE MEMBERS OF THE SCHOOL COMMITTEE:

Revisions to Policy Governing Fingerprint-Based Criminal History Record Information (CHRI)
Checks Made for Non-Criminal Justice Purposes

Recommendation: That the School Committee approve the revisions to the Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes as detailed in the attached document.

This is a second reading of this proposed policy revision.

Description: The revisions to the Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes that are detailed in the attached document are being made in order to bring the language of the policy into alignment with revisions made by the Department of Criminal Justice Information Services (DCJIS) in its model policy for the Statewide Applicant Fingerprint Identification Services (SAFIS) model Criminal History Record Information (CHRI) Policy for Non-Criminal Justice Entities, which applies to all Massachusetts pre-k to grade 12 public schools.

Supporting data: Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "KS", is placed above the name of the Superintendent of Schools.

Kenneth N. Salim, Ed.D.
Superintendent of Schools

2

File: ADDA-1

**CAMBRIDGE PUBLIC SCHOOLS' POLICY GOVERNING
FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION (CHRI) CHECKS
MADE FOR NON-CRIMINAL JUSTICE PURPOSES**

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under applicable federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed and are in addition to the Criminal Offender Record Information (CORI) checks that the school district conducts pursuant to its Criminal Offender Record Information Policy and state law regarding conducting CORI checks on current and prospective employees, contracted service providers, volunteers and school transportation providers and other individuals who may have direct and unmonitored contact with children.

I. Requesting CHRI checks

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

The Superintendent may, as appropriate, also obtain a fingerprint-based state and national criminal history record check for any volunteer, subcontractors or laborers commissioned by the School Committee, Cambridge Public Schools or employed by the City to perform work on school grounds, who may have direct and unmonitored contact with children.

Direct and unmonitored contact with children is defined in the regulations promulgated by the Massachusetts Department of Elementary and Secondary Education as contact with a student when no other employee who has received a suitability determination by the school district is present. Contact refers to any contact with a student that provides the individual with opportunity for physical touch or personal communication.

II. Access to CHRI

All CHRI is subject to strict state and federal rules and regulations in addition to Massachusetts CORI laws and regulations. CHRI records cannot be shared with any unauthorized other entities for any purpose, with the exception of the limited information contained in the "Determination of Suitability" that may be shared with other school districts, as defined below, 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 with federal and state crimes for the willful, unauthorized disclosure of CHRI.

III. Storage of CHRI

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

IV. Retention and Destruction of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in accordance with applicable law 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

Formatted: Font: 10 pt

CHRI will be kept for the above purposes in the Cambridge Public Schools Office of Human Resources.

~~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 will be conducted by and supervised by the staff in the Cambridge Public Schools Office of Human Resources.~~

V. CHRI Training

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

~~In addition to the above, all personnel authorized to receive and/or review CHRI must undergo Security Awareness Training on a biennial basis. This training will be accomplished using the training materials made available by the DCJIS along with the web-based training system known as CJIS Online (www.CJISonline.com).~~

VI. Determining Suitability

In determining an individual's suitability, the following factors will be considered, and may include, but not necessarily be limited to: the contents of the Criminal History Records Information (CHRI), the nature and gravity of the crime(s) (e.g., felony or misdemeanor, civil or criminal) and the underlying conduct, the time that has passed since the offense, conviction and/or completion of the sentence, nature of the position held or sought, age of the individual at the time of the offense, number of offenses, any relevant evidence of rehabilitation or lack thereof and any other factors deemed relevant by the school district.

~~Suitability Determinations constitute CHRI-related information which may be shared with another school district or otherwise authorized CHRI recipient, as defined below, with the permission of the employee. A record of ~~the~~any suitability determination issued will be retained in accordance with applicable law. The following information will be included in the Suitability Determination:~~

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

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

~~The guidelines for the Cambridge Public Schools issuance of a Suitability Determination to another school employer are the same as those of Relying on Previous Suitability Determination as defined in Section VII, below.~~

VII. Relying on Previous Suitability Determination.

The school district may obtain and rely on a favorable ~~S~~suitability ~~d~~Determination from a prior employer if the following criteria are met:

The ~~s~~Suitability ~~d~~Determination was made within the last seven years; and

The individual has not resided outside of Massachusetts for any period longer than three years since the ~~s~~Suitability ~~d~~Determination was made ~~to the employer's knowledge~~; and ~~either~~

The individual has been employed continuously for one or more school employers or has gaps totaling no more than two years in his/her employment for school employers, ~~based on the employment history information provided by the individual~~; ~~or~~

~~If the individual works as a substitute employee, the individual is still deemed suitable for employment by the school employer who made the favorable suitability determination. Upon request of another school employer, the initial school employer shall provide documentation that the individual is still deemed suitable for employment by the initial school employer.~~

VIII. Adverse Decisions Based on CHRI

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

- Provide the individual with a copy of his/her CHRI used in making the adverse decision;
- Provide the individual with a copy of the ~~Cambridge Public Schools~~ CHRI Policy;
- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI ~~with the appropriate agency or agencies~~; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI ~~as generally provided by the DCJIS~~.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable period of time depending on the particular circumstances, which in most instances will not exceed fifteen (15) days and at a maximum will not exceed thirty (30) days to correct or complete the CHRI. ~~During this period, the individual may not be actively employed by the Cambridge Public Schools.~~

IX.—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. Local Agency Security Officer

The Cambridge Public Schools, as a non-criminal justice agency (NCJA) that receives CHRI, is required to designate a Local Agency Security Officer (LASO). An individual designated as a LASO is:

Formatted: Indent: Left: 0"

5

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

The Cambridge Public Schools' LASO is the Executive Director of Human Resources.

The LASO is responsible for the following:

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

Formatted: Indent: Left: 0", First line: 0.75", Tab stops: Not at 0.75"

Formatted: Indent: Left: 0"

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

Formatted: Font: Bold, Underline

X. Personnel Security

Formatted: Font: Bold

All Personnel

Formatted: Font: Italic

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

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

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

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

Authorized Personnel Termination

Formatted: Font: Italic

The LASO shall terminate access to CHRI immediately upon notification of the termination of an Authorized Personnel's termination of employment. The specific steps that will be followed are:

- a. Notification is provided to LASO when Cambridge Public School Human Resources receives notification from either the Superintendent of Schools and/or the individual as to the termination of employment.
- b. The disconnection of the individual's CHRI access will be completed no longer than twenty-four hours after the LASO receives notification of an individual's effective date of termination from employment.

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Font: Bold, Italic

Formatted: Font: Not Bold, Not Italic

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

Authorized Personnel Transfer

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

- a. The LASO will review access to CHRI;
- b. The review will be initiated when the LASO is notified of the reassignment or transfer.
- c. The timeframe for disconnection of CHRI access will be completed no longer than twenty-four hours after the LASO received notification of the reassignment or transfer.
- d. The LASO will ensure that if the individual possesses any keys/access cards/access codes to files and office in which physical CHRI media is stored that such keys/access cards are turned in to the LASO.
- e. The LASO will ensure that if the individual had access to electronic CHRI media, that the individual's email account, passwords or access codes to any electronic CHRI system of records is disabled and terminated.

In addition to the above, the LASO shall notify the DCJIS of the transfer of any individual authorized to access CHRI who is also a SAFIS-R User and for whom it is determined that CHRI access is no longer appropriate. This notification shall be made immediately upon the termination of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us.

Sanctions

Persons found non-compliant with state or federal laws, the current FBI CJIS Security Policy, DCJIS policies or regulations, or other applicable rules or regulations, including the Cambridge Public Schools Information Security Policy, will be formally disciplined. Discipline can include, but may not be limited to, counseling, the reassignment of CHRI responsibilities, dismissal, civil penalties or prosecution. Discipline will be based on the severity of the infraction and the discretion of the Cambridge Public Schools and/or the CSO of the MSP.

When an individual is sanctioned for such non-compliance, the LASO shall notify the DCJIS CSO in writing of the infraction(s) and of the discipline imposed within five (5) business days. Additionally, if the discipline imposed includes denying access to CHRI and the individual is also a SAFIS-R User for whom it is determined that CHRI access is no longer appropriate, this notification shall be made immediately upon the termination of the user and shall be accomplished by emailing a SAFIS-R User Designation Form with the "Remove" checkbox checked to the DCJIS SAFIS Unit at safis@state.ma.us.

XI. Media Protection

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

Media Storage and Access

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

Physical CHRI media:

Formatted: Font: Italic

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Font: Bold

Formatted: Font: Bold, Italic

Formatted: Font: Bold, Italic

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Indent: Left: 0"

Formatted: Font: Italic

Formatted: Indent: Left: 0"

Formatted: Font: Italic

- a. Is to be stored in a secure, separate file within the Cambridge Public Schools' Office of Human Resources.
- b. Is to be maintained within a lockable filing cabinet, drawer, closet, office, safe, vault, or other secure container.

Electronic CHRI media:

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

Media in Transit (Electronic and/or Physical)

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

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

The specific steps of how transport will occur are as follows:

- a. The LASO or other Authorized Personnel as specifically designated by the LASO will be responsible for the handling and transport of CHRI media.
- b. Transport of CHRI media will only occur upon written approval of the LASO setting forth the reason and justification for such transport.
- c. All physical and electronic CHRI media must be transported in a sealed envelope/container. Additionally, all electronic CHRI media also must be transported in an encrypted manner.
- d. The media is to remain in the physical possession of the designated Authorized Personnel until the CHRI media is delivered to its intended destination.

Electronic Media Sanitization and Disposal

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

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

- a. The LASO or other Authorized Personnel as designated by the LASO shall witness or conduct sanitization of the media.
- b. Electronic CHRI media shall be sanitized and disposed of only in a manner that complies with applicable federal and state laws governing the sanitization and disposal of Electronic CHRI media and in a manner consistent with technology best practices and industry standards for secure data disposal methods, including without limitation, deleting any electronic CHRI media from the hard drive on which it is stored and from any system used to back up the information before disposing of the electronic CHRI, and appropriately cleaning all information by electronic or mechanical means before disposing or repurposing a computer used to store electronic CHRI media.
- c. Once an employment decision is complete and any report of CHRI results to the Commissioner of the Massachusetts Department of Elementary and Secondary Education, if applicable, has occurred, the electronic CHRI media shall be destroyed in accordance with applicable laws.

Formatted: Font: Italic

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt, Bold, Italic

Formatted: Indent: Left: 0.75", First line: 0"

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Not Highlight

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Left

Formatted: Font: 10 pt

Formatted: Normal, Indent: Left: 0.25", No bullets or numbering

Formatted: Indent: Left: 0", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Not Highlight

Formatted: Not Highlight

Comment [mm1]: The phrase that starts "including . . ." comes from the state regulation regarding destruction of CORI information which the CHRI regulations indicate need to be followed with respect to the destruction of CHRI information. The other portion of the statement tracks the language in the school district's WISP and student data breach agreement regarding destruction of electronic data.

Formatted: Not Highlight

Comment [mm2]: This tracks the language of the regulation regarding retention/destruction of CHRI

Formatted: Font: 10 pt

Disposal of Physical Media

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

The specific steps of how disposal of physical CHRI media will occur are as follows:

- a. The LASO or authorized personnel as designated by the LASO shall witness or conduct disposal.
- b. Physical CHRI media shall be destroyed by shredding or cross cut shredding.
- c. Once an employment decision is complete and any report of CHRI results to the Commissioner of the Massachusetts Department of Elementary and Secondary Education, if applicable, has occurred, the physical CHRI media shall be destroyed in accordance with applicable law.

XII. Controlled Area

As required by DCJIS and FBI regulations and policies, controls have been established and implemented in order to ensure a physically secured location for CHRI media. The Cambridge Public Schools has designated Human Resources as a controlled area for the purpose of day to day access and storage of CHRI.

In addition, the following security controls are in place:

- a. Access is limited to the controlled area during CHRI processing times to authorized personnel approved by the agency to access or view CHRI.
- b. CHRI will be locked and secured to prevent unauthorized access to the extent possible when unattended.
- c. Information system devices and documents containing CHRI will be positioned in such a way as to prevent access or viewing by unauthorized individuals.
- d. Appropriate encryption has been implemented for electronic storage of CHRI.

Reporting to Commissioner of Elementary and Secondary Education

Pursuant to M.G. L. c. 71, § 3874R and 603 CMR 51.07, if the Cambridge Public Schools dismisses, declines to renew the employment of, obtains the resignation of, or declines to hire a licensed educator or an applicant for a Massachusetts educator license because of information discovered through a state or national criminal record check, the Cambridge Public Schools shall report such decision or action to the Commissioner of Elementary and Secondary Education in writing within thirty (30) days of the employer action or educator resignation. The report shall be in a form requested by the Massachusetts Department of Elementary and Secondary Education and shall include the reason for the action or resignation as well as a copy of the national criminal history record check results. The Cambridge Public Schools shall notify the employee or applicant that it has made a report pursuant to 603 CMR 51.07(1) to the Commissioner.

Pursuant to M.G.L. c. 71, § 3874R and 603 CMR 51.07, if the Cambridge Public Schools discovers information from a state or national criminal record check about a licensed educator or an applicant for a Massachusetts educator license that implicates grounds for license action pursuant to 603 CMR 7.15(8)(a), the Cambridge Public Schools shall report to the Commissioner in writing within thirty (30) days of the discovery, regardless of whether the Cambridge Public Schools retains or hires the educator as an employee. The report must include a copy of the national criminal history 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 national criminal history record check results to the employee or applicant.

Adopted: June 17, 2014

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: Not Bold

Formatted: Font: 10 pt, Not Highlight

Formatted: Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Not Highlight

Formatted: Font: 10 pt, Not Highlight

Comment [mm3]: This tracks the language of the regulation regarding retention/destruction of CHRI

Formatted: Not Highlight

Formatted: Font: 10 pt, Not Highlight

Formatted: Font: 10 pt, Not Highlight

Formatted: Not Highlight

Formatted: Font: 10 pt, Not Highlight

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: 10 pt

Formatted: Font: Not Bold