

REFERENCE COPY

FILE: GBLB
Critical

EXPLANATION: REFERENCES

This policy was revised to address a new requirement under the Every Student Succeeds Act (ESSA). In accordance with ESSA, district employees, contractors and agents who know or have probable cause to believe that an individual who has served as a district employee, contractor or agent has engaged in sexual misconduct with a minor or student in violation of law are prohibited from writing personal references for or otherwise providing assistance in obtaining new jobs to those individuals. As stated in the new policy language, there are exceptions. MSBA recommends that districts train their employees on this new requirement.

This policy was also revised to address situations where state or federal law requires disclosure of information to potential employers. For example, federal Department of Transportation regulations require employers to release the results of drug tests for transportation employees in some circumstances. *49 C.F.R. 40.331*.

MSBA has also revised this policy for clarity.

<i>MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.</i>					
X	Board Secretary	X	Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
X	Human Resources		Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

FILE: GBLB
Critical

REFERENCE COPY

DRAFT

REFERENCE COPY

FILE: GBLB
Critical

REFERENCES

Definitions

Employee – Any staff member or student teacher of the Camdenton R-III School District.

Former Employee – An employee who was terminated or resigned or whose contract was nonrenewed; an employee who has been notified that his or her contract with the district will not be renewed or that the district is pursuing termination, even if the process has not been completed.

Potential Employer – Another school district, charter school, business or person seeking to hire a current or former employee or screening the current or former employee for a volunteer position, internship or other activity.

Reference – Information regarding the employment of, or services provided by, a current or former employee including, but not limited to, specific information regarding dates of employment or service, salary, job duties, performance or character.

Sexual Misconduct – Engaging in any conduct with a student, on or off district property, that constitutes the crime of sexual misconduct; illegal sexual harassment as defined in policy AC, as determined by the district; or child abuse involving sexual behavior, as determined by the Children's Division (CD) of the Department of Social Services.

General-

The district will maintain information regarding current and former employees as confidential within the limits of the law. Only the superintendent or a person or persons specifically designated by the superintendent may respond on behalf of the district to a reference request for a current or former employee. District employees must direct reference requests to the superintendent or designee. Upon request, employees will assist the superintendent or designee with the preparation of accurate reference information.

Employees other than the superintendent or designee may provide personal references, but by doing so, they are acting in their individual capacities and not as employees of the district. Employees providing personal references may not use district letterhead or otherwise indicate that the reference is sponsored by the district, but they may identify the working relationship they have or had with the current or former employee. The district will not endorse any reference provided outside the directives of this policy and is not responsible for providing legal advice or protection for unauthorized employees who provide references. In accordance with federal law, district employees, contractors and agents are prohibited from writing personal references or otherwise providing

assistance in obtaining a new job to any other school employee, contractor or agent who has been accused of sexual misconduct regarding a minor or student, as discussed later in this policy.

Content

In accordance with law, the following information about employees will be provided to any member of the public entity or person upon request:

1. Names
2. Positions
3. Salaries
4. Lengths of service

Unless otherwise required under this policy or by law, before providing a reference for a current or former employee, the superintendent or designee will verify that the employee consents to the release of further information. The district may obtain a blanket consent from the employee when the employee leaves the district, contact the employee when a request is made or rely on written consent provided through the application process.

Even with consent, unless otherwise authorized by the Board or the district's attorney, or unless the disclosure is otherwise required by law, the superintendent or designee may only provide the following factual information when requested, without offering opinions or commentary on job performance:

1. A description of the employee's job duties when employed.
2. Additional district-sponsored committees, activities or duties the employee volunteered for or was designated to perform.
3. Honors and awards received by the employee.
4. Factual information on work performance.
5. Whether the employee resigned or was nonrenewed or terminated. Based on documentation in the personnel file, potential employers will be notified if the employment was ended due to the financial condition of the district, a decrease in enrollment or reorganization of the department, school or district.
6. When requested, a "yes" or "no" answer to a question about whether the district would re-employ the current or former employee if an appropriate position existed or whether the superintendent would recommend re-employment.

REFERENCE COPY

FILE: GBLB
Critical

7. Allegations of sexual misconduct with a student as required below.

Disclosing Allegations of Sexual Misconduct to Other Public or Charter Schools

If a potential public or charter school employer requests a reference regarding a former employee whose job involved contact with children, the district will, in accordance with state law, notify the potential public or charter school employer if the employee was terminated, nonrenewed or allowed to resign in lieu of termination as a result of allegations of sexual misconduct with a student or as a result of such allegations being substantiated by the CD's State of Missouri's child abuse and neglect review board.

If a potential public or charter school employer contacts the district for a reference for any former employee about whom the CD has investigated allegations of sexual misconduct with a student and reached a finding of substantiated, the district will provide the results of the CD investigation to the potential public or charter school employer; regardless of whether the employee's job involved contact with children.

The district must provide these notifications regardless of whether the former employee has authorized the release of information. The district will provide due process as required by law prior to releasing information in accordance with this section, if feasible. The superintendent or designee is authorized to contact the district's attorney for advice on implementing this policy in accordance with law.

Prohibition against Assisting Employees, Contractors or Agents Accused of Sexual Misconduct

In accordance with law, district employees, contractors and agents who know or have probable cause to believe that an individual who has served as a district employee, contractor or agent has engaged in sexual misconduct with a minor or student in violation of law are prohibited from writing personal references for or otherwise providing assistance in obtaining a new job to those individuals.

This prohibition does not apply to the routine transmission of administrative and personnel files when that is part of the current employee's, contractor's or agent's duties. In addition, this prohibition does not apply if the information was properly reported to law enforcement and other relevant state, federal and local authorities, and:

1. The investigation was officially closed without action; or
2. The prosecutor or law enforcement entity determined there was insufficient information to establish probable cause; or

3. The individual was charged and acquitted or otherwise exonerated of the alleged misconduct; or
4. The case or investigation remains open and no charges have been filed and no indictment has been issued within four years of the date on which the alleged misconduct was reported to law enforcement.

Recordkeeping

When the district is contacted for a reference for a current or former employee, the superintendent or designee will document the date, the name of the person and entity requesting the information, the person responding to the request, the method of disclosure, the information provided and, when applicable, the consent received.

In accordance with law, if the district responds to any requests in writing, the district will forward a copy of the written reference to the current or former employee at the employee's last known address.

Notice

The district will notify all current employees of this policy. The superintendent or designee will provide notification of the existence of this policy to all potential employers who contact the district for a reference. The notification must also include a statement that the district's responses are limited to the scope of this policy. The district will also provide copies of the policy to former employees upon request.

Immunity

Any district employee who is permitted under this policy to respond to requests for references regarding former employees and who communicates only the information authorized by this policy in good faith and without malice is entitled by law to immunity against any civil action for damages brought by the former employee arising out of the communication of such information, in accordance with law. District employees responding to requests for references in accordance with this policy may request the attorney general to defend them if sued.

* * * * *

Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

REFERENCE COPY

FILE: GBLB
Critical

Adopted: 06/28/2012

Revised: 06/09/2014;

Cross Refs: AC, Prohibition against Discrimination, Harassment and Retaliation
BDC, Closed Meetings, Records and Votes
BDDL, Release of Information
JHG, Reporting and Investigating Child Abuse/Neglect

Legal Refs: §§ 162.068, 290.152, 610.021, RSMo.
The Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7926
49 C.F.R. § 40.311
Jamison v. State Dept. of Soc. Serv., 218 S.W.3d 399 (Mo. 2007)

Camdenton R-III School District, Camdenton, Missouri

DRAFT