Public Schools: Best Practices in Hiring

A Risk Management Best Practices Guide

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I. Initial Steps of Hiring

When a vacancy occurs or is being contemplated, those involved in hiring should be aware of the multitude of sources that may impact the process. Although most of them may seem obvious, some may not be so evident. The following sources may affect the process:

**Federal Statutes and Regulations** – Includes both general employment statutes and those specific to education that apply to most employment situations.

**General Employment Statutes:**
- **Title VII of the Civil Rights Act of 1964**: Prohibits employers from discriminating against any individual with respect to any aspect of employment on the basis of the person’s race, color, religion, sex, or national origin.
- **Pregnancy Discrimination Act**: Incorporated into Title VII, prohibits discrimination on the basis of pregnancy, childbirth, or related medical conditions.
- **Age Discrimination in Employment Act (ADEA)**: Prohibits employers from discriminating against individuals who are 40 years of age or older with regard to hiring, firing, job classifications, and wages.
- **American with Disabilities Act (ADA)**: Prohibits discrimination against individuals with disabilities in all areas of public life, including employment.
- **Section 504 of Rehabilitation Act of 1973**: Prohibits discrimination against, and requires positive actions to assist, qualified individuals with disabilities in all programs, services and activities that receive Federal financial assistance or are conducted by Federal agencies.
- **Equal Pay Act of 1963**: Prohibits discrimination in pay on the basis of gender.
- **Section 1981 of the Civil Rights Act of 1866**: Applies even if an employee is at-will and there is no formal written contract and no specific terms of employment.
- **Section 1983 of the Civil Rights Act of 1871**: Makes it unlawful for individuals who act with apparent authority on behalf of a state or the federal government to deprive any citizen of the United States or other person within the jurisdiction of the United States of any rights, privileges, or immunities guaranteed by the Constitution and laws.
- **Fair Credit Reporting Act**: Protects the accuracy, fairness, and privacy of consumer information contained in the file of consumer reporting agencies.
- **Uniform Guidelines on Employee Selection Procedures (UGESP)**: A framework for determining the proper use of tests and other selection procedures.

**Education Specific Statutes:**
- **Title VI of the Civil Rights Act of 1964**: Prohibits entities that receive federal funding assistance from discriminating against anyone on the grounds of race, color, or national origin.
- **Title IX of the Education Amendments of 1972**: Prohibits discrimination on the basis of sex in any federally funded education program or activity.
State Statutes and Regulations – There are several statutes and regulations that have direct bearing onto hiring in public schools, as well as general employment laws that apply to most employment situations.

General Employment Statutes:

- **Connecticut Fair Employment Practices Act (CFEPA):** Prohibits discrimination on the basis of race, color, religious creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, ancestry, alienage, present or past history of mental disability, intellectual disability, learning disability or physical disability.
- **Conn. Gen. Stat. § 31-40x** – Employer inquiries re employee’s or prospective employee’s personal online accounts: Protects and limits inquiries of personal online accounts.
- **Conn. Gen. Stat. § 31-51tt** – Employer inquiries about an employee’s or prospective employee’s credit.

Education Specific Statutes:

- **Conn. Gen. Stat. § 10-144o et. seq.** – Certification statutes for superintendents, teachers, administrators, special services, athletic coaches, and athletic directors: Mandated certificates required by State Department of Education.
- **Conn. Gen. Stat. § 10-221d** – Criminal history and child abuse and neglect registry records checks of school personnel.
- **Conn. Gen. Stat. § 10-222c** – Applicant’s employment history; requirement to disclose and check upon.
- **Conn. Gen. Stat. § 10-244a** – Employment of persons to provide security services in a public school while in possession of a firearm.
- **Local Board of Education Policies** – There are specific policies that are likely to have been adopted covering hiring.
- **Personnel Policies and Handbooks** – Often these refer to specific Board of Education Policies.
- **Collective Bargaining Agreements** – Most positions will be covered by a union contract. The contract may have provisions covering the hiring process. Particularly, union contracts address and limit the process for promotions more so than hiring for an entry level position.
- **Municipal Charters, Ordinances and Personnel Rules** – In rare circumstances, municipalities have specific provisions that apply to hiring within the public school.

In this guide, references to specific sources will be discussed as they apply to different steps in the hiring process. However, knowledge of what they are and how they are applicable in general to the process are critical. It is recommended to seek guidance.
Diversity and Requirement

● **Requirement:** While creating and maintaining a diverse workforce is desirable in any workplace, diversity within the educational setting is imperative to the success of the student population. Diversity of educators has been recognized on both the state and federal level. The State Department of Education’s [Minority Teacher Recruitment and Retention](https://www.ct.gov/ed/portal/Department-Information/Minority-Teacher-Recruitment-and-Retention) program provides an excellent starting point for minority requirement. Additionally, [Connecticut Alliance of Regional Educational Service Center’s Regional Education Service Center Minority Teacher Recruiting (RESC MTR) Alliance](https://www.resc.org) was specifically created to assist in recruitment, hiring, support and retention of diverse teachers and administrators.

Beyond the recruitment of diverse candidates, the hiring committees should be diverse as well.

● **Affirmative Action:** While districts are not generally required to implement Affirmative Action plans, grants may require that the grantee have one or require collection information concerning Affirmative Action practices. The grant may require that the employer assemble an Affirmative Action Packet. Presumably, the hiring process for a position covered by a grant is initiated after the grant has been awarded such that the requirement for any Affirmative Action Plan has already been met. However, those involved in the hiring process should be aware of any and all Affirmative Action requirements related to the process.

   ■ Creating an Affirmative Action Plan is a highly technical and specified undertaking and should only be undertaken by a professional with expertise in creating such plans.

**A. Establish the Process**

Before any action can be taken towards hiring, the process that will be utilized must be determined and documented. The general steps in development of the process are:

● Decide who will be involved in the hiring process;
● Determine skills and qualifications necessary and desired for the vacancy;
● Draft job description;
● Post the Job Announcement;
● Create Application & Supporting Documents;
● Test and Evaluate;
● Interview; and
● Extend a conditional offer of employment.

Understanding the best practices for each step is essential to creating a process. Once the process is defined, it should be followed without deviation. This criteria ensures that the process is not only more likely to be successful but also to withstand legal challenge.

**B. Decide Who Will Be Involved in the Hiring Process**

The first step in the process is to decide the individuals, besides the Human Resources staff, that will be involved throughout. Such determination will usually depend on the type of open position.
• **Professional position (certified staff)** – Often a selection committee will be utilized. The particular individuals that will serve on the committee and the committee’s role should be selected at this stage. Usually, the committee’s role will range anywhere between selection of candidates for interviews to actually conducting the interviews. The make-up of the committee should be consistent throughout the process. The committee should be comprised of individuals who serve a specific purpose. Ideally, the final decision-maker should participate in the committee. However, that is not always feasible, particularly if the Superintendent or Board itself is the final hiring authority. The committee must include those directly supervising and evaluating the position. If available, another supervisory or administrative-level individual should be included. The departmental head should also serve on the committee. A few other team or departmental members should comprise the rest of the committee. There is no magic number for such committees; however, a workable size of 3 to 5 individuals would be preferable.

• **Non-professional position** – A formal committee need not be utilized for such positions. An administrator or department head with supervision over the position should work with the Human Resources professional and staff throughout the process. Another individual with knowledge of specific skills or abilities required for the position could be included if the administrator or department head lacks such knowledge.

Often, union contracts or Board policies necessitate parts of the process that must be utilized in hiring or promoting. Additionally, in dealing with positions covered by union contracts, past practices will likely have to be followed unless the union agrees to the modification of such past practices. Such modification would require collective bargaining with the union to reach an agreement. If such bargaining is necessary, the reason for the modification should be documented. Finally, any effect on current employees should be taken into consideration and included in the bargaining with the union.

**EXAMPLES:**

- The union contract covering custodians provides that the Head Custodian is part the interview panel for custodians hired to work in Head Custodian’s particular school. The Head Custodian must be included on an interview panel.

- Historically, interview panels for the selection of teachers included members of the team for which a teacher was being hired. Such practice may constitute a past practice unless the union contract contains specific language that gives the Board management rights in the hiring of teachers.

**C. Determine Skills and Qualifications Sought**

When a vacancy occurs, it is an opportunity to critically examine the position. Those involved in the hiring process should establish the qualities and abilities beyond the minimum qualifications that will be used to distinguish between candidates. The factors that will ultimately determine the successful candidate have to be established during this step as they provide the framework for the rest of the process. Knowing exactly what qualities the successful candidate should have affords those in the process to have a common understanding and goal in moving throughout the process. Importantly, this determination must be documented prior to moving forward in the process.

**EXAMPLE:**

- The position is a Language Arts teaching position. While the minimum qualifications for the position are the necessary degree and certification, the successful candidate should have education and experience with the Reader’s Workshop based...
upon the curriculum. This qualification should be understood as necessary by those involved in the selection process and documented at the beginning of the hiring process.

D. Draft Job Description

- A well-written job description is absolutely essential to the hiring process. The job description further helps to focus the process on what the successful candidate should be. A well-written job description also provides an applicant with the necessary information to assess whether the applicant can do the job or is truly interested in the position.

- A poorly written job description or failure to follow a job description can create a multitude of problems during the hiring process and during the course of employment. Job descriptions provide a foundation for performance evaluation. Employees often revisit their job descriptions when issues arise during their employment.

- The job description should be reviewed at the beginning of each hiring process to ensure that the job description is up to date with the needs for the position and all current laws, policies and union contracts. While a job description should be written in clear and concise language, there are several elements that must be included.

A job description should include the following elements:

- **Job Title** – The title should include more than simply the name of the position. If the position is part of a department or division, that should be included. The supervisor positions should be identified. Additionally, any positions supervised should be set forth.

- **Position Summary** – A brief description of duties, nature of the work and responsibilities.

- **Essential Functions** – These are the functions that are truly necessary or required to perform the job. Minor tasks should not be included unless they are truly essential. Essential functions are the primary reason for which a position was created.

**EXAMPLES FOR TEACHER:**

1. Teach subject matter, i.e. reading, language arts, social studies, mathematics, science, art, health, physical education, music, applied technology, etc., utilizing the course of study adopted by the Board of Education, correlated with other appropriate learning activities.

2. Develop lesson plans, adapt curriculum to meet individual student needs, and utilize effective teaching techniques in translating lesson plans into productive student learning experiences which best utilize the time available for instruction.

3. Utilize computers and other technological classroom support equipment in student instruction.

4. Control the storage and use of district owned property; make minor adjustments and request repairs as required.

5. Maintain classroom organization and discipline.

6. Establish and maintain standards of student behavior needed to achieve a functional learning atmosphere.

7. Provide and maintain a safe and supervised environment in the classroom and on the school grounds.

8. Devise and utilize techniques which accurately measure student progress.

9. Evaluate student’s academic and personal growth: keeping appropriate records and prepare progress reports.
10. Communicate with parents through conferences and other means to discuss academic and personal progress; interpret school programs.

11. Communicate and cooperate with other professional staff in academic and personal growth areas.

12. Demonstrate professional ethics as outlined by State and Board of Education policies.

13. Conform to Board of Education policies, including attendance, absences and evaluations.

14. Attendance must be adequate to acceptably perform listed job functions.

- **Certification or Licensing** – Any position that requires Department of Education certification should identify the particular certification required. If certification is preferred, that should be separately identified. Specific licenses for a position, such as bus driver, should be identified.

- **Competency** – Skills, abilities and knowledge necessary to successfully perform the essential job functions

**EXAMPLES FOR TEACHER:**

1. Possesses problem-solving skills.
2. Establishes and maintains effective working relationships with students, school staff, district staff, and patrons.
3. Communicates effectively.
4. Maintains knowledge of curriculum and subject matters to be taught.

- **Educational and Experience Requirements** – Identify only the truly required education or experience needed to actually perform the job. Requiring education beyond that necessary to perform the job can limit the pool of candidates and adversely impact particular groups. For example, a college degree is not necessary for an entry level custodian.

- **Preferred Qualifications** – Job-related knowledge, skills, abilities or education and experience beyond the minimal qualification. These qualifications should flow from the analysis that should have been done when the hiring process began.

- **Work Environment** – General working conditions, such as indoor/outdoor, temperature, or other factors that the employee will encounter while performing the essential functions of the position.

- **Equipment Used** – Do not overlook computer abilities.

- **Physical Demands** – Positions that require pre-employment health examinations should be identified.

- **Random Drug Testing** – If position will be subject to random testing (limited positions).

- **Behavior Demands** – Just as important as physical demands, emotional requirements should also be included in a job description. Specify if an employee is expected to make quick decisions, supervise workers, read or write, speak publicly, or interpret data.

- **Work Schedule.**

- **Salary/Job Grade** – If the position is covered by a union contract or adopted pay
scale that should be identified. Additionally, whether the position is hourly or sal-
ary should be stated (Fair Labor Standards Act/Connecticut Wage Laws status).

- **Probationary Period** – State the probation period for position.
- **At-Will** – If the position is at-will employment.
- **Equal Employer Opportunity** – Non-discrimination statement in accordance with
  federal and state law as well as Board policies.
- **Fingerprinting and Criminal History** – If position is subject to Conn. Gen. Stat. §§
  10-221d and 10-222c.
  - Criminal History – Conn. Gen. Stat. § 10-221d mandates public schools to require
    applicants to state whether they have ever been convicted of a crime or whether
    criminal charges are pending.
  - Conn. Gen. Stat. § 10-222c provides several requirement that must be met before
    an applicant can be employed related to allegations of abuse or neglect or sexual
    misconduct.
- **Other duties** – An additional statement should state that the job description is not
  designed to cover or contain a comprehensive listing of activities, duties or respon-
sibilities that are required of the position. Other duties, responsibilities and activi-
ties may change or be assigned at any time with or without notice.
- **Date** – The date the job description was adopted should be noted (Prior versions of
  the job description should be retained).

Often job descriptions for positions covered by union contracts have to be accepted
by such union. In such instances, the Board cannot make unilateral changes to the
job description. Such circumstances highlight the need to determine and document
the desired qualifications beyond the minimum requirements for the position at the
beginning of the hiring process. Such desired qualifications must not be contrary to and
should only expound from the formal job description.

E. Post the Job Announcement

Only after completing the prior steps should a position be posted or advertised. If
the position is covered by a union contract, it should be reviewed to determine if the
position must be posted only to internal candidates for a specific period of time prior to
open posting.

A job announcement should include the following information:

- Open and closing dates during which applications will be accepted.
- Process for submitting applications and required documents should be explained,
  including any additional documents other than the application that are required.
- General statement of duties with link to full job description (should be available
  online).
- Salary and benefits for the position.
- Minimal requirements for the position and certifications/licensing.
- Specific desired qualifications for the positions. This is a good opportunity to state
  qualities if unable to set forth in the job description.

**EXAMPLE:**

- Returning to the example of the Language Arts teaching position, the job descrip-
tion may not be specific enough to include education and experience with the Read-
er’s Workshop. However, the job announcement should explicitly state that such
  qualifications are necessary.
• Explanation of the hiring process. Any test or examinations and interview process should be stated.
• Medical testing, if part of hiring process.
• Drug testing, if part of hiring process.
• Statement position subjected to fingerprinting and criminal history.
• Equal Employer Opportunity and non-discrimination statement.
• Americans with Disabilities Act accommodation statement that reasonable accommodation will be made during the application and hiring process. Applicants should be directed to contact the Human Resources Office with any requests.
• Statement that misstatements or omissions on the application or during the hiring process may result in failure to hire or discipline but to and including termination if discovered by the employer after hiring.
• Statement that no candidate will be considered unless they specifically apply in accordance to the announcement. The application and supporting documents should be mandatory for each position an applicant is seeking. As most Boards use online job posting platforms, applicants should specifically link their applications to the specific job posting.

F. Application & Supporting Documents

The application and supporting documents should only seek information necessary to obtain useful information for the hiring process, such as:

**Personal Information**
- Name
- Address, city, state, ZIP code
- Phone number
- Email address
- Eligible to work in the United State
- Employment certificate, If are under age 18

**Education and Experience**
- School(s) attended, degrees, graduation date
- Certifications
- Skills and qualifications

**Employment History (for both current and prior positions)**
- Employer
- Address, phone, email
- Supervisor
- Job title and responsibilities
- Starting and ending dates of employment
- Reason for leaving
- Permission to contact previous employer

• Criminal History – Conn. Gen. Stat. § 10-221d mandates public schools to require applicants to state whether they have ever been convicted of a crime or whether criminal charges are pending. However, Conn. Gen. Stat. § 31-51i provides that no employer may require an applicant to disclose the existence of any arrest, criminal
charge or conviction if the records of which have been erased pursuant to Connecticut law. Therefore, the applications should specifically advise the applicant that the criminal history must be provided, except for erased records.

- **Conn. Gen. Stat. § 10-222c** provides several requirement that must be met before an applicant can be employed related to allegations of abuse or neglect or sexual misconduct. The application should include the following requirements of the statute:

  - The applicant provide the Board with the name, address and telephone number of each current and former school district where the applicant worked and any other employment where he or she had contact with children.
  
  - Authorizes and consents to disclosure by the current and former employers to provide the information and related records required by the statute. The State Department of Education has a [form](#) that must be used to make the request to such current and former employers.

  - Authorizes and consents to disclosure by the State Department of Education concerning eligibility status, knowledge of finding of abuse or neglect or of sexual misconduct by the Department of Children and Families, and notification of conviction of a crime or pending charges.

  - **Statement of whether the applicants has ever:**

    - Been the subject of an abuse or neglect or sexual misconduct investigation by any employer, state agency or municipal police department, unless the investigation resulted in a finding that all allegations were unsubstantiated?

    - Been disciplined or asked to resign from employment or resigned from or otherwise separated from any employment while an allegation of abuse or neglect was pending or under investigation by the Department of Children and Families, or an allegation of sexual misconduct was pending or under investigation or due to an allegation substantiated pursuant to section 17a-101g of abuse or neglect, or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

    - Had a professional or occupational license or certificate suspended or revoked or has ever surrendered such a license or certificate while an allegation of abuse or neglect was pending or under investigation by the department or an investigation of sexual misconduct was pending or under investigation, or due to an allegation substantiated by the department of abuse or neglect or of sexual misconduct or a conviction for abuse or neglect or sexual misconduct?

    - Has ever been convicted of a crime or whether criminal charges are pending against the applicant?

  - **Affirm that the applicant is not disqualified from employment with the Board.**

    - Disclosure and Acknowledgment of Intent to Conduct Drug Test.

    - Disclosure of Rights under Fair Credit Reporting Act.

    - A statement that misstatements or omissions on the application or during the hiring process may result in failure to hire or discipline but to and including termination if discovered by the employer after hiring as well as the applicant attesting that the applicant has read and understands the policies and procedures of the employer that are spelled out on the employment application.

    - A statement that if the Board receives notice of a conviction of a crime which has not previously been disclosed by the applicant to the Board, the Board may (i) terminate the contract of a certified employee, in accordance with the provisions of section 10-151, and (ii) dismiss a noncertified employee, provided such employee is notified of the reason for such dismissal.

    - A statement that an applicant who knowingly provides false information or knowingly fails to disclose information required by Conn. Gen. Stat. § 10-222c shall be
subject to discipline by the employing local or regional board of education, council or operator that may include (1) denial of employment, or (2) termination of the contract of a certified employee, in accordance with the provisions of Conn. Gen. Stat. § 10-151.

- The application should include release language granting authorization to investigate all the information provided in the applications and waiving for liability the Board and anyone providing information under the release.

**SAMPLE:**

- I certify that the information given herein is true and complete to the best of my knowledge. I further acknowledge that falsification or omission of any information presented or requested on this application and/or during the interview process may result in rejection of or dismissal from a position.

- I authorize the Board of Education to make such investigations and inquiries of the information provided herein, and other matters that relate hereto, as may be necessary. I hereby release employers, schools and other persons, institutions and businesses from all liability in responding to inquiries in connection with my application. I understand that if I am offered and accept a position, criminal history conviction information shall be requested by the Board of Education. I understand that false or misleading information given in my application or during my interviews may result in a refusal to hire, or discharge in the event of employment. [IF AT WILL: I understand and agree that, if hired, my employment is at will. I may be dismissed at any time without prior notice.] I understand that if I am hired my employment is for no definite period of time. I further understand and agree that nothing in this application form shall constitute a contract of employment or shall constitute a contract or a guarantee of employment.

- The application should be required to be fully completed. “See Resume” should not be accepted in lieu of complete responses in the application.

- With the exception of a union contract providing a different application process for internal candidates, an application and supporting documents should be mandatory of each position an applicant is seeking.

- The application should be signed or digitally acknowledged.
II. Selecting the Candidate

A. Application Review

Once the applications have been received, they have to be reviewed to narrow the candidates selected to be interviewed to a manageable amount. How the review should be conducted should be determined at the beginning of the hiring process. Similarly, the individual conducting the review should be part of the hiring committee. By deciding who selects applicants to proceed at the beginning of the process further insulates the hiring decision from later criticism and legal act. The applications should be reviewed by persons with knowledge of the specific functions and requirements for the position.

Those applicants that failed to complete the application or provide all requested supporting documents should be eliminated at this stage. Such applicants should be informed at this time (do not wait until later) in writing that they did not fully complete the application process and will not proceed in the hiring process. The letters should be retained as documentation as the reason for elimination from the process.

SAMPLE LETTER:

We appreciate your interest in ___________ and the position of ___________ for which you applied.

Unfortunately, you failed to fully complete the application process. Therefore, your application will not be further considered.

We encourage you to apply for posted and advertised positions, for which you qualify, in the future.

Those applicants that do not meet the minimum qualifications (experience, education, certification, etc.) for the position should be eliminated from the process at this stage. Such applicants should be informed at this time (do not wait until later) in writing that they do not meet the minimum qualification and will not proceed in the hiring process. The letters should be retained as documentation as the reason for elimination from the process.

SAMPLE LETTER:

We appreciate your interest in ___________ and the position of ___________ for which you applied.

Unfortunately, based upon your application, you do not possess some of the minimum qualifications for the position. Therefore, your application will not be further considered.

We encourage you to apply for posted and advertised positions, for which you qualify, in the future.

After eliminating applicants that fail to meet the minimum qualifications, the question becomes which applicants should move forward in the process. The applicants that most closely match such desired skills and qualifications should be the ones that
proceed. That continuity makes it more likely that the pool of applicants proceeding are the best potential candidates. The reason why specific applicants were selected for interview over others should be documented and retained. Those not selected for interview should be informed at this time (do not wait until later) in writing that they were not selected for further consideration.

**SAMPLE LETTER:**

We appreciate your interest in ______________ and the position of ______________ for which you applied.

After reviewing the applications received by the deadline, yours was not selected for further consideration. Unfortunately, we received applications from other candidates that more closely meet the qualifications, both essential and desired, for the position.

We appreciate the time you invested in your application. We encourage you to apply for posted and advertised positions, for which you qualify, in the future.

The review of the applications and support documents should be as blind and systematic as possible. Attention to conscious and unconscious biases should result in the best pool of potential candidates. Applicants should not proceed on the basis of courtesy or simply because they are an internal applicant (unless required by union contract). If the applicant would not have proceeded in the process based upon their application documents, then the applicant should not be considered further. Inclusion of such an applicant can lead to unreasonable expectations by the applicant and expose the selection process. If a union contract requires internal applicants to process in the selection process, the applicants should be informed in writing that they are proceeding in accordance with the union contract. Such notification can be used subsequent to support that the internal candidate only proceeded due to the union contract requirement.

**B. Test and Evaluate**

As part of the selection process, non-medical testing and evaluation is permissible. While such testing can provide useful and objective information to the process, tests should be validated to ensure they measure the knowledge or skill necessary to perform the job.

- **Types of Permitted Testing Prior to Offer of Employment**
  - **Cognitive** – Assesses reasoning, memory, perceptual speed, accuracy comprehension.
  - **Physical Ability** – Measures physical ability to perform a particular task.
  - **Sample Job Tasks** – Assesses performance on particular task.
  - **Personality** – Assesses certain traits, dispositions or to predict likelihood of certain conduct.

- **Prohibited Testing Prior to Offer of Employment**
  - **Cognitive** – Assesses reasoning, memory, perceptual speed, accuracy comprehension.
  - **Physical Ability** – Measures physical ability to perform a particular task.
  - **Sample Job Tasks** – Assesses performance on particular task.
- **Personality** – Assesses certain traits, dispositions or to predict likelihood of certain conduct.

- **Conditions of Testing**
  - Tests and other selection procedures must be administered without regard to protected classes.
  - Tests and other selection procedures must be properly validated for the positions and purposes for which they are used. The test or selection procedure must be job-related and generate results appropriate for the employment purpose. In order to demonstrate validity of a test, an employer must be able to show that it tests for abilities that workers will need for the specific position. In most instances, validation of testing is a very technical and specialized field for which a qualified industrial psychologist or testing expert should be utilized.
  - If a selection procedure screens out a protected group, the Board should determine whether there is an equally effective alternative selection procedure that has less adverse impact and, if so, adopt the alternative procedure. For example, if the selection procedure is a test, the Board should determine whether another test would predict job performance but not disproportionately exclude the protected group.
  - To ensure that a test or selection procedure remains predictive of success in a job, the Board should keep abreast of changes in job requirements and should update the test specifications or selection procedures accordingly.
  - Test all applicants still under consideration at the stage of the process.

- **Testing Accommodations For Disabled Applicants**
  - As with all steps in the hiring process, if an applicant suffers from a disability, the Board is required to provide reasonable accommodations for the test. As with all disability issues, the situation must be addressed on a case-by-case basis through the interactive process.
  - The applicant may raise the issue of an accommodation.
  - The Board may explain the process to all applicants and ask all applicants if they need a reasonable accommodation.
  - An applicant may have an obvious disability and inquiry whether the applicant needs a reasonable accommodation.

**EXAMPLES:**

- The position requires a written test. An applicant appears to have a vision impairment. During the hiring process, it is permissible to inquire if the applicant will need any accommodation to take the written test, such as a reader.

- An accommodation does not need to be made for the disability that effects the skill that the test is designed to measure.

**EXAMPLE:**

- For the position of custodian there is a physical test that requires the applicant to lift 20 pounds. This test is designed to measure the applicant’s ability to meet the minimum physical demands of the position necessary for custodians. An applicant requests an accommodation for the test as the applicant has a 10 pound lifting restriction. The accommodation should not be provided. The 20 pound lifting requirement is an essential function of the position and the applicant must be able to perform the lifting test.
Those applicants that fail the test should be eliminated at this stage. Such applicants should be informed at this time (do not wait until later) in writing that they did not pass the testing.

Following any testing or screening, or if none is undertaken, a manageable number of applicants should be selected for interviewing. If the testing is an objective assessment of skill and qualifications for the position, then the applicants can be ranked following such testing. Otherwise, the same individuals that have been involved through the process should review the remaining applicants and determine those that most closely match the skills and qualifications desired for the position.

C. Interview

The interview of remaining applicants is the most critical stage of the hiring process. In most instances, it is the first opportunity the decision-makers have to interact with the applicants in person. Effective interviewing not only focuses on factors that have a direct impact on performance, but also minimizes both conscious and unconscious bias in the process. The interview process should be structured and consistent across all applicants interviewed, including the same interviewers. Effective interviewing requires planning and preparation.

- **Standardized Questions** – Each applicant that is interviewed should be asked the same questions by the same interviewer. The questions should derive from the list of skills and qualifications that were determined at the initial stages of the process. The questions should be developed by the same individuals that have been involved from the beginning of the process. In developing the questions, attention should also be given to the responses that should be expected or ideal.

- **Interview Form** – A standardized form should be used to assess the applicant’s responses and interviewers’ impression. Notes should not be taken on the applicant’s application materials.

- **Behavioral/Situational Questions** – Questions should seek to elicit information relevant to the desired skills and qualifications for the position. Questions that required the applicant to explain how they dealt with specific situations or issues related to such skills and qualifications will lead to objective evaluation of each candidate. Leading questions or questions designed with built-in responses are usually not very effective.

- **Compatibility/Cultural Fit Questions** – The goal is not hire people that are “just like you,” but to find individuals from different backgrounds, perspectives and experience with diverse talents that will still be compatible. Ask questions about how they work alone and as a team. Ask what expectations they have of co-workers and of supervisors. Ask about positive aspects of prior work environments.

- **Clarifying** – Often the most revealing answers come from follow-up questions. The use of standardized questions does not mean the interviewer cannot ask follow-up questions. The follow-up questions explore in further detail the initial response to the standardized question. These questions and responses should be documented.

- **Impermissible Questions** – Any question that would elicit a response concerning an applicant’s protected class or status should be avoided. Interviews should focus on an applicant’s ability to perform the job.

- Protected Classes/Status to avoid:
  - Race
  - Color
  - National Origin
  - Ancestry
  - Ethnicity
Religion
- Disability or Impairments
- Age
- Sex / Gender
- Sexual Orientation
- Gender Identity or Expression
- Marital / Family Status
- Genetic Information
- Protective Activity

Seemingly innocuous questions may be improper.

EXAMPLES:

- “Do you wish to be addressed as Mr., Mrs., Miss, or Ms.?” – This question not only can lead to issues related to marital status but gender identity or express. Such issues are not relevant to whether the applicant can do the job. Unfortunately, there is no permissible alternative question. During the interview, simply use the applicant’s name.

- “Do you have any health issues?” – This question can lead to issues related to disabilities. Questions directly related to job requirements are permissible, such as, “This position requires you to regularly lift 50 pounds. Can you lift 50 pounds?”

After an interview is completed, the interviewers should complete the interview form. All documents created during the interview process should be maintained and forwarded to Human Resources to be maintained.

The interviewers should determine if the applicant truly meets the skills and qualifications sought for the position. If not, the applicant should not be considered further.

Once all the interviews have been conducted, the individuals involved in the hiring process should determine which of the candidates actually meet the desired skills and qualifications and whether any should be recommended to proceed in the process. However, if they determine that none of the applicants truly meet the needs for the position, the process should be started anew. The only exception would be if a union contract requires the creation of an eligibility list; if a union contract calls for the creation of an eligibility list, then the list must be created and the process moved forward. Under such situation, the eligibility list must be created and the terms of the union contract followed in the manner of selection from such list.

Any applicants eliminated following the interviews should be notified in writing at this time.

SAMPLE LETTER:

Thank you very much for taking the time to interview with us for the ______ position. We appreciate your interest in the District and the position.

I am writing to let you know that we have selected the candidate whom we believe most closely matches the qualifications, both essential and desired, for the position.

We encourage you to apply for posted and advertised positions, for which you qualify, in the future.
D. Post Interview Assessment

Conducting sample job testing can be very effective, particularly in deciding between a few candidates that emerged from the interviewing process as very closely meeting the desired skills and qualifications for the position. If such stage is contemplated to be part of the process, it should be established at the beginning of the process and the applicants must be informed of such. As with all job testing, it must be designed to be job-related and results appropriate for the employment purpose. The same individuals involved in the interviews should assess the sample job testing. These individuals should make their evaluations only on the skills and qualifications for the position. They should document the assessment and forward such documentation to Human Resources. Any applicants eliminated following the assessment should be notified in writing as this time.

EXAMPLE:

▪ Returning to the example of the Language Arts teaching position. One or more of the applicants emerged from the interview process for further consideration. They can be required to present a sample lesson that can be used to further evaluate them or validate that they truly possess the ability to implement the Reader’s Workshop.

E. Selection of Candidate

The hiring authority has to make the final decision to hire the applicant. Usually that will consist of approving the candidate that emerged from the process or deciding between a few candidates. The hiring authority should conduct an interview prior to making the final decision. Ultimately, the selected candidate should meet the skills and qualifications established at the beginning of the process. If no applicant truly meets such expectations, a new hiring process should be undertaken.

The hiring authority should document the process and forward such documents to Human Resources. Any applicant eliminated should be notified in writing as this time.

SAMPLE LETTER:

Thank you very much for taking the time to proceed with the hiring process with us for the ____________ position. We appreciate your interest in the District and the position.

I am writing to let you know that we have selected the candidate whom we believe most closely matches the qualifications, both essential and desired, for the position.

We encourage you to apply for posted and advertised positions, for which you qualify, in the future.


Prior to the Board offering employment to an applicant, it must comply with the review process set forth under Conn. Gen. Stat. §§ 10-221d and 222c.

§ 10-221d – Requires the applicant to submit to a records check of the Department of Children and Families child abuse and neglect registry.

§ 10-222c – Requires the Board to make a documented good faith effort to contact the applicant’s current and any former public school employer or if such employment otherwise caused the applicant to have contact with children in order to obtain information and recommendations which may be relevant to the applicant’s fitness for employment, provided such effort shall not be construed to require more than three telephonic requests made on three separate days.
The review consists of the following:

- Contacting those employers required to be provided as discussed above in the Application section using the form created by the State Department of Education. While statute provided that the review may be conducted telephonically or through written communication, it is recommended that the review be conducted by written communication as evidence of compliance.

- Requesting information from the State Department of Education concerning (A) eligibility status for employment for position requiring a certificate, authorization or permit, (B) whether the department has knowledge that a finding has been substantiated by the Department of Children and Families of abuse or neglect or of sexual misconduct against the applicant and any information concerning such a finding, and (C) whether the department has received notification that the applicant has been convicted of a crime or of criminal charges pending against the applicant and any information concerning such charges.

The Board may employ the applicant on a temporary basis not to exceed 90 days, pending review of the information required by the statute, provided:

- The applicant complied with the disclosure required under the statute. (Such disclosure should be incorporated into the application).

- The Board has no knowledge of information pertaining to the applicant that would disqualify the applicant form employment with the Board.

- The applicant affirms that the applicant is not disqualified from employment with the Board. (Such affirmation should be incorporated into the application).

The Board should develop a checklist to ensure compliance with the statutes. If the provisions of § 10-222c cannot be met, the applicant cannot be employed, even on a temporary basis. In such situation, the applicant should be informed that the Board will not consider the applicant for employment and reasons why. If the applicant is employed on the temporary basis, the Board of Education should act to complete the process within 90 days. The statute does not provide for employment beyond the temporary 90 day period. If the requirements of the statute are not fulfilled within such 90 day period, the Board of Education cannot continue the employment and the individual should be informed and terminated.

G. Check References

In addition to the statutory inquiries required by Conn. Gen. Stat. §§ 10-221d and 222c, the applicant’s references should be contacted in writing or by telephone. Like the interview, a reference check should not be rushed and the goal should be to get the reference talking. Ideally, the reference check should be conducted by the final decision-maker.

- Set a positive tenor – Ask how the reference knows the employee. Compliment the applicant as any skepticism about the applicant may cause the reference to be less forthcoming.

- Explain the position – Ask if the reference has knowledge of the applicant performing similar responsibilities. Ask if the reference believes the applicant would be successful in the position.

- Ask open-ended but specific questions – Similar to the behavioral/situational questions asked during the interview process.

- Ask questions related to compatibility/cultural fit.

The reference check should be documented and the records maintained as part of the hiring file.
H. Social Media Review

It is acceptable to perform a review of an applicant’s social media, so long as it is done legally. Unless an outside vendor is utilized for such review, it can be done prior to a conditional offer of employment. However, it is preferable from a legal standpoint to conduct the review following a conditional offer of employment as solely an inquiry to determine job-related information that would preclude employment. The following recommendations should be considered as well as legal requirements to follow:

- The review should be conducted by Human Resources staff that should be trained to only pass along job related information and to filter out protected class or status information. If performed by an outside vendor, the review is subject to the Fair Credit Reporting Act that will be discussed later.

- Conducted of all applicants still under consideration at the stage of the process and equally vet each such applicant through the same social media.

- Use only public information – Pursuant to Conn. Gen. Stat. § 31-40x, applicants cannot be required to provide usernames, passwords or any other authentication means for accessing a personal online accounts, nor can applicants be required to invite or accept an invitation to join a group affiliated with any personal online account.

- Focus on information relevant to the position. It is illegal to consider information related to protected status such religion or politics in the hiring process.

- Let the applicant know that social media will be reviewed. It allows the applicant the chance to explain anything that may be found. Also, the chances of misidentification are lessened.

- If the applicant will be eliminated from the process due to the social media review, the applicant should be informed of the issues raised and given an opportunity to explain or correct the situation. Additionally, the review should be documented and saved.
III. Conditional Offer of Employment

Once all of the prior steps have been completed, the Board is in the position to make an offer of employment. However, there are steps that can only be conducted or completed once a formal offer of employment has been made. Therefore, a conditional offer of employment should be used.

A conditional offer of employment is a formal job offer that is dependent on the employee passing certain tests or meeting certain conditions. The job offer is formalized only after all the conditions are successfully met. If the candidate does not pass or fulfill the requirements, the offer of employment can be revoked. Conditional offers of employment can only be extended only after the selecting the candidate to be hired. The conditional offer can set a start date and even have employment commence subject to termination if all the conditions are not successfully met.

A. Drafting the Conditional Offer of Employment

- The letter should include all the elements of a regular offer of employment.
  - Title of the position
  - Name and title of the direct supervisor
  - Salary/Pay rate
  - Pay period
  - Benefits
  - Identify policies and handbooks
  - If position covered by union
  - At-will status if applicable

- Contingencies – The conditions that must be satisfied or the offer will be rescinded.

B. Criminal Records Check

The offer should state that the employment is contingent upon the statutorily required criminal records check.

- Conn. Gen. Stat. § 10-221d – In addition the previous mention requirements of the statute, the candidate must submit to state and national criminal history records checks within thirty days from the date of employment.

- Conn. Gen. Stat. § 10-222c – If the candidate has been hired under the 90 day temporary employment provisions, the review must be completed.

- Conn. Gen. Stat. § 10-222c(m) – Specifically precludes offer of employment to any applicant who had any previous employment contract terminated or who resigned from employment, if the applicant has been convicted of a violation of Conn. Gen. Stat. § 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated.

- Employment can be contingent on a general criminal check as well.

C. Fair Credit Reporting Act

If the Board seeks to obtain background checks or other consumer reports from a third-party consumer reporting agency (“CRA”), it triggers additional obligations under the Fair Credit Reporting Act (“FCRA”). FCRA does not apply only to credit checks, but rather it can apply to a wide array of consumer reports, including information on a candidate’s criminal record, job and education verification, credit standing, and reference checks, drug tests, and other reports, if performed by a CRA. The Board should rely on standard forms provided by vendors for compliance with FCRA and should utilize its own legal counsel review the vendor’s forms and process to determine compliance, as liability can fall on both the user of the consumer report (the Board) and the CRA.
● Exceptions to Fair Credit Reporting Act:
  ▪ The FCRA does not apply to information requests for government sources, such as inquiries required under Conn. Gen. Stat. §§ 10-221d and 222c.
  ▪ The FCRA does not apply if the Board conducts its own background investigation without using a CRA.

● Procedures When Using a Consumer Reporting Agency
  ▪ Use Specific, Stand-Alone Disclosure: The Board must provide the candidate with a separate disclosure that consists only of the disclosure. (see Appendix A)
  There are differences in the disclosures required for employers who obtain consumer reports, which include primarily objective information, such as basic identifying and biographical information, and those who obtain investigative consumer reports, which include subjective information based upon personal interviews. Employers should know what type of consumer report they are obtaining and ensure they are providing the appropriate corresponding disclosures. The disclosure should specify the report is being obtained for a permissible purpose, such as for employment purposes.
  ▪ Obtain the Applicant’s Authorization to Obtain a Consumer Report: In addition to the disclosure, the Board must obtain written authorization from the candidate allowing the Board to obtain the consumer report. (see Appendix B)
  ▪ Provide the Applicant with the FCRA Summary of Rights: The Board must provide the candidate a copy of the FCRA Summary of Rights document prepared by the Consumer Financial Protection Bureau.
  ▪ Certify to the CRA that the Employer is in Compliance with FCRA: The Board must certify to the consumer reporting agency that it is in compliance with the FCRA and will not misuse the information it receives. Generally, CRAs have form language they provide for the certification.
  ▪ Provide a Pre-Adverse Action Letter and Opportunity to Correct Before Taking Adverse Action: After receiving a consumer report with negative information about the candidate, and prior to taking an adverse action, such as not hiring the candidate, the Board must provide a pre-adverse action letter. This letter should provide notice to the candidate of the potential adverse action. Included with the letter should be a copy of the report in question and a summary of the candidate’s rights under the FCRA. Importantly, prior to making the final decision, the Board must provide a reasonable amount of time for the candidate to dispute information in the consumer report. The best practice is to allow at least seven (7) business days.
  ▪ Provide an Adverse Action Notice: If the candidate does not dispute the information in the report or confirms the negative information, the Board can proceed with taking the adverse action, but must also provide the candidate with an adverse action notice regarding the decision and the candidate’s rights under the FCRA. If the consumer report the Board obtained contained a credit score, certain information must be included in the adverse action notice regarding the credit score.

D. Testing and Conditions Requiring a Conditional Offer of Employment

Background Investigations
  ▪ Background investigations can consist of inquiries of the candidate’s credit, criminal history, driving record, employment and educational history, social media review and references.
  ▪ Not limited to post conditional offers of employment. However, if a CRA is utilized to conduct any such inquiries, then the process under the FCRA above must be followed and should be limited to post conditional offer of employment.
The extent of a background investigation should depend on the specific nature of the positions and may be statutorily limited to particular jobs. For instance, there is no need to obtain a driving history for an employee that does not include driving as an essential function of the position.

Credit Reports & Checks – Conn. Gen. Stat. §31-51tt prohibits an employer from requesting credit reports of employees or applicants unless (1) such employer is a financial institution, (2) such report is required by law, (3) the employer reasonably believes that the employee has engaged in specific activity that constitutes a violation of the law related to the employee’s employment, or (4) such report is substantially related to the employee’s current or potential job or the employer has a bona fide purpose for requesting or using information in the credit report that is substantially job-related and is disclosed in writing to the employee or applicant.

A position is “substantially related to the employee’s current or potential job” if the position:

(A) Is a managerial position which involves setting the direction or control of a business, division, unit or an agency of a business;

(B) Involves access to customers’, employees’ or the employer’s personal or financial information other than information customarily provided in a retail transaction;

(C) Involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts;

(D) Provides an expense account or corporate debit or credit card;

(E) Provides access to (i) confidential or proprietary business information, or (ii) information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that: (I) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information; and (II) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

(F) Involves access to the employer’s nonfinancial assets valued at two thousand five dollars ($2,005.00) or more, including, but not limited to, museum and library collections and to prescription drugs and other pharmaceuticals.

Very few positions with the Board would fall within the limitations that permit such credit inquiries. Therefore, consideration must be given prior to seeking a credit records of a candidate.

Social Media Review – If a CRA is utilized to conduct any such inquiries, then the process under the FCRA above must be followed and should be limited to a post conditional offer of employment. Please see the discussion of Social Media Review above.

Medical Testing

Medical inquiries, including physical examination and psychological testing, may only be conducted after a conditional offer of employment. A post-offer examination or inquiry does not have to be job-related and consistent with business necessity; however, it is suggested that it is job-related because, if an individual is not hired because a post-offer medical examination or inquiry reveals a disability, the reasons for not hiring must be job-related and consistent with business necessity. Therefore, it is recommended that only specific positions should be considered for medical testing, such as a custodian, special education paraprofessional,
occupational therapist, and physical therapist, to determine if the candidate is able to perform the essential functions of the job.

• All new employees for the same job must be subjected to the same testing. Testing cannot be required of only some new employees for a particular position.

• The testing has to be performed by a medical professional, such as an occupational health center.

• The results of the testing should be limited to whether or not the candidate can perform the essential functions of the position because, if an offer of employment is withdrawn from an individual with a disability, the employer must show that the individual is unable to perform the essential functions of the job.

• The report from the medical testing should indicate if the individual can perform the essential functions of the position. If not, the report should specify why the individual cannot perform the essential functions of the position.

• If the medical testing determines that the individual cannot perform the essential function of the position, the individual should be informed of such and the interactive process required under the ADA should be followed to ensure that there is not a reasonable accommodation that would allow the individual to perform all of the essential functions. This may sound oxymoronic as the medical testing has determined that the individual cannot perform all the essential functions. However, when dealing with ADA issues, the best practice is to engage in the interactive process prior to taking any adverse employment action.

• All information obtained as part of the examination must be on separate forms, separated from other files, and treated as confidential medical records. Access to such records must be limited to only those with a need to know.

Drug Testing

• Drug testing is not limited to post conditional offers of employment for prospective employees. However, the Board, as a governmental employer, may conduct drug testing of only specific prospective employees. Prior to undertaking drug testing as part of the hiring process, the Board should consult with legal counsel to determine if such position can legally be subject to drug testing.

• If drug testing is conducted, all new employees for a same job must be subjected to the same testing. Testing cannot be required of only some new employees for a particular position.

• Drug testing must comply with Conn. Gen. Stat. § 31-51v.

• While illegal drug use is not protected under the ADA, a person in recovery is. More information may be need if the applicant tests positive for illegal drug use.

• The use of medical marijuana is a rapidly evolving issue with decisions from Court across the nation. Before any candidate is eliminated based upon testing positive for marijuana, the Board of Education should consult with legal counsel.

• Whether a drug test falls within FCRA’s purview depends on who conducts the drug test, whether it is a laboratory, for example, or a consumer reporting agency. Drug test reports are not “consumer reports” covered by FCRA when they are provided directly to the employer by the laboratory. If an intermediary that retains copies of tests performed by drug labs and regularly sells the information to third parties for a fee is a CRA whose reports of drug test results are “consumer reports” covered by the FCRA.

E. Withdrawing a Conditional Offer of Employment

A conditional offer of employment may only be withdrawn if a condition set forth in the offer has not been satisfied. Any other reasons would have to be treated as a termination which would have to process under the termination process and procedures applicable to the position.
● **Medical** – If a medical finding causes an employment offer to be withdrawn, the Board must be able to show that the rejection was job-related and a business necessity, and that no reasonable accommodation would enable the individual to perform the job’s essential functions.

● **Criminal History** – If the applicant has been convicted of a violation of Conn. Gen. Stat. § 17a-101a, when an allegation of abuse or neglect or sexual assault has been substantiated, the Board cannot employ the applicant. For other crimes or pending charges, it is up to the Board to make the determination if it wants to withdraw the conditional offer. The Board should take into consideration the nature of the position, the nature of the offense, when the offense occurred and if the applicant disclosed the criminal history when determining if to withdraw the offer of employment. Such decisions should be consistent.

● **Illegal Drug Use** – As stated above, prior to withdrawing a conditional offer for a positive test of illegal drug use, ADA issues must be considered. Legal counsel should be involved in such determinations.

● **FCRA Findings** – Pertaining to any information developed from a CRA, the Board has to follow the provisions of the FCRA, which gives the candidate that opportunity to correct such information.

As soon as the disqualification information is known, the candidate should be informed that the offer is being withdrawn. If the candidate has already started working, the candidate should be told in person and given written notice at the same time. If the candidate has not commenced employment,
IV. Internal Candidates

Internal candidates are often involved in the hiring process. Ideally, the same process and recommendations should be applied with internal candidates. The only circumstance when internal candidates should not be treated the same as external candidates is if a union contract or Board policy prescribes a different process.

A. Issues of Concern with Internal Candidates:

- **Familiarity** – Internal candidates should not be prejudged, either favorably or unfavorably. The process should not be altered because of knowledge of the internal candidate’s past performance. Internal candidate’s experience should be as close as possible to external candidates through the process. Interviews should be conducted in the same manner.

- **Expectations** – Internal candidates should not be given suggestions that they have an advantage in the process or that the position is theirs to lose. Internal candidates often take any encouragement or past comments by a supervisor to believe that they should get the position.

- **Co-worker expectations** – In addition to the internal candidate’s expectations, co-workers can have an expectation that the internal candidate is deserving of the position. Those involved in the hiring process have to be able to manage such expectations.

- **Do Not Extend Courtesy Interviews** – Not only can an interview give false impressions to the internal candidate that he or she has a better chance, it may make an external candidate believe that the process is not truly open.

- **Interview Internal Candidates First** – If internal candidates are to be interviewed, they should be before external candidates. Information about the process tends to leak, particularly when search committees are utilized. By interviewing internal candidates first, they do not get the potential benefit of any leaked information.

The goal of the hiring process is to find the candidate that best meets the desired skills and qualifications for the position. The desire to want to help and or see an internal candidates succeed must not impose upon the hiring process.
Appendices

A. Sample Letter of Conditional Offer of Employment and Sample Letter Retracting Conditional Offer of Employment..................A1
B. Fair Credit Reporting Act Sample Documents ...............................B1
Appendix A

Sample Letter of Conditional Offer of Employment

Dear [applicant]:

The [Employer] is pleased to offer you a conditional offer of employment as [job title]. The position reports to [Position Supervisor]. [Specify the salary/pay rate, pay period, and benefits for the position].

The position is subject to the [Employer’s] policies [and handbook, if applicable]. [Identify if position is part of a union or if at-will].

This offer of employment is conditional upon the satisfactory completion and results of the following:

[List post-conditional offer testing to be conducted or satisfied]

[Include authorizations necessary and a set deadline to return them]

[Include contact to arrange for testing by appointment or the arrangements for any appointments]

If you are no longer interested in the positions or have any questions, please contact [human resources contact and information].

Sample Letter Retracting Conditional Offer of Employment (If FCRA Does Not Apply)

Dear [applicant]:

This letter is to inform you that the [Employer] is withdrawing the conditional offer of employment set forth in my letter to you of [date].

As you know, the offer of employment was conditioned on successful completion of [list post-offer conditions]. Based upon the results of [test or condition], we must withdraw the offer of employment because [list reason].
Appendix B - Fair Credit Reporting Act Sample Documents

Instructions for HR (not to be provided to applicants or employees):

For All Applicants or Employees: Provide a printed version of the following forms and obtain signatures where appropriate:

- Disclosure that Consumer Reports and/or Investigative Consumer Reports May be Obtained for Employment Purposes
  - Note: This must be on a separate, stand-alone page and CANNOT be included with the rest of the background check packet or any other printed application packet or materials.

- A Summary of Your Rights Under the Fair Credit Reporting Act (3 pages)

- Authorization to obtain Consumer Reports and/or Investigative Consumer Reports for Employment Purposes

- Acknowledgment of Receipt of “A Summary of Your Rights Under the Fair Credit Reporting Act”

For HR for all applicants or employees: Complete the Certification to the Consumer Reporting Agency certifying that Employer is complying with the enumerated background check requirements.

Instructions Regarding Connecticut Credit Checks

Note: The below additional state-specific instructions refer to “credit checks,” as distinguished from criminal background checks or other types of consumer reports.

Connecticut employers are prohibited from requiring that an employee or applicant consent to the employer obtaining a credit report containing the individual’s:

- Credit score.
- Credit account balances.
- Payment history.
- Savings or checking account balances.
- Account numbers.

This law exempts:

- Financial institutions.
- Employers that are required to obtain an applicant’s credit score by law.
- Instances where 1) an employer reasonably believes the employee has engaged in specific activity that violates the law and relates to the employee’s employment; 2) where the credit report is substantially related to the job in question or the employer has a bona fide purpose for requesting a credit report that is substantially job-related and is disclosed in writing to the employee or applicant.

The credit report substantially relates to the job when the employment:

- Is a managerial position which involves setting the direction or control of a business, division, unit or an agency of a business;
- Involves access to customers’, employees’ or the employer’s personal or financial information other than information customarily provided in a retail transaction;
- Involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts;
- Provides an expense account or corporate debit or credit card;
- Provides access to (i) confidential or proprietary business information, or (ii) information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that: (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or
- Involves access to the employer’s nonfinancial assets valued at two thousand five dollars or more, including, but not limited to, museum and library collections and prescription drugs and other pharmaceuticals.

CONNECTICUT CREDIT CHECK DISCLOSURE: [Employer Name] may obtain a credit report about you because you are seeking to work in the following position:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
DISCLOSURE THAT CONSUMER REPORTS AND/OR INVESTIGATIVE CONSUMER REPORTS MAY BE OBTAINED FOR EMPLOYMENT PURPOSES

[Employer] is hereby advising you that, for employment purposes, including but not limited to initial employment, promotion, reassignment, or retention, [Employer] may obtain or have prepared one or more consumer reports and/or investigative consumer reports bearing on your credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. Information may be obtained through personal interviews of your neighbors, friends, or associates, or of others with whom you are acquainted or who may have knowledge concerning any such items of information. You have the right, upon written request to [Employer] made within a reasonable time after receipt of this notice, to request disclosure of the nature and scope of any investigative consumer report. The scope of this notice is all-encompassing, allowing [Employer] to obtain from any outside organization all manner of consumer reports and/or investigative consumer reports now and throughout the course of your employment to the extent permitted by law.

This Disclosure is valid for current and future reports, and [Employer] intends for this Disclosure to cover both the application for employment and, if you are hired, any additional consumer reports and/or investigative consumer reports obtained while you remain an employee.

Print Name _______________________
Signature_________________________
Date ______________________________

[HR: INSERT POSITION AND INFORMATION REGARDING THE PURPOSE FOR REQUESTING OR USING CREDIT REPORT INFORMATION].
A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington DC 20552.

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment - or to take another adverse action against you - must tell you, and must give you the name, address, and phone number of the agency that provided the information.

- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

- In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

- You have the right to dispute incomplete or inaccurate information. If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.consumerfinance.gov/learnmore for an explanation of dispute procedures.
• Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information. Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

• Consumer reporting agencies may not report outdated negative information. In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.

• **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.

• **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

• You may limit “prescreened” offers of credit and insurance you get based on information in your credit report. Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-888-567-8688.

• You may seek damages from violators. If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.

• Identity theft victims and active duty military personnel have additional rights. For more information, visit [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For Information about your Federal rights contact:
## TYPE OF BUSINESS:

| 1. | a. Banks, savings associations, and credit unions with total assets of over $10 billion and their affiliates.  
   b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB: |
| 2. | To the extent not included in item 1 above:  
   a. National banks, federal savings associations and federal branches and federal agencies of foreign banks  
   b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act  
   c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations  
   d. Federal Credit Unions |
| 3. | Air carriers  
   Asst. General Counsel for Aviation Enforcement & Proceedings  
   Aviation Consumer Protection Division Department of Transportation  
   1200 New Jersey Avenue, S.E.  
   Washington, DC 20590 |
| 4. | Creditors Subject to Surface Transportation Board  
   Office of Proceedings, Surface Transportation Board Department of Transportation  
   395 E Street, S.W.  
   Washington, DC 20423 |
| 5. | Creditors Subject to Packers and Stockyards Act, 1921  
   Nearest Packers and Stockyards Administration area Supervisor |
| 6. | Small Business Investment Companies  
   Associate Deputy Administrator for Capital Access  
   U.S. Small Business Administration  
   409 Third Street, SW, 8th Floor  
   Washington, DC 20416 |
| 7. | Brokers and Dealers  
   Securities and Exchange Commission  
   100 F Street, N.E.  
   Washington, DC 20549 |
| 8. | Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks and Production Credit Associations  
   Farm Credit Administration  
   1501 Farm Credit Drive  
   McLean, VA 22102-5090 |
| 9. | Retailers, Finance Companies, and All Other Creditors Not Listed Above  
   FTC Regional Office for region in which the creditor operates or Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580  
   (877) 382-4357 |
AUTHORIZATION TO OBTAIN CONSUMER REPORTS AND/OR INVESTIGATIVE CONSUMER REPORTS FOR EMPLOYMENT PURPOSES

I hereby authorize [Employer] to obtain or have prepared one or more consumer reports and/or investigative consumer reports on me for employment purposes, including but not limited to initial employment, promotion, reassignment, retention of employment, and any other use not prohibited by law, prior to and during my employment with [Employer]. These reports may contain information regarding my credit history, criminal record history, driving record history, credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, mode of living, and any other type of information that is permissible by all governing laws. I understand this information may be obtained from previous employers, companies, credit bureaus, corporations, law enforcement agencies, persons, educational institutions, and other agencies, businesses and individuals. I hereby authorize and direct all persons who may have information relevant to any such consumer report and/or investigative consumer report to disclose it to [Employer] or its agents.

This Authorization is valid for current and future reports, and I specifically understand that [Employer] intends for this Authorization to cover both the application for employment and, if I am hired, any additional consumer reports and/or investigative consumer reports obtained while I remain an employee.

Print Name _______________
Signature  ________________
Date  ____________________
ACKNOWLEDGMENT OF RECEIPT OF
“A SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT
REPORTING ACT”

I acknowledge that I have received “A Summary of Your Rights under the Fair Credit Reporting Act.” I understand that if I have any questions regarding the Summary, I should not sign this form until my questions are answered to my satisfaction. By signing this form, I acknowledge that I have no questions, that I have reviewed this form and that I understand its contents.

Print Name ____________________
Signature ____________________
Date _________________________

Other names you have used____________________________

Social Security Number*____________ Date of Birth*_____________________

Driver’s License Number____________ State Issued_______________________

Name as it appears on Driver’s License______________________________

Current Address___________________ City & State_____________Zip Code_____

Previous Address 1____________________________

Previous Address 2____________________________

Telephone Number___________________ Email Address ___________

*This information will be used for employment-related background screening purposes only and no other purpose.
CONNECTICUT CREDIT CHECK DISCLOSURE

[Employer Name] may obtain a credit report about you because you are seeking to work in the following position:

[HR: INSERT POSITION AND INFORMATION REGARDING THE PURPOSE FOR REQUESTING OR USING CREDIT REPORT INFORMATION].

Print Name _______________________
Signature _______________________
Date ___________________________
CERTIFICATION FOR CONSUMER REPORTS AND/OR INVESTIGATIVE CONSUMER REPORTS FOR EMPLOYMENT PURPOSES (COMPLETED BY HUMAN RESOURCE)

[Employer] is requesting a consumer report and/or investigative consumer report for employment purposes on the individual listed below, and hereby certifies that it:

1. has complied with the requirement to provide the individual with a disclosure and that it has obtained the individual’s authorization to receive a consumer report and/or investigative consumer report;

2. will not use any information in the consumer report and/or investigative consumer report in violation of any federal or state equal employment opportunity law or regulation;

3. has provided the individual with the additional investigative consumer report disclosure and will comply with any request by the individual for disclosure of the nature and scope of the investigation related to any investigative consumer report;

4. has complied with the obligation to provide information as to rights and has provided a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” to the individual; and

5. will comply with the requirement to provide the individual with the appropriate notices if [Employer] decides to take an adverse action based in whole or in part on any consumer report and/or investigative consumer report.

[EMPLOYER]

Date ______________________

By: ________________________

Its: ________________________

[Employer] requests a consumer report and/or investigative consumer report on the following individual:

Name:________________________

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Complete Residential Address:

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<tr>
<th>Street Number/P.O. Box</th>
<th>Street Name</th>
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<th>City</th>
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Social Security Number: ____________________________
Sample Background Check Forms Connecticut Pre-Adverse Action & Adverse Action Letters

Instructions for HR: (Not to be provided to applicants or employees.)

Step 1: Pre-Adverse Action Notice

Prior to any final decision to take an adverse action against an individual (e.g. not hiring an applicant or terminating an employee), based in whole or in part upon information in the individual’s background check/consumer report and/or investigative consumer report, complete a Pre-Adverse Action Notice to notify the individual of the possible adverse action.

- Attach a copy of the consumer report and/or investigative consumer report in question.
- Attach a copy of the FCRA Summary of Rights.

Send the Notice, with attachments, using some form of delivery that provides proof of delivery (e.g. fax, e-mail, overnight mail, certified mail, return receipt requested, etc.), or deliver the letter, with attachments, to the individual and obtain a receipt.

- Wait at least 7 business days for the individual to dispute the consumer report and/or investigative consumer report and offer information to correct the disputed portion, unless the individual otherwise sooner acknowledges the validity of the negative information in the report.
- If the individual does not dispute the consumer report and/or investigative consumer report or otherwise satisfactorily establish the error of the relevant negative information within 7 business days, or an otherwise reasonable amount of time, take the adverse employment action and send the Adverse Action Notice to the individual as detailed in Step 2 below.

Step 2: Adverse Action Notice

After taking an adverse action, complete the Adverse Action Notice and deliver in a manner similar to the delivery of the Pre-Adverse Action Notice above.

Attach a copy of the FCRA Summary of Rights

*Note: The headings designating the Pre-Adverse Action Letter, Summary of Rights, and Adverse Action letter below are for informational purposes for HR only and are not to be included in the text of the forms sent to the applicant.
Pre-Adverse Action Letter

Dear [applicant/employee name]:

As you know, as part of our employment screening process we check the background of applicants and employees for employment purposes. You authorized us to obtain one or more consumer reports and/or investigative consumer reports. The purpose of this letter is to provide you with a copy of a consumer report and/or investigative consumer report that we obtained in accordance with your authorization and a summary of rights under the Fair Credit Reporting Act prior to making our [hiring (or) employment] decision. There is information in this report that has caused us to consider [not hiring you; terminating you; not promoting you; other (specify)]. However, [Employer] has not yet decided upon this action.

If there is any information you wish to provide regarding the contents of the report, you may do so, in writing, directly with [Employer] within the next seven business days. If we do not hear from you within that time, we will assume that the information is correct and will take the adverse employment decision indicated above.

You also have the right to dispute, directly with the consumer reporting agency, [Consumer Reporting Agency Name], any information in its report. [Consumer Reporting Agency Name] will reinvestigate the disputed information free of charge and record the current status of the disputed information or delete the item(s) from its report within 30 days of receiving your dispute notice.

This report was furnished to us by [Consumer Reporting Agency Name]. [Consumer Reporting Agency Address and Telephone Number]. Please understand that [Consumer Reporting Agency Name] only provided us with the report and is not responsible for making the employment decision. Therefore, [Consumer Reporting Agency Name] will be unable to provide you with information related to our decision.

We look forward to hearing from you.

Sincerely, [EMPLOYER]

By: __________________________ Its: ______________________________

Enclosures: (1) copy of consumer report and/or investigative consumer report; and (2) FCRA Summary of Rights
Adverse Action letter

Dear [applicant/employee name]:

This letter is to notify you that we must withdraw our conditional offer of employment or terminate your employment (or) other adverse action (specify based partially or wholly on information contained in the consumer report and/or investigative consumer report we received from [Consumer Reporting Agency Name].

As part of our screening process, we check the background of applicants and employees for employment purposes. You authorized us to obtain a consumer report and/or investigative consumer report and we provided a copy of this report to you prior to our [hiring (or) employment] decision. Based in whole or in part on the information in your consumer report and/or investigative consumer report obtained from [Consumer Reporting Agency Name], we are unable to [consider you for employment (or) continue your employment] with [Employer].

If you wish to discuss the contents of your consumer report file, or dispute the accuracy or completeness of the information listed, please contact [Consumer Reporting Agency Name] at the following:

[Consumer Reporting Agency Name]
[Consumer Reporting Agency Address]
[Consumer Reporting Agency Telephone]

Please note that [Consumer Reporting Agency Name] did not make this decision and is unable to provide you with the specific reasons for it. Please note that you have the right to confirm the nature and scope of the information contained in the report we received from [Consumer Reporting Agency Name] by obtaining another free copy of the report within 60 days of notice of this action. Further, you have the right to dispute the accuracy or completeness of the report with [Consumer Reporting Agency Name]. To obtain this information you will need to provide [Consumer Reporting Agency Name] certain information for identification purposes, which may include your full name, mailing address, Social Security number, the name of our company and a photocopy of your driver’s license and Social Security number card at the address provided above. Please find enclosed another copy of A Summary of Your Rights under the Fair Credit Reporting Act.

(Include the following paragraph only if the consumer report and/or investigative consumer report obtained included a credit score:

The consumer report and/or investigative consumer report that [Employer] used in making the decision to take the adverse action based wholly or partially on information contained in the consumer report and/or investigative consumer report contained a credit score. [Employer] has been able to ascertain the following information regarding that credit score based on information received from [Consumer Reporting Agency Name]:

1. the credit score was [Credit Score];
2. the range of possible credit scores under the model used was [Range];
3. the key factors that adversely affected the credit score in the model used included [Up to 4 factors, unless number of inquiries is a key factor, in which case the maximum is 5];
4. the date on which the credit score was created was [Date]; and
5. the person or entity that provided the credit score or credit file upon which the credit score was created was [Name of person or entity].]

Sincerely, [EMPLOYER]

By: __________________________
Its: __________________________
Enclosure: FCRA Summary of Rights
A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

- You must be told if information in your file has been used against you. Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment - or to take another adverse action against you - must tell you, and must give you the name, address, and phone number of the agency that provided the information.

- You have the right to know what is in your file. You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

- In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- You have the right to ask for a credit score. Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

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<td>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050 b. Federal Reserve Consumer Help Center PO Box 1200 Minneapolis, MN 55480 c. FDIC Consumer Response Center 1100 Walnut St., Box #11 Kansas City, MO 64106 d. National Credit Union Administration Office of Consumer Protection (OCP) Division of Consumer Compliance &amp; Outreach (DCCO) 1775 Duke Street Alexandria, VA 22314</td>
</tr>
<tr>
<td>3. Air carriers</td>
<td>Asst. General Counsel for Aviation Enforcement &amp; Proceedings Aviation Consumer Protection Division Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590</td>
</tr>
<tr>
<td>4. Creditors Subject to Surface Transportation Board</td>
<td>Office of Proceedings, Surface Transportation Board Department of Transportation 395 E Street, S.W. Washington, DC 20423</td>
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This CIRMA Best Practices Guide helps school leaders and Human Resource professionals better understand the complex legal requirements and best practices related to the hiring process. This guide will help hiring teams build consistent interviewing processes and selection practices that comply with Federal and Connecticut fair hiring laws. By following these best practices, public schools will be better able to hire the best candidates, build a diverse workforce, while avoiding bias, liability, and the accompanying morale and reputational damage.

Topics include:

- Relevant State and Federal statutes.
- Stages in the Hiring process, including creating Job Descriptions, selecting candidates, and the employment offer.
- Conditional Offers of Employment.
- Testing, Credit Checks, and Social Media review.

CIRMA Best Practices Guides and programs help local public entities to better manage risk, lower losses, and provide more efficient public services.

"Carefully planned questions and a structured interview process that is the same for all candidates will ensure equal treatment of all who apply. A fair hiring process that incorporates best practices will help public schools achieve their mission of educating students."