

## REFERENCES

### Definitions

Employee – Any staff member or student teacher of the District.

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

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

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

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

### General

Any request for a reference is to be made to the Superintendent. The Superintendent may designate another employee assist the Superintendent the preparation of accurate reference information.

An employee other than the Superintendent or designee may provide personal references. However, by doing so, the employee

- a. is acting in her/his individual capacities and not as an employee of the District;
- b. may identify the working relationship she/he has or had with the current or former employee; and
- c. may not use District letterhead or otherwise indicate that the reference is sponsored by the District.

The District will not endorse any reference provided outside the directives of this policy and is not responsible for providing legal advice or protection for unauthorized employees who provide references. In accordance with federal law, District employees, contractors and agents are prohibited from writing personal references or otherwise providing assistance in obtaining a new job to any other school employee, contractor or agent who has been accused of sexual misconduct regarding a minor or student, as discussed later in this policy.

## **Content**

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

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

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

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

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

## **Disclosing Allegations of Sexual Misconduct to Other Public or Charter Schools**

Missouri State 162.068 requires the following:

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

2. If a potential public or charter school employer contacts the District for a reference for any former employee about whom the CD has investigated allegations of sexual misconduct with a student and reached a finding of substantiated, the District will provide the results of the CD investigation to the potential public or charter school employer, regardless of whether the employee's job involved contact with children.
3. The District must provide these notifications regardless of whether the former employee has authorized the release of information. The District will provide due process as required by law prior to releasing information in accordance with this section, if feasible. The Superintendent or designee is authorized to contact the District's attorney for advice on implementing this policy in accordance with law.

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

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

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

1. The investigation was officially closed without action; or
2. The prosecutor or law enforcement entity determined there was insufficient information to establish probable cause; or
3. The individual was charged and acquitted or otherwise exonerated of the alleged misconduct; or
4. The case or investigation remains open and no charges have been filed and no indictment has been issued within four years of the date on which the alleged misconduct was reported to law enforcement.

### **Recordkeeping**

When the District is contacted for a reference for a current or former employee, the Superintendent or designee will document the following:

1. The date of the contact,
2. the name of the person and entity requesting the information,
3. the person responding to the request,
4. the method of disclosure,
5. the information provided and,
6. when applicable, the consent received.

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

### **Notice**

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

### **Immunity**

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

Date Implemented by the Superintendent: June 26, 2018



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Superintendent of Schools