

Background Check Policy and Procedures

Purpose: *Raíces del Saber recognizes the importance of school safety and with this policy assures compliance with all applicable laws regarding background checks in accordance with NMSA 1978, Section 22-10A-5.*

Policy: Raíces del Saber Xinachtli Community School shall conduct background checks of all persons who may have unsupervised access to students, such as licensed and non-licensed staff, volunteers, and contractors as required by law, and all offers of employment are contingent upon satisfactory background check results.

Each employee is responsible for any cost associated with requesting and processing a background check. For employees licensed through the New Mexico Public Education Department (PED), the background check shall be conducted as required by the PED and education licensures must be verified by the Professional Licensure Bureau. Raíces may reimburse an employee for the background check once it is reported as clear and a contract is signed.

For employees, volunteers, and contractors **not** licensed by the PED, the potential employee, volunteer or contractor must provide the following information to clear their backgrounds:

- 1) A list of 3 professional and/or personal character references with contact information;
 - 2) Official confirmation of education or certificates (if applicable);
 - 3) A fingerprint FBI criminal background check through the National Crime Information Center, paid for by the employee, contractor, or volunteer and may be reimbursed if it comes back “clear” and a contract or agreement is signed;
- and
- 4) Any other information or data, as allowed by law, required by the Raices Policies.

Employees are authorized to have unsupervised access to students based on satisfactory background check results.

Convictions of felonies or misdemeanors contained in the records provided by the PED shall be used in accordance with the Criminal Offender Employment Act (New Mexico Statutes Annotated 1978, Chapter 28, Article 2) and except as provided in this policy, any such convictions shall not automatically bar employment unless required by law. Results from a background check that shall unconditionally bar, a person from becoming or remaining an employee at Raices are:

- 1) child abuse or neglect, or
- 2) a finding related to criminal sexual penetration or contact, or
- 3) a conviction for domestic violence

Allowable “hits” or infractions of the law in background checks: No more than one DWI within the past 10 years. (We plan to expand on this list of allowable “hits” once we have been able to obtain legal advice to make sure that we are not breaking the law on anything that we allow).

Background checks are kept on file for twenty-four months following separation from Raíces. Raíces will not transfer a licensed staff person's background check to a new employer, educational institution or other organization. In accordance with *NMSA §§ 22-10A-5.*, Raíces may retain such records; however, Raíces may not transfer such records for licensed personnel to another education institution or organization.

Procedures:

Once employed or contracting with Raíces, all employees must self-report to the Principal any arrest, charge and/or conviction of a criminal offense other than a minor traffic infraction, utilizing the Self-Report Form. If an employee or contractor is found not to have self-reported as required by this Policy, the failure to self-report shall be a violation of that employee's or contractor's contract with Raíces and may be terminated at the discretion of the Principal. If the employee in question is the Principal his or her contract may be terminated at the option of the Governing Board.

The School must maintain a personnel file on each employee and a contractor/vendor file for all contracted staff, that includes:

- 1) a copy of the individual's NMPED licensure (if applicable) and
- 2) a "clear" background check or a certified letter from the contracting agency that the individual has a cleared background, and National Board Licensure (if applicable).

The principal who, in the course of their background checks of employment applicants, discovers that a licensed applicant or applicant pending a license has a conviction of a felony or misdemeanor of moral turpitude that results in any kind of action against that individual, in accordance with 6.60.8.9(D) NMAC, shall share that information with the professional licensure and educator ethics bureaus of the PED.

Investigations of Ethical Misconduct:

The Principal or their designee(s) shall investigate all allegations of ethical misconduct about any licensed school employee who resigns, is being discharged or terminated, or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of wrongdoing the Principal or their designee(s) shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the PED and to the licensed school employee within thirty days following the separation from employment. Copies of that form shall not be maintained in the School's records. No agreement between a departing licensed school employee and the School shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct, and any such agreement to the contrary is void. See Employee forms on pages 129 and 130.

Employee Acknowledgement of Background Policies and Procedures

Understanding of Background Check Policy & Procedures Form

I _____ have read the Raíces Background Check Policy and understand that should I be charged with a criminal offense other than a minor traffic infraction of the law at any time during my employment with the school I must adhere to the policy and fill out the self-report form below:

Procedures:

1. Within 24 hours of notification of being charged with a criminal offense, I or my attorney will report the charge to the Raíces Principal.
2. I will report the nature of the exact charge.
3. I will expect to be placed immediately on leave without pay if the charge is related to the following reasons:
 - a. Child abuse or neglect, or
 - b. A finding related to criminal sexual penetration or contact, or
 - c. Any charge judged to be a threat to the safety of the students or the financial well-being or reputation of the school.
4. Should I be convicted of the crime for the reasons stated above, I understand that I will be immediately dismissed from my position as an employee.

Signature of Employee

Date

Employee Self Report of Committing a Criminal Offense

Criminal Charge Self- Report Form

In the event of being charged with a criminal offense, I or my attorney will provide the following information to the Principal within 24 hours of being charged:

Employee Name: _____

Date of the criminal charge: _____

Court in which the charge has been filed: _____

Exact nature of the charge:

Signature of Employee

Date

For Office Use Only

Date Received: _____

Principal Signature: _____

