

# Plymouth State UNIVERSITY

OF THE UNIVERSITY SYSTEM OF NEW HAMPSHIRE

## Student Background Check POLICIES & PROCEDURES



### **Criminal Background Check Policy**

**Updated: 05/16/2019**

- I. In accordance with RSA 189:13-a, Plymouth State University has a legal and ethical responsibility to reasonably ensure that all candidates from our educator preparation programs which culminate in fieldwork placements in K-12 schools do not pose an unreasonable risk of harm to students. Therefore, each educator candidate must meet the state of New Hampshire and University criminal background and fingerprint check pursuant to RSA 189:13-a<sup>1</sup>, to become or remain a qualified candidate for educator certification and admission within their matriculated program. The University expects that all of its students will meet the expectations contained in the current Plymouth State *Student Rights, Rules, and Responsibilities* (<https://campus.plymouth.edu/frost-house/student-rights-and-code-of-conduct/>) as well as the NH Department of Education’s “New Hampshire Code of Ethics for Educational Professionals” (<https://www.education.nh.gov/news/2018/documents/code-of-ethics-code-of-conduct.pdf> )
- II. Each candidate for a program leading to educator certification that has a required fieldwork placement component working with students in schools must submit to a criminal history records check via a fingerprint check as a pre-requisite for admission to the program. Results of each individual criminal background check will be reviewed by the program/division director and subject to the parameters of the University for Professional Educators criminal background check policy as set forth below.
- III. A student in a program or a candidate for a program will be automatically dismissed from the program or denied admission to the program if he or she has been convicted, or has been arrested for and is awaiting trial, for any of the crimes enumerated in Section V of RSA 189:13-a,<sup>2</sup> which are provided below:
- *RSA 630:1—Capitol Murder*
  - *RSA 630:1-a—First Degree Murder*
  - *RSA 630:1-b—Second Degree Murder*
  - *RSA 630:2—Manslaughter*
  - *RSA 632-A:2—Aggravated Felonious Sexual Assault*
  - *RSA 632-A:3—Felonious Sexual Assault*
  - *RSA 632-A:4—Sexual Assault*

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<sup>1</sup> <http://www.gencourt.state.nh.us/rsa/html/XV/189/189-13-a.htm>. See specifically, RSA 189:13-a (IX)(b) for the application of the policy to educator preparation programs.

<sup>2</sup> The list of offenses in Section V is also applicable for a “reasonably equivalent offense” from an out-of-state jurisdiction. The term “reasonably equivalent offense” means that the evidence required to sustain a conviction under the out-of-state jurisdiction’s statute would necessarily sustain a conviction under New Hampshire law

- *RSA 633:1—Kidnapping*
- *RSA 639:2—Incest*
- *RSA 639:3—Endangering the Welfare of Child or Incompetent*
- *RSA 645:1, II or III—Indecent Exposure and Lewdness*
- *RSA 645:2—Prostitution and Related Offenses*
- *RSA 649-A:—Child Pornography*
- *RSA 649-A:3(I)(a)—Possession of Child Sexual Abuse Images*
- *RSA 649-A:3(I)(b)—Manufacture of Child Sexual Abuse Images*
- *RSA 649-B:3—Computer Pornography and Child Exploitation Prevention*
- *RSA 649-B:4—Certain Uses of Computer Services Prohibited*
- *RSA 650:2—Obscene Matter Offenses* (“where the act involves a child in material deemed obscene)

IV. Furthermore, felony and misdemeanor convictions that constitute immorality or moral turpitude may result in dismissal from the program or a denial of admission to the program. These crimes typically involve sex offenses, sexual assault, child abuse, domestic violence, or possession with intent to distribute, but this list is not exhaustive. These types of crimes involve personal conduct, which is an act of baseness, vileness, or depravity that is contrary to accepted and customary rights or duty to others. It is conduct that is done knowingly that is contrary to honesty, justice, or good morals.

V. The University prepares students who will become professional educators. Consequently, their behavior is judged by the same ethical standards required of professional educators. The conduct underlying the conviction referenced in Section IV is the critical element. Each conviction will be judged on a case-by-case basis applying the criteria below to ascertain whether questionable conduct if committed by a professional educator would constitute a basis for dismissal.

A review of the facts in the case brought under Section IV will be based on the following criteria:

1. The likelihood that the conduct may have adversely affected students or fellow teachers;
2. The proximity or remoteness in time of the conduct;
3. The extenuating or aggravating circumstances, if any, surrounding the conduct;
4. The praiseworthiness or blameworthiness of the motive resulting in the conduct;
5. The likelihood of the recurrence of the questioned conduct.<sup>3</sup>
6. Whether the student/candidate disclosed the conviction.
7. The age of the student/candidate at the time of the offense.

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<sup>3</sup> These criteria are based on *Morrison v. State Board of Education*, 461 P.2d 375 (Cal. 1969).

VI. Convictions for the violations of the laws stated in Section III, *supra*, are not subject to an appeal. In the case of a conviction, dismissal or denial of admission is automatic.

Convictions under Section IV shall be evaluated using the following procedures.

1. The program/division director for the program in which the individual is enrolled or is a candidate for admission shall notify the individual in writing that a charge potentially resulting in dismissal for a conviction of a felony or misdemeanor as per Section IV has been investigated. The notification shall include the specific felony or misdemeanor for which the individual was convicted and a statement as to whether or not this conviction constitutes a violation of Section IV. A copy of this policy shall be included in the notice of charges. The letter shall also include a statement regarding the resulting effect on the student's admission status (e.g. a condition for admission has been satisfied or the student's not eligible for admission and will be denied).
2. The individual so notified may request an appeal hearing within seven (7) calendar days from receipt of the charge. The request to appeal must be made in writing to the program/division director official that communicated the charge. If there is no written response within seven (7) days the candidate has waived his/her right to appeal and has accepted the outcome(s) specified in the letter. These outcomes may include a recommendation to the Graduate School to withdraw a conditional offer of admission (if appropriate).
3. In the case that an appeal is requested, the candidate may provide information germane to the facts surrounding the conviction and the standards used in Section IV prior to the appeal hearing. The program/division director shall designate three University faculty members to meet with the individual to discuss the facts of the conviction and the application of the standards under Section IV. The three-member committee shall render a decision to either dismiss from the program or deny admission to the program or to continue in the program or be eligible for admission to the program. A written statement of the decision shall be provided to the individual within ten (10) calendar days of the hearing.
4. Within ten (10) calendar days from the date of the Program's decision, the individual may request a meeting with the Director to hear the appeal. The Director shall select two other members of the University faculty who have not been previously involved to serve as an Appeals Panel with the Director serving as the third member. The original charge and any written record from the original hearing shall be made available to the Appeals Panel. The individual may also provide any germane evidence he/she wishes to the Panel.
5. The Appeals Panel shall communicate its decision by majority vote in writing to the student/candidate within seven (7) calendar days of the appeal meeting. A decision to deny admission shall be final. A decision to dismiss a student from the educator preparation program is appealable under the applicable PSU student rights policy.

VII. Candidates for the Educator Preparation Program that involves a culminating fieldwork placement with students in schools must submit a criminal background report as provided by the University programs. A candidate can receive only a provisional admission if the criminal background check has not yet been submitted and reviewed by the program. Once the criminal background check has been received and has been deemed as acceptable, the status will be changed to regular admission.

1. If a student enrolls in a course requiring a background check as a condition of participation and receives a notification that the background check was not accepted, the student will be asked to immediately cease working with students in the cooperating school or center. The student shall meet with the instructor and program officials to discuss the options that are available to the student regarding the class. Because the University cannot control the time in which a student submits the background check and the University does not control when the appropriate State agency responds, the notification to cease activities in the cooperating school may take place at any time requiring immediate action on the part of the instructor and program.
2. Students are responsible for submitting the background check information within the timelines established by program.

VIII. Students in classes that require a practicum, student teaching or any other required instructional activity involving working with students may also be required to submit a criminal background check according to the policies of the cooperating school district. This section pertains to students who have not been admitted to an educator preparation program as well as to those students who have been admitted.<sup>4</sup>

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<sup>4</sup> RSA 189:13-a requires school administrative units (SAUs), school districts and charter schools to complete a criminal history record check upon student interns and student teachers regardless of when the candidate last completed a criminal history records check. RSA 189:13-a also requires SAUs, school districts and charter schools to conduct a criminal history record check for anyone seeking employment within that district or charter school. Pursuant to RSA 189:13-a, each SAU, school district and charter school can create their own respective policies. Therefore, candidates should be aware that acceptance into an educator preparation program does not guarantee placement or employment within an SAU, school district or charter school. Individual SAUs, school districts and charter school can also require candidates to undergo a separate criminal history background check.