



# Mount Horeb Area School District

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## **MOUNT HOREB AREA SCHOOL DISTRICT**

### **Volunteer Background Checks\* As of January 17, 2017**

Taking a cue from school districts around the State of Wisconsin (School District of LaCrosse, South Milwaukee School District, etc.), the Mount Horeb Area School District has developed this memo to be used as a guide that outlines which individuals with a criminal background may act as chaperones or volunteers within the school district. This memo uses Chapter 12 of the Wisconsin Department of Health Services (“DHS”) Regulations as a guide for caregiver background checks. These regulations pertain to programs, operated by a government unit, that work with children; specifically, foster programs, adoption programs, and day care programs run by local school boards are included.<sup>1</sup> Chapter 12 requires that individuals undergo a background check before working or volunteering with these programs<sup>2</sup>, and provides penalties for agencies whose programs are non-compliant.<sup>3</sup>

### **The Three-Prong Analysis**

Chapter 12 provides a three-prong analysis that agencies should use to determine whether an individual’s criminal history should bar the individual from working with the program.<sup>4</sup> The three prongs of the analysis looks to (1) the job, (2) the individual’s offense, and (3) the individual him or herself.<sup>5</sup> Each of these prongs has various factors that the DHS suggests the agency consider.<sup>6</sup>

First, when considering the job, the agency may consider:

- a) The nature and scope of the job’s client<sup>7</sup> contact;
- b) The nature and scope of the job’s discretionary authority and degree of independence in judgment relating to decisions or actions that affect the care of clients;
- c) The opportunity the job presents for committing similar offense;
- d) The extent to which acceptable job performance requires the trust and confidence of clients or a client’s parent or guardian; and

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<sup>1</sup> Wis. Admin. Code § 12.01

<sup>2</sup> Wis. Admin. Code § 12.04

<sup>3</sup> Wis. Admin. Code § 12.05

<sup>4</sup> Wis. Admin. Code §12.06

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Wis. Admin. Code §12.03: “Client” means a person who receives direct care or treatment services from an entity. For purposes of this chapter “client” includes an adopted child from whom an adoption assistance payment is being made under s. 48.975, Stats.

- e) The amount and type of supervision received in the job<sup>8</sup>

Second, when considering the offense, the agency may consider:

- a) Whether intent is an element of the offense
- b) Whether the elements or circumstances of the offense are substantially related to the job duties
- c) Any pattern of offenses;
- d) The extent to which the offense relates to vulnerable clients;
- e) Whether the offense involves violence or threat of harm; and
- f) Whether the offense is of a sexual nature<sup>9</sup>

Finally, when considering the offense, the agency may consider

- a) The number and type of offenses the person committed or for which the person has been convicted;
- b) The length of time between conviction or offenses and the employment decision;
- c) The person's employment history, including references, if available;
- d) The person's participation in or completion of pertinent programs of a rehabilitative nature;
- e) The person's probation or parole status
- f) The person's ability to perform or to continue to perform the job consistent with the safe and efficient operation of the program and the confidence of the clients served including, as applicable, their parents or guardians; and
- g) The age of the person on the date of conviction or dates of convictions

It is important to note, that none of the considerations are dispositive and there is no indication that one is more heavily weighted than any of the others.<sup>10</sup> The language of the regulation states that the agency "may consider all of the following," and, thus, does not limit the agency to these factors in making its decision.

### **Proposal for Framework of Mount Horeb Area School District Background Checks**

The guidelines will be split into the following categories: crimes that will not allow for the parent/guardian to volunteer in any capacity, first-time offense that occurred within the last 20 years, second repeat offenders with 10 or more years between the offenses, second repeat offenders with less than 10 years between the offenses, third time offender within the last 30 years, and if the criminal conduct occurred while on school property or during a school function within last 15 years. Each of these will have a corresponding table with the type of crime as well as the baseline of what the volunteers are allowed to do. The baseline will fit into one of three categories: cannot volunteer, chaperone own child only<sup>11</sup>, and no restriction.

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<sup>8</sup> Wis. Admin. Code § 12.06

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Own child only means that the parent/guardian cannot chaperone other children on a field trip. The parent/guardian may volunteer in the classroom, but may not work with other children except in the classroom with the teacher or other such employees present (i.e. may not read with other children in the hallway).

## Procedures

The District runs a background check for volunteers. Volunteers will be checked no less than one time per year, unless a specific reason arises. The District will enter each person's data on a spreadsheet and the results of their background check. The Volunteer Background Check Guide will act as a guide to determine if an offense will limit a volunteer's ability to volunteer/ chaperone/supervise. The volunteer will be notified by the building principal or his/her designee if the volunteer has 1) no restrictions, 2) may chaperone own child only, or 3) may not chaperone/ volunteer at all. If there are restrictions, the volunteer will be notified via telephone call.

Table 1 shows crimes where the parent/guardian will never be able to volunteer

Table 1

<i>Type of Crime</i>	<i>Baseline</i>
Crime that involves the death of another	Cannot volunteer
Crime that involves the attempted death of another	Cannot volunteer
Crime that involves harm of minors	Cannot volunteer
Crime that involves child pornography	Cannot volunteer
Crimes that involved kidnapping	Cannot volunteer

Table 2 provides a baseline with overall offenses for first time offenders for instances which occur within the last 20 years.

Table 2

<i>Type of Crime</i>	<i>Baseline</i>
Crimes involving the use of guns/illegal carrying of guns	Chaperone own child only
Sexual in nature (not including adultery)	Chaperone own child only
Crime that involves abuse	Chaperone own child only
Crime involving illegal substances	Chaperone own child only
Crime involving theft	Chaperone own child only
Crime involving endangerment/harm of others	Chaperone own child only
Crime involving weapons (not including guns)	Chaperone own child only
Crimes involving drugs	Chaperone own child only
Drugs with THC	Chaperone own child only
Crime involving Fraud/ Bribery/ Gambling/ Harassment/ Deceit, Solicitation/Conspiracy/Attempt/ Stalking/ False imprisonment/Crimes involving burning and arson /Threat /Burglary /Theft / Trespass/ Impersonation of others/ Robbery/ False Imprisonment	Chaperone own child only
Crime that involves bodily harm	Chaperone own child only
Crime that occurred near school	Chaperone own child only
Crimes involving being under the influence	No restriction
Traffic violation	No restriction
Crime involving obstructing or damaging property	No restriction
Crime involving animals	No restriction

Disorderly conduct	No restriction
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Table 3 is the baseline for people with two offenses with more than 10 years between repeat convictions. If the offenses have two different base results (i.e., one offense results in no restrictions and the two offense results in own child only), the most restrictive result will be implemented.

Table 3

<i>Type of Crime</i>	<i>Baseline</i>
Crimes involving the use of guns/illegal carrying of guns	Cannot volunteer
Sexual in nature (not including adultery)	Cannot volunteer
Crime that involves abuse	Cannot volunteer
Crime involving illegal substances	Cannot volunteer
Crime involving endangerment/harm of others	Cannot volunteer
Crime involving weapons (not including guns)	Chaperone own child only
Crimes involving drugs	Chaperone own child only
Drugs with THC	Chaperone own child only
Crime involving Fraud/ Bribery/ Gambling/ Harassment/ Deceit, Solicitation/Conspiracy/Attempt/ Stalking/ False imprisonment/Crimes involving burning and arson /Threat /Burglary /Theft / Trespass/ Impersonation of others/ Robbery/ False Imprisonment	Chaperone own child only
Crime that involves bodily harm	Chaperone own child only
Crime that occurred near school	Chaperone own child only
Crimes involving being under the influence	Chaperone own child only
Crime involving animals	Chaperone own child only
Crime involving theft	No restriction
Crime involving obstructing or damaging property	No restriction
Traffic violation	No restriction
Disorderly conduct	No restriction

The Table 4 is the baseline for people with two offenses with less than 10 years between repeat convictions. If the offenses have two different base results (i.e., one offense results in no restrictions and the two offense results in own child only), the most restrictive result will be implemented.

Table 4

<b><i>Type of Crime</i></b>	<b><i>Baseline</i></b>
Crimes involving the use of guns/illegal carrying of guns	Cannot volunteer
Sexual in nature (not including adultery)	Cannot volunteer
Crime that involves abuse	Cannot volunteer
Crime involving illegal substances	Cannot volunteer
Crime involving endangerment/harm of others	Cannot volunteer
Crime involving weapons (not including guns)	Cannot volunteer
Crimes involving drugs	Cannot volunteer
Crime involving Fraud/ Bribery/ Gambling/ Harassment/ Deceit, Solicitation/Conspiracy/Attempt/ Stalking/ False imprisonment/Crimes involving burning and arson /Threat /Burglary /Theft / Trespass/ Impersonation of others/ Robbery/ False Imprisonment	Cannot volunteer
Crime that involves bodily harm	Chaperone own child only
Drugs with THC	Chaperone own child only
Crime involving theft	Chaperone own child only
Crime that occurred near school	Chaperone own child only
Crimes involving being under the influence	Chaperone own child only
Crime involving obstructing or damaging property	Chaperone own child only
Crime involving animals	Chaperone own child only
Traffic violation	No restriction
Disorderly conduct	No restriction

The Table 5 is the baseline for people with three offenses at different times within last 30 years. If the offenses have two different base results (i.e., one offense results in no restrictions and the two offense results in own child only), the most restrictive result will be implemented.

Table 5

<b><i>Type of Crime</i></b>	<b><i>Baseline</i></b>
Crimes involving the use of guns/illegal carrying of guns	Cannot volunteer
Sexual in nature (not including adultery)	Cannot volunteer
Crime that involves abuse	Cannot volunteer
Crime involving illegal substances	Cannot volunteer
Crime involving endangerment/harm of others	Cannot volunteer
Crime involving weapons (not including guns)	Cannot volunteer
Crimes involving drugs	Cannot volunteer
Crime involving Fraud/ Bribery/ Gambling/ Harassment/ Deceit, Solicitation/Conspiracy/Attempt/ Stalking/ False imprisonment/Crimes involving burning and arson /Threat /Burglary /Theft / Trespass/ Impersonation of others/ Robbery/ False Imprisonment	Cannot volunteer
Crime that involves bodily harm	Cannot volunteer
Crime that occurred near school	Cannot volunteer
Crimes involving being under the influence	Cannot volunteer
Crime involving obstructing or damaging property	Chaperone own child only
Crime involving theft	Chaperone own child only
Drugs with THC	Chaperone own child only
Crime involving animals	Chaperone own child only
Traffic violation	Chaperone own child only
Traffic violation involving endangerment to others	Chaperone own child only
Disorderly conduct	Chaperone own child only
Traffic violation that does not involved endangerment to others	No restriction

Table 6 is the baseline for people whose conduct occurred while on school property or during a school function within last 15 years.

Table 6

<b><i>Type of Crime</i></b>	<b><i>Baseline</i></b>
Crime that involves bodily harm	Cannot volunteer
Crime involving illegal substances	Cannot volunteer
Crimes involving the use of guns/illegal carrying of guns	Cannot volunteer
Crime that involves abuse	Cannot volunteer
Sexual in nature (not including adultery)	Cannot volunteer
Crime involving illegal substances	Cannot volunteer
Crime involving burglary (including receiving stolen property) or trespass	Cannot volunteer
Crime involving endangerment/harm of others	Cannot volunteer
Crime involving weapons (not including guns)	Cannot volunteer
Crime that occurred near school	Cannot volunteer
Crimes involving being under the influence	Cannot volunteer
Crimes involving drugs	Cannot volunteer
Drugs with THC	Cannot volunteer
Crime involving Fraud/ Bribery/ Gambling/ Harassment/ Deceit, Solicitation/Conspiracy/Attempt/ Stalking/ False imprisonment/Crimes involving burning and arson /Threat /Burglary /Theft / Trespass/ Impersonation of others/ Robbery/ False Imprisonment	Cannot volunteer
Crime involving theft	Chaperone own child only
Crime involving animals	Chaperone own child only
Crime involving obstructing or damaging property	Chaperone own child only
Disorderly conduct	Chaperone own child only
Traffic violation	No restriction

\*Adapted from the South Milwaukee and La Crosse school districts.