



## What Charter Schools Need to Know about the MA CORI Law

As the 2013-2014 school year begins for our charter school clients HR Knowledge would like to take this opportunity to remind our valued schools about their obligations under Massachusetts law to conduct criminal record information (CORI) checks on employees, volunteers, and transportation providers and to ensure our schools have the updated information in their CORI policies to ensure that every one of our valued charter school clients meets their required obligations under the state CORI law.

### Brief Overview of CORI Law

M.G.L. c. 71, § 38R requires all schools to conduct criminal background checks on current and prospective employees and volunteers, including those who regularly provide school related transportation to students, who may have direct and unmonitored contact with children. CORI must be obtained from the Department of Criminal Justice Information Services (DCJIS) at least every three years during an individual's term of employment or service. In addition, M.G.L. c. 6, § 172I, requires schools to obtain CORI of employees of taxicab companies that have contracted with the schools to provide transportation to pupils under M.G.L. c. 71, § 7A. Contracting taxicab companies are required to submit the names of employees who may have direct and unmonitored contact with pupils to the appropriate school committee or school superintendent prior to those drivers transporting any pupil. The law also permits schools to conduct CORI checks on subcontractors, vendors and laborers commissioned to do work on school grounds that may have direct and unmonitored contact with children. Schools must obtain CORI for such employees and volunteers not less than every three (3) years, but can obtain it more frequently during the employees' and volunteers' term of service. Schools must disclose to all applicants that they intend to conduct a background investigation (this includes CORI).

### CORI Reform Law

1. Governor Deval Patrick signed the following key changes that affect schools on May 4, 2012: Criminal Background Check Policy: Schools that annually conduct five (5) or more criminal background investigations per year must maintain a written CORI policy. The policy must, at a minimum, require schools to: (a) notify any applicant of the potential adverse decision based on CORI; (b) provide a copy of CORI and the policy to the applicant; and (c) provide information concerning the process for correcting a criminal record. M.G.L. c. 6, § 171A
2. Acknowledgement Form: Schools must obtain a signed acknowledgement form from the subject of the criminal history check, authorizing the school to obtain and examine the individual's CORI, and such a form must be retained for a minimum of one year following the date of the CORI request. M.G.L. c. 6, § 172(c)
3. Requirement to Provide Criminal Record: Before questioning an applicant regarding his or her criminal history or making an adverse decision based on an applicant's criminal history, in connection with any decision regarding employment, volunteer opportunities, housing or licensing, a school must provide the applicant with his or her criminal history record, regardless of the source of such record. M.G.L. c. 6, § 172(c)
4. Secondary Dissemination Log: Schools may share CORI results only in the following circumstances (a) upon request by the subject of the CORI check, with certain government entities, and (b) with

those individuals within the school who have a “need to know” the contents of the CORI to protect children. Furthermore, schools must maintain a secondary dissemination log for a period of one year following the dissemination of a subject’s CORI. The secondary dissemination log must include the following information: (a) the subject’s name; (b) the subject’s date of birth; (c) date of the dissemination; (d) name of the person to whom it was disseminated; and (e) the reason for the dissemination. The secondary dissemination log may be audited by the DCJIS. M.G.L. c. 6, § 172(f)

5. Record Retention: Schools may not maintain for more than 7 years a copy, electronic or otherwise, of a CORI obtained from DCJIS, to be calculated as follows: (a) from the last date of employment, volunteer service or residency, or (b) from the date of the final decision of the school regarding the applicant.
6. iCORI: In conjunction with the CORI Law Reform, DCJIS developed an internet-based system to access criminal offender record information, called iCORI. An employer must register for an iCORI account with DCJIS in order to obtain CORI from DCJIS. 803 CMR 2.04.. To complete registration for an iCORI account as an employer, the employer must designate an individual to complete iCORI training and agree to all iCORI terms and conditions. 803 CMR 2.04(2)(b). All iCORI registrations are valid for one calendar year. 803 CMR 2.04(6). Employers must re-register for an iCORI account each year, and the individual user must repeat the mandatory iCORI training annually. 803 CMR 2.04(6).

*Important Note: Schools that unlawfully obtain or disseminate CORI records are subject to fines of up to \$50,000 for each violation. Individuals, including human resources professionals and business officers, are personally subject to fines of up to \$5,000, and potential imprisonment of up to one year, for certain violations of the CORI statute.*

### **Requirements for Adverse Employment Decisions Based on CORI Results**

The Final Regulations that went into effect in June 2012 further specify the employer shall take the following steps before taking an adverse action on an application for employment based on the applicant’s CORI, an employer (including a school) shall:

- a) Comply with applicable federal and state laws and regulations;
- b) Notify the employment applicant in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse employment action;
- c) Provide a copy of the employment applicant’s CORI to the employment applicant;
- d) Provide a copy of the employer’s CORI Policy, if applicable;
- e) identify the information in the employment applicant’s CORI that is the basis for the potential adverse action;
- f) Provide the employment applicant with the opportunity to dispute the accuracy of the information contained in the CORI (best practices is 5 business days);
- g) Provide the employment applicant with a copy of DCJIS information regarding the process for correcting CORI; and
- h) Document all steps taken to comply with 803 CMR 2.17.



- i) Provide the employment applicant summary of your rights under the Fair Credit Reporting Act (FCRA) (document attached)

### Key Recommendations and Next Steps for Schools

- We recommend that schools review and update your schools CORI policies and records to ensure full compliance with the CORI law and the applicable regulations (Sample Model CORI Policy and Sample Criminal Background Check Policy attached)
- We recommend that schools perform CORI checks on all prospective and current permanent and temporary employees and volunteers who may have direct and unmonitored contact with children.
- While schools are generally only required to conduct CORI checks every three (3) years on employees and volunteers, we recommend conducting them on an annual basis to ensure that the school has current criminal record information for all employees and volunteers.
- Ensure that your school's CORI certification is current.
- If the school is interested in learning more about iCORI or registering you can obtain more information [here](#)
- We also recommend that schools regularly conduct SORI checks on all prospective and current employees, volunteers and contractors. The Sex Offender Registry Board (“SORB”) only reveals detailed SORI on its public website regarding sex offenders who are classified as “high risk” or “Level 3.” See M.G.L. c. 6, § 178J, 803 CMR 1.28-1.30. Also, the [National Sex Offender Public Website](#) allows users to submit a single query to search the information made publicly available by the sex offender registry boards and agencies from across the country. It is important to note that when employers check sexual offender information on their own both state and national, you are only obtaining Level 3, high risk and not Level 1 and 2 registered offenders.

**It is important to note that this e-Alert is only referring to CORI and does not provide any information regarding background checks/criminal history information in other states or countries. The CORI records received from DCJIS are limited to criminal record information from Massachusetts ONLY, it does not provide you with Federal criminal conviction information from federal courts. Although schools in Massachusetts are generally not required to obtain criminal history information from other states or countries, HR Knowledge highly recommends schools consider obtaining criminal record information from other states. This can be an essential step to ensuring that the school’s employees, volunteers and contractors are not dangerous criminals. Schools may want to consider engaging a reputable consumer reporting agency to conduct national background checks on prospective and current employees, volunteers and contractors. HR Knowledge has a partner we work closely with and can provide you information if you are interested in learning more about engaging their services.**

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