

## **Criminal Records Checks/Fingerprinting**

### **Subject Individual Requirements**

1. Any individual newly hired, full-time or part-time, and not requiring licensure as a teacher, administrator, personnel specialist or school nurse shall be required to undergo a nationwide criminal records check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
3. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
4. Any district contractor<sup>1</sup>, whether part-time or full-time, or an employee of a district contractor, whether part-time or full-time, hired into a position having direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting.

The Board designee will identify district contractors who engage in district activities and regularly interact with students and are subject to such requirements.

5. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services shall be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE), Child Care Division.
6. Any community college faculty member providing instruction at the site of an early childhood education program, at a school site as part of an early education program or a kindergarten through grade 12 school site during the regular school day shall be required to undergo a nationwide criminal records check and fingerprinting.
7. <sup>2</sup>Any individual authorized by the district for volunteer service into a position having direct, unsupervised contact with students shall be required to undergo an Oregon criminal records check.
8. Any individual authorized by the district for volunteer service that does not have direct, unsupervised contact with students will be required to undergo an Oregon criminal records check.

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<sup>1</sup>Contractor employees may not be required to submit fingerprinting until the contractor has been offered a contract.

<sup>2</sup>If the district allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and districts are required to conduct background checks on these volunteers.

## **Exceptions**

A newly hired employee is not subject to fingerprinting if the district has on file evidence that the newly hired employee successfully, during the current academic year, completed an Oregon and a FBI criminal records check for a previous employer that was a school district.

Evidence will be either a copy of the criminal records check or a written statement of verification from a supervisor or officer of the previous employer. Furthermore:

1. The ODE or TSPC verification of a previous check shall be acceptable only in the event the district can demonstrate records are not otherwise available.
2. The district shall maintain evidence that the employee has not resided outside the state or had a lapse in licensed employment during the interval between the two periods of time working in the district.

## **Notification**

1. The district will provide notification to individuals subject to criminal records checks and/or fingerprinting of the following:
  - a. Such criminal records checks and/or fingerprinting are required by law and/or Board policy;
  - b. Any action resulting from such checks that impact employment or contract may be appealed as a contested case;
  - c. All employment or contract offers or the ability to volunteer are contingent upon the results of such checks;
  - d. A refusal to consent to a required criminal records check and/or fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the district;
  - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts, ODE forms or district volunteer forms (written or electronic) may result in immediate termination from employment, contract status or the ability to volunteer in the district.
2. The district will provide written notice through such means as employment applications, contracts or volunteer forms.

## **Processing/Reporting Procedures**

1. Any individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms or requirements as approved by ODE (information available through the district).
2. If the individual is subject to fingerprinting per state law, he/she will be required by the district and is responsible to report within three working days to an authorized fingerprinter for fingerprinting as directed by the district. Fingerprints may be collected by one of the following:
  - a. Employing district staff;
  - b. Contracted agent of employing district; or
  - c. Local or state law enforcement agency.

The individual subject to fingerprinting shall be subject only after acceptance of an offer of employment or contract.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify the ODE with the results. The ODE will notify the district of said results and any subject individual it believes has knowingly made a false statement as to conviction of a crime prohibiting employment or contract.
5. A copy of the required form to authorize fingerprinting, and the results of such, will be kept in the employee's personnel file.

### **Fees**

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including contractors<sup>3</sup> and their employees, shall be paid by the individual.
2. Fees associated with criminal records checks and/or fingerprinting for volunteers with the district shall be paid by the district.
3. Fees are payable within three working days of beginning employment, volunteer service or contract.
4. An individual offered employment in the district may request that the amount of the fee be withheld from the employee's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with Oregon law. The district may withhold such fees only upon the request of the individual.

### **Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status**

1. Any individual required to submit to a criminal records checks and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status or withdrawal of offer of employment or contract will be made by the Board chair upon:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or
  - b. Notification from the Superintendent of Public Instruction or his/her designee that the employee has a conviction of any crime prohibiting employment with the district as specified in law.
2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law may be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the Board chair upon notification from the Superintendent of Public Instruction or his/her designee that the employee has knowingly made a false statement as to the conviction of any crime.

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<sup>3</sup>Contractor employees may not be required to submit fingerprinting until the contractor has been offered a contract.

3. Employment termination shall remove the individual from any district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. Any volunteer who will have direct, unsupervised contact with students that refuses to submit to a required criminal records check to acquire or maintain a volunteer status in the district in accordance with law and/or Board policy will be denied the ability to volunteer in the district.
5. If the district has completed a required criminal records check and the district has been notified by the Superintendent of Public Instruction that the individual knowingly made a false statement on an ODE form as to conviction of any crime that may otherwise prevent a volunteer status in the district, the individual will be denied the ability to volunteer.
6. Any volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form may be denied the ability to volunteer in the district.

### **Appeals**

An individual may appeal a determination that prevents his/her employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case and will be so notified in writing by the ODE.