

## 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 individuals applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall also 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 the TSPC.
4. Any ESD contractor<sup>1</sup>, whether part-time or full-time, or an employee of a ESD 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 superintendent will identify ESD contractors who are present on ESD property 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, Child Care Division.
6. Any community college faculty member providing instruction at the site of an early childhood education program or at a school site as part of an early program, or at a grade K through 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 ESD for volunteer service into a position having direct, unsupervised contact with students shall 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 ESD allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and ESDs are required to conduct background checks on these volunteers.

8. Any individual authorized by the ESD for volunteer service that does not have direct, unsupervised contact with students will be required to undergo an Oregon criminal records check.

### **Exceptions**

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

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 ESD can demonstrate records are not otherwise available.
2. The ESD shall maintain evidence that the employee has not resided outside the state during the interval between the two periods of time working in the ESD.

### **Notification**

1. The ESD will provide notification to individuals subject to criminal records checks and 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 impace 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 checks and/or fingerprinting shall result in immediate termination from employment or contract status or the ability to volunteer in the ESD;
  - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts, ODE forms or ESD volunteer forms (written or electronic) will result in immediate termination from employment, contract status or the ability to volunteer in the ESD.
2. The ESD 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 ESD).
2. If the individual is subject to fingerprinting per state law, he/she will be required by the ESD, and is responsible to report within three working days to an authorized fingerprinter for fingerprinting.

Fingerprints may be collected by one of the following:

- a. Employing ESD staff;
- b. Contracted agent of employing ESD; 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 ESD 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 ESD of said results and any subject individual it believe has knowingly made a false statement as to conviction of a crime prohibiting employment or contract.
5. A copy of the required form to authorized 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 ESD and not requiring licensure, including contractors and their employees, shall be paid by the ESD.
2. Fees are payable prior to beginning employment, volunteer service or contract.
3. An Individual offered employment in the ESD 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 ESD may withhold such fees only upon the request of the individual.
4. Fees associated with required criminal records checks of volunteers shall be paid by the ESD.

#### **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 consideration as a ESD volunteer and employment or contract status or withdrawal of offer of employment or contract will be made by the superintendent immediately 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 conviction of any crime prohibiting employment with the ESD as specified in law.

2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the superintendent 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.
3. Employment termination shall remove the individual from any ESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of the 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 ESD in accordance with law and/or Board policy will be denied the ability to volunteer in the ESD.
5. If the ESD has completed a required criminal records check and the ESD 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 ESD, the individual will be denied the ability to volunteer.
6. Any volunteer who knowingly makes a false statement, as determined by the ESD, on an ESD volunteer application form will be denied the ability to volunteer in the ESD.

### **Appeals**

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