

Multnomah Education Service District

Code: **GCDA/GDDA-AR**
Adopted: 5/31/94
Revised/Readopted: 10/12/94; 10/10/05; 11/28/11;
4/09/12; 2/11/13; 8/14/13;
4/15/14; 8/30/18
Orig. Code(s): 3910-1

Criminal Records Checks/Fingerprinting

Fingerprinting

In a continuing effort to further ensure the safety and welfare of students and staff, the ESD shall require criminal records checks and fingerprinting of all newly hired full-time and part-time employees. Others having direct, unsupervised contact with students shall also have criminal records checks and fingerprinting, as required by law.

OAR 581-021-0500: Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

1. Definitions of terms shall be as follows:
 - a. "Subject individual" means:
 - (1) Any person newly hired by a school district and not requiring licensure under ORS 342.223;
 - (2) Any person newly hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;
 - (3) Any person included above unless the current employer has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check. The Oregon Department of Education or the Teacher Standards and Practices Commission verification of a previous check shall be acceptable only in the event the employer has not resided outside the state between the two periods of time working in the district shall be maintained;
 - (4) A person who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day; and
 - (5) A person who is an employee of a public charter school.
 - b. "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

Criminal Records Check

All employees, volunteers, contractors, and practicum students:

1. Must complete the MESD Criminal History Verification Application every three years;
2. Continued employment is contingent upon successful criminal records checks.

3. Conviction of certain crimes automatically disqualify an employee. For other convictions, an applicant will be disqualified for employment on the basis of criminal record if, in the judgment of the Superintendent or designee, it is in the best interest of MESD to do so, considering the relationship between the position sought and the type of crime for which the applicant was convicted or is presently charged.
4. An employee may be terminated if, in the judgment of the Superintendent or designee, a material misrepresentation has been made on the criminal records form.
5. MESD Employees and Contractors and their employees - Nationwide Fingerprint Based Criminal History Verification and Fingerprinting
 - a. Any individual newly hired or contracted, whether full-time or part-time, into a position having direct, unsupervised contact with students and not requiring TSPC licensure as a teacher, administrator, personnel specialist, or school nurse is a subject individual and shall be required to undergo a nationwide criminal history verification check and fingerprinting with the Oregon Department of Education, Child Care Division.
 - b. Newly hired or contracted means the employment or contracting of an individual after application or request (e.g. voluntary transfer) for a position having direct unsupervised contact with students without regard to the individual's current or previous employer.
 - c. Direct, unsupervised contact with students means contact with students that provides the individual opportunity and probability for personal communication or touch when not under direct supervision.
 - d. MESD has determined that an individual having direct, unsupervised contact with students includes but is not limited to:
 - (1) Nurses;
 - (2) Audiological staff;
 - (3) Educational assistants;
 - (4) Custodians;
 - (5) School staff, i.e., campus safety monitors, secretaries, etc.;
 - (6) Outdoor School staff;
 - (7) Others, identified as subject individuals by supervisor in consultation with the Director, Human Resource Services;
 - (8) Related services staff including speech pathologists, occupational therapists, physical therapists.
6. MESD Volunteers and Students
 - a. All students and volunteers providing services for the MESD shall be required to undergo an Oregon criminal history verification check.
 - b. Any volunteer allowed to have direct, unsupervised contact with students, in a volunteer position identified by the ESD as requiring fingerprinting shall be required to undergo a national criminal records check and fingerprinting.
 - c. The responsible program supervisor, in consultation with the Human Resource Services Director/Legal Counsel, a process for completion of such verification checks.

7. Individuals Registered with TSPC

- a. All individuals registered with TSPC for student teaching, practicum, or internship as a teacher, administrator, or personnel specialists for the MESD shall be required to undergo a nationwide criminal history verification check and fingerprinting.
- b. “Students teaching, practicum, or internship” means any placement of a student admitted to a TSPC approved educator preparation program in a public or private school, charter school, or other educational setting.

8. Oregon Criminal History Verification

All individuals recommended for employment or contracting, by MESD shall be required to undergo an Oregon criminal history records check.

9. Exceptions

- a. An exception will be made to fingerprinting if MESD has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check (OAR 581-021-0500, and the individual has continuously resided in Oregon since completion of the records check. Evidence will be a copy of the completed records check or verification from a supervisor or officer of the previous employer. Furthermore:
 - (1) The Oregon Department of Education (ODE) or TSPC verification of a previous check shall be acceptable only in the event that MESD can demonstrate records are not otherwise available;
 - (2) Additional evidence that the employee has not resided outside the state between the two periods of time working for Oregon school districts shall be maintained.
- b. An exception will be made to fingerprinting and/or criminal history verifications for interns, volunteers, and/or practicum students if MESD receives from an authorized representative of a sponsoring school district, written verification that such intern, volunteer, and/or practicum student has successfully passed the required fingerprinting and/or criminal history verification processing, with the sponsoring school district for the current school year.

10. Notification

The MESD will provide the following notification to individuals subject to criminal records checks and fingerprinting:

- a. Such checks are required by law and/or Board Policy;
- b. Any action resulting from those checks may be appealed as a contested case;
- c. All employment or contract offers are contingent upon the results of such checks;
- d. A refusal to consent to criminal records checks or fingerprinting or falsely stating on MESD employment applications, contract, or ODE fingerprint forms as to conviction of a crime shall result in immediate termination from employment or contract status.
- e. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status;

- f. A volunteer candidate who knowingly made a false statement or has been convicted of any crime listed in ORS 342.143 will result in immediate termination from the ability to volunteer in the ESD. The ESD will remove the volunteer from the position allowing direct, unsupervised contact with students.

The MESD will provide notice described above through such means as employment applications and contract forms.

11. Processing and Reporting Procedures

- a. Any individual subject to criminal records checks and/or fingerprinting shall, as part of the application process, complete the appropriate forms.
- b. All individuals subject to fingerprinting pursuant to state law, are required to report to an authorized finger printer for fingerprinting within such time period as required by the MESD. Fingerprints may be collected by one of the following:
 - (1) Employing MESD staff;
 - (2) Contracted agent of employing ESD;
 - (3) Local or state law enforcement agency.
- c. Individuals shall be subject to fingerprinting only after acceptance of an offer of employment or contract.
 - (1) The individual is responsible for obtaining two fingerprint card and instructions from an Oregon school district, education service district ESD, an Oregon-approved teacher education institution, or TSPC.
 - (2) The individual is responsible for submitting to the authorized finger printer two (2) fingerprint cards, and an 8½ x 11" or larger envelope with postage affixed and addressed to the MESD Human Resource Services Department.
- d. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the MESD will provide the name of the individual to be fingerprinted to the authorized finger printer and require that the individual submit a photo identification (driver's license or other) containing the individual's name and picture in order to verify the identity of the individual intended to be fingerprinted.
- e. The authorized finger printer will return forward the fingerprint cards to the MESD in the envelope provided. The Fingerprint Criminal History Verification form and fingerprint cards will be sent to ODE. ODE will then notify the ESD of said results as well as the identity of any individual it believes has knowingly made a false statement, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment or contract or volunteering. A copy of the fingerprinting results will be kept by the ESD.

12. Fees

- a. Fees associated with criminal records checks and fingerprinting for individuals applying for employment with the MESD and not requiring licensure, including contractors and their employees and volunteers shall be paid by the individual.
 - b. Individuals may request that the amount of the fee be withheld from the individual's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with the administrative rules of the Oregon law. MESD may withhold such fees only upon the request of the individual.
13. Termination of Employment, Withdrawal of Employment/Contract Offer
- a. Any individual required to submit to criminal records checks and/or fingerprinting in accordance with law and/or Board Policy will be terminated from consideration as an MESD volunteer and employment, or contract status or withdrawal of offer of employment or contract will be made by the Superintendent or designee immediately upon the following:
 - (1) Refusal to consent to a criminal record check and/or fingerprinting; or
 - (2) Individual fails to successfully complete the record check and/or finger printer because individual has been convicted of any crime listed in ORS 342.143, or
 - (3) Notification by the Superintendent of Public Instruction or designee or the State Board of Education that the individual has made a false statement as to conviction of a crime or conviction of a crimes prohibiting employment with the MESD as specified by law.
 - b. Termination shall remove the individual from any MESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of the Accountability for Schools for the 21st Century Law.
14. Existing employees and contractors:
- a. Existing employees and contractors that are required to submit to criminal records checks in accordance with Board Policy will be terminated from employment or contract status by the Superintendent or designee immediately upon the following:
 - (1) Refusal to consent to a criminal record check, or
 - (2) Employee fails to successfully complete the background check because employee has been convicted of any crime listed in ORS 342.143, or
 - (3) Notification by the Superintendent of Public Instruction or his/her designee or the State Board of Education that the individual has made a false statement as to conviction of a crime or conviction of a crimes prohibiting employment with the MESD as specified by law.
 - b. Termination shall remove the individual from any MESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of the Accountability for Schools for the 21st Century Law.
 - c. Existing employees and contractors that are either subjected to an investigation for or convicted of a crime listed in ORS 342.143 (during any time of their employment with MESD)

must notify the MESD Human Resources Director within five (5) days of the commencement of the investigation or the criminal conviction. Employee/contractor will be terminated for failure to notify the Human Resource Director within the prescribed time period, and the employee may be subject to disciplinary action, up to and including termination of employment for conviction of a crime listed in ORS 342.143.

15. Appeals

All appeals regarding a determination which prevents employment or eligibility to contract with the MESD will be directed to the Oregon Superintendent of Public Instruction. Individuals eligible to appeal as a contested case will be notified in writing by ODE.

A volunteer required to submit to a fingerprint-based criminal records check may appeal a determination that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case, if the results of the background check were provided by ODE or ODE's vendor and will be notified of such in writing by ODE.