

## Criminal Records Checks/Fingerprinting

### Subject Requirements

1. Any individual newly hired after December 31, 1993, into a position having direct, unsupervised contact with students 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.

“Direct, unsupervised contact with students,” as defined by Oregon Administrative Rule and as used throughout this administrative regulation, means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

The district has determined employees assigned to the following positions may have such contact with students and will therefore be required to meet criminal records checks and fingerprinting requirements:

- a. Classroom aides/educational assistants;
  - b. Library/media aides;
  - c. School office secretaries;
  - d. Custodians;
  - e. Cooks;
  - f. Bus drivers;
  - g. Maintenance workers;
  - h. Extracurricular activity employees, including:
    - (1) Coaches/athletic trainers;
    - (2) Club, organization or other such extracurricular advisors not requiring licensure.
  - i. Others, as identified by the Superintendent, employed by the district on a part-time or full-time basis not requiring licensure and having direct, unsupervised contact with students.
2. Any individual employed with the district not requiring licensure and applying for or voluntarily or involuntarily transferring into a different or additional position in the district having direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting.
  3. Any individual licensed as a teacher, administrator, personnel specialist or school nurse shall be required to undergo a nationwide criminal records check and fingerprinting upon license renewal with the Teacher Standards and Practices Commission (TSPC).

4. Individuals applying for reinstatement of a license that has lapsed for more than three years shall also be required to undergo such checks.
5. Requirements, including applicable fees and the process for the collection and submission of fingerprints, etc., will generally be met by the individual as a part of the licensing process and in accordance with rules established by the TSPC.
6. Any individual registering with 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.
7. Any district contractor, 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.
8. An individual who is an employee of a public charter school shall be required to undergo a nationwide criminal records check and fingerprinting.
9. 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.
10. Any person authorized by the district for volunteer service into a position having direct, unsupervised contact with student may be required to undergo an Oregon Criminal history check..

Exception may be made to criminal records checks and fingerprinting if the district has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check. Evidence will be either a copy of the 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. Additional evidence that the employee has not resided outside the state between the two periods of time working in the district shall be maintained.

### **Notification**

1. A list of those positions subject to criminal records checks and fingerprinting will be maintained in the district office and available to the public upon request.
2. The district will provide notification to individuals subject to criminal records checks and fingerprinting of the following:
  - 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 check or fingerprinting or falsely stating on district employment application, contract or ODE fingerprint forms as to conviction of a crime shall result in immediate termination from employment or contract status.
3. The district will provide notice through such means as employment applications and contract forms.

#### Processing/Reporting Procedures

1. Any individual subject to criminal records checks and/or fingerprinting shall, as part of the application process, complete the appropriate forms as provided by ODE.
2. Following acceptance of an offer of employment, the Criminal Verification of Applicants form for those not subject to fingerprinting will be sent to the ODE for processing. A copy will be kept on file by the district in the individual's personnel file.
3. If the individual is subject to fingerprinting, he/she will be required to report within three working days or as soon as possible to an authorized fingerprinter for fingerprinting. Fingerprints may be collected by one of the following:
  - a. Employing district staff;
  - c. Contracted agent of employing district;
  - d. Local or state law enforcement agency.

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

4. The individual is responsible for obtaining two fingerprint cards from an Oregon school District, education service District, an Oregon Approved Teacher Education Institution, ODE or TSPC.
5. The individual is responsible for submitting to the authorized fingerprinter two fingerprint cards and an 8 ½" x 11" or larger envelope with postage affixed and addressed to the district Department of Human Resources.
6. 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 and require that the individual submit a photo ID (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.
7. The authorized fingerprinter will return the fingerprint cards to the district in the envelope provided. The Fingerprint Criminal History Verification form and fingerprint cards will be sent to the ODE. A copy of the form will be kept in the employee's personnel file.

## **Employment**

The district shall begin the employment of an individual or terms of a district contractor on a probationary basis pending the return and disposition of criminal records checks and/or fingerprinting.

## **Fees**

Fees associated with criminal records checks and/or fingerprinting, for individuals currently employed by the district applying for or voluntarily transferring into a different or additional position in the district having direct, unsupervised contact with students and not requiring licensure shall be paid by the individual.

Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including contractors and their employees shall be paid by the individual.

Fees associated with criminal records checks and/or fingerprinting for licensed individuals shall be paid by the individual or in accordance with negotiated agreements as applicable.

Fees are payable prior to beginning employment or contract.

Individuals not requiring licensure 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**

1. Any individual required to submit to criminal records checks and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status by the Superintendent immediately upon the following:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or
  - b. Notification by the Superintendent of Public Instruction or his/her designee or the State Board of Education that the employee has made a false statement as to conviction of a crime or conviction of crimes prohibiting employment with the district as specified in law.
2. Termination shall remove the individual from any district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Oregon's Accountability for Schools for the 21st Century Law.

## **Appeals**

An individual may appeal a determination which prevents their employment or eligibility to contract with the district to the Oregon Superintendent of Public Instruction. Individuals eligible to appeal as a contested case will be so notified in writing by the ODE.