

Criminal Records Checks/Fingerprinting

Subject Requirements

1. Any individual newly hired 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. Fingerprinting may be required at the time of hire.

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. Teachers and counselors;
 - b. Classroom aides/Educational assistants;
 - c. Library/Media aides;
 - d. School office secretaries;
 - e. Custodians;
 - f. Cooks;
 - g. Bus drivers;
 - 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 having direct, unsupervised contact with students.
2. Individuals applying for reinstatement of a license that has lapsed for more than three years shall also be required to undergo such checks.

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.

3. 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.
4. 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 or fingerprinting.

The superintendent will identify district contractors 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 or fingerprinting.
6. An individual who is an employee of a district-sponsored public charter school who has direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting;
7. Any person authorized by the district for volunteer service into a position having direct, unsupervised contact with students will be required to undergo an National criminal records check.

An exception will be made to criminal records checks and fingerprinting if the district has on file evidence from a previous employer documenting a successfully completed and timely 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 Oregon Department of Education (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 or 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 or 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 checks or fingerprinting or falsely stating on district employment application, contract or fingerprint forms as to conviction of a crime shall result in dismissal 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.
2. Following acceptance of an offer of employment, the Criminal Verification of Applicants form for those not subject to fingerprinting will be sent for processing. A copy will be kept on file by the district in a secure, separate notebook, unless the district initiates disciplinary action.
3. If the individual is subject to fingerprinting, he/she will be required to report within five working days to an authorized fingerprinter for fingerprinting. Fingerprints may be collected by one of the following:
 - a. Employing district staff;
 - b. Contracted agent of the district;
 - a. Local, or state or federal 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 8½" x 11" or larger envelope with postage affixed and addressed to the district.
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 processed. A copy of the form will be kept in the employee's personnel file.

Employment

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

Fees

1. Fees associated with criminal records checks and/or fingerprinting, for individuals currently employed by the district having direct, unsupervised contact with students and not requiring licensure shall be paid by the district.
2. 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 and volunteers shall be paid by the district.
3. Fees associated with criminal records checks and/or fingerprinting for licensed individuals shall be paid by the individual or in accordance with collective bargaining agreements as applicable.

Termination of Employment

1. Any individual required to submit to criminal records checks or fingerprinting in accordance with law or Board policy will be terminated from employment or contract status or from consideration as a district volunteer by the superintendent immediately upon the following:
 - a. Refusal to consent to a criminal records check 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 has been convicted of crimes prohibiting employment with the district as specified in law;
 - c. Notice of conviction of a crime(s) which prevent or prohibit employment with the district.
2. 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.

Appeals

An individual may appeal a determination which prevents his/her employment or eligibility to contract with the district to the Oregon Superintendent of Public Instruction or to the Teacher Standards and Practices Commission, if applicable or to the Board.

Safeguards, Assurances, and Due Process

1. **Accessibility:** All information that is returned to the district from a criminal records check or fingerprinting check will be accessible to the superintendent, district counsel, and the confidential staff members of the district's administrative office that have a need to know or process the information. Such information shall be treated as confidential information and shall be kept in a secure location. Any such information that has been transmitted electronically will similarly be kept secure.
2. Building principals or other appropriate supervisors will only be informed of the information that is returned from a criminal records check when there is a need for that administrator or supervisor to have the information.

3. Procedure: In the event that the information from a criminal records check reveals criminal history information over which the district was not previously apprised, the affected employee will be notified by the superintendent and will be provided with a copy of the information in order to verify the information received. The employee will be allowed to have representation from the employee's labor organization or other counsel.
4. The affected employee will be given a reasonable period of time, normally 10 working days, in which to verify the information received. Should the employee contest the information received, the employee will be obligated to provide the district with evidence, in a timely manner, of the reason for the contest. The district will undertake whatever investigation is reasonable under the circumstances in order to determine the truth and veracity of the information received.
5. When the district receives information that is returned from a criminal records check that indicates the employee has been convicted of crimes over which the district was not previously apprised, the district, if it intends to pursue the matter, will set up a meeting with the affected employee to discuss the criminal information. The employee may be represented by a labor organization representative or by counsel. The district's concerns will be directed to, but not limited to, the nature of the crime(s) over which the employee has been convicted, the nature of the criminal activity involved, the timing or sequence of such activity, the disclosure or non-disclosure of such criminal activity on district forms and applications and any other relevant consideration related to the impact of such criminal information and its bearing on the performance of the employee's duties for the district.
6. In the event that the district decides to discipline or dismiss an affected employee and subsequently moves to effectuate such discipline or dismissal, the affected employee shall be entitled to pursue any contest or appeal of such disciplinary or dismissal action pursuant to any applicable grievance procedures and collective bargaining agreement provisions of any applicable collective bargaining agreement, or of board policy for unrepresented employees, or of any applicable state law, including the accountability for Schools for the 21st Century Law (Fair Dismissal Law).
7. In the event that the district decides not to pursue any disciplinary or dismissal action against an affected employee, then the criminal history information received by the district will not be placed into the employee's personnel file but will be maintained in the confidential criminal history records maintained by the district at the district's administrative offices.