

Criminal Records Checks/Fingerprinting*

In a continuing effort to ensure the safety and welfare of students and staff, the ESD shall require all newly hired full-time and part-time employees¹ not requiring licensure under Oregon Revised Statute (ORS) 342-223 to submit to a criminal records check and/or fingerprinting as required by law. Other individuals, as determined by the ESD, who will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting, as established by Board policy and as required by law.

“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.

Pursuant to state law, a criminal records check or fingerprint-based criminal records checks shall be required of the following individuals²:

1. All individuals employed as or by a contractor and their employees, whether employed part-time or full-time and, considered by the ESD to have direct unsupervised contact with students;
2. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood education program or at a grade K through 12 school site during the regular school day;
3. Any individual considered for volunteer service with the ESD who is allowed to have direct, unsupervised contact with students.

The ESD will provide the written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or volunteers allowed direct, unsupervised contact with students in the following positions⁴:

1. Classroom volunteers;
2. Volunteers assisting with implementing ESD sponsored activities for students;
3. Volunteers transporting students, other than their own, in a private vehicle off ESD property for an ESD sponsored activity.

The procedure for processing fingerprint collection is further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprinting only after offer of employment or contract from the ESD and may be charged a fee by the ESD. A subject individual may request the fee be withheld from the amount otherwise due the individual.

When the ESD is notified of a subject individual who has been convicted of any crimes prohibiting employment or contract, the individual will be terminated and/or will not be employed or contracted.

When the ESD is notified of a subject individual who knowingly made a false statement as to presence of convictions that would not otherwise prohibit his/her employment or contract with the ESD, as provided by law, may be employed or contracted with by the ESD.

The ESD's use of criminal history must be relevant to the specific requirement of the position, services or employment.

A volunteer who fails to disclose or knowingly makes a false statement or has been convicted of crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred will immediately be terminated from the ability to volunteer for the ESD.

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

The service of a volunteer may begin on a probationary basis pending the return and disposition of a criminal records check and/or fingerprinting.

The service of a volunteer into a position identified by the ESD as requiring a fingerprint-based criminal records check may begin on a probationary basis pending the return and disposition of a state and national criminal records check based on fingerprints.

The Superintendent shall develop administrative regulations as necessary to meet the requirements of the law.

Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the ESD to the Superintendent of Public Instruction as under ORS 183.413-183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records check by ODE that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case under ORS 183.413-183.470.

¹Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the ESD has evidence on file that meets the definition on Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

²Subject individuals and requirements are further outlined in GCDA/GDDA-AR-Criminal Records Checks and Fingerprinting.

³If 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 criminal records checks on these volunteers.

⁴If the ESD requires fingerprinting for certain volunteer positions, the ESD is required to list those volunteer positions in board policy.

END OF POLICY

Legal Reference(s):

[ORS 181A.180](#)
[ORS 181A.230](#)

[OAR 584-050-0012](#)
[ORS 326.607](#)

[OAR 414-061-0010 to 0030](#)

[OAR 581-022-2430](#)

[ORS 326.603](#)

[ORS 336.631](#)

[ORS 342.127](#)

OAR 581-021-0510-021-0512

OAR 584-050-0012

[ORS 334.125](#)

[ORS 342.223](#)

[ORS 342.143](#)

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 200e, et.seq.(2102)