

## **Criminal Records Checks/Fingerprinting**

### **Requirements**

1. Any individual newly hired <sup>1</sup>employee, whether full-time or part-time, and not requiring licensure under Oregon Revised Statute (ORS) 342.223, such as a teacher, administrator, personnel specialist or school nurse, shall submit to a criminal record check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years will also be required to undergo a nationwide criminal record check and fingerprinting with TSPC.
3. Any individual registering with TSPC for student teaching, practicum, or internship as a teacher, administrator, or personnel specialist will be required to submit to a criminal record check and fingerprinting with TSPC.
4. Any individual hired as or by a contractor<sup>2</sup>, whether part-time or full-time, hired into a position having direct, unsupervised contact with students as determined by the ESD shall be required to submit to a criminal record 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 community college faculty member providing instructions at the site of an early childhood education program or at a school site as part of an early childhood program, or at a K through 12 school site during the regular school day, will be required to undergo a nationwide criminal records check and fingerprinting.
6. <sup>3</sup>Any volunteer allowed by the ESD into a position allowing direct, unsupervised contact with students shall undergo an in-state criminal records check.
7. Any individual authorized by the ESD for volunteer service who is not likely to have direct, unsupervised contact with students will be required to undergo an Oregon criminal records check.

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

<sup>2</sup>A person hired as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

<sup>3</sup> If the ESD allows volunteers to have direct, unsupervised contact with students, ESDs are required to conduct criminal records checks on these volunteers.

## Exceptions

A newly hired employee<sup>4</sup> is not subject to fingerprinting if:

1. The ESD has evidence on file that the person successfully completed state and national criminal records check for a previous employer that was a school district, private school or ESD, and has not resided outside the state between the two periods of employment; or
2. <sup>5</sup> The Oregon Department of Education (ODE) determines the person:
  - a. Submitted to a criminal record check for the person's immediately previous employer, the employer is a school district or private school and the person has not lived outside this state between the two periods of employment;
  - b. Submitted to a criminal records check conducted by TSPC within the previous three years; or
  - c. Remained continuously licensed or registered with the commission.

## Notification

1. The ESD will provide the following 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 completed by the Oregon Department of Education (ODE) that impact employment or contract or volunteering may be appealed as a contested case to ODE;
  - c. All employment, contract offers or the ability to volunteer are contingent upon the results of such checks;
  - d. A refusal to consent to a required criminal record checks and/or fingerprinting, shall result in immediate termination from employment, contract status or the ability to volunteer for the ESD.
  - e. An individual determined to have failed to disclose or have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts, ODE forms, written or electronic, may result in immediate termination from employment or contract status;
  - f. 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;
  - g. A volunteer candidate who knowingly made a false statement or has a conviction of crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the ESD.
2. The ESD will provide the written notice described above through such means as staff handbooks, employment applications, contracts or volunteer forms.

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<sup>4</sup>Any individual hired within the last three months.

<sup>5</sup> This revision to TSPC rules sunsets July 1, 2024

## **Processing and Reporting Procedures**

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the ESD.
2. 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.
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 ODE of the results. ODE will then renew and notify the ESD of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of crime, 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.
5. A copy of the fingerprinting results will be kept by the ESD.

## **Fees**

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the ESD and not requiring licensure, including persons hired as or by contractors<sup>6</sup> shall be paid by the individual(s).
2. Individuals offered a contract or employment by the ESD may request that the amount of the fee be withheld from the amount otherwise due the individual, in accordance with Oregon law. The ESD may withhold such fees only upon the request of the individual.
3. Fees associated with required criminal records checks for volunteers will be paid by the individual.
4. In special circumstances program administrators may determine an alternative arrangement for payment of fingerprinting fees.

## **Termination of Employment or Withdrawal of Employment/Contract Offer**

1. A subject individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or the offer of employment or contract will be withdrawn by the ESD upon:

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<sup>6</sup>A person listed as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

- a. Refusal to consent to a criminal records check and/or fingerprinting; or
  - b. Notification<sup>7</sup> from the Superintendent of Public Instruction that the employee has a conviction of a crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.
2. A subject individual may be terminated from employment or contract status, 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 or collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for 21<sup>st</sup> Century Law.
  4. Any volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit to a required criminal records check and fingerprinting 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 for the ESD.
  5. If the ESD has been notified by the Superintendent of Public Instruction that volunteer knowingly made a false statement or has a conviction for any crimes listed in ORS 342.143 or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual will be denied the ability to volunteer.
  6. Any volunteer who fails to disclose or knowingly makes a false statement, as determined by the ESD, on an ESD volunteer application form may be denied the ability to volunteer in the ESD.

## **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 a contested case 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.

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<sup>7</sup>Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581.0511; involved parties shall cooperate with the investigation pursuant to the law.